

Waters Limited
Stamford Avenue
Altrincham Road
Wilmslow
Cheshire
SK9 4AX

For the Attention of: **George Just**

By email to: george_just@waters.com

Date: **09 November 2023**

Our ref: **PL367-23**

Dear Sirs,

Award of contract for the supply of Goods and Services for the Liquid Chromatography Mass-Spectrometry Equipment

This letter ("**Award Letter**") and its Schedule(s) set out the terms of the Contract between:

- (1) **The UK Centre for Ecology & Hydrology**, a Private Limited Company by guarantee (registered charity **1185618**), incorporated and registered in England with company number **11314957** and VAT number **GB 336 940 192** whose registered address is at Maclean Building, Benson Lane, Wallingford, OX10 8BB, including its subsidiary **UK Centre for Ecology & Hydrology Enterprise Limited (12251749)** ("**UKCEH**"); and
- (2) **Waters Limited**, a company incorporated and registered in England with company number **2912366** and registered VAT number **GB 648 754 003** whose registered office is at Stamford Avenue, Altrincham Road, Wilmslow, Cheshire, SK9 4AX (the "**Supplier**").

Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract set out in Schedule 1 to this Award Letter (the "**Conditions**").

Do not attach any other terms and conditions to this Award Letter as they will not be accepted by UKCEH and may delay conclusion of the Contract.

UKCEH and the Supplier agree:

Term

- 1 Commencement Date: **30 November 2023**
- 2 Expiry Date: **31 March 2031** (Includes a one-year warranty followed by a 5-year maintenance contract)
- 3 This contract may not be extended.

Description of Goods and Services

- 4 The Specification of the Goods and Services to be delivered is at Schedule 2.

Charges & Payment

- 5 The Charges for the Goods and/or Services are in Schedule 3.
- 6 All invoices should be sent quoting a valid purchase order number (PO Number) as provided by UKCEH, to APfinance@ceh.ac.uk.
- 7 To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your UKCEH contact (i.e. Contract Manager or Procurement Officer). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to APfinance@ceh.ac.uk or by telephone 01491 838800 between 09:00-17:00 Monday to Friday.

Supplier's Liability

- 8 Pursuant to clause 18.4, the Supplier's Limit of Liability under this Contract shall be: 125% of the total Charges paid and payable to the Supplier under this Contract.

Amendments

- 9 The amendments to Schedule 1 – Conditions and do not apply to this Contract are as follows:
- TUPE
- 10 The Supplier is required to maintain all insurance policies referred to in clause 17.1 of the Conditions.

Notices

- 11 The address for notices of the Parties are:

UKCEH

Maclean Building, Benson Lane,
Wallingford, OX10 8BB
Attention: Procurement Manager
Email: procurement@ceh.ac.uk

Supplier

Waters Limited, Stamford Avenue,
Altrincham Road, Wilmslow, Cheshire,
SK9 4AX
Attention: George Just
Email: george_just@waters.com

Liaison & Disputes

- 12 For general liaison your contact will continue to be **Dewan Ferreira** [dewfer@ceh.ac.uk] or, in their absence, **Sam Wells** [samwel@ceh.ac.uk], UKCEH Head of Procurement
- 13 Pursuant to Clause 30.3, Disputes shall be escalated to the following individuals:
- (a) Stage 1 escalation:
- UKCEH: Dewan Ferreira
- Supplier: George Just
- (b) Stage 2 escalation:
- UKCEH: Sam Wells
- Supplier: Clare O'Donnell

We thank you for your co-operation to date, and look forward to forging a successful working relationship. Please confirm your acceptance of the award of this contract by signing and returning the enclosed copy of this letter to **Dewan Ferreira** at the above address. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

Signed for and on behalf of the UK **Centre for Ecology & Hydrology**

Signature:

D. A. Wilson
D. A. Wilson (Nov 27, 2023 08:12 GMT)

Name:

D. A. Wilson

Position:

Deputy CEO and Science Director

Date:

Nov 27, 2023

We accept the terms set out in this Award Letter and the Schedule(s).

Signed for and on behalf of **Waters Limited**

Signature:

Scott Rudland
Scott Rudland (Nov 17, 2023 09:33 GMT)

Name:

Scott Rudland

Position:

General Manager Europe North

Date:

Nov 17, 2023

Schedule 1 - CONDITIONS

1 INTERPRETATION

1.1 Definitions. In the Contract the following definitions apply:

Award Letter: means the letter from UKCEH to the Supplier found above these terms and conditions;

Change in Law: any change in Law which impacts on the performance of the Goods and/or Services which comes into force after the Commencement Date;

Charges: the charges payable by UKCEH for the supply of the Goods and/or Services as specified in 0;

Commencement Date: means the date on which the Contract commences which is as set out in the Award Letter

Confidential Information: means:

- (a) all confidential information and data which is acquired from or made available, directly or indirectly, by the Disclosing Party or the Disclosing Party's representatives however conveyed or presented, including but not limited to any information or document relating to the Disclosing Party's business, affairs, operations, budgets, policies, processes, initiatives, plans, product information, pricing information, technical or commercial know-how, trade secrets, specifications, strategies, inventions, designs, software, market opportunities, personnel, customers or suppliers, whether relating to this Contract or otherwise, either orally, in writing, or in whatever form obtained or maintained;
- (b) any information or analysis derived from the Confidential Information;
- (c) anything marked as confidential and any other information notified by or on behalf of the Disclosing Party to the Receiving Party as being confidential;
- (d) the existence and terms of this Contract and of any subsequent agreement entered into in relation to this Contract;
- (e) the fact that discussions and negotiations are taking place concerning this Contract and the status of those discussions and negotiations; and
- (f) any copy of any of the information described in (a), (b), (c), (d) or (e) above, which will be deemed to become Confidential Information when it is made. For the purposes of this definition a copy will include, without limitation, any notes or recordings of the information described in (a), (b), (c), (d) or (e) above, howsoever made;

but not including any information which:

- (i) was in the possession of the Receiving Party without a breach of an obligation of confidentiality prior to its disclosure by the Disclosing Party;
- (ii) the Receiving Party obtained on a non-confidential basis from a third party who is not, to the Receiving Party's knowledge or belief, bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Receiving Party;
- (iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality;
- (iv) was independently developed without access to the Confidential Information; or
- (v) relates to the Supplier's performance under this Agreement or failure to pay any sub-contractor as required pursuant to clause 8.9;

Contract: means this contract, including the terms and conditions set out in this document and the Schedules;

Cyber Essentials Questionnaire: UKCEH's questionnaire for suppliers regarding their cyber security arrangements, a copy of which is available from UKCEH on request;

Data Protection Legislation: means all applicable laws and Regulations relating to the processing of personal data and privacy, including the General Data Protection Regulations ("GDPR") and the Data Protection Act 2018 and where applicable the guidance and codes of practice issued by the Information Commissioner, in each case as amended or substituted from time to time;

Declaration of Ineffectiveness: a declaration made by a Court under regulation 98 which has any of the consequences described in regulation 101 of the Public Contracts Regulations 2015 (as amended) or which is made under an equivalent provision implementing Directive 2014/23/EU in England, Wales & Northern Ireland and which has consequences which are similar to any of the consequences described in regulation 101 of the Public Contracts Regulations 2015 (as amended);

Deliver: means handover of the Goods to UKCEH at the address stated in the Specification or as otherwise agreed by the Parties, and on the Delivery Date, which will include unloading and any other specific arrangement agreed in accordance with clause 5. "Delivered" and "Delivery" and "Deliveries" are construed accordingly;

Deliverables: all Documents, products and materials developed by the Supplier or its agents, contractors and employees as part of, or in relation to, the Services in any form, including computer programs, data, reports and specifications (including drafts);

Delivery Date: the date for delivery of the Goods agreed between the Parties in writing and if no such date is specified, within 28 days of the date of UKCEH's written request for the Goods;

Delivery Note: means a note produced by the Supplier accompanying each delivery of the Goods which shows the date of the order, the order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage, handling or safety instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;

Disclosing Party: means a Party that makes a disclosure of Confidential Information to another Party;

Dispute: means any dispute, conflict or disagreement arising out of or in connection with this Contract;

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

EIR: the Environmental Information Regulations 2004 or the Environmental Information Regulations (Scotland) 2004 if applicable, as amended, together with any guidance and/or Codes of Practice issued by the relevant governmental department in relation to such regulations,

Expiry Date: means the date for expiry of the Contract as set out in the Award Letter;

FOIA means the Freedom of Information Act 2000 (or as amended)

Force Majeure Event: will be limited to one or more of the following events: hurricanes, tempest, acts of state or public enemy, wars, revolutions, uprisings, hostilities, civil disturbances, riots, civil war, insurrection, acts of terrorism, threats of terrorism and invasion. For the avoidance of doubt strikes, lockouts and shutdowns of a Party (or of any person engaged by any of them) will not be a force majeure event for that Party;

General Change in Law: a change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to the supply of goods and/or services to another customer of the Supplier that are the same or similar to any of the Goods and/or Services;

Good Industry Practice: means all relevant practices and professional standards that would be expected of a well-managed, expert service provider performing similar Services or providing similar Goods to customers of a similar size and nature to UKCEH;

Goods: means the goods to be supplied by the Supplier to UKCEH, under the Contract as set out in the Specification;

Information: has the meaning given under section 84 of the FOIA;

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights (including moral rights), trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

Key Personnel: means any persons specified as such in 04 or otherwise notified as such by UKCEH to the Supplier in writing;

Law: means any law, statute, bye-law, enforceable right,, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body, with which UKCEH and the Supplier (as the context requires) is bound to comply;

Limit of Liability: means the Supplier's limit of liability identified in the Award Letter;

Notifiable Breach: has the meaning set out at clause 7.3;

Party: the Supplier or UKCEH (as appropriate) and "Parties" shall mean both of them;

Personal Data: has the meaning given by the Data Protection Legislation;

Personal Data Breach: will have the same meaning as in the Data Protection Legislation;

Purchase Order (PO) Number: means UKCEH's unique number relating to the supply of the Goods and/or Services;

Public Body: any part of the government of the United Kingdom including but not limited to the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly of Wales, local authorities, government ministers, government departments and government agencies;

Public Procurement Termination Event: UKCEH exercises its right to terminate the Contract in one or more of the circumstances described in either regulation 73(1) of the Public Contracts Regulations 2015 (as amended from time to time), or equivalent provisions implementing Directive 2014/23/EU in England, Wales & Northern Ireland (as amended from time to time);

Receiving Party: means a Party to which a disclosure of Confidential Information is made by another Party;

Remediation Plan: means a report identifying:

- (a) the nature of the Notifiable Breach described at clause 7.3, its cause and its anticipated duration and impact on the Contract; and
- (b) the procedures and resources the Supplier proposes to apply to overcome and rectify the Notifiable Breach and to ensure the impact of the Notifiable Breach is minimised and future performance of the Contract is not adversely affected;

Services: the services, including without limitation any Deliverables, to be provided by the Supplier to UKCEH under the Contract as set out in the Specification;

Specification: the description of the Goods and/or Services to be provided under this Contract as set out in Schedule 2.

Specific Change in Law: a Change in Law that relates specifically to the business of UKCEH and which would not affect the supply of goods and/or services to another customer of the Supplier;

Supplier's Associate: any individual or entity associated with the Supplier including, without limitation, the Supplier's subsidiary, affiliated or holding companies and any employees, agents or contractors of the Supplier and / or its subsidiary, affiliated or holding companies or any entity that provides Goods and or Services for or on behalf of the Supplier;

Supplier Dispute: means any disputes, claims, litigation, mediation or arbitration whether threatened or pending in relation to any incident involving the Supplier's, or another party's, provision of the Goods and/or Services;

Staff: means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;

Term: means the period from the Commencement Date to the Expiry Date and such period may be extended in accordance with the terms and conditions of the Contract;

TUPE: the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced from time to time;

Working Day: a day, other than a Saturday, Sunday, public holiday or 27, 28, 29, 30 and 31 December.

1.2 In this Contract the following rules apply:

- (a) A person includes a natural person, corporate or unincorporated body, whether or not having separate legal personality.
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to any Law is a reference to Law as amended or re-enacted. A reference to a Law includes any subordinate legislation made under that Law, as amended or re-enacted.
- (d) Any phrase introduced by the terms including, include, in particular, or any similar expression will be construed as illustrative and will not limit the sense of the words following those terms.
- (e) The headings in the Contract are for ease of reference only and do not affect the interpretation or construction of the Contract.
- (f) A reference to writing or written includes e-mails.
- (g) A reference to numbered clauses are references to the relevant clause in this Contract.
- (h) Any obligation on any Party not to do or omit to do anything will include an obligation not to allow that thing to be done or omitted to be done.

2 BASIS OF CONTRACT

- 2.1 The Contract comprises of the Award Letter and its Schedules, to the exclusion of all other terms and conditions, including any other terms that the Supplier seeks to impose or incorporate (whether in any quotation, confirmation of order, invoice, in correspondence or in any other context) and the terms and conditions attached to UKCEH's Purchase Order, or which are implied by trade, custom, practice or course of dealing.
- 2.2 If there is any conflict or inconsistency between the Award Letter and its Schedules, the provisions of the Award Letter will prevail followed by the Conditions in this Schedule 1 to the extent necessary to resolve that conflict or inconsistency.

3 SUPPLY OF SERVICES

- 3.1 In consideration of UKCEH's agreement to pay the Charges, the Supplier shall for the Term provide the Services to UKCEH in accordance with the terms of this Contract.

- 3.2 The Supplier shall meet any performance dates for the Services (including the delivery of Deliverables) specified in the Specification or notified to the Supplier by UKCEH.
- 3.3 In providing the Services, the Supplier shall:
- (a) co-operate with UKCEH in all matters relating to the Services, and comply with all instructions from UKCEH using reasonable endeavours to promote UKCEH's interests;
 - (b) perform the Services with reasonable skill, care and diligence in accordance with Good Industry Practice in the Supplier's industry, profession or trade;
 - (c) use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
 - (d) ensure that the Services and Deliverables will conform with the Specifications and that the Deliverables are fit for any purpose expressly or impliedly made known to the Supplier by UKCEH;
 - (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services unless stipulated in Schedule 2;
 - (f) use goods, materials, standards and techniques, and ensure that the Deliverables and all goods and materials supplied and used in the Services or transferred to UKCEH are of a quality in line with Good Industry Practice and are free from defects in workmanship, installation and design;
 - (g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
 - (h) not do or allow anything to be done that will, or would be likely to, bring UKCEH into disrepute or adversely affect its reputation in any way;
 - (i) observe all health and safety rules and regulations and any other security requirements that apply at any of UKCEH's premises; and
 - (j) not do or omit to do anything which may cause UKCEH to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that UKCEH may rely or act on the Services.
- 3.4 UKCEH's rights under this Contract are without prejudice to and in addition to the statutory terms implied in favour of UKCEH under the Supply of Goods and Services Act 1982 and any other applicable legislation, as amended.

4 SUPPLY OF GOODS

- 4.1 In consideration of UKCEH's agreement to pay the Charges, the Supplier shall supply all Goods in accordance with the Contract. In particular, the Supplier warrants that the Goods shall:
- (a) conform with their description in the specifications, which includes the Specification, and drawings, descriptions given in quotations, estimates, brochures, sales, marketing and technical literature or material, supplied by, or on behalf of, the Supplier, in whatever format made available by, or on behalf of, the Supplier;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act) and fit for the purpose held out by the Supplier or made known to the Supplier by UKCEH, expressly or by implication, and in this respect UKCEH relies on the Supplier's skill and judgement. The Supplier acknowledges and agrees that an approval by UKCEH does not relieve the Supplier of any of its obligations under this sub-clause;
 - (c) where applicable, be free from defects (manifest or latent), in materials and workmanship and remain so for 12 months after Delivery;
 - (d) be free from design defects;

- (e) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;
- (f) be supplied in accordance with all applicable legislation in force from time to time; and
- (g) be destined for supply into, and fully compliant for use in, the United Kingdom, unless specifically stated otherwise in the Specification.

- 4.2 In supplying the Goods the Supplier will co-operate with UKCEH in all matters relating to the supply and will comply with all of UKCEH's instructions.
- 4.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract
- 4.4 Supplier shall remain fully responsible for the Goods and any such inspection or testing will not reduce or otherwise affect the Supplier's obligations under this Contract, and UKCEH will have the right to conduct further inspections and tests after the Supplier has carried out any remedial actions.
- 4.5 Delivery of the Goods will be deemed to have occurred once any defects have been remedied (if applicable) by the Supplier which includes 4.1c and the acceptance of the invoice and payment terms.
- 4.6 UKCEH's rights under the Contract are without prejudice to and in addition to the statutory terms implied in favour of UKCEH under the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982 and any other applicable legislation as amended.

5 DELIVERY

- 5.1 Unless otherwise agreed in writing by UKCEH, the Supplier shall deliver the Goods to UKCEH on the Delivery Date (with the carriage paid) to the address specified in the Specification and in accordance with any other Delivery instructions provided to the Supplier.
- 5.2 Delivery of the Goods shall be completed once the completion of unloading the Goods from the transporting vehicle at the Delivery address has taken place and UKCEH has signed for the Delivery. The Supplier will unload the Goods at its own risk as directed by UKCEH. The Goods will remain at the risk of the Supplier until Delivery to UKCEH (including unloading) is complete and the Supplier has obtained sign-off of the Delivery Note by or on behalf of UKCEH.
- 5.3 If unloading of the Goods is not possible by the Supplier or any nominated agent, the Supplier must inform UKCEH within 7 days of planned delivery and charges, if any, for unloading will be imposed upon the Supplier.
- 5.4 Unless otherwise stated by UKCEH in writing to the Supplier, Deliveries will only be accepted by UKCEH on a Working Day and during normal business hours.
- 5.5 The Supplier will ensure that:
 - (a) the Goods are properly packed and secured in such a manner as to enable them to reach their destination in good condition;
 - (b) each delivery of the Goods is accompanied by a Delivery Note; and
 - (c) if the Supplier requires UKCEH to return any packaging material to the Supplier, that fact is clearly stated on the Delivery Note.
- 5.6 If the Supplier delivers to UKCEH more than the quantity of Goods ordered, UKCEH will not be bound to pay for the excess. Any excess will remain at the Supplier's risk and will be returnable to the Supplier at the Supplier's expense.
- 5.7 If the Supplier delivers more or less than the quantity of Goods ordered, and UKCEH accepts the delivery, a pro rata adjustment will be made to the invoice for the Goods.

- 5.8 The Supplier shall not deliver the Goods in instalments without prior written consent from UKCEH. Where it is agreed that the Goods are to be delivered in instalments, they may be invoiced and paid for separately.
- 5.9 The Supplier shall:
- (a) obtain, at its risk and expense, any export and import licences or other authorisations necessary for the export and import of the Goods and their transit through any country or territory; and
 - (b) deal with all customs formalities necessary for the export, import and transit of the Goods, and will bear the costs of complying with those formalities and all duties, taxes and other charges payable for export, import and transit.
- 5.10 Without prejudice to UKCEH's statutory rights, UKCEH will not be deemed to have accepted any Goods until it has had at least 14 Working Days after Delivery to inspect them. UKCEH has the right to reject any Goods as though they had not been accepted for 14 Working Days after any latent defect in the Goods has become apparent.
- 5.11 Without prejudice to clause 11.1 any access to UKCEH's premises and any labour and equipment that may be provided by UKCEH in connection with Delivery of the Goods will be provided without acceptance by UKCEH of any liability in respect of any actions, claims, costs and expenses incurred by third parties for any loss or damages to the extent that such loss or damage is not attributable to the negligence or other wrongful act of UKCEH, its servant or agent. The Supplier will indemnify UKCEH in respect of any actions, suits, claims, demands, losses, charges, costs and expenses, which UKCEH may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of Delivery or installation to the extent that any such damage or injury is attributable to any act or omission of the Supplier or the Staff.

6 TITLE, RISK AND USE

- 6.1 Without prejudice to any other rights or remedies of UKCEH, title and risk in the Goods will pass to UKCEH on completion of Delivery.
- 6.2 The Supplier warrants that:
- (a) it has full clear and unencumbered title to the Goods;
 - (b) at the Delivery Date of any of the Goods it will have full unrestricted right, power and authority to sell, transfer and deliver all of the Goods to UKCEH; and
 - (c) on Delivery UKCEH will acquire valid and unencumbered title to the Goods.

7 REMEDIES

- 7.1 UKCEH's rights and remedies under the Contract are in addition to its rights and remedies implied by statute and common law.
- 7.2 Where
- (i) the Supplier fails to Deliver the Goods or part of the Goods including any instalment(s) or
 - (ii) the Goods or part of the Goods do not comply with the provisions of clause 4 then without limiting any of its other rights or remedies in this Contract or implied by statute or common law, UKCEH is entitled to:
- (a) accept late delivery of the Goods with prior written agreement;
 - (b) require the Supplier, free of charge, to deliver substitute Goods within the timescales specified by UKCEH;

- (c) require the Supplier, free of charge, to repair or replace any rejected Goods, or to provide a full refund of the price of the rejected Goods, if paid;
- (d) reject the Goods (in whole or part) and return them to the Supplier at the Supplier's own risk and expense and UKCEH will be entitled to a full refund on those Goods or part of Goods duly returned;
- (e) buy the same or similar Goods from another supplier;
- (f) recover any expenses incurred in respect of buying the Goods from another supplier which will include but not be limited to administration costs, chargeable staff time and extra delivery costs; and
- (g) terminate the Contract in whole or in part without liability to the Supplier.

7.3 Without prejudice to any of its other rights or remedies in this Contract or implied by statute or common law, in the event that:

- (a) UKCEH considers the Supplier is in breach of clauses 3 or 4 and the breach is capable of remedy; or
- (b) the Supplier commits a breach of clauses 3 or 4 which is capable of remedy,

(each a "**Notifiable Breach**"), the Supplier must as soon as practicable but in any event within 5 Working Days, or as otherwise agreed with UKCEH, of being notified by UKCEH of the Notifiable Breach, submit a draft Remediation Plan to UKCEH for approval. UKCEH may, reasonably, consider the draft Remediation Plan as inadequate to rectify the Notifiable Breach and reject the draft, in which case the Supplier will submit a revised Remediation Plan to UKCEH for review within 3 Working Days (or as otherwise agreed by UKCEH) of UKCEH's notice rejecting the draft. Once the Remediation Plan is approved the Supplier will immediately action the approved Remediation Plan.

7.4 Where the Supplier fails to provide a Remediation Plan in accordance with the timescales specified in clause 7.3 or fails to comply with any approved Remediation Plan UKCEH is entitled to:

- (a) terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) recover from the Supplier any costs incurred by UKCEH in performing the Services itself or obtaining substitute Goods or Services from a third party;
- (c) a refund of the Charges paid in advance for Goods or Services that have not been provided by the Supplier; and
- (d) claim damages for any additional costs, loss or expenses incurred by UKCEH which are in any way attributable to the Notifiable Breach and the Supplier's failure as described in this clause 7.4.

7.5 This Contract shall apply to any repaired or replacement Goods and any substituted or remedial Services provided by the Supplier.

8 CHARGES AND PAYMENT

8.1 The Charges for the Goods and/or Services are set out in 03 and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Goods and/or Services. Unless otherwise agreed in writing by UKCEH the Charges include every cost and expense of the Supplier directly or indirectly incurred in connection with the provision of the Goods and/or performance of the Services.

8.2 All amounts stated are exclusive of VAT which is charged at the prevailing rate where applicable. UKCEH, where applicable and following the receipt of a valid VAT invoice, pays to the Supplier a sum equal to the VAT chargeable in respect of the Goods and/or Services.

- 8.3 The Supplier shall invoice UKCEH at the times specified in 03 and in accordance with this clause 8. If an invoicing schedule is not specified in 03 the Supplier will invoice UKCEH on or after the Delivery of the Goods or completion of the Services.
- 8.4 Each invoice shall include such supporting information required by UKCEH to verify the accuracy of the invoice, including the relevant Purchase Order number and a breakdown of the Goods and/or Services supplied in the invoice period, as well as appropriate details in order to allow for payment via BACS transfer.
- 8.5 In consideration of the supply of the Goods and/or Services by the Supplier, UKCEH shall pay the invoice amount within the time stated in Schedule 3 on condition that the invoice is correctly presented and verifying that the invoice is valid and undisputed. Payment is made to the bank account nominated in writing by the Supplier unless UKCEH agrees in writing to another payment method.
- 8.6 If UKCEH fails to consider and verify or dispute an invoice within 15 Working Days the invoice is regarded as valid and undisputed for the purpose of clause 8.5.
- 8.7 If there is a dispute between the Parties as to the amount invoiced UKCEH may reject the invoice in its entirety. The Supplier may not suspend the supply of the Goods and/or Services unless the Supplier is entitled to terminate this Contract for a failure to pay an undisputed invoice in accordance with clause 19.5. Any disputed invoices shall be resolved through the dispute resolution procedure in Clause 30.
- 8.8 If payment of an undisputed invoice is not made by UKCEH by the due date, UKCEH pays the Supplier interest at the interest rate and terms specified in the Late Payment of Commercial Debts (Interest) Act 1998 or other applicable legislation if that Act is amended or annulled.
- 8.9 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
- (a) provisions having the same effects as clauses 8.3 to 8.8 of this Contract; and
 - (b) a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 8.3 to 8.98 of this Contract.
 - (c) In this clause 8.9, "sub-contract" means a contract between two or more suppliers, at any stage of remoteness from UKCEH in a subcontracting chain, made wholly or substantially for the purpose of performing, or contributing to the performance of, the whole or any part of this Contract.
- 8.10 The Supplier is not be entitled to assert any credit, set-off or counterclaim against UKCEH in order to justify withholding payment of any such amount in whole or in part. If any sum of money is recoverable from or payable by the Supplier under the Contract, including any sum which the Supplier is liable to pay to UKCEH in respect of any breach of the Contract, that sum may be deducted unilaterally by UKCEH from any sum then due, or which may come due, to the Supplier under the Contract or under any other agreement or contract with UKCEH.

9 TAXATION OBLIGATIONS OF THE SUPPLIER

- 9.1 The Supplier shall be fully responsible for all its own tax including any national insurance contributions arising from supplying the Goods and/or Services.
- 9.2 The Supplier shall indemnify, and keep indemnified, UKCEH in full against all costs, claims, expenses, damages and losses, including any interest, penalties, fines, legal and other professional fees and expenses awarded against or incurred or paid by UKCEH as a result of the Supplier's failure to account for or pay any taxes including any national insurance contributions.

10 UKCEH PROPERTY

- 10.1 The Supplier acknowledges that all information, including UKCEH's Confidential Information, equipment and tools, drawings, specifications, data, software and any other materials supplied by UKCEH (or its agents on behalf of UKCEH) to the Supplier ("UKCEH's Materials") and all rights in UKCEH's Materials are and remain at all times the exclusive property of UKCEH. The Supplier keeps UKCEH's Materials in safe custody at its own risk, maintains them in good condition until returned to UKCEH and does not

dispose of or use the same other than for the sole purpose of performing the Supplier's obligations under the Contract and in accordance with written instructions or authorisation from UKCEH.

10.2 UKCEH's property shall be returned promptly to UKCEH on expiry or termination of the Contract.

10.3 The Supplier shall reimburse UKCEH for any loss or damage to UKCEH's Materials, other than deterioration resulting from normal and proper use, caused by the Supplier or any Staff. UKCEH's Materials supplied by UKCEH, or its agents on behalf of UKCEH, will be deemed to be in a good condition when received by the Supplier or relevant Staff unless UKCEH is notified otherwise in writing within 5 Working Days.

11 UKCEH PREMISES

11.1 If, in connection with the supply of the Goods and/or Services, UKCEH permits any Staff to have access to any of UKCEH's premises, the Supplier shall ensure that, whilst on UKCEH's premises, the Staff comply with:

- (a) all applicable health and safety, security, environmental and other legislation which may be in force from time to time; and
- (b) any UKCEH policy, procedure, regulation, code of practice or instruction relating to health and safety, security, the environment or access to and use of any UKCEH laboratory, office, facility or equipment which is brought to their attention or given to them while they are on UKCEH's premises by any employee or representative of UKCEH.

11.2 All equipment, tools and vehicles brought onto UKCEH's premises by the Supplier or the Staff are at the Supplier's risk.

11.3 If the Supplier provides all or any of the Goods and/or Services at or from UKCEH's premises, on completion of the provision of the Goods and/or Services, or termination or expiry of the Contract, whichever is the earlier, the Supplier vacates UKCEH's premises, removes the Supplier's plant, equipment and unused materials and all waste arising out of the provision of the Goods and/or Services and leaves UKCEH's premises in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to UKCEH's premises or any objects contained on UKCEH's premises which is caused by the Supplier or any Staff, other than fair wear and tear.

11.4 If the Supplier provides all or any of the Goods and/or Services at or from its premises or the premises of a third party, UKCEH may, during normal business hours and with reasonable notice, inspect and examine the manner in which the relevant Goods and/or Services are supplied at or from the relevant premises.

12 STAFF AND KEY PERSONNEL

12.1 If UKCEH believes that any of the Staff are unsuitable to undertake work in respect of the Contract it may by giving written notice to the Supplier:

- (a) refuse admission to the relevant person(s) to UKCEH's premises;
- (b) direct the Supplier to end that relevant person(s) involvement in the provision of the Goods and/or Services; and/or
- (c) require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by UKCEH to the person removed is surrendered.

and the Supplier shall comply with any such notice.

12.2 The Supplier shall procure that all Staff comply with any rules, regulations and requirements reasonably specified by UKCEH.

12.3 Key Personnel are not released from supplying the Goods and/or Services without the agreement of UKCEH, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

12.4 A replacement of Key Personnel is subject to the prior written agreement of UKCEH which is not to be unreasonably withheld. Replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and shall be suitable for the responsibilities of that person in relation to the Goods and/or Services.

13 TRANSFER OR UNDERTAKINGS (PROTECTION OF EMPLOYEES) ACT (TUPE)

13.1 The Supplier warrants that the provision of the Goods and/or Services does not give rise to a transfer of any employees of the Supplier or any third party to UKCEH pursuant to TUPE.

14 ASSIGNMENT AND SUB-CONTRACTING

14.1 The Supplier does not assign, sub-contract, novate or in any way dispose of the benefit and/or the burden of the Contract or any part of the Contract without the written consent of UKCEH. UKCEH may, in the granting of such consent, ask for additional terms and conditions relating to the assignment, sub-contract, novation or disposal.

14.2 The Supplier is responsible for the acts and omissions of its sub-contractors as though those acts and omissions are its own.

14.3 Where UKCEH consents to the placing of sub-contracts the Supplier will, at the request of UKCEH, send copies of each sub-contract to UKCEH as soon as is reasonably practicable.

14.4 UKCEH may, without any cost to or liability of UKCEH, require the Supplier to replace any subcontractor where in the reasonable opinion of UKCEH the subcontractor fails to meet the standards required to perform the Contract under clauses 3 or 4.

14.5 UKCEH may assign or otherwise dispose of its rights and obligations under the Contract, but not novate, without the consent of the Supplier provided that such assignment or disposal does not increase the burden of the Supplier's obligations under the Contract.

14.6 UKCEH may request the consent of the Supplier to novate the Contract, such consent shall not to be unreasonably withheld.

15 INTELLECTUAL PROPERTY RIGHTS

15.1 All Intellectual Property Rights in any materials created or developed by or on behalf of the Supplier pursuant to this Contract or arising as a result of the supply of the Goods and/or Services, including the Deliverables, vests in UKCEH. If, and to the extent that the ownership of any Intellectual Property Rights vests in the Supplier by operation of law, the Supplier hereby assigns ownership of such Intellectual Property Rights to UKCEH by way of a present assignment of future rights that takes place immediately on the coming into existence of any such Intellectual Property Rights, and all its Intellectual Property Rights in such materials, with full title guarantee and free from all third party rights.

15.2 The Supplier shall obtain waivers of all moral rights in the products, including, for the avoidance of doubt, the Deliverables, or the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

15.3 The Supplier shall, at the request of UKCEH, do or procure to be done, all such further acts and things and execute all such other documents as UKCEH may from time to time require for the purpose of securing for UKCEH the full benefit of the Contract, including all rights, title and interest in and to the Intellectual Property Rights assigned to UKCEH in accordance with clause 15.1.

15.4 All Intellectual Property Rights in any materials provided by UKCEH to the Supplier remain the property of UKCEH. UKCEH hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use:

- (a) any Intellectual Property Rights in the materials provided by UKCEH to the Supplier;
- (b) any Intellectual Property Rights in the materials created or developed by the Supplier pursuant to this Contract and any Intellectual Property Rights arising as a result of the provision of the Goods and/or Services,

as required until termination or expiry of this Contract for the sole purpose of enabling the Supplier to perform its obligations under the Contract.

15.5 Without prejudice to clause 15.1 the Supplier hereby grants UKCEH a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

- (a) any Intellectual Property Rights vested in or licensed to the Supplier on the date of this Contract to the extent not falling within clause 15.1; and
- (b) any Intellectual Property Rights created during the Term to the extent not falling within clause 15.1,

including any modifications to or derivative versions of any such Intellectual Property Rights, which UKCEH reasonably requires in order to exercise its rights and take the benefit of the Contract including the Goods and/or Services provided.

16 INDEMNITY

16.1 The Supplier indemnifies, and will keep indemnified, UKCEH up to the Supplier's Liability against all costs, claims, expenses, damages and losses, whether direct or indirect, to include loss of profits, loss of business, depletion of goodwill and similar losses, including any interest, penalties, fines, legal and other professional fees and expenses awarded against or incurred or paid by UKCEH as a result of or in connection with:

- (a) the Supplier's breach or negligent performance or non-performance of this Contract;
- (b) any claim brought against UKCEH for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, receipt, use or supply of the Goods and/or Services, to the extent that the claim is attributable to the acts or omissions of the Supplier or any Staff;
- (c) any claim made against UKCEH by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods and/or Services, to the extent that the defect in the Goods and/or Services is attributable to the acts or omissions of the Supplier and the Staff; and
- (d) any claim whether in tort, contract, statutory or otherwise, demands, actions, proceedings and any awards arising from a breach by the Supplier of clause 7 of the Contract.

16.2 This clause 16 will survive termination or expiry of the Contract.

17 INSURANCE

17.1 During the Term of the Contract and for a period of 6 years after, the Supplier shall maintain in force the following insurance policies with reputable insurance companies as may be necessary in accordance with Good Industry Practice to insure the Supplier against all manner of risks that might arise out of the acts or omissions of the Supplier or otherwise in connection with the Supplier's performance of its obligations under this Contract, including, without limitation, in respect of the following risks:

- (a) Professional indemnity insurance for not less than £2 million per claim;
- (b) loss, damage or destruction of any of UKCEH's property under the custody and control of the Supplier, with a minimum sum insured of £5 million per claim;
- (c) public liability insurance for not less than £5 million per claim (unlimited claims);

- (d) employer liability insurance for not less than £5 million per claim (unlimited claims); and
- (e) product liability insurance for not less than £5 million for claims arising from any single event.

The Supplier shall ensure that UKCEH's interest is noted on each insurance policy, or that a generic interest clause is included, if applicable.

- 17.2 The Supplier shall provide UKCEH with copies of the insurance policy certificates and details of the cover provided if requested by UKCEH.
- 17.3 From the Commencement Date the Supplier shall notify UKCEH in writing of any employer's liability or public liability incident arising out of or in connection with this Contract which:
 - (a) has the potential to exceed £10,000 (excluding costs); and/or
 - (b) irrespective of the claim's value, may reasonably be considered to have the potential to adversely affect the reputation of UKCEH,within five days of such an incident occurring.
- 17.4 The Supplier shall keep UKCEH informed and up-to-date on the progress of any incident referred to in clause 17.3 and related claims or decisions taken in respect of liability.
- 17.5 The Supplier shall ensure that any subcontractors maintain adequate insurance having regard to the obligations under the Contract which they are contracted to fulfil.
- 17.6 The Supplier shall:
 - (a) do nothing to invalidate any insurance policy or to prejudice UKCEH's entitlement under it; and
 - (b) notify UKCEH if any policy is or will be cancelled or its terms are or will be subject to any material change.
- 17.7 The Supplier's liabilities under the Contract are not to be deemed to be released or limited by the Supplier taking out the insurance policies referred to in clause 17.1.
- 17.8 If the Supplier fails or is unable to maintain insurance in accordance with clause 17.1, UKCEH may, so far as it is able, purchase such alternative insurance cover as it deems to be reasonably necessary and will be entitled to recover all reasonable costs and expenses it incurs in doing so from the Supplier.

18 LIABILITY

- 18.1 UKCEH shall not be responsible for any injury, loss, damage, cost or expense suffered by the Supplier if and to the extent that it is caused by the negligence or wilful misconduct of the Supplier or the Staff or breach by the Supplier of its obligations under the Contract. The Supplier is not responsible for any injury, loss, damage, cost or expense suffered by UKCEH if and to the extent that it is caused by the negligence or wilful misconduct of UKCEH or by breach by UKCEH of its obligations under the Contract.
- 18.2 Subject to clause 18.6, UKCEH does not have any liability for:
 - (a) any indirect or consequential loss or damage;
 - (b) any loss of business, rent, profit or anticipated savings;
 - (c) any damage to goodwill or reputation;
 - (d) loss, theft, damage or destruction to any equipment, tools, machinery, vehicles or other equipment brought onto UKCEH's premises by or on behalf of the Supplier; or
 - (e) any loss, damage, costs or expenses suffered or incurred by any third party.
- 18.3 Subject to clause 18.6, the aggregate liability of UKCEH in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Contract, misrepresentation (whether

tortious or statutory), tort (including negligence), breach of statutory duty or otherwise will in no event exceed 100% of the Charges paid or payable to the Supplier.

- 18.4 Subject always to clauses 18.5 and 18.6, the Supplier's aggregate liability in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Contract, the supply or failure to supply of the Goods and/or Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed the Limit of Liability.
- 18.5 The Supplier's liability under the indemnity in clause 25.5 and 27.1 is unlimited.
- 18.6 Nothing in the Contract restricts either Party's liability for:
- (a) death or personal injury resulting from its negligence or that of its Staff; or
 - (b) its fraud (including fraudulent misrepresentation) by it or that of its Staff; or
 - (c) breach of any obligations as to title implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or
 - (d) any other matter which, by law, may not be excluded or limited.

19 TERMINATION

- 19.1 UKCEH may terminate the Contract in whole or in part at any time before the Goods and/or Services are provided with immediate effect by giving the Supplier written notice, whereupon the Supplier will discontinue the provision of the Goods and/or Services in whole or in part. UKCEH shall pay to the Supplier:
- (a) such Charges or that part of the Charges for Goods which have been Delivered to UKCEH or, on the deemed date of service of the notice of cancellation, are already in transit; and/or
 - (b) such Charges or that part of the Charges for Services provided and a fair and reasonable portion of the Charges for work-in-progress in performing the Services at the time of termination,
- but UKCEH shall not be liable for any loss of anticipated profits or any consequential loss. The Supplier shall have a duty to mitigate its costs and will on request provide proof of work-in-progress claimed.
- 19.2 UKCEH may terminate the Contract at any time by notice in writing to the Supplier to take effect on any date falling at least 3 months (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
- 19.3 UKCEH may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the circumstances set out in clauses 7.2, 7.4, 27.1 or 29.3 apply; or
 - (b) the Supplier is in material breach of any obligation under the Contract which is not capable of remedy; or
 - (c) the Supplier breaches any term of the Contract and if such breach is remediable fails to remedy that breach within 30 days of being notified in writing of the breach; or
 - (d) the Supplier repeatedly breaches any of the terms and conditions of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of this Contract; or
 - (e) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or, being a company, is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or being an individual is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or being a partnership has any partner to whom any of the foregoing apply; or

- (f) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; or
- (g) being a company a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier; or
- (h) being an individual the Supplier is the subject of a bankruptcy petition or order; or
- (i) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- (j) being a company an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier; or
- (k) a person becomes entitled to appoint a receiver over the Supplier's assets or a receiver is appointed over the Supplier's assets; or
- (l) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 19.3; or
- (m) there is a change of control of the Supplier (within the meaning of section 1124 of the Corporation Tax Act 2010 or equivalent); or
- (n) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (o) the Supplier's financial position deteriorates to such an extent that in UKCEH's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (p) being an individual, the Supplier dies or, by reason of illness or incapacity, whether mental or physical, is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

19.4 The Supplier shall notify UKCEH as soon as practicable of any change of control as referred to in clause 19.3(m) or any potential such change of control.

19.5 The Supplier may terminate the Contract by written notice to UKCEH if UKCEH has not paid any undisputed invoice within 120 days of it falling due.

19.6 Termination or expiry of the Contract is without prejudice to the rights of either Party accrued prior to termination or expiry and will not affect the continuing rights of the Parties under this clause and any other provision of the Contract that either expressly or by implication has effect after termination.

19.7 Upon termination or expiry of the Contract, the Supplier shall immediately:

- (a) cease all work on the Contract;
- (b) deliver to UKCEH all Deliverables and all work-in-progress whether or not complete. If the Supplier fails to do so UKCEH and/or its representatives have the right to enter the Supplier's premises in order to take possession of all Deliverables and all work-in-progress. The Supplier allows UKCEH and its representatives such access and assistance as required by UKCEH and its representatives to take possession of the Deliverables and the work-in-progress. Until the Deliverables and the work-in-progress are returned to UKCEH the Supplier will be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

- (c) cease use of and returns or, at UKCEH's election, destroys, all of UKCEH's Materials in the Supplier's possession or control; and
- (d) give all reasonable assistance to UKCEH and any incoming supplier of the Goods and/or Services (as applicable); and
- (e) return or destroys UKCEH's Confidential Information in accordance with clause 22.3.

20 DECLARATION OF INEFFECTIVENESS AND PUBLIC PROCUREMENT TERMINATION EVENT

- 20.1 In the event that a Court makes a Declaration of Ineffectiveness UKCEH will promptly notify the Supplier in writing. The Parties agree that the provisions of clause 19.7 and this clause 20 will continue to apply as from the time when the Declaration of Ineffectiveness is made.
- 20.2 The Declaration of Ineffectiveness will not prejudice or affect any right, liability or remedy which has accrued or will accrue to either Party prior to or after such Declaration of Ineffectiveness in respect of the period prior to the Declaration of Ineffectiveness.
- 20.3 Consistent with UKCEH's rights of termination implied into the Contract by the Public Contracts Regulations 2015 (as amended) in the event of a Public Procurement Termination Event UKCEH will promptly notify the Supplier and the provisions of clause 19.7 and this clause 20 will apply as from the date of receipt by the Supplier of the notification of the Public Procurement Termination Event.
- 20.4 The Public Procurement Termination Event will not prejudice or affect any right, liability or remedy which has accrued or will accrue to either Party prior to or after such Public Procurement Termination Event in respect of the period prior to the Public Procurement Termination Event.
- 20.5 During any Court proceedings seeking a Declaration of Ineffectiveness or following notification of a Public Procurement Termination Event UKCEH may require the Supplier to prepare a contingency plan with the effect of achieving:
 - (a) An orderly and efficient cessation of the Contract or a transition of the provisions of the Goods and/or Services to UKCEH or such other entity as UKCEH may specify; and
 - (b) Minimal disruption or inconvenience to UKCEH or to UKCEH's supported organisations or clients,

and the Parties agree that this will have effect in the event a Declaration of Ineffectiveness is made or a Public Procurement Termination Event occurs.

- 20.6 Where there is any conflict between the provisions of clause 19.7 and this clause 200 and the contingency plan then the clauses of this Contract will take precedence.
- 20.7 The Parties will comply with their respective obligations under any contingency plan, as agreed by the Parties, or where agreement cannot be reached, as reasonably determined by UKCEH, in the event that a Declaration of Ineffectiveness is made or a Public Procurement Termination Event occurs.

21 GOVERNANCE AND RECORDS

- 21.1 The Supplier shall:
 - (a) attend progress meetings with UKCEH at the frequency and times specified by UKCEH in Schedule 2 or as otherwise agreed in writing and will ensure that its representatives are suitably qualified to attend such meetings; and
 - (b) submit progress reports to UKCEH at the times and in the format specified by UKCEH in Schedule 2 or as otherwise agreed in writing.
- 21.2 The Supplier shall keep and maintain until 6 years after the expiry or termination of the Contract, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including

the Goods and/or Services supplied under it and all payments made by UKCEH. The Supplier, on request from UKCEH, shall afford UKCEH and its representatives such access to those records as may be reasonably requested by UKCEH in connection with the Contract.

- 21.3 UKCEH may from time to time require the Supplier to complete the Cyber Essentials Questionnaire. The Supplier will submit a completed Cyber Essentials Questionnaire to UKCEH within 10 Working Days of a request from UKCEH. UKCEH shall not be liable for the Supplier's or the Staff's costs in complying with this clause.
- 21.4 The Supplier shall keep and maintain records of sub-contractors it uses to supply the Goods and/or Services and the payments it has made to the sub-contractor as a result of the sub-contractor's work under this Contract. The Supplier shall provide such records to UKCEH within 10 Working Days of a request from UKCEH.

22 CONFIDENTIAL INFORMATION

22.1 Subject to clause 22.2, each Party shall:

- (a) treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the Disclosing Party; and
- (b) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under the Contract.

22.2 Notwithstanding clause 22.1, a Receiving Party may disclose Confidential Information:

- (a) where disclosure is required by applicable law or by a court of competent jurisdiction;
- (b) to its auditors or for the purposes of regulatory requirements;
- (c) on a confidential basis, to its professional advisers;
- (d) to the Serious Fraud Office where the Receiving Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- (e) where the Receiving Party is the Supplier to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Contract provided that the Supplier procures that any Staff to whom it discloses Confidential Information pursuant to this clause will observe the Supplier's confidentiality obligations under the Contract; and
- (f) where the Receiving Party is UKCEH:
 - (i) on a confidential basis to the employees, agents, consultants and contractors of UKCEH;
 - (ii) to the extent that UKCEH, acting reasonably, deems disclosure necessary or appropriate in the course of carrying out its functions; or
 - (iii) in accordance with the requirements of the FOIA or EIR (as amended);
 - (iv) and for the purposes of the foregoing references to disclosure on a confidential basis means disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on UKCEH under this clause 22.

22.3 All documents and other records, in whatever form, containing Confidential Information supplied to or acquired by the Receiving Party from the Disclosing Party or its representatives is returned promptly to the Disclosing Party or, at the election of the Disclosing Party, destroyed promptly, on expiry or termination of the Contract, and no copies are kept.

23 TRANSPARENCY

- 23.1 The Parties acknowledge that except for any information which is exempt from disclosure in accordance with the provisions of the FOIA or EIR the content of the Contract is not Confidential Information and the Supplier hereby gives its consent for UKCEH to publish this Contract in its entirety to the general public, but with any information that is exempt from disclosure in accordance with the FOIA or EIR redacted, including any changes to the Contract agreed from time to time. UKCEH may consult with the Supplier to inform its decision regarding any redactions but will have the final decision in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA or EIR.

24 PUBLICITY

- 24.1 The Supplier shall not make any press announcements or publicise this Contract in any way without prior written consent from UKCEH.
- 24.2 UKCEH shall be entitled to publicise this Contract in accordance with any legal obligation upon UKCEH or where UKCEH has obtained written consent from the Supplier.
- 24.3 The Supplier shall not do anything, or cause anything to be done, which may damage the reputation of UKCEH.

25 DATA PROTECTION: PERSONAL DATA

- 25.1 In this clause 255 the terms, “processes”, “data controller” and “data processor” shall have the same meanings given to them under Data Protection Legislation.
- 25.2 The Parties acknowledge that for the purposes of Data Protection Legislation UKCEH is the data controller and the Supplier is the data processor of any UKCEH Personal Data.
- 25.3 The Supplier shall itself, and shall procure that the Staff, comply with all Data Protection Legislation in relation to any Personal Data processed.
- 25.4 Without limiting clauses 25.2 and 25.3, the Supplier shall at all times and shall ensure that at all times its Staff:
- (a) process Personal Data only in accordance with the Data Protection Legislation and for the Term of this Contract. The Supplier shall immediately inform UKCEH if, in the Supplier's opinion, an instruction from UKCEH infringes the Data Protection Legislation or any other applicable Law;
 - (b) ensure that any person to whom it provides the Personal Data is subject to appropriate confidentiality obligations;
 - (c) have in place a suitably qualified data protection representative to manage the Personal Data;
 - (d) disclose any Personal Data only on a need to know basis to Staff directly concerned with the provision of the Goods and/or Services;
 - (e) not transfer or direct the transfer of any Personal Data to any third party or process or direct the processing of Personal Data outside of the European Economic Area in each case without UKCEH's prior written consent, which consent may be subject to conditions as directed by UKCEH;
 - (f) keep all Personal Data confidential and have in place now and shall on a continuing basis take all reasonable appropriate technical and organisational measures to keep all Personal Data confidential and secure and to protect against unauthorised or unlawful processing, accidental loss, destruction, damage, alteration, disclosure or access;
 - (g) keep records of their data processing activities performed under this Contract in order to be able to provide information included in those records to the data protection authorities upon request including, but not limited to, the Information Commissioner. Records include:
 - (i) details of the data controller and data processor and their representatives;

- (ii) the categories of processing activities that are performed;
 - (iii) information regarding cross-border data transfers; and
 - (iv) a general description of the security measures that are implemented;
- (h) upon request by UKCEH, promptly do such other acts in relation to the Personal Data, or any part thereof, as UKCEH requests to enable UKCEH to comply with its obligations under the Data Protection Legislation;
- (i) notify UKCEH promptly, and at least within 2 Working Days, if it receives a Subject Access Request from a Data Subject or a complaint relating to a Data Subject and promptly provide UKCEH with all such data, information, cooperation and assistance as is required by UKCEH in order to respond to and resolve the request or complaint within any applicable time frames;
- (j) provide such information and allow for and contribute to audits, including inspections, conducted by UKCEH or an auditor mandated by UKCEH, as is reasonably necessary to enable UKCEH to satisfy itself of the Supplier's compliance with this clause 25 and the Data Protection Legislation;
- (k) on termination or expiry of this Contract, and at any other time on UKCEH's request, either return or destroy, as elected by UKCEH, the Personal Data and all copies of it, and confirms in writing that it has complied with this obligation; and
- (l) notify UKCEH promptly on becoming aware of any Personal Data Breach and promptly following notification, provides such data, information and assistance as is required by UKCEH in order for UKCEH to notify the Personal Data Breach to the Information Commissioner and/or Data Subject(s) and otherwise fulfil its obligations under Data Protection Legislation.

25.5 The Supplier shall only use a sub-processor with UKCEH's written specific or general consent, although where general consent is obtained processors must notify all and any changes to UKCEH giving UKCEH an opportunity to object.

25.6 To the extent that UKCEH provides its consent pursuant to clause 25.55 the Supplier passes down the contractual obligations contained in this clause 25 to the sub-processors.

25.7 Notwithstanding any other remedies available to UKCEH the Supplier fully indemnifies UKCEH for any breach of the Data Protection Legislation by the Supplier or any other party used by the Supplier in its performance of the Contract that results in UKCEH suffering fines, loss or damages.

26 FREEDOM OF INFORMATION ACT (FOIA) AND ENVIRONMENTAL INFORMATION REGULATIONS (EIR)

26.1 The Supplier acknowledges that UKCEH may be subject to the requirements of FOIA and EIR and will:

- (a) provide all necessary assistance and co-operation as reasonably requested by UKCEH to enable UKCEH to comply with its obligations under FOIA and EIR in relation to any Requests for Information relating to this Contract;
- (b) transfer to UKCEH all Requests for Information relating to this Contract that it receives as soon as practicable and in any event within 2 Working Days of receipt;
- (c) provide UKCEH with a copy of all Information belonging to UKCEH requested in the Request for Information which is in its possession or control in the form that UKCEH requires within 5 Working Days (or such other period as UKCEH may reasonably specify) of UKCEH's request for such Information; and
- (d) not respond directly to a Request for Information unless authorised in writing to do so by UKCEH.

26.2 UKCEH will be responsible for determining, in its absolute discretion, whether any Information:

- (a) is exempt from disclosure in accordance with the provisions of FOIA or EIR;

(b) is to be disclosed in response to a Request for Information,

26.3 The Supplier acknowledges that UKCEH may be obliged under the FOIA or EIR to disclose Information that is commercially sensitive:

(a) without consulting with the Supplier, or

(b) following consultation with the Supplier and having taken its views into account.

26.4 Where clause 26.3(a) applies UKCEH will, in accordance with any recommendations issued under any code of practice issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advanced notice, or, failing that, to draw the disclosure to the Supplier's attention as soon as practicable after any such disclosure.

26.5 Where the Supplier is subject to the requirements of the FOIA and EIR UKCEH will assist and co-operate with the Supplier to enable the Supplier to comply with its obligations under the FOIA and EIR in relation to any Requests for Information received by the Supplier relating to this Contract.

27 FRAUD AND BRIBERY

27.1 Without prejudice to any other rights or remedies available UKCEH shall be entitled to terminate the Contract immediately and to recover from the Supplier the amount of any loss resulting from such termination if the Supplier or the Supplier's Associate:

(a) offers or agrees to give any person working for or engaged by UKCEH or UKCEH's staff and agents any favour, gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to the Contract, or any other agreement with UKCEH;

(b) has entered into the Contract if it has knowledge that, any money has been, or will be, paid to any person working for or engaged by UKCEH in connection with the Contract, by or for the Supplier or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to UKCEH before the Contract is entered into; or

(c) breaches the provisions of the Prevention of Corruption Acts 1889 to 1916, or the Bribery Act 2010 or as amended.

27.2 The Supplier takes all reasonable steps, in accordance with Good Industry Practice, to prevent fraud by the Supplier, the Supplier's Staff and the Supplier's Associates in connection with the Contract and shall notify UKCEH immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

27.3 For the purposes of clause 27.1, "loss" shall include, but shall not be limited to:

(a) UKCEH's costs in finding a replacement supplier;

(b) direct, indirect and consequential losses; and

(c) any loss suffered by UKCEH as a result of a delay in the performance of the Services and/or its receipt of the Goods, as applicable.

28 MODERN SLAVERY ACT 2015

28.1 In performing its obligations under this Contract, the Supplier shall ensure that any permitted subcontractors comply with:

(a) all applicable laws, statutes and regulations from time to time in force, including but not limited to the Modern Slavery Act 2015; and

(b) any anti-slavery policy adopted by UKCEH from time to time.

28.2 UKCEH may from time to time require the Supplier to provide information and evidence to demonstrate its and its subcontractors' compliance with clause 28.1. The Supplier shall provide such information

within 10 Working Days of a request from UKCEH for the same. A breach of this clause 30 will be deemed a material breach for the purpose of clause 19.3(b).

29 FORCE MAJEURE

- 29.1 Neither Party to this Contract shall in any circumstances liable to the other for any delay or non-performance of its obligations under this Contract to the extent that such delay or non-performance is due to a Force Majeure Event. Subject to Clause 29.3, the date for performance of any affected obligations will be suspended for a period equal to the delay caused by the Force Majeure Event.
- 29.2 If a Party is delayed in or prevented from performing its obligations under this Contract by a Force Majeure Event such Party shall:
- (a) give notice in writing of such delay or prevention to the other Party specifying the nature and extent of the Force Majeure Event immediately on becoming aware of it; and
 - (b) use all reasonable endeavours to mitigate the effects of the Force Majeure Event on the performance of its obligations.
- 29.3 If the Force Majeure Event continues for a period of 30 (thirty) days or more following notification, then either Party may terminate this Contract by giving not less than 10 (ten) days' prior written notice to the other Party.
- 29.4 UKCEH shall not be liable to pay Charges in relation to any Goods and/or Services that are not provided by the Supplier due to a Force Majeure Event.

30 DISPUTE RESOLUTION

- 30.1 The Parties agree to co-operate with each other in an amicable manner with a view to achieving the successful implementation of this Contract.
- 30.2 If a Dispute arises between UKCEH and the Supplier during the Term in relation to any matter which cannot be resolved by local operational management either Party may refer the matter for determination in accordance with the procedure set out in Clause 30.3.
- 30.3 A Dispute referred for determination is escalated as follows:
- (a) by referral in the first instance to the decision of the individuals for each Party referred to in the Award Letter for stage 1 escalations and;
 - (b) if a Dispute is not resolved within 21 days of its referral pursuant to Clause 30.3(a), such Dispute will be referred to the individuals for each Party referred to in the Award Letter for stage 2 escalations.
- 30.4 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in Clause 30.3(b) the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "**Mediator**") chosen by agreement between the Parties. All negotiations connected with the dispute are conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 30.5 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.
- 30.6 Neither Party shall be prevented from, or delayed in, seeking orders for specific performance or interlocutory or final injunctive relief on an ex parte basis or otherwise as a result of the terms of this Clause 30, such clause not applying in respect of any circumstances where such remedies are sought.

31 CHANGE CONTROL PROCEDURE

- 31.1 In the event that either party desires to change the terms of this Contract, the following procedure will apply:

- (a) the Party requesting the change deliver a “Change Control Notice” in the form contained in Schedule 5 to this Contract which describes:
 - (i) the nature of the change;
 - (ii) the reason for the change;
 - (iii) the effect that the requested change will have on the scope or Specification for the Goods and/or Services; and
 - (iv) any change to the Charges and the Term.
- (b) On receipt of a Change Control Notice the receiving Party’s authorised representative will contact their counterpart within 5 working days to discuss and agree the Change Control Notice. The Parties will negotiate the proposed changes to the Contract in good faith and agree a timeline in which to finalise the Change Control Notice.
- (c) Neither party is obliged to agree to a Change Control Notice but if the parties do agree to implement a change the appropriate authorised representatives of both parties will sign the Change Control Notice which will be effective from the date set out in the Change Control Notice.
- (d) If there is any conflict between the terms and conditions set out in the Contract and the Change Control Notice, then the terms and conditions set out in the most recent fully executed Change Control Notice will apply.
- (e) The Supplier shall neither be relieved of its obligations to supply the Goods and/or Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the Charges as the result of:
 - (i) a General Change in Law; or
 - (ii) a Specific Change in Law where the effect of that Specific Change in Law on the Goods and/or Services is reasonably foreseeable at the Commencement Date.

32 ENTIRE AGREEMENT

- 32.1 The Contract constitutes the entire agreement between UKCEH and the Supplier in relation to the supply of the Goods and/or Services and the Contract supersedes and replaces any prior written or oral agreements, representations or understandings between the Parties relating to that subject matter. The Parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract. Nothing in this clause will exclude liability for fraud or fraudulent misrepresentation.

33 NOTICES

33.1 Any notice given under the Contract shall be in writing and may be served by personal delivery, first class or recorded post or, subject to clause 0, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in writing.

33.2 Notices served as above are deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery will be deemed to occur on the next Working Day. An email will be deemed delivered when sent unless an error message is received.

33.3 Notices under clauses 20, 21 and 30 may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 0.

34 GENERAL

- 34.1 If any court or competent authority finds that any provision of the Contract or part of any provision is invalid, illegal or unenforceable that provision or part-provision shall, to the extent required, be deemed

to be deleted and the validity and enforceability of the other provisions of the Contract will not be affected.

- 34.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 34.3 A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law will constitute a waiver of that or any other right or remedy, nor will it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will preclude or restrict the further exercise of that or any other right or remedy.
- 34.4 The Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party has, nor represents that it has, any authority to make any commitments on the other Party's behalf.
- 34.5 A person who is not a Party to this Contract shall have no right to enforce any of its provisions, which expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 34.6 The Contract cannot be varied except in writing signed by a duly authorised representative of both the Parties.

35 GOVERNING LAW AND JURISDICTION.

- 35.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation, including non-contractual disputes or claims, is governed by and construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

Schedule 2 - Specification

All the documents submitted by the supplier in the Tender Bid response are part for the Specification.



Specification & Requirements

**For the provision of a UPLC-MS-MS system [*Liquid Chromatography
Mass-Spectrometry-Mass Spectrometry – PL367-23*]**

August 2023

1. Introduction

- 1.1. The UK Centre for Ecology & Hydrology (UKCEH) is an independent, not-for-profit charitable research institute. Our 500 scientists provide the data and insights that researchers, governments and businesses need to create a productive, resilient and healthy environment. With our head office based in Wallingford, we have additional sites across the UK namely in Lancaster, Bangor and Edinburgh.
- 1.2. Suppliers are invited to tender for the supply, delivery, installation and maintenance for a complete LC-MS-MS system to meet the requirements outlined in this document.
- 1.3. Glossary:
 - 1.3.1 LC-MS-MS – Liquid Chromatography Mass-Spectrometry-Mass Spectrometry.
 - 1.3.2 Triple-Quad – Triple Quadrupole mass spectrometer for accurate determination of known compounds.
 - 1.3.3 UPLC/UHPLC – an ultra-high performance liquid chromatography system operating at high pressure.
 - 1.3.4 HESI – Heated ElectroSpray Ionisation probe.
 - 1.3.5 APCI – Atmospheric Pressure Chemical Ionisation probe
 - 1.3.6 SPE – Solid Phase Extraction

2. Scope

- 2.1. The UKCEH is planning to procure a bench top high-resolution LC-MS-MS mass spectrometer that meets all the below technical specifications. The full list of requirements can be found in Schedule 4 “Quality Questions” and is divided between required and desirable features.
 - 2.1.1. The LC-MS-MS system is to be of the highest spec available with the minimum specification as outlined below and most recent bench-top model of its class, suitable for quantification of low levels of analytes in complex matrices. It must have rapid pos/neg switching within the same run.
 - 2.1.2. System to be complete with a **UPLC/UHPLC** suitable for the applications, and include data system, software, installation and training.
 - 2.1.3. It is desirable that System includes the optional capacity for online SPE and/or large volume injection, with all hardware and software included in the tender.
 - 2.1.4. Any special hardware/plumbing/pre-columns required for PFAs determination to be included in the tender.
 - 2.1.5. System should not require liquid cooling or external gases except nitrogen and/or argon.
 - 2.1.6. System to include both HESI and APCI probes, and/or options giving equivalent performance (e.g. Unispray).

- 2.1.7. Where possible, oil-free backing pumps are to be supplied.
- 2.1.8. One-year warranty followed by five years maintenance contract (Parts and Labour – full cover) to be included in initial purchase price.
- 2.1.9. Tender is to include a suitable standalone Nitrogen generator for the instrument.
- 2.1.10. Any software provided is to be available to install on other PC's on site (for offline data processing). If the software is not free for multiple users then up to 10 licenses to be included in the purchase price.
- 2.1.11. The instrument PC will not be able to access the internet via the site network, therefore the PC will need either a built-in Wi-Fi modem, or an external USB Wi-Fi dongle.
- 2.1.12. Data must be exportable as .csv or Excel files for further offline processing.
- 2.1.13. Modifications resulting in improvements to instrument performance would be expected to be made available if they become standard between tendering and installation.
- 2.1.14. Any agreements regarding the 5 years extra maintenance contract upon full installation of the goods are to remain in place, without extra cost, for the duration of that warranty. Six years from date of installation assuming a one-year standard warranty.
- 2.2. Installation of the system must be complete by end the 20th March 2024
 - 2.5.1 Ex-demo instruments may be considered only if they are the most recent model and are guaranteed to meet full specification and warranty requirements and be available in the necessary timescale.
- 2.3. An Ion Bench soundproofed bench will be available for use. It measures 120cm long by 90cm front-to-back. LC and MS footprints combined are to fit on this, or an identical bench provided in the tender. PC can be separate.
- 2.4. If a bench is provided (see 2.3) then it requires a minimum of a soundproof enclosure for pumps, with vibration damping and cooling/ventilation, and sufficient power outlets to run the equipment and data system. Other requirements would ideally include: Alternatives to Ion Bench may be considered if they meet or exceed the following criteria:
 - 2.4.1. Fully movable with lockable casters and weight capacity appropriate to load.
 - 2.4.2. Noise reduction performance 15 db(A).
 - 2.4.3. Compatible with one or more vacuum pumps, depending on system.
 - 2.4.4. Silent cooling fans.
 - 2.4.5. Acoustic foam lining to cabinet.
 - 2.4.6. Cabinet has audible AND visual overheating alarm (with battery backup). Must have alarm test function.
 - 2.4.7. Coil spring vibration dampeners reducing vibration by 99%.

- 2.4.8. Oil drip tray for vacuum pump (depending on system, oil-free pumps preferred).
- 2.4.9. Pipe and cable channels through work surface.
- 2.4.10. Chemical resistant laboratory standard benchtop.

2.5. The tender is expected to include the following services:

- 2.4.1 Delivery and Installation, of all goods as specified.
- 2.4.2 Initial 1 Year warranty
- 2.4.3 Extended maintenance contract (5 years minimum) with a minimum annual preventive maintenance visit and parts/labour cover for any faults at other times. Typical response time to be less than 3 working days.
- 2.4.4 After-sales advice service from applications specialists with regards setting up new methods etc.

3. Background Information

- 3.1. The System is intended to replace an obsolete Thermo Quantum Ultra MS/MS coupled to a Thermo Ultimate 3000 LC. These are available for trade-in if an appropriate discount is offered.
- 3.2. Applications are varied but typically include pesticides, pharmaceuticals and PFAs in a range of matrices. The use is environmental research, rather than regulatory, which means sensitivity is critical (i.e. low LOD) as well as the widest range of analytes in a single analysis
- 3.3. The instruments are to be installed in an air-conditioned upstairs laboratory at UKCEH Lancaster. A goods lift is available which will allow access to the laboratory for bench-top instruments. Trolleys and facilities staff will be on-hand for assistance.
- 3.4. Electrical supply and waste/exhaust requirements outlined in the instrument specification will be provided for by the customer prior to installation.
- 3.5. Argon can be supplied from site supply where needed.

4. Technical, Performance & Measurement specifications

- 4.1. Technical Specifications
 - 4.1.1 The mass spectrometer is a high resolution bench-top system
 - 4.1.2 The mass spectrometer is of a triple quadrupole
 - 4.1.3 The Mass-Spectrometer must be capable of real-time data acquisition and data processing.

Desirable Technical Specifications

- 4.1.4 It is Desirable that the system includes hardware and software to allow optional capability for online Solid Phase Extraction and, if possible, peak

focussing capabilities for concentrating analytes in dilute samples (e.g. water samples)

- 4.1.5 It is Desirable that The LC system should include capacity for multiple LC columns – switchable without breaking into plumbing.

4.2. Performance specifications

4.2.1 Sensitivity

We require the highest available sensitivity – as a minimum in ESI (pos) a 1 pg on-column injection of reserpine will give a chromatographic signal/noise ratio greater than 150,000:1, but the suppliers are asked to tender for the highest-sensitivity model of instrument that fits the other criteria.

4.2.2 Mass resolution

We require the highest possible resolution offered by the supplier, ideally with auto-adjustment, with a minimum performance of: 0.5 Da FWHM (manual adjustment). Suppliers are to quote for the best resolution instrument that fits the other criteria. Resolution must be demonstrated for low levels of analytes in complex matrices where suppression occurs

4.2.3 Polarity Switching

The mass spectrometer must be capable of fast polarity switching.

4.2.4 Scan functions

The instrument set up must allow scheduled setup of different events using a graphical user interface

- It must acquire and display Full Scan mass spectra
- It must acquire and display selected Ion Monitoring (SIM) scan data for monitoring selected ions for target compound analysis
- It must acquire and display Full Scan MS/MS spectra
- It must acquire and display Selected Reaction Monitoring
- It must acquire and display multiplexed SIM and multiplexed MS/MS mass spectra of up to 10 simultaneously detected precursor ions

4.2.5 Ion Sources and Probes

We require that probes are able to be changed rapidly without breaking vacuum. The tender must include both HESI and APCI or equivalent probes. If the supplier can offer combined or different probe technology that offers significant performance improvements over HESI or APCI then this should also be included in the tender.

4.3. Acceptance Testing

- 4.3.1 Manufacturers will be expected to have their own installation checklist, this will be examined and signed-off only when the instrument demonstrates reaching the criteria in said checklist.

4.4. Whole Life Support Reliability, Availability and Maintainability

- 4.5.1 One-year warranty followed by 5 years maintenance contract (Parts and Labour - full cover) to be included in initial purchase price.

- 4.5.2 After-sales advice service from applications specialists with regards setting up new methods etc. will be expected
- 4.5.3 Extended maintenance contract with a minimum annual preventive maintenance visit and parts/labour cover for any faults at other times
- 4.5.4 Typical response time to be less than 3 working days.
- 4.5.5 Systems are expected to be reliable and appropriate for use for up to ten years after installation.
- 4.5.6 The same terms and timescale as above are expected to also be applied to the nitrogen generator supplied with the instrument. i.e. full warranty and service cover for the same number of years as that of the instrument itself.
- 4.5.7 Key Performance Indicators (KPI's) as per the below table (diagram) are related to the 5 years maintenance contract for the UPLC-MS-MS system and nitrogen generator. Failures on any of the below listed KPIs will result in the need for the supplier to create an action plan for rectification.

Statement	Measured by	Target
The UPLC-MS-MS system and nitrogen generator must performance effective and efficiently. Equipment breakdowns respond time should be within 72 hours (3working days).	UKCEH will measure the time once equipment breakdown (failure) occurs until it is fixed.	80% or more satisfied
The supplier should be reactive when a breakdown occurs and ensure that there are sufficient support available to the end users.	UKCEH will measure this by the satisfaction of the end users.	80% or more satisfied
The supplier should ensure that all spare parts are rapidly availability.	UKCEH will keep record of any extended delays caused due to stock out of spare parts.	80% or more satisfied
Plan Preventative Maintenance (PPM) should be perform annually.	UKCEH will keep record of Plan Preventative Maintenance (PPM) schedule agreed with the supplier.	80% or more satisfied

4.5. Training, Operator Manuals and Support

- 4.5.1 Training is to take place using the supplied equipment and at the purchaser's laboratory, based at our Lancaster site
- 4.5.2 Operator training in basic operation, routine maintenance and data acquisition/processing is to be provided at installation for up to three operators and the trained analysts must be able to use the instrument unsupervised after this time included in the bid price
- 4.5.3 Training is expected to result in the trained analysts being able to run samples and perform user maintenance efectively and unserpervised.
- 4.5.4 Operator's manuals, in English, are to be provided for all of the equipment, these may be either physical hard-copy or PDF.
- 4.5.5 Access to online help is regarded as a bonus and is not to be provided as an alternative to stand-alone manuals.

4.6. Quality Assurance Requirements

- 4.6.1 Systems must comply with regulations (e.g. WEEE directives) and be provided/manufactured by an ISO9001 compliant supplier.

- 4.6.2 The equipment and software must be suitable for use in an ISO17025 accredited laboratory. The data system must provide appropriate traceability and security.
- 4.6.3 UKCEH has ISO14001 approval and the equipment is to be as energy and waste-efficient as possible. Ideally suppliers should also be able to demonstrate ISO14001 approval. The Specification may request or detail appropriate quality assurance processes to be undertaken by the Provider. This will significantly reduce the Contracting Authority's need to test or inspect the goods and/or services provided.
- 4.6.4 Systems must comply with all relevant Health and Safety regulations
- 4.6.5 Supplier's staff or subcontractors will be expected to abide by site security regulations, this also includes site regulations regarding access to computers and installation of software, use of USB sticks etc.
- 4.6.6 Suppliers are expected to manage commercially sensitive information appropriately
- 4.6.7 Supplier's staff are not to adjust any other equipment in the host laboratories.

5. Mobilisation and timing

- 5.1. The instrument must be installed and accepted by 20th March 2024

6. Management information and governance

- 6.1. The Governance structure is underpinned by the following key principles:
 - 6.1.1. the relationship will be maintained at a peer to peer level between UKCEH and the appointed Supplier via scheduled and structured meetings and informal communication;
 - 6.1.2. Service delivery will be supervised and managed;
 - 6.1.3. UKCEH business will be represented at appropriate meetings
- 6.2. Authorised Representatives
 - 6.2.1. The table below shows each Customer Authorised Representative, their role and their key responsibilities:

Customer Authorised Representative	Role	Key responsibilities
Claus Svendsen Science Area Head – Pollution	UKCEH Project Sponsor	Strategic lead for the project, accountable for overall delivery and benefit realisation. Representing the UKCEH Executive Board stakeholders. Assisting, advising and supporting the UKCEH Project Manager with business specific risk and issues.
Gloria Dos Santos Pereira	UKCEH Project Manager	Overall delivery of the project as documented in this contract and as agreed with the Project Sponsor.

Group Leader – Analytical Chemistry		<p>Jointly responsible with the Supplier Project Manager for the overall planning, day to day management, status reporting, and risk and issues management of the project.</p> <p>Overall liaison with the UKCEH Project Team.</p> <p>Managing and leading the UKCEH Project Team, and maintaining a cooperative, motivated and successful team.</p> <p>Liaising with the Supplier Project Manager to ensure a coordinated effort towards timely project delivery.</p> <p>Committing user resources and monitoring the solution against the business requirements, as required.</p>
Darren Sleep/ Heather Carter Chemist Analyst / QA Manager	External Technical Support	<p>Set out detailed technical specifications for the project.</p> <p>Review bidder responses to technical queries associated with this tender.</p> <p>Approve equipment, materials and items proposed by Supplier where these differ from those set out in this document and the supporting Annexes.</p>

6.2.2 The table below shows each Supplier Authorised Representative, their role and their key responsibilities:

Supplier Authorised Representative	Role	Key responsibilities
TBC 2. Required	Supplier Project Manager	<p>Jointly responsible with UKCEH Project Manager for the overall planning, day to day management, status reporting, and risk and issues management of the project.</p> <p>Ensuring that all agreed deliverables are assigned and are reviewed for correctness.</p> <p>Managing and leading the Supplier Project Team, and maintaining a cooperative, motivated and successful team.</p> <p>Liaising with UKCEH representatives to ensure a coordinated effort towards timely project delivery.</p> <p>Managing the delivery of the Supplier's services to this project.</p> <p>Managing relationships with stakeholders.</p>

7. Constraints and dependencies

7.1 None advised at this stage

8. Appendices

8.1 Any supporting documents for this specification/requirements document

8.2 All supporting appendices and technical information can be found in the Appendices attached to the RFP.

- 8.2.1 Appendix A – Proposal for Sustainable Procurement
- 8.2.2 Appendix B – Key Performance Indicators
- 8.2.3 Appendix C – Full Conditions Goods-Services


Schedule 3 - Charges

1 The Charges for the Goods and/or Services will be as set out in this 03.

Goods and Services

2 The Charges for the Goods and Service are set out in the Tender Bid Submission from the Supplier [reference: 06_Pricing Schedule Waters Response].

Payment Terms: 30 Days Net after delivery. The equipment must be successfully installed as set out in the Specification in **Schedule 2** before the full payment will be released to the Supplier.

UKCEH - Pricing Schedule						
Tender reference: UPLC-MS-MS system [Liquid Chromatography Mass-Spectrometry-Mass Spectrometry - PL367-23]						
Framework Agreement: Mass Spectrometry and Chromatography Equipment LAB1029 AP						
 UK Centre for Ecology & Hydrology						
Pricing Schedule						
Equipment						
Line	Item	Description	UoM	Quantity	Price (£)	Total (£)
		Xevo TQ Absolute on waters_connect	Each	1	£164,530.02	£164,530.02
		MS Ref Standards	Each	1	£ 328.65	£ 328.65
		Dry Vacuum Pump	Each	1	£ 5,765.79	£ 5,765.79
		API UniSpray Source	Each	1	£ 8,652.60	£ 8,652.60
		waters_connect PC for TQs	Each	1	£ 2,061.26	£ 2,061.26
		Monitor, 27"	Each	1	£ 439.42	£ 439.42
		Kit, waters_connect MS Quan Workstation Software	Each	1	£ 4,968.97	£ 4,968.97
		Peak Scientific XE35 Nitrogen Generator	Each	1	£ 7,051.14	£ 7,051.14
		Peak Scientific Collision Cell Add-On	Each	1	£ 2,365.63	£ 2,365.63
		Acquity Premier BSM/FTN	Each	1	£ 27,893.66	£ 27,893.66
		Acquity Premier CM-A	Each	1	£ 5,828.49	£ 5,828.49
		Kit, waters_connect MS Quan Workstation Software (Upgrade for TQ-XS)	Each	1	£ 3,873.15	£ 3,873.15
		waters_connect PC for TQs	Each	1	£ 2,248.65	£ 2,248.65
		Upgrade/Plan waters_connect for software	Each	1	£ 2,068.24	£ 2,068.24
		Kit, 250 uL Sample Loop and 500 uL Syringe	Each	1	£ 112.34	£ 112.34
		PFAS Install Kit with Oasis 150 mg - Kit 1	Each	1	£ 2,235.25	£ 2,235.25
		Oasis WAX 60 um: PFAS Analysis 6 cc, 500 mg, 30/box	Each	1	£ 147.87	£ 147.87
		Acquity CSH Phenyl-Hexyl 1.7 um, 2.1 x 100mm	Each	1	£ 349.03	£ 349.03
		Oasis WAX 30 um: PFAS Analysis 6 cc, 500 mg, 30/box	Each	1	£ 140.03	£ 140.03
		Acquity Premier BEH C18, 1.7 um, 2.1 x 100 mm	Each	1	£ 384.04	£ 384.04
		MP2Y waters_connect Workstation	Each	1	£ 2,062.83	£ 2,062.83
		Analytical LC-MS Solvent Kit	Each	1	£ 664.62	£ 664.62
		IonBench for TQ Absolute and Acquity Premier	Each	1	£ 4,999.85	£ 4,999.85
Section Total:						£249,171.53
Delivery and Installation						
Line	Item	Description	UoM	Quantity	Price (£)	Total (£)
		Premium Delivery Service	Each	1	£ 750.00	£ 750.00
		Peak Scientific Delivery Service	Each	1	£ 126.66	£ 126.66
		Xevo Tandem Quad Installation	Each	1	£ 6,280.45	£ 6,280.45
		Tandem Quad Disposal Service	Each	1	£ 1,003.20	£ 1,003.20
		Peak Scientific Installation	Each	1	£ 833.31	£ 833.31
		On-Site Training - 3 days	Each	1	£ 5,167.52	£ 5,167.52
Section Total:						14161.14
Service and Maintenance						
Line	Item	Description	UoM	Quantity	Price (£)	Total (£)
		Xevo TQ Absolute FlexChoice Extended Warranty (Year 2-6)	Each	5	£ 20,880.99	£104,404.95
		Acquity Premier (BSM) FlexChoice Extended Warranty (Year 2-6)	Each	5	£ 3,168.83	£ 15,844.15
		Acquity Premier CM-A FlexChoice Extended Warranty (Year 2-6)	Each	5	£ 557.88	£ 2,789.40
		Acquity Premier SM/FTN FlexChoice Extended Warranty (Year 2-6)	Each	5	£ 2,224.27	£ 11,121.35
		Peak Scientific XE35 Nitrogen Generator Extended Warranty (Year 2-6)	Each	5	£ 2,934.84	£ 14,674.20
		Peak Scientific Collision Cell Add-On (Year 3-6)	Each	4	£ 418.56	£ 1,674.24
Section Total:						£150,508.29
GRAND TOTAL:						£413,840.96
Optional Extras for Pricing Schedule						
Equipment						
Line	Item	Description	UoM	Quantity	Price (£)	Total (£)
		2D LC Upgrade for Acquity Premier	Each	1	20434.97	20434.97
Section Total:						20434.97

Schedule 4 - Key Personnel

Key Personnel (name and title)	Role in the performance of this Contract
George Just	Sr. Systems Account Manager
Clare O'Donnell	Sales Manager – UK/Ireland
Gloria Dos Santos Pereira	Group Leader - Analytical Chemistry
Darren Sleep	Chemist Analyst/QA Manager
Dewan Ferreira	Science Category Manager

Schedule 5 - Change Control Notice

Contract Reference:					
1. Change Control Number:					
2. Requested Amendments to Contract (including reasons):					
2.1 Effective date:					
<p>This change is effective from: _____</p>					
2.2 The Contract Term is amended as follows:					
<p>This contract will commence on: _____</p> <p>And will expire on : _____</p>					
3. Cost impact					
3.1 The Charges are amended as follows:					
	Quantity	Unit cost (£)	Net cost (£)	VAT (£)	Gross cost (£)
Original Contract Value					
New contract Value					
3.2 New Contract terms:					

UKCEH and the Supplier agree that they are bound by the terms and conditions set out in this Change Control Notice and, except as set out in this Change Control Notice, all terms and conditions of the Contract remain in full force and effect.



UK Centre for
Ecology & Hydrology

Signed on behalf of

Signed [on behalf of]

UK Centre for Ecology and Hydrology

by:

by:

Signature of authorised person

Signature of authorised person

Name of authorised person (please print)

Name of authorised person (please print)

Date

Date










PL367-23_Terms

Final Audit Report

2023-11-17

Created:	2023-11-13
By:	Dewan Ferreira (dewfer@ceh.ac.uk)
Status:	Signed
Transaction ID:	CBJCHBCAABAAftZmzAZg0DASdsUHO1RH7PzirOr2QI-g

"PL367-23_Terms" History

-  Document created by Dewan Ferreira (dewfer@ceh.ac.uk)
2023-11-13 - 5:04:11 PM GMT
-  Document emailed to Nicola Hampson (nicola_hampson@waters.com) for signature
2023-11-13 - 5:05:24 PM GMT
-  Email viewed by Nicola Hampson (nicola_hampson@waters.com)
2023-11-14 - 10:14:08 AM GMT
-  Document signing delegated to scott_rudland@waters.com by Nicola Hampson (nicola_hampson@waters.com)
2023-11-14 - 10:14:53 AM GMT
-  Document emailed to scott_rudland@waters.com for signature
2023-11-14 - 10:14:53 AM GMT
-  Email viewed by scott_rudland@waters.com
2023-11-14 - 3:45:26 PM GMT
-  Signer scott_rudland@waters.com entered name at signing as Scott Rudland
2023-11-17 - 9:33:35 AM GMT
-  Document e-signed by Scott Rudland (scott_rudland@waters.com)
Signature Date: 2023-11-17 - 9:33:38 AM GMT - Time Source: server
-  Agreement completed.
2023-11-17 - 9:33:38 AM GMT








PL367-23_Terms - signed by the Supplier

Final Audit Report

2023-11-27

Created:	2023-11-20
By:	Dewan Ferreira (dewfer@ceh.ac.uk)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAA6eQ3OGfUMQD06ZHn6WttPnRW5SpPwE

"PL367-23_Terms - signed by the Supplier" History

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-  Document emailed to dwilson@ceh.ac.uk for signature
2023-11-20 - 3:55:17 PM GMT
-  Email viewed by dwilson@ceh.ac.uk
2023-11-27 - 8:10:27 AM GMT
-  Signer dwilson@ceh.ac.uk entered name at signing as D. A. Wilson
2023-11-27 - 8:12:33 AM GMT
-  Document e-signed by D. A. Wilson (dwilson@ceh.ac.uk)
Signature Date: 2023-11-27 - 8:12:35 AM GMT - Time Source: server
-  Agreement completed.
2023-11-27 - 8:12:35 AM GMT