SERVICES CONTRACT MADE BETWEEN

**Celtic Sea Power Limited**

and

[ ]

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**SUPPLY OF SERVICES CONTRACT**

**CONTRACT DETAILS**

**DATE:**

|  |  |
| --- | --- |
| **Procurement Reference** | Will vary but the next ITT will be 5305-SRB-140324 |
| **Customer:** | Celtic Sea Power Limited (No. 10166467) |
| **Customer's address:** | Chi Gallos Hayle Marine Renewables Business Park, North Quay, Hayle, Cornwall, United Kingdom, TR27 4DD. |
| **[Customer's representative:]** | Name: Matthew Hodson  Title: Chief Operations Officer  Email: matt.hodson@celticseapower.co.uk  Telephone: 07879 278804  Postal Address: Chi Gallos, Hayle Marine Renewables Business Park, North Quay, Hayle, Cornwall, TR27 4DD |
| **Supplier:** | [COMPANY NAME] LIMITED (No. [NUMBER]) |
| **Supplier's address:** | [ADDRESS] |
| **Supplier's VAT number:** | [NUMBER] |
| **[Supplier's representative:]** | Name: [NAME]  Title: [TITLE]  Email: [EMAIL]  Telephone: [NUMBER]  Postal Address: [POSTAL ADDRESS] |
| **Services Start Date:** | [[DATE] |
| **Term** | [how long this Contract will last for] |
| **Services:** | As detailed in Schedule 1, including services which are incidental or ancillary to such services. |
| **Deliverables:** | As detailed in Schedule 1. |
| **Charges:** | As detailed in Schedule 2. |
| **Special terms:** | [In the Conditions:  [(a) Clause [NUMBER] deleted: The entire text of clause [NUMBER] is deleted and replaced with the words "Not used".]  [(b) Clause [NUMBER] added: This clause is inserted into the Conditions: [NEW CLAUSE].]  [c) Clause [NUMBER] amended: This clause is amended to read as follows: [AMENDED CLAUSE IN FULL].]] |
| **Schedules:** | Schedule 1: Services.  Schedule 2: Charges.  Schedule 3: Mandatory Policies.  Schedule 4: Data protection.  [DETAILS OF ADDITIONAL SCHEDULES] |

1. This Contract is made up of the following:

(a) The Contract Details.

(b) The Conditions.

(c) The Mandatory Policies.

(d) The Schedules specified in the Contract Details.

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

This Contract has been entered into on the date stated at the beginning of it.

|  |  |
| --- | --- |
| Signed by [NAME OF DIRECTOR]  for and on behalf of Celtic Sea Power Limited | ...................................  Director |
| Signed by [NAME OF DIRECTOR]  for and on behalf of [NAME OF SUPPLIER] | ...................................  Director |

**CONDITIONS**

Agreed terms

1. Interpretation
   1. **Definitions**:
2. Affiliate: in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.
3. Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
4. Charges: the charges payable by the Customer for the supply of the Services by the Supplier, as set out in the Contract Details and Schedule 2.
5. Conditions: these terms and conditions set out in clause 1 (Interpretation) to clause 12 (General) (inclusive).
6. Contract: the contract between the Customer and the Supplier for the supply of the Services in accordance with the Contract Details, the Mandatory Policies, these Conditions and any Schedules.
7. control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
8. **Customer Materials**: all documents, information, items and materials in any form (whether owned by the Customer or a third party), which are provided by the Customer to the Supplier in connection with the Services, including the items provided pursuant to clause 7 .
9. **Deliverables**: any outputs of the Services and any other documents, products and materials provided by the Supplier to the Customer as specified in Schedule 1 and any other documents, products and materials provided by the Supplier to the Customer in relation to the Services, excluding the Customer Materials.
10. Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.
11. Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
12. Mandatory Policies: the Customer's mandatory policies for contracts set out in Schedule 3, as amended by notification to the Supplier from time to time.
13. Services: the services, including without limitation any Deliverables, to be provided by the Supplier pursuant to the Contract, as described in Schedule 1.
14. Services Start Date: the day on which the Supplier is to start provision of the Services, as set out in the Contract Details.
15. Supplier IPRs: all Intellectual Property Rights either subsisting in the Deliverables (excluding any Customer Materials incorporated in them) or otherwise necessary or desirable to enable a Customer to receive and use the Services.
    1. **Interpretation**:
       1. Unless expressly provided otherwise in this Contract, a reference to legislation or a legislative provision:
          1. is a reference to it as amended, extended or re-enacted from time to time; and
          2. shall include all subordinate legislation made from time to time under that legislation or legislative provision.
       2. Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
       3. A reference to **writing** or **written** includes email, except for service of any proceedings or other documents in any legal action.
16. Commencement and term

The Contract shall commence on the date when it has been signed by both parties and shall continue for the Term, and any extension of the Term, unless terminated earlier in accordance with the termination provisions of this Contract.

1. Supply of services
   1. The Supplier shall supply the Services to the Customer from the Services Start Date in accordance with the Contract.
   2. In performing the Services the Supplier shall use reasonable endeavours to meet any performance dates specified in Schedule 1.
   3. In supplying the Services, the Supplier shall:
      1. perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
      2. co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
      3. appoint or, at the written request of the Customer, replace without delay a manager, who shall have authority to contractually bind the Supplier on all matters relating to the Services.;
      4. only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled;
      5. ensure that it obtains, and maintains all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable it to comply with its obligations in the Contract;
      6. ensure that the Services and Deliverables shall conform in all respects with the service description set out in Schedule 1 and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
      7. provide all equipment, tools, vehicles and other items required to provide the Services;
      8. ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
      9. comply with:
         1. all applicable laws, statutes, regulations [and codes] from time to time in force; and
         2. the Mandatory Policies.
      10. observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises from time to time and are notified to the Supplier;
      11. hold all Customer Materials in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
      12. not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business; and
      13. notify the Customer in writing immediately upon the occurrence of a change of control of the Supplier.
2. Customer's obligations
   1. The Customer shall:
      1. provide such access to the Customer's premises and data, and such office accommodation and other facilities as may reasonably be requested by the Supplier and agreed with the Customer in writing in advance, for the purposes of providing the Services;
      2. provide such necessary information for the provision of the Services as the Supplier may reasonably request; and
   2. A failure by the Customer to comply with the terms of the Contract can only relieve the Supplier from complying with its obligations under the Contract with effect from the date on which the Supplier notifies the Customer in writing and in reasonable detail of the Customer's failure and its effect or anticipated effect on the Services.
3. Data protection

The parties shall with their data protection obligations as set out in Schedule 4 (*Data protection*). comply

1. Intellectual property
   1. In relation to the Customer Materials:
      1. the Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials; and
      2. the Customer grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of this Contract for the purpose of providing the Services to the Customer.
   2. In relation to the Deliverables:
      1. the Supplier and its licensors shall retain ownership of all Intellectual Property Rights in the Deliverables unless and until the event in clause 6.2(f) occurs;
      2. the Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, sole, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables for the purpose of receiving and using the Services and the Deliverables in its business and to further the aim of maximising the benefits to Cornwall arising from floating offshore wind; and
      3. the Customer may sub-license the rights granted in clause 6.2(b):
         1. to its Affiliates and customers and any project partners or contractors; and
         2. subject to their entering into appropriate confidentiality undertakings, to third parties for the purpose of the Customer's receipt of services similar to the Services.
      4. the Supplier shall not licence the Intellectual Property Rights in the Deliverables to any third party other than the Supplier’s direct contracting parties who have formed a group for the purposes of providing the Services and Deliverables to the Customer under this Contract as part of the work procured by the Customer under the relevant procurement project. Only the Supplier and the Customer shall have the right to use and exploit the Intellectual Property Rights in the Deliverables under this Contract;
      5. subject to the provisions of clause (d), nothing in this Contract shall prevent the Supplier itself from commercially exploiting the Intellectual Property Rights in the Deliverables in any way it sees fit;
      6. the Supplier shall use its all reasonable endeavours to commercially exploit the Intellectual Property Rights in the Deliverables to further the aim of maximising the benefits to Cornwall arising from floating offshore wind. If, in the reasonable opinion of the Customer, the Supplier fails to commercially exploit the Intellectual Property Rights in the Deliverables within 12 months of the date of this Contract, then:
         1. the all the Intellectual Property Rights in the Deliverables shall be automatically assigned to the Customer, with full title guarantee and free from all third party rights;
         2. the Supplier shall obtain waivers of all moral rights in the Deliverables 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; and
         3. the Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 6.2(f)(i).
   3. The Supplier:
      1. warrants that the receipt, use and onward supply of the Services and the Deliverables by the Customer and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party; and
      2. in accordance with clause 8.2, shall indemnify the Customer in full against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Customer arising out of, or in connection with, the receipt, use or supply of the Services and the Deliverables.

Mandatory Acknowledgement

* 1. The Supplier shall ensure that in every instance of publicity, PR, publication, presentation or similar, in relation to the Services or the Deliverables or the project under which this Contract arose, the involvement of the Customer and the Cornwall and Isles of Scilly Good Growth Fund is clearly and prominently acknowledged in the following format:

"This work has been commissioned by Celtic Sea Power Limited who lead Cornwall’s FLOW Strategic Sector Development Project which is part-funded by the UK Government through the UK Shared Prosperity Fund Cornwall Council has been chosen by Government as a Lead Authority for the fund and is responsible for monitoring the progress of projects funded through the UK Shared Prosperity Fund in Cornwall and the Isles of Scilly.."

or with any other statement as notified in writing from the Customer to the Supplier. The Supplier will comply with the publicity guidelines provided by the Customer to the Supplier.

1. Charges and payment
   1. In consideration for the provision of the Services, the Customer shall pay the Supplier the Charges in accordance with this clause 7.
   2. All amounts payable by the Customer exclude amounts in respect of value added tax (**VAT**) which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.
   3. The Supplier shall submit invoices for the Charges plus VAT if applicable to the Customer at the intervals specified in Schedule 2. Each invoice shall include all supporting information reasonably required by the Customer.
   4. The Customer shall pay each invoice which is properly due and submitted to it by the Supplier, within thirty [30] days of receipt, to a bank account nominated in writing by the Supplier.
   5. If the Customer fails to make any undisputed payment due to the Supplier under the Contract by the due date for payment, then, without limiting the Supplier's remedies under clause 10 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 1% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
   6. The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
2. Limitation of liability
   1. References to liability in this clause 8 include every kind of liability arising under or in connection with this Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
   2. The Supplier shall indemnify the Customer for breaches of its confidentiality obligations and / or intellectual property obligations under this Contract.

Accordingly, the Customer shall:

* + 1. notify the Supplier in writing of any claim against it in respect of which it wishes to rely on the indemnity (“Claim”);
    2. allow the Supplier, at its own cost, to conduct all negotiations and proceedings and to settle the Claim, always provided that the Supplier shall obtain the Customer's prior approval of any settlement terms, such approval not to be unreasonably withheld;
    3. provide the Supplier with such reasonable assistance regarding the Claim as is required by the Supplier, subject to reimbursement by the Supplier of the Customer's costs so incurred; and
    4. not, without prior consultation with the Supplier, make any admission relating to the Claim or attempt to settle it, provided that the Supplier considers and defends any Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Customer into disrepute.
  1. Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
     1. death or personal injury caused by negligence;
     2. fraud or fraudulent misrepresentation; and
     3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
  2. Excluding clause 8.2 and clause 8.3:
     1. the Supplier's total liability to the Customer:
        1. shall not exceed 100% of the Charges payable; and
     2. the Customer's total liability to the Supplier:
        1. shall not exceed 100% of the Charges payable.
  3. Subject to clauses 8.2 and 8.3, neither party shall be liable to pay indirect / consequential losses, including:
     + 1. Loss of profits.
       2. Loss of sales or business.
       3. Loss of agreements or contracts.
       4. Loss of anticipated savings.
       5. Loss of or damage to goodwill.
       6. Indirect or consequential loss.
     1. Types of loss and specific losses not excluded:
        1. Additional costs of procuring and implementing replacements for, or alternatives to, Services not provided in accordance with the Contract. These include consultancy costs, additional costs of management time and other personnel costs, and costs of equipment and materials.
        2. Losses incurred by the Customer arising out of or in connection with any third party claim against the Customer which has been caused by the act or omission of the Supplier. For these purposes, third party claims shall include demands, fines, penalties, actions, investigations or proceedings, including those made or commenced by subcontractors, licensees, the Supplier's personnel, regulators and customers of the Customer.

1. Insurance

During the term of the Contract and for a period of three (3) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall produce to the Customer on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

1. Termination
   1. Without affecting any other right or remedy available to it, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
      1. there is a change of control of the Supplier; or
      2. the Supplier's financial position deteriorates to such an extent that in the Customer's [reasonable] opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
      3. the Supplier commits a breach of clause 3.3(i).
   2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
      1. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of fourteen (14) days after being notified in writing to do so;
      2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
      3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
   3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
   4. Termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
2. Exit arrangements

On termination of the Contract for whatever reason:

* + 1. the Supplier shall immediately return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and
    2. the Supplier shall, if so requested by the Customer, provide all assistance reasonably required by the Customer to facilitate the smooth transition of the Services to the Customer or any replacement supplier appointed by it, including the assistance set out in the Services Specification at Schedule 1.

1. General
   1. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for three (3) months, the party not affected may terminate the Contract by giving ten (10) days' written notice to the affected party.
   2. **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract unless such subcontractors have been approved by the Customer. The Supplier shall remain responsible for all acts and omissions of its subcontractors as if they were its own, and shall ensure that it has agreements with such subcontractors which contain the Supplier obligations in this Contract.
   3. **Confidentiality.**
      1. Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party except as permitted by clause 12.3(b).
      2. Each party may disclose the other party's confidential information:
         1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 12.3;
         2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; and
         3. it is disclosed pursuant to the requirement of any law or regulation (provided, in the case of a disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, none of the exceptions to that Act or those Regulations applies to the information disclosed) or pursuant to the order of any court of competent jurisdiction or the requirement of any competent regulatory authority, and that, in each case where the law permits, the party required to make that disclosure has informed the other, within a reasonable time after being required to make the disclosure, of the requirement to disclose and the information required to be disclosed.
      3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.
   4. **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
   5. **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
   6. **Waiver.** 
      1. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
      2. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
   7. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 12.7 shall not affect the validity and enforceability of the rest of the Contract.
   8. **Notices.**
      1. Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
         1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
         2. sent by email to the address specified in the Contract Details above.
      2. Any notice shall be deemed to have been received:
         1. if delivered by hand, at the time the notice is left at the proper address;
         2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
         3. if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 12.8(b)(iii),business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
      3. This clause 12.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
   9. **Third party rights.**

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

* 1. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, the law of England and Wales.
  2. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

1. Services

[INSERT DETAILS OF THE SERVICES]

List subcontractors.

List licensee.

1. Charges
2. Charges for the services

[DETAILS OF THE CHARGES].

1. Invoicing arrangements

[DETAILS OF WHEN INVOICES ARE TO BE RAISED FOR THE SERVICES].

1. Mandatory Policies

The Mandatory Policies are:

* Anti-bribery and Anti-corruption Policy.
* Data and Privacy Policy.
* Equality and Diversity
* Environmental/ Sustainable Development
* Health and Safety

1. Data protection

13. Data protection and monitoring

13.1. Each party shall act as data controller, as defined by the Data Protection Act 2018 (“Data Protection Legislation”), and accordingly, each party agrees to fulfil its respective obligations under such Data Protection Legislation

13.2 In the event that a party (as data controller) requires the other party to process its personal data (as data processor), the parties will execute a separate written contract which specifies the nature of the processing due to take place and each Party’s responsibilities and obligations.

14. Freedom of Information and Transparency

14.1. The parties acknowledge their respective duties under the FOIA and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties.

14.2. If the Supplier is not a public authority, the Supplier acknowledges that the Customer is subject to the requirements of the FOIA and will assist and co-operate with the Customer to enable it to comply with its disclosure obligations under the FOIA. Accordingly the Supplier agrees:

(a) that this Contract and any other recorded information held by the Supplier on the Customer’s behalf for the purposes of this Contract are subject to the obligations and commitments of the Customer under the FOIA;

(b) that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA is a decision solely for the Customer;

(c) that if the Supplier receives a request for information under the FOIA, it will not respond to such request (unless directed to do so by the Customer) and will promptly (and in any event within 2 working days) transfer the request to the Customer;

(d) that the Customer, acting in accordance with the codes of practice issued and revised from time to time under both section 45 of the FOIA, and regulation 16 of the Environmental Information Regulations 2004, may disclose information concerning the Supplier and this Contract either without consulting with the Supplier, or following consultation with the Supplier and having taken its views into account; and

(e) to assist the Customer in responding to a request for information, by processing information or environmental information (as the same are defined in the FOIA) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of the FOIA, and providing copies of all information requested by an authority within 5 working days of such request and without charge.

14.3. Notwithstanding any other provision of this Contract, the Supplier hereby consents to the publication of this Contract in its entirety including from time to time agreed changes to this Contract subject to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA.

14.4. In preparing a copy of this Contract for publication pursuant to clause 14, the Customer may consult with the Supplier to inform its decision making regarding any redactions but the final decision in relation to the redaction of information shall be at the Customer’s absolute discretion.

14.5. The Supplier shall assist and co-operate with the Customer to enable the Customer to publish this Contract.

14.6. This clause 14 shall not limit the Public Interest Disclosure Act 1998 in any way whatsoever.

14.7. The Supplier shall be responsible for any costs associated with compliance by the Supplier with the provisions of this clause 14.

14.8. The Customer reserves the right to monitor the Supplier’s compliance with this clause 14 and shall notify the Supplier of how it intends to do this where appropriate.