



# **Moors for the Future Partnership Invitation to Tender**

## **MFF 36 2017-2021 Plug and Clump Planting**

**Tender Return Date 5pm Thursday 14<sup>th</sup> September 2017**

**Application of Plugs and Clumps between 1<sup>st</sup> October 2017 and 15th March 2021.**

### **Tender Contents**

#### **Section 1 – Part A - Project Objectives**

**Part B – Work Specification and Maps**

**Part C – Detailed Conditions**

**Part D – Itemised Costs-please fill this in and return with your tender**

**Form of Tender-please fill this in and return with your tender**

#### **Section 2 - Instructions on submitting a tender**

#### **Section 3 - Definitions and Conditions of contract**

#### **Appendix 1 - Plug Care Guidelines**

#### **Appendix 2 – Guide to Planting *Sphagnum* Plugs**

#### **Appendix 3 – Dwarf Shrub Plug Planting Specification**

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## **SECTION 1:**

### **CONTRACT OBJECTIVES, DETAILED SPECIFICATION AND CONDITIONS**

#### **PART A**

#### **PROJECT OBJECTIVES**

1. The objective of this Contract is to ;
  - a. Liaise with Supplier about delivery of Plants to chosen Delivery Site (yard or other storage facility).
  - b. Store appropriately and care for Plants during the Works period.
  - c. Transport Plants from Delivery Site to Works Site as needed.
  - d. Plant Plants on Work Sites between 1<sup>st</sup> October 2017 and 15<sup>th</sup> March 2021
  - e. Remove all waste materials
2. This Invitation for Tender is to establish a Framework Agreement, the objective of which is the planting of Dwarf Shrub and *Sphagnum* Plugs and Clumps on moorland sites within the Peak District National Park and South Pennines SAC.
3. The Framework Agreement is for the period 1<sup>st</sup> October 2017 to 15<sup>th</sup> March 2021 ("the Framework Period"). This means that, after evaluation of the Tenderers' Forms of Tenders, the Authority will notify Tenderers whether they have been appointed as Framework Contractors to carry out the Works at different Sites throughout the Framework Period. The framework process is set out in Section 2 (Instructions on Submitting a Tender).
4. Tenderers are requested to provide indicative rates and supporting information to the Authority with the Tender return for evaluation. Framework Contractors will be requested to take part in a mini competition in accordance with the Authority's standing orders at appropriate intervals once the Authority has a defined a Works Plan for each Works Site. The Works Plan will contain information on Work Sites, quantities of Materials and Access routes and distances. This information will be passed to Framework Contractors who will be asked to respond to the call for mini-competition and to undertake the specific Works. The mini competition submissions will be subject to evaluation as detailed in Section 2.

## **PART B**

### **WORKS SPECIFICATION**

#### **1. Plugs.**

- a. The Authority will be supplying the Plugs through a separate Contract.
- b. Plugs will be delivered by the Supplier to the Contractor's chosen Delivery Site. Organising Delivery of the Plugs to the chosen Delivery Site will be the responsibility of the Contractor. The Contractor will give the Authority at least 48 hours' notice of the Delivery of the Plugs to the Delivery Site.
- c. The Nominated Officer will notify the Contractor when the Plants are ready for Delivery from the Supplier.
- d. **Sphagnum Plugs**
  - i. A *Sphagnum* Plug will consist of several plants and form a bouquet of around 3cm in diameter.
  - ii. *Sphagnum* Plugs will be delivered in Bundles of 20 *Sphagnum* Plugs wrapped together in one bundle with cling film. Each Bundle will weigh around 0.25kg. Bundles will be packed into plastic sacks of 20 bundles and three sacks will be placed in crates for delivery (60 Bundles per crate, 1200 Plugs per crate). Crates are stackable with dimensions of 400x600x150mm.
  - iii. Delivery crates remain the property of the *Sphagnum* Supplier and must be returned to the Supplier in the same condition as they arrived. The Contractor will be responsible and liable for any damage occurring to the crates and will indemnify the Authority against any loss or claim for lost, damaged or misplaced crates.
- e. **Dwarf Shrub Plugs**
  - i. Dwarf Shrub Plugs will be a mixture of one or more of the following species;
    - a. Common cotton grass (*Eriophorum angustifolium*)
    - b. Crowberry (*Empetrum nigrum*)
    - c. Bilberry (*Vaccinium myrtillus*)
    - d. Hares-tail cotton grass (*Eriophorum vaginatum*)
    - e. Cloudberry (*Rubus chamaemorus*)
    - f. Cross-leaved heath (*Erica tetralix*)
  - ii. Dwarf Shrub Plugs will be supplied in trays and should be stored and transported on trays (photo2, Appendix 1).
- f. On the date of Delivery the Contractor and the Delivery driver shall carry out an inspection of the Plugs. Upon agreement of the condition of the Plugs the Contractor must sign for the delivery and accept responsibility for the maintenance of the Plugs.
- g. Maintenance of the Plugs to the standard set out in the Plug Plant Care Guidelines (Appendix 1) is of paramount and material importance to the performance of the Works. Therefore, upon Delivery the Contractor becomes and remains wholly responsible for the maintenance and condition of the Plugs to the standard set out in the Plug Plant Care Guidelines. Breach of this obligation will be treated as a material breach and subject to the provisions of Section 1 Part C Clause 6 (Liquidated Damages).
- h. The maintenance of the condition of the Plugs includes, but is not limited to, watering (with rainwater as needed) and sheltered storage (either at Delivery Site or at the Works Site) and any other actions which in the opinion of a prudent contractor would be required (or which the Nominated Officer requires) to maintain the condition of the Plugs.



- i. The Contractor shall provide with its Tender a brief Method Statement detailing provision for the maintenance of the condition of the Plugs following Delivery.
- j. The Nominated Officer may inspect the Plugs at any time after the date of Delivery. In the event of any loss of Plugs the Nominated Officer may, at its option replace such Plugs at the cost to the Contractor or reduce the Planting Costs to reflect the actual amount of Plugs being installed.

## **2. *Sphagnum* Clumps**

- a. The Authority will be supplying the *Sphagnum* Clumps through a separate Contract.
- b. *Sphagnum* Clumps are larger than Plugs and are handful sized. Each Clump will weigh around 0.15kg and there will be 25 Clumps in a small woven bag. There will be 25 woven bags in a dumpy bag.
- c. Each dumpy bag will hold 625 Clumps. This is enough *Sphagnum* to plant over 1 hectare.
- d. The dumpy bag must be located centrally in a suitable Planting Area.
- e. The *Sphagnum* Clumps must then be planted in suitable areas within 1 hectare of the dumpy bag.

## **3. Transporting Plants to the Work Sites**

- a. It will be the contractor's responsibility to transport the Plants to the Planting Areas.
- b. Details of permitted transportation of Plants will be detailed in each Works Plan. This may be by foot, helicopter or low ground pressure vehicle.
- c. Each Works Plan will state whether or not ground vehicles are permitted on the Works Site(s). No vehicles (other than helicopters) are permitted on any Work Site unless otherwise permitted by the Nominated Officer.

## **4. Planting Specification**

### **a. General specifications**

- i. Planting shall be in accordance with the specifications below or in accordance with the Nominated Officer's instructions.
- ii. Plugs and Clumps should be planted in the areas identified on the Work Site Location maps.
- iii. Individual Locations of Plugs and Clumps planting are NOT identified on the Location Maps
- iv. Individual locations will be agreed on the Works Site with the Nominated Officer prior to planting.

## **5. Dwarf Shrub Plug Planting Specifications - General**

- a. Planting shall be in accordance with the specifications below or in accordance with the Nominated Officer's instructions.
- b. Dwarf Shrub Plug Plants must be planted within the Planting Areas identified on the Work Site Location Maps which will be provided with each Works Plan.
- c. The planting density is approximately one plant per four square metres.
- d. The different types of Plant require planting in specific areas to give the best chance of establishment. As such the Plants should be planted in accordance with the drawings in Appendix 3 or in accordance with the Nominated Officer's instructions.
  - i. Bilberry & Cloudberry should be planted on hagg tops;
  - ii. Crowberry should be planted at the apex of, and around, slopes; and
  - iii. Cotton grasses should be planted on flatter, wetter areas such as peat pans, behind dams or along the waterline of gullies.

## 6. Plug Planting methodology

- a. Using a dibber of 45mm in diameter and 200mm in length, make a hole in the peat that is 150mm – 200mm deep. The hole must be at least this deep to prevent the Plug Plants from being dislodged by frost heave.
- b. Once the hole is made, remove the Plug Plant from the tray and remove the wrapping from the Plug Plant.
- c. Tease the roots out from the compacted Plug Plant.
- d. Place the Plug Plant in the hole. It is important to ensure that the base of the Plug Plant is firmly in contact with the base of the hole to ensure that there is no air gap around the roots.
- e. Once the Plug Plant is firmly in place the peat around the hole should be firmly heeled in round the plant.

## 7. *Sphagnum* Planting Specifications – General

- a. *Sphagnum* Plugs and Clumps should be planted on flatter, wetter areas such as cotton grass dominated bog and flushes or along the waterline of small gullies.
- b. Each *Sphagnum* Plug and Clump requires some shelter from wind and direct sunlight and therefore should be planted alongside or amongst other vegetation such as cotton grass.
- c. Details of planting locations will be demonstrated to the Contractors on or before the Works Commencement Date.
- d. Where there are gully blocks, there should be 4 *Sphagnum* Plugs or 2 Clumps planted behind each dam.
- e. GPS locations of dams will be provided along with GPS outlines of general Planting Area.

## 8. Planting Specification – *Sphagnum* Plugs

### Please follow Appendix 2 -Illustrated guide to planting *Sphagnum* Plugs

- a. The planting density for *Sphagnum* Plugs is approx. 1250 per hectare. The actual planting density will vary due to the amount of suitable planting areas within the hectare. The whole hectare should be surveyed for suitable planting areas and planted evenly in suitable areas.
- b. It is expected that each person should plant 1200-1500 *Sphagnum* Plugs per day.
- c. Unwrap the Bundle of *Sphagnum* Plugs until you reach the first loose Plug.
- d. Gentle tease the *Sphagnum* Plug so it is no longer squashed and formed into mini bouquet.
- e. Using your thumb, or appropriate tool, to gently push the *Sphagnum* Plug into the ground, ensuring the top of the *Sphagnum* Plug is just ground level (approximately 1cm proud of the surface).
- f. If the ground is firm, use a dibber of 1cm diameter to make a hole of the required depth and push the Plug in by hand.
- g. Using your fingers, gently firm the soil around the *Sphagnum* Plug to ensure it is securely established in the ground.

## 9. Planting Specification – *Sphagnum* Clumps

- a. The planting density for *Sphagnum* Clumps is approx. 625 per hectare. The actual planting density will vary due to the amount of suitable planting areas



within the hectare. The whole hectare should be surveyed for suitable planting areas and planted evenly in suitable areas.

- b. It is expected that each person should plant 400 Sphagnum Clumps per day.
- c. Take one handful / Sphagnum Clump from the bag.
- d. Gently tease or squeeze the Sphagnum Clump into a bouquet shape.
- e. Using your heel, a dibber or hand; make a depression in the ground. Make sure the depression goes through the vegetation into the peat.
- f. Plant the Sphagnum Clump into the depression making sure the brown root-like part of the plants goes into the peat far enough that the upper parts of the plant are not lying flat on the peat, but are supported slightly proud of the peat surface.
- g. Firm in the plant to ensure it is anchored into the peat properly.

## 10. Work Sites

- a. Work Sites will be located throughout the South Pennines and Peak District within the next four years. Details of these sites will be made available in the Works Plan.
- b. No vehicles are permitted on any Works Site unless otherwise agreed by the nominated officer.
- c. Where applicable, the Authority has identified potential and known site hazards to which the Contractor should have due regard when producing their RAMS. Such information is for information purposes only and cannot be relied upon. The Contractor must make its own enquiries and assessment.
  - i. The Works Sites are at high altitude and may include waterlogged areas, deep peat and steep stream sides and channels.
  - ii. The Work Sites are on Open Access land (pursuant to CRow) so the Contractor must be aware and have due regard to members of the public that may be present.
- d. Work sites must be planted at specific times of the year. *Plants* must either be planted in Autumn (1<sup>st</sup> September – 31<sup>st</sup> October) or Spring (15<sup>th</sup> February to 31<sup>st</sup> March).
- e. Planting must not take place outside of these time frames unless agreed by the Nominated Officer.



## **PART C DETAILED CONDITIONS**

### **1. Programme of Works**

- a. Works Commencement Date: 1<sup>st</sup> October 2017  
Works Completion Date: 15<sup>th</sup> March 2021
- b. All Works to be carried out at the direction of the Nominated Officer to coincide with other carefully timed contracts.
- c. The Contractor must adhere to the Programme of Works. It is essential that the Works are carried out in accordance with the Programme of Works. In the event that the Contractor is in breach of this provision (save where such breach arises wholly from the negligence of the Authority or its contractors) the Authority reserves the right to treat such breach as a material breach for the purposes of **Section 1 Part C Clause 6** (Liquidated Damages).
- d. The Programme of Works will be notified to the successful Framework Contractor at each pre contract meeting and shall form part of the Contract.
- e. The Authority may vary such Programme of Works on notice to the Contractor. If such variation occurs at any time during the Contract Period the Authority shall use reasonable endeavours to give the Contractor at least 48 hours prior notice. Any such variation shall not be treated as a Contract Variation.

### **2. Quality Checks and Site Visits**

- a. The Nominated Officer will carry out an agreed number of site visits to the Works to carry out quality and schedule monitoring.
  - i. The number of visits will be agreed at the pre-start meeting.
  - ii. If the Nominated Officer is required to make any additional sites visits due to failure by the Contractor to meet the required quality or schedule associated with the Works then the Contractor shall be liable for such costs as the Authority may reasonably incur.
- b. The Tenderer must satisfy itself that it possesses the necessary skill, vehicles, equipment and manpower to plant the Material at each of the Works Sites.

### **3. Environmental Requirements:**

- a. The Works Site has SSSI status – the Nominated Officer has obtained consent for the Works at the Works Site. The Contractor agrees to comply with and abide by any conditions or instructions notified to it that may be imposed or required as a condition of such consent.
- b. As the area the Contract is being executed in is a designated SSSI no litter (including cigarette stubs) is to be left on Site.
- c. It is essential that there is no waste of Materials at the Sites; the Contractor will be expected to manage operations to minimise waste.
- d. The Contractor is restricted to the specified storage areas for the unloading, loading of Materials, parking of vehicles, and storage of Materials.
- e. Sites are unsecured with a right of access to the public under the Countryside and Rights of Way Act 2000
- f. Removal of Waste Materials and any other Materials, including Materials supplied by the Authority, from the Delivery and Work Sites shall remain the



responsibility of the Contractor. In the case of removal requiring airlifting from the Works Sites the Contractor should seek to minimise costs by liaising with the Nominated Officer to ascertain possibility of co-ordinating this aspect of the Works with other Moors for the Future projects.

#### **4. Health and Safety**

- a. The Contractor will be responsible for Health and Safety during the course of the Contract.
- b. The Contractor's Health and Safety Policy (for companies employing 5 or more people) must be submitted with the Tender. This will form part of the site safety plan ("the Site Safety Plan").
- c. Method Statements must be submitted with the Tender and will need to be approved by the Nominated Officer. For companies employing 5 or more people, Method Statements should include operational Risks Assessments. Risk Assessments can be generic (i.e. not site-specific) at the Tender stage. Failure to submit Method Statements and (if applicable) Risk Assessments may result in the disqualification of the Tender.
- d. Upon award of any Contract, site specific Risk Assessments will be required from the Contractor (if applicable) prior to the Works Commencement Date and will form part of the Site Safety Plan. Prior to commencing any Works, the Contractor will submit any alterations to the Method Statements that may be necessary, for the approval of the Nominated Officer. The Contractor's Health & Safety plan will be subject to the Nominated Officers approval, prior to the Works Commencement Date.
  - i. The Contractor should identify all potential hazards associated with the Works and provide Risk Assessments and Method Statements for the mitigation of these.
  - ii. Hazards should be considered in terms of: the Site(s) and any other locations utilised during the delivery of the Works; the Works and operations and activities undertaken when delivering the Works and the potential impacts of these on the Site(s) and the Users; and the Users (any and all individuals, groups, organisations and companies that may have reason to visit the Site(s) on which the Works are being undertaken).
- e. Material Safety Data sheets, if required, will be supplied by the successful Contractor.
- f. The Contractor is to provide his own welfare facilities for the duration of the Works.

#### **5. Transport of Material**

- a. The Contractor must provide its own Equipment suitable for movement and loading of all Materials for the Works.
- b. When transporting Materials and Equipment to and from the Delivery Sites and within the Delivery Sites the Contractor will seek to minimise damage to the ground surface, and adjacent features (walls, pasture etc).
- c. The Contractor shall rectify all damage caused by access and use of the Works Sites promptly at his own expense and to the absolute satisfaction of the Nominated Officer.



- d. The Work Sites are in Open Access land (pursuant to CRoW Act 2000) so the Contractor must be aware that members of the public may be present at the Site and take appropriate action.
- e. No vehicles are permitted on any Work Site.

## 6. Liquidated Damages

- a. This Contract consists of one element of a much larger project involving a number of contracts for the delivery of goods and the provision of services. If the Contractor fails to complete the Works by the dates required, the Authority may incur costs for a related contract or for the failure to deliver the project as a whole. The Authority will act reasonably in minimising such costs and acknowledges that such failure may result from a Force Majeure Event. However, the Authority reserves the right to claim the costs it has incurred as a result of the failure of the Contractor to comply with its obligations.
- b. In the event that the Works are not completed by the Target Completion Dates notified to the Contractor or the Contractor is in breach of the provisions of **Section 1 Part B** (save where the delay is caused by a Force Majeure Event or the negligence or omission of the Authority) the Contractor shall be liable to pay on demand to the Authority in liquidated damages a rate being such other costs as the Authority may reasonably incur (including but not limited to the costs of the Authority suspending this Contract and obtaining the services of another contractor to perform the Works) as a result of such delay and or breach (including the costs of any replacement *Sphagnum* Plugs whether in relation to this Contract or such other dependant contract where the delay has an adverse effect on the Project).

## 7. Invoices

- a. The Contractor shall prepare and issue invoices for payment in the format and instructions required by the Nominated Officer to reflect the requirements of the stakeholders of the Project. Invoices that do not comply with such instructions shall not be paid.
- b. Invoicing will be on a Work Site by Work Site basis. For avoidance of doubt this means each Work Site will be invoiced individually once it is complete to the satisfaction of the Nominated Officer.

## 8. Materials

- a. All Materials will be provided by the Authority and remain the property of the Authority.

## 9. Insurance

- a. The Contractor (and any sub-contractors) shall be required to maintain and provide evidence of insurance in accordance with the Standard Conditions in the sum of £5,000,000 (five million pounds) (£10,000,000 (ten million pounds) where aerial transportation of Materials is utilised.

## 10. Foreman

- a. The Contractor shall ensure that a dedicated Foreman is assigned to the Works for the entire Contract Period to ensure continuity management. The identity of the Foreman will be notified to the Nominated Officer on or before the Works



Commencement Date. The Contractor shall not change the Foreman without the prior approval of the Nominated Officer.

#### **11. Daily Log**

- a. The Contractor must provide the Nominated Officer with a Daily Log of the Works carried out each day (even if no Works are carried out on that day). The Daily Log shall contain:
  - i. the name of the relevant Site;
  - ii. a map with a shaded area showing the approximate location(s) of Materials applied to the Site(s);
  - iii. the reason for any inactivity regarding point i; and
  - iv. brief summaries of any Accidents, Incidents, Near Misses, Unsafe Acts or any event reportable under RIDDOR (and defined therein).
- b. The Nominated Officer shall provide the Contractor with a suitable template for the Daily Log. The Contractor may use their own format instead with the prior approval of the Nominated Officer.

#### **12. Carbon Audit**

- a. As part of the Moor Life 2020 project, Moors for the Future Partnership are required to collect information to calculate the carbon footprint of the project.
- b. Details about journeys made by all Contractor vehicles (staff travel, tractors, helicopters, deliveries etc.) will need to be recorded by the Contractor and provided to the Authority.
- c. Details of this data collection and forms to fill in will be issued to the Contractor upon award of Contract.

#### **13. Socio Economic Impact**

- a. As part of the MoorLIFE 2020 project, monitoring the socio-economic impacts of the project is a compulsory action. Contractors may be required to collect and provide information as part of their contract and project delivery.
- b. Direct socio-economic impacts of the project on (local) businesses.
- c. The Authority will record data on the enterprises that are awarded contracts to establish the impact of the project on the (local) business community.
  - i. The following information may be requested from the Contractor:
  - ii. Type/status of business (e.g. sole trader, partnership, limited company, social enterprise, cooperative, charity)
  - iii. Business size (number of employees and types of contracts)
  - iv. Number of years trading
  - v. Registered address.



- vi. Number of people employed by contractors and partners in the delivery of the project actions
- vii. Number of years employed by the enterprise at start of contract
- viii. The length and type of employment contracts of people working on the contract
- ix. De-personalised information on their home addresses (first three digits of postcode).

#### **14. Invoices**

- a. Where requested on the Purchase Order the Contractor must include the wording “This Contract relates to a number of projects including for the purposes of the Moor LIFE project (LIFE14/NAT/UK/000070) “MoorLIFE 2020” on their Invoice as part of the MoorLIFE 2020 Project funding. Failure to do so will result in a request by the Authority for a re-submitted invoice with the correct reference wording on it. This may delay payment.
- b. All Invoices received by the Authority must include the PDNPA Purchase Order number on the Invoice. Failure to do so will result in a request by the Authority for a re-submitted invoice with the PO number on it. This may delay payment.
- c. All Invoices received by the Authority must only relate to the Purchase Order sent out by the Authority. Contractors must not combine Purchase Order numbers into a single Invoice. If this does occur then the Authority will return the Invoice/Invoices to Contractor and ask for them to be re-submitted. This may delay payment.

#### **15. Communications and marketing**

- a. Any works for the Authority may be included in promotional material released by the Authority.
- b. By accepting an Authority Purchase Order the Contractor is consenting to use their company image, branding and equipment for the use of publicity and marketing by the Authority.
- c. The Authority may, but reserves the right not to, credit the Contractor in any publicity they release.
- d. The use of Contractor images does not include images of the faces of individual workers. Should any pictures of faces, or recognisable features of an individual, be included in an image which the Authority wishes to use then consent will be requested of the individual through the Contractor. If they refuse permission then these pictures will not be used.
- e. The consent given by this Clause refers to all forms of media including social media.



- f. The Contractor shall only be permitted to use images taken during the Works if they adhere to the Moors for the Future Communications protocol. A copy of this protocol will be freely available on request from the Authority via the Nominated Officer. This is applicable for all forms of media, including social media. The protocol has different sections relating to the different types of publicity and media and for the avoidance of doubt referrals can be made to the MFFP communications manager.
- g. Any unauthorised use of Authority works for the Contractors own publicity will be assessed for suitability and shall be removed on request.

## 16. Aerial transportation of Materials

- a. Licences and Certificates
  - i. Pilots must have a Commercial Pilots Licence and an Aerial Application Certificate.
  - ii. The Contractor must ensure that the use of helicopters complies with all CAA and HSE guidelines
  - iii. Aerial works must be undertaken in accordance with the Authority's Helicopter Operating Policy attached as Annexure 4.
- b. Relevant tech logs will be required to be shown to the Nominated Officer prior to approval of any payments under the Contract.
- c. Downtime Expenses
  - i. Downtime expenses will not be paid by the Authority.
  - ii. The suitability of flying conditions for whatever reason remains with the Contractor or sub-contractor undertaking the aerial work.
- d. The Contractor or sub-contractor undertaking any aerial transportation must undertake such works on every working day of the Contract Period from the Works Commencement Date subject to suitable weather conditions and health and safety considerations and in the absence of such aerial transportation the Contractor or sub-contractor shall give reasons in writing stating that the above considerations apply.

**PART D: ITEMISED COSTS:**

**Contractor Name:**

General Items and Preliminaries					
Planting					
1.	Work Required <u>Contractual Requirements</u>	Unit	Quantity	Rate per unit (£'s)	Total Cost (Ex VAT) (£'s)
	Insurance against damage to persons or property (£5,000,000 or £10,000,000 if using helicopters)	Item	1		
	Please specify any other Additional Items required to meet specific requirements:				
	Provision of Carbon Audit data	Item			
	Provision of Socio-Economic Impact data collection (See Section 1 Part C)	Item			
		Item			
		Item			



Please give an indicative price in this table for works- we will contact all tenderers once we have details of site and numbers to obtain an actual quote.

1.	Work Required <u>Planting at the Work Sites</u>	Unit	Quantity	Rate per Day (£'s)
	<b>Day Rate per person</b> for Planting of <i>Plants</i> at the work site and removing all waste materials	Dwarf Shrub Plug		
		Sphagnum Plug		
		Sphagnum Clump		
	Number of people available to carry out Planting each day	Number		
	Estimated Number of Plugs / Clumps completed each day per person	Dwarf Shrub Plug		
		Sphagnum Plug		
		Sphagnum Clump		
	Please tick areas in which you would consider planting (see map 1)			
	Northern Area (North of M62)			
	Middle Area (Holmfirth, Marsden and Saddleworth area up to M62)			
	Southern Area (Edale, Kinder, Bleaklow, South West Peak)			



**FORM OF TENDER (To be completed by the Tenderer)**  
**RELATING TO MFF 36 2017-21 Plug and Clump Planting ("the Works")**

We offer to execute the whole of the Works described in the Invitation to Tender for the rates set out in the Itemised Costs:

1. We confirm that we have not communicated and will not communicate with any person under any agreement or arrangement, the amount of this Tender and that the amount of this Tender has not been adjusted under any agreement or arrangement with any person.
2. We undertake to complete the Works within the timescale stated in the Invitation to Tender.
3. Unless and until the Form of Agreement is prepared, executed and completed we agree that any Purchase Order (which shall incorporate this Invitation to Tender and the Form of Tender) shall constitute a binding contract between us.
4. We understand that you are not bound to accept the lowest or any tender you may receive.

The Tender should be submitted by post or by electronic means if instructed by the Authority by 5pm on **14<sup>th</sup> September 2017**.

**Name of Tenderer:**.....

**Of:**..... (if a limited company, please state address of Registered Office).

**Signature**.....  
(for and on behalf of the Tenderer)

**Date**.....

**SUB-CONTRACTORS**

The Tenderer must indicate the names and addresses of those sub-contractors to whom it proposes to sub-let any portion of the Works.

The Tenderer is to include copies of all relevant insurance certificates for those sub-contractors listed below.

No sub-contractors may be used without the written consent of the Authority and compliance with its requirements.

The Authority reserves the right to reject any proposed sub-contractor.

**IF NO SUB-CONTRACTING IS TO BE UNDERTAKEN STATE NONE BELOW.**

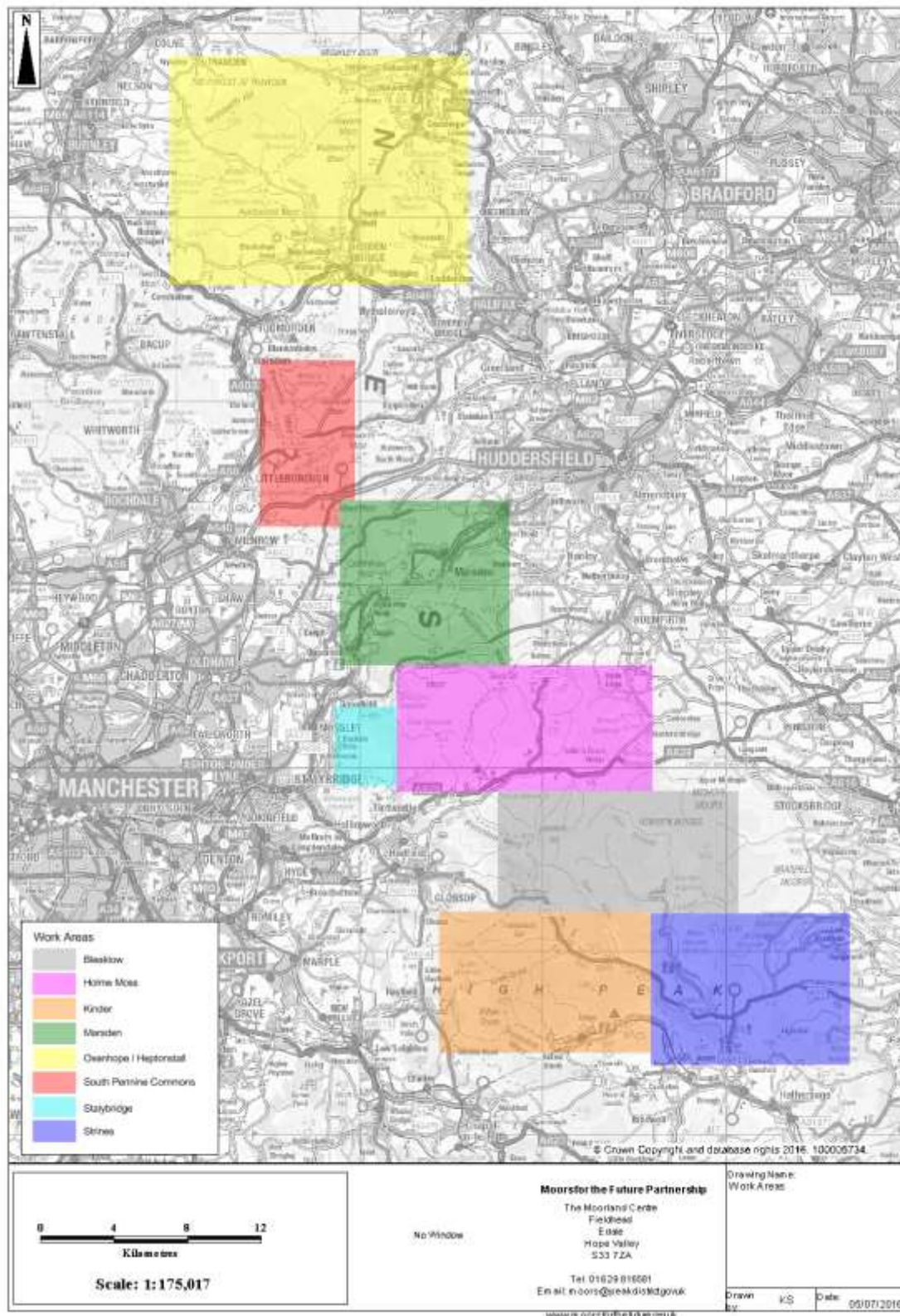
**Sub-contractor**

**Section or nature of Works**

**Name and address**

**to be sub-let**

Map 1. Working areas





## **SECTION 2: INSTRUCTIONS ON SUBMITTING A TENDER (WORKS)**

### **Tenders should be submitted in accordance with the following instructions.**

#### **1. Invitation to Tender**

The Authority is seeking tenders from suitably experienced and equipped contractors to undertake the Works.

#### **2. Basis of Tenders**

Tenders are being invited on an open award procedure.

#### **3. Scope**

Tenders are being invited on the basis of undertaking the whole of the Works. However, the Authority reserves the right to split the award of the Works into packages.

#### **4. Framework Agreement**

4.1. This Invitation to Tender is for a Framework Agreement. This means that, after evaluation of Forms of Tenders in accordance with the criteria set out in the Tender Documentation, the Authority will appoint Framework Contractors to perform the Works in whole or in part throughout the Framework Period on the basis of the Tender Documentation and the Form of Tender.

4.2. Tenderers will be notified of their selection as Framework Contractors by the Nominated Officer. By accepting such notification, the Framework Contractor agrees to deliver the Works in accordance with the Tender Documentation.

4.3. Framework process:

4.3.1. Subject to the Authority's standing orders, the Authority shall be entitled from time to time to request the performance of any Works from the Framework Contractor as set out in the request and the timescale for a response to the request (acting reasonably).

4.3.2. Where the Price is not known, the Authority will hold a mini-competition between at least three Framework Contractors in accordance with the Authority's Standing Orders. These Framework Contractors will be provided with a Works Plan for the relevant Works Site including information on the Works Sites, quantities of Materials and access routes and distances. The Framework Contractors shall respond to the request by either:

4.3.2.1. Confirming that it is not able to perform the Works;  
or

4.3.2.2. Providing a Price for the Works;

within the requested timescale.



- 4.3.3. The Authority shall evaluate in accordance with this Section and shall confirm any additional evaluation criteria or weighting at the time of the mini-competition.
- 4.3.4. Following the evaluation, the Authority shall notify the Framework Contractor it has been successful and the Framework Contractor shall enter into a Contract for the Works for the Price tendered.
- 4.4. Either party may require the removal of the Framework Contractor from the Framework Agreement at any time by giving written notice to the other.
- 4.5. On the termination of the Framework Agreement with a Framework Contractor, each contract with a Framework Contractor in force at the date of such termination shall nevertheless continue in full force and effect for the remainder of the term of such contract, unless earlier termination in accordance with the terms of such Contract.

## **5. Tendering procedure**

- 5.1. **THE DEADLINE FOR RECEIPT OF TENDERS IS 5PM ON THE TENDER RETURN DATE.**
- 5.2. No tender received after the specified time on the Tender Return Date shall be considered. Any such tender shall be returned promptly to the Tenderer by the Chief Financial Officer who may open the tender only to ascertain the name and address of the Tenderer.
- 5.3. The Tender shall be made on the Form of Tender. It must be accompanied by the following information:
  - 5.3.1. Organisation (including Risks Assessments and Method Statements);
  - 5.3.2. Analysis of resources;
  - 5.3.3. Itemised Costs;
  - 5.3.4. Details of any part of the Works to be sub-contracted;
  - 5.3.5. Copies of all Insurance Certificates, for the Tenderer and any sub-contractors;
  - 5.3.6. Details of suppliers (if applicable);
  - 5.3.7. Any other information requested in the Section 1 (Specification and Detailed Conditions).
- 5.4. The Form of Tender must be signed, where the Tenderer is an individual, by that individual. Where the Tenderer is a partnership, by an authorised partner. Where the Tenderer is a company, by at least one director or by a director and company secretary.
- 5.5. No tender will be deemed to be received unless it is in an envelope which bears no name or mark indicating the sender. If delivered by hand a receipt will be issued.
- 5.6. Tenders must be delivered on weekdays between the hours of 9.00 am and 5.00 pm and marked for the attention of the Chief Finance Officer as follows:
  - TENDER MFF36 2016-20 Plug and Clump Planting
  - F.A.O The Chief Financial Officer
  - Peak District National Park Authority
  - Aldern House
  - Baslow Road
  - Bakewell
  - Derbyshire



DE45 1AE.

## **6. Basis of Tender**

- 6.1. The Tender shall show the Tendered sum for the actual Works and the VAT separately.
- 6.2. The Price must include value of all of the Works and Materials (if applicable) supplied by the Tenderer as part of the Works and must cover all costs and expenses which may be incurred in order to complete the Works in accordance with the Tender Documentation and to assume all express and implied risks, liabilities and obligations imposed by the Tender Documentation.
- 6.3. The value of the Contract, based on the Price and the Itemised Costs will be agreed in writing prior to Works Commencement Date.

## **7. Sub-contracting**

- 7.1. When submitting its Tender, the Tenderer must notify the Authority of any parts of the Works that it proposes to sub-contract. Failure to do so may invalidate any such Tender.
- 7.2. The Authority may require a full résumé of the sub-contractor's experience and any other relevant information.

## **8. Tenderers to visit**

- 8.1. Tenderers may be invited to visit the Site(s) to ascertain all relevant conditions and means of access and to thoroughly acquaint themselves with the extent and nature of the proposed Works and will be deemed to have done so.
- 8.2. If a generic Risk Assessment and Method Statement is provided, the Authority may, at its option require a Site specific Risk Assessment and Method Statement.

## **9. Presentation to the Authority**

All selected Tenderers may be asked to make a presentation to Officers of the Authority on methods proposed for the performance of the Works.

## **10. Tender queries**

Tenderers are advised to study the Tender Documentation and all other documentation provided by the Authority. The tender documents should be read and their true intent and meaning ascertained before submitting a Tender. Tenderers should seek to clarify any points of doubt or difficulty (including any apparent ambiguities, errors and omissions in the Tender Documentation) with the Authority through its Nominated Officer prior to submitting a Tender.

## **11. Errors in completed tenders**

- 11.1. The Tenderer shall be deemed to have satisfied itself before submitting its Tender as to the correctness and sufficiency of its Price and Itemised Costs.
- 11.2. Where examination of a Tender reveals arithmetical errors these will be corrected on the basis that the rates entered into the Price and the Itemised Costs are correct and the Tenderer will be afforded the opportunity of confirming the revised totals (in writing) or withdrawing its Tender within 7 days.

## **12. Sufficiency of Tender**

The Tenderer shall be deemed to have undertaken all inspections, examinations and all other enquiries reasonable or necessary in connection with the terms and subject matter of the Tender. The Tenderer acknowledges and confirms that it has the requisite



expertise, experience and equipment to perform its obligations under the Contract. The Authority will not accept and shall not be liable for any claims that are based upon a Contractor's failure to obtain or have due regard for any information necessary to prepare a fully compliant and complete tender.

### **13. Period of Validity**

Tenderers are required to keep their tenders valid for acceptance for a period of 30 working days from the Tender Return Date.

### **14. Tender evaluation**

- 14.1. The Authority will be conducting a full financial and technical evaluation of all tenders.
- 14.2. Evaluation of tenders may include all of any of the following:
  - 14.2.1. Price and Itemised Costs;
  - 14.2.2. Documents requested in the Tender Documentation;
  - 14.2.3. Written technical and financial references (including the Tenderer's financial accounts for such period as shall be notified) as may be requested;
  - 14.2.4. The Tenderer's technical and professional ability and previous experience of contracts delivered for the Authority or other organisations. The Authority is entitled to take into account any failure to discharge obligations under previous relevant contracts undertaken by the Tenderer (or any proposed sub-contractor) in assessing whether the required minimum standards for the Works are likely to be met. The Authority may ask the Tenderer (or any sub-contractor) for evidence evidencing performance on previous comparable contracts or consider evidence of performance on previous comparable contracts for the Authority;
  - 14.2.5. Whether the Tenderer is subject to any enforcement or legal action or other pending investigations by either the Authority or other public agencies;
  - 14.2.6. Whether the Tenderer is known to have contravened environment or animal welfare legislation, where concerns remain about the Tenderer's standards;
  - 14.2.7. All other matters and information which the Authority in its absolute discretion deems applicable or relevant.
- 14.3. The Authority may seek clarification in various ways including but not limited to:
  - 14.3.1. Site visits;
  - 14.3.2. Interviews with the Contractor's key personnel who would be assigned to the Contract and appropriate senior managers.
- 14.4. The Authority does not undertake to accept the lowest or any tender/ rates.

### **15. Award of Contract**

- 15.1. The Authority anticipates (but does not guarantee) to award a Contract within 30 working days of accepting a Tender. No reliance should be placed by a Tenderer on this timescale.
- 15.2. The successful Tenderer will be required to promptly execute and return to the Authority the Contract in the form attached incorporating the Conditions and Tender Documentation (and any variations as set out in the Contract) and until execution and completion of the Contract any Purchase Order (which shall incorporate the Tender Documentation) shall constitute a binding contract.

### **16. Accuracy**

Information supplied to Tenderers by the Authority (whether in these documents or otherwise) is supplied for general guidance in the preparation of tenders. Tenderers must



satisfy themselves by their own investigations with regard to accuracy of any such information and no responsibility is accepted by the Authority for any inaccurate information obtained by Tenderers.

#### **17. Confidentiality**

All information supplied by the Authority in connection with the Invitation to Tender shall be regarded as confidential by the Tenderer except that such information may be disclosed for the purpose of obtaining sureties and quotes necessary for the preparation of the Tender.

#### **18. Canvassing**

Tenderers face automatic disqualification if they canvass for the Works by approaching any Member or Officer of the Authority with a view to gaining more favourable consideration of their tender. Tenderers should state whether Members or Officers of the Authority have any direct or indirect interests in their organisation.

#### **19. MoorLife2015-20**

This Invitation to Tender relates to a number of projects including for the purposes of the Moor LIFE project (LIFE14/NAT/UK/000070) "MoorLIFE 2020".

#### **20. Internal Authorisation**

This Invitation to Tender has been checked to confirm it meets the requirements of the partnership's future strategy and is in accordance with the Authority's internal approval procedure.



## SECTION 3

### DEFINITIONS AND STANDARD TERMS AND CONDITIONS

#### 1. DEFINITIONS

In this Contract the following terms shall have the meanings prescribed unless otherwise stated or otherwise required by the context:

**“Accident”** means any event which results in injury, damage or loss

**“Authority”** means the Peak District National Park Authority

**“Bag(s)”** Means the container bag for the Material

**“CDM Regulations”** means the Construction (Design and Management) Regulations 2015 and the current approved code of practice published by the Health and Safety Executive (or equivalent)

**“Bundle”** means a bundle of 20 *Sphagnum* Plugs wrapped together in cling film.

**“Contract”** means the Form of Contract to be signed and completed by the Parties

**“Contract Particulars”** means the particulars of the Contract set out in the Form of Contract

**“Contract Period”** means the period set out in the Contract Particulars

**“Contamination”** means any contamination due to a discharge spillage release or emission into any environment medium or substance which is capable of causing harm to the health of living organisms or other interference with the ecological systems of which they form a part

**“Conditions”** means together the Standard Conditions and the Detailed Conditions

**“Contractor”** means the Framework Contractor who has been awarded a contract pursuant to the Framework Agreement

**“Contract Variation”** means any addition or variation to the Works in accordance with the Standard Conditions

**“CROW”** means the Countryside and Rights of Way Act 2000

**“Daily Log”** means an electronic or written report if required in the Specification

**“Defects Liability Period”** means the defects liability period set out in the Contract Particulars (if any)

**“Delivery”** means the delivery of the Plants by the Supplier to the Delivery Site/Lift Site (and ‘Deliveries’ shall be construed accordingly)

**“Delivery Site”** means those areas to which the Materials or part are to be delivered more particularly described in **Section 1** and (if applicable) identified on the Location Maps

**“Detailed Conditions”** means the conditions contained at **Section 1**

**“Dwarf Shrub Plug”** should be plug plants of differing species as set out in **section 1**

**“Environmental Law”** means all laws including common law statute bylaws or regulations applicable in England and Wales and all orders of any Regulatory Authority concerning the protection of the environment or human health

**“Equipment and Machinery”** means vehicles machinery plant tools and all other associated items required for the proper performance of the Works

**“Form of Tender”** means the tender return form at **Section 1**

**“Foreman”** means the supervisor assigned by the Contractor to supervise the Works (if any)

**“Force Majeure Event”** means civil commotion, riot, invasion, war (or threat of war), explosion, biological disaster, severe weather event which would result in a reasonably prudent contractor not being able to continue and complete the Works, fire, earthquake, epidemic, nuclear disaster, act of terrorism or other natural physical disaster

**“Form of Contract”** means the form of agreement annexed

**“Framework Agreement”** means an agreement between the Authority and the Framework Contractor to deliver the Works in accordance with the Tender Documentation and created pursuant to Section 2 Clause 4

**“Framework Contractor”** means a contractor within the Framework Agreement

**“Incident”** means an event which has caused or could have caused, injury, illness or damage to assets, the environment or third parties



**“Invitation to Tender”** means the invitation to tender for the Works

**“Itemised Costs”** means the costs for the Works itemised by the Tenderer in the Form of Tender

**“Landowner”** means those persons who own the freehold or leasehold title to the land on which the Works are to be performed (independent of any grazing or other rights) (if any)

**“Location Maps”** means the maps contained or referred to in **Section 1**

**“Material(s)”** means *Sphagnum* for planting

**“Method Statement”** means a statement setting out the proposed methods for the execution of the Works or otherwise and forming part of the Tender

**“Near Miss”** means an event that had the potential to cause injury, damage or loss, but which did not do so

**“Nominated Officer”** means the Authority’s officer who shall be the main point of contact for the Contractor and shall be notified to the Contractor from time to time.

**“Payment”** means a payment in respect of the Works made pursuant to this **Section**

**“Party”** means a party to this Contract (and shall include the plural if applicable)

**“Plant”** means either a *sphagnum* plug, dwarf shrub plug or *sphagnum* clump as set out in **section 1**

**“Planting Areas”** means the areas within the Work Sites to be planted with the *Sphagnum* in accordance with **Section 1**

**“Plug”** means either *Sphagnum* Plug or Dwarf Shrub Plug as referred to in **Section 1**

**“Price”** means the price set out in the Contract Particulars

**“Programme of Works”** means the Programme for the Works provided by the Framework Contractor in relation to a Works Plan

**“Project”** means the project as set out in the Project Objectives (if any)

**“Project Objectives”** means the objectives as set out in **Section 1** (if any)

**“Project Progress Report”** means a report provided by the Contractor detailing the progress of the Works with reference to the Programme of Works

**“Purchase Order”** means the Purchase Order form issued by the Nominated Officer in connection with the Works

**“Regulatory Authority”** means the Environment Agency, local authority or any other government department or public body

**“RIDDOR”** means the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (and updated 2013)

**“Risk Assessment”** means an assessment of the risks associated with the Works

**“Site(s)”** means the Sites used in connection with the Works and shall include Donor Sites/Drop Sites/Lift Sites/Work Sites (as applicable)

**“SSSI”** means an area of land designated as a Site of Special Scientific Interest (or the equivalent or similar designation)

**“Sphagnum Plug”** should consist of several *Sphagnum* plants and have a minimum diameter of 3cm and the specification referred to in Section 1.

**“Sphagnum Clump”** should consist of several *Sphagnum* plants and have a minimum diameter of 12cm (roughly an adult male handful and the specification referred to in Section 1

**“Plug Care Guidelines”** sets out the specification for the condition in which the Plugs and Clumps shall be supplied and how the Plugs and Clumps should be cared for.

**“Specification”** means the specification and requirements of the Authority as set out in **Section 1** together with such modifications additions and variations as may be made in accordance with this Contract (and shall include all references to “Contract Specification”)

**“Standard Conditions”** means these conditions

**“Supplier”** means the supplier of the Plugs or Clumps as notified to the Contractor by the Nominated Officer

**“Target Completion Date”** means the date targeted for completion of the Works as set out in the Detailed Conditions and Contract Particulars

**“User”** means those persons granted rights over the land on which the Works are to be performed (if any) including (but not limited to) shooting and grazing rights



**“Tender”** means the tender submitted by the Tenderer (and shall include the term “Tender Return” and “Form of Tender”)

**“Tenderer”** means the person or company submitting a tender

**“Tender Documentation”** means any documents forming part of this Tender and the supplementary documentation (if any) supplied as part of such documentation

**“Unsafe Act”** means any act at variance with the Method Statement that may increase the potential for an Accident

**“Waste Material”** means all packaging, bags, metal tapes, plastic and all other material and rubbish associated with or produced during the course of the Works

**‘Works’** means planting *Sphagnum* consistent with the Project Objectives and in accordance with the Specification and Tender Documentation, together with any alterations and amendments instructed by the Nominated Officer pursuant to the terms of this Contract

**“Works Plan”** means the plan for the Works for the relevant Works Site including information on the Works Sites, quantities of Materials and access routes and distances

**“Works Site”** means those areas on which the Works are to be carried out pursuant to the Specification and (if applicable) identified in the Location Maps

**“Works Commencement Date”** means the date that the Works are to be commenced as set out in the Contract Particulars

**“Works Completion Date”** means the date on which the Nominated Officer specifies in writing to the Contractor that the Works have been completed to its satisfaction in accordance with this Section

## **2. INTERPRETATION**

- 2.1 Words importing the singular tense shall include the plural and vice versa and obligations undertaken by more than one person shall be deemed to have been undertaken jointly and severally.
- 2.2 A person who is not a party to the Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms save to the extent he is named or identified as a person or class of persons specifically intended to take a benefit under the Contract.
- 2.3 If any provision of the Contract shall become or shall be declared by any court to be invalid or unenforceable in any way, such invalidity or un-enforceability shall in no way impair or affect any other provision of the Contract, all of which shall remain in full force and effect.
- 2.4 This Contract shall be governed by English law in every particular including formation and interpretation and shall be deemed to have been made in England.
- 2.5 All rights granted to either of the parties shall be cumulative and no exercise by either of the parties of any right under this Contract shall restrict or prejudice the exercise of any other right granted by this Contract or other otherwise available to it.
- 2.6 Upon termination of the Contract no term other than clauses relating to Confidentiality, Insurance, Defects Liability, Liability of the Contractor (including Liquidated Damages (if any)) and Arbitration shall survive unless expressly provided.

## **3. STANDARD CONDITIONS**

### **1. The Nominated Officer**

The rights, obligations, functions and powers conferred on the Authority under this Contract shall be exercised by the Nominated Officer.

### **2. Performance of Contract**

- a. The Contractor agrees that at all times it will carry out the Works and perform the Contract in compliance with the following conditions:
  - i. in compliance with the Conditions (and any such modifications authorised under the Conditions);
  - ii. in a manner wholly consistent with the Tender Documentation;
  - iii. to the entire satisfaction of the Nominated Officer; and



- iv. in any event with all the due skill, care and diligence that would be expected of a qualified competent and experienced person undertaking the Works.
- b. The Contractor shall notify the Nominated Officer as soon as practicable and in any event within 24 hours if the Contractor is unable to carry out any part of the Works or perform any of its obligations under the Contract.

### **3. Employees**

- a. The Contractor shall not engage or employ in the supervision and performance of the Contract any person without the necessary qualifications, skill and experience to perform the duties that they are trained and employed to do.
- b. At the request of the Nominated Officer the Contractor shall remove or procure the removal within a reasonable period (or immediately if required) any person employed by the Contractor or sub-contractor for any reasonable reason (provided the Authority shall not act vexatiously). The Authority shall either at the time or promptly provide to the Contractor written reasons for such request. Such persons shall not be again employed in the performance of Contract without the permission of the Nominated Officer.
- c. The Authority shall not in any circumstances be liable to the Contractor or any of its employees in relation to such action or removal and the Contractor shall fully and promptly indemnify the Authority in respect of any claims brought against it by any such employee.
- d. The Nominated Officer shall have the right if reasonable and on notice to interview any member of the Contractor's staff in connection with the performance of the Contract.
- e. The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions or levies of any kind, relating to or arising out of the employment of any persons employed by the Contractor and shall fully indemnify and keep indemnified the Authority in respect of any liability of the Authority in respect of them and shall ensure that the employment of all staff complies with relevant statutes and regulations.

### **4. Signage**

- a. The Contractor shall not fix signs, notices or advertisements on Sites without the prior written approval of the Nominated Officer.

### **5. Equipment and Machinery (including vehicles)**

- a. The Contractor shall at all times at its own cost provide such Equipment and Machinery as is necessary for the proper performance of the Contract. All Equipment and Machinery must be guarded to current safety standards and left immobilised and secure when unattended. In particular, power take-off shafts on tractor-driven machinery must be fully guarded.
- b. The Contractor shall at all times be fully responsible for licensing, fees, taxes and insurances required in connection with or arising out of the possession or use of the such Equipment and Machinery.
- c. The Contractor shall at its own expense keep all such Equipment and Machinery in good and serviceable repair and maintained in such condition as is commensurate with the proper performance by the Contractor of its obligations under this Contract. The Equipment and Machinery should be used in accordance with the manufacturer's instructions. Operators must be trained and competent. Where industry/Regulatory Authorities or bodies recognise specific standards of competence valid certificates will need to be produced.



- d. The Contractor shall obtain the Authority's written approval to the use and positioning of the Equipment and Machinery prior to the Works Commencement Date and shall use no other Equipment and Machinery without prior approval of the Nominated Officer.
- e. No Equipment or Machinery which is wheeled will be allowed on soft, wet or environmentally sensitive locations without the prior approval of the Nominated Officer.
- f. Any vehicular access indicated on the Location Maps is for Equipment and Machinery approved by the Nominated Officer only. Access for Equipment to environmentally sensitive or SSSI sites or soft or wet areas will only be given during the Contract Period if, in the opinion of the Nominated Officer, this is necessary or desirable. The Contractor will not permit any movement of Equipment and Machinery on or to such areas without the prior approval of the Nominated Officer.
- g. Any damage arising from any breach of this Clause by the Contractor any sub-contractor or their employees agents or invitees shall be immediately repaired or replaced at the Contractor's expense and to the satisfaction of the Nominated Officer.
- h. The Contractor shall ensure that all highways or other rights of way in the vicinity of the Works used by the Contractor are kept clean of mud and other debris.

## **6. Environmental Provisions**

- a. All Works will be carried out in a manner which conforms to environmental protection legislation and minimises damage to the environment and nature conservation interests. Reference should be made to statutes and codes of practice including (but not limited to):
  - i. The Water Resources Act 1991;
  - ii. The Environmental Protection Act 1990
  - iii. The HMNSO booklet 'Waste Management – The Duty of Care – a Code of Practice with Regard to Disposal of Wastes';
  - iv. Codes of practice for Operations on Sites of Special Scientific Interest, Water Catchment Land, Environment Agency Regulations, Regulations issued by Dept. Of Environment, DEFRA and all current Health and Safety Regulations.
- b. The Contractor must comply with all current legal requirements relating to the storage, handling, use and disposal of hazardous substances (including fuel). In particular the Contractor must comply with:
  - i. the Control of Substances Hazardous to Health Regulations 1992 (COSHH;
  - ii. the Control of Pollution (Oil Storage) (England) Regulations 2001;
  - iii. Control of Pesticides Regulations 1986.
- b. Plants and animals protected under the Schedules of the Wildlife and Countryside Act 1981 and other statutes are not to be harmed or their habitat damaged. Nesting birds are not to be disturbed and are to be reported immediately to the Nominated Officer.
- c. Any public complaints must be immediately reported to the Nominated Officer. The Contractor shall at its own cost promptly deal with any requests by the Nominated Officer in relation to such complaints (including but not limited to investigating the nature and cause of any such complaint).
- d. Site(s) must be left clean and tidy at all times.
- e. Dogs and smoking are not permitted on Site(s).
- f. Fuels may be stored at some of the Sites but only with prior approval from the Nominated Officer. All fuels must be stored in a suitable, secure container according to the COSHH assessment undertaken by the Contractor and provided to the Authority. Fuels must not be located near to any open watercourse. The type of container used to store fuel must be agreed with the Nominated officer prior to the Works Commencement Date.



- g. The Contractor shall ensure that it has at all times on the Sites spill kits for fuels and oils specified in its Method Statements and shall immediately use the same in the event of such spillage in accordance with manufacturer's instructions.
- h. The Contractor shall not damage or permit damage of any areas allocated for Sites or any Access Tracks (if applicable). In the event of any damage, the Contractor shall procure that the same is reinstated to the absolute satisfaction of the Nominated Officer within 1 month of the final invoice date or by the Works Completion Date, whichever is soonest.
- i. The Contractor is restricted to the specified storage areas notified to it by the Nominated Officer for the unloading and loading of Materials, parking of vehicles, and storage of Materials.
- j. Machinery and Equipment movement on the Sites should be kept to the minimum that might reasonably be expected to complete the Works. Equipment access and egress routes must be agreed with the Nominated Officer prior to the Works Commencement Date. Method Statements must state types of Machinery and Equipment to be used.
- k. The Contractor shall take all precautions to ensure that no pollution arises from the execution of the Works which may result in Contamination either on, in, under or off Site(s). The Contractor shall indemnify the Authority against any costs or damages or claims related to this liability.
- l. It is essential that there is no waste of any Materials at the Sites; the Contractor will be expected to manage operations to minimise waste. All waste produced by the Contractor remains the responsibility of the Contractor. All waste disposal and disposal of Waste Materials must comply with the Agricultural Waste Regulations 2006. All containers supplied by the Authority (if any) remain the property of the Authority (subject to any specific provisions otherwise in the Specification).
- m. The Contractor must comply with the Noise at Work Regulations 1989. Additional restrictions may also be applied to prevent noise causing a nuisance to the public.

## **7. Health and Safety**

- a. The Contractor will be required to comply with the Health and Safety at Work Act 1974 and all other regulations made under the Act and all other legislation and regulations relevant to the performance of the Contract. Methods Statements should include operational Risk Assessments, copies of which are to be submitted with a tender. Failure to submit RAMS may result in disqualification of the Tender.
- b. Copies of Site Risk Assessments for all Sites used during the Works must be produced to the Nominated Officer before the Works Commencement Date. If a generic Risk Assessment and Method Statement was provided by the Contractor with its Tender Return, the Authority may, at its option require a Site specific Risk Assessment and Method Statement.
- c. The Contractor must at all times adhere to and comply with RAMS.
- d. Health and Safety Plan:
  - ii. The Contractor is to submit a copy of his Health and Safety Policy which is issued to his employees, to the Nominated Officer. This will form part of the site safety plan ("the Site Safety Plan").
  - iii. The RAMS will form part of the Site Safety Plan. Prior to commencing any Works, the Contractor will submit any alterations to the Method Statements that may be necessary, for the approval of the Nominated Officer. The Contractor's Health & Safety plan will be subject to the Nominated Officers approval, prior to the Works Commencement Date.



- e. The Contractor must take the lead in ensuring the health and safety of all those involved in the Contract at the Sites.
- f. The Contractor must provide all appropriate clothing and Equipment and ensure that all persons working under his control wear/use the clothing and Equipment as required. This includes high visibility clothing.
- g. The Contractor is responsible for the provision of first-aid cover and facilities for its employees, in accordance with the Health and Safety (First-Aid) Regulations 1981.
- h. The Authority may instruct the Contractor, or any person working for the Contractor, to suspend work if there is imminent risk of injury to any person.
- i. The Contractor is responsible for recording any accidents in the Contractor's accident book, in accordance with the Health and Safety at Work Act 1974 (HSW).
- j. The Contractor is responsible for reporting any notifiable incidents to the Health and Safety Executive, in accordance with the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR).
- k. All records produced under this Clause must be forwarded to the Nominated Officer within 24 hours of completion. These should be submitted in compliance with the Data Protection Act 1998.
- l. The Contractor must be aware that the Works Sites may be accessible by the public and must take all appropriate precautions to protect these persons and their property, including, if required by the Nominated Officer, the provision of warning notices/signs or barriers.
- m. The Contractor shall have regard to the Authority's health and safety policy and safe working practices when preparing its own statements.
- n. All Equipment and Machinery that could cause environmental damage and/or a health and safety risk to members of the public or land users must be secured overnight to prevent theft or misuse. Contractors are responsible for securing appropriate locations nearby to accommodate their equipment and operations whilst the Works are not being undertaken.
- o. Services:
  - i. Location of services; The Contractor is to liaise with all relevant Statutory Authorities as to the location of any services that may affect the Works before the Works Commencement Date and comply with their requirements and the requirements of the Authority;
  - ii. Excavations:
    - 1. Must be covered when unattended;
    - 2. If over 1.2m deep have trench support (or such comparable measures taken) before persons enter them;
    - 3. If over 1m in depth and in existence for less than 1 week: be cordoned off;
    - 4. If over 1m in depth and in existence for more than 1 week: be barriered.
- p. Site Safety Considerations
  - i. Ground conditions: Details concerning ground contamination and instability are not available and the Contractor should make its own enquiries in that regard.
  - ii. No representation is made by the Authority as to the existence of Contamination at the Sites or otherwise.
  - iii. The Contractor shall follow the Forestry & Arboriculture Safety & Training Council (FASTCo) Safety Guide.
  - iv. Lifting of heavy objects; the Contractor and employees should follow Manual Handling Operation Regulations 1992 (or any replacement).
  - v. The Contractor shall employ the 'best practical means' as defined in the Control of Pollution Act 1974 to minimise noise and vibration resulting from his operation, and shall have due regard to British Standard B35228 1975, Code of Practice for Noise Control on Construction Sites (or subsequent provisions).



- vi. The Contractor must take all necessary additional precautions when working alongside roads and comply with Chapter 8 of the Traffic Signs Manual (or any replacement).
- vii. The Contractor must comply with the Electricity at Work Regulations 1989 (or any replacement).

#### **8. British Standards**

- a. These provisions shall apply only where any of the Material is supplied by a Contractor.
- b. Except where specified to the contrary all Materials are to comply with the latest British Standard specification or equivalent national standard of another Member State of the European Community or international standard (whichever is the higher). All Materials shall be fit for purpose.
- c. In the event of the Nominated Officer (whose decision shall be final) not being satisfied that the Materials meet the required standard the Contractor shall comply with the latest British Standard Specification and no claim for additional costs incurred with such compliance will be accepted. Except where specified in the Tender Documentation to the contrary all workmanship is to comply with the latest British Standard Code of Practice.

#### **9. Project Progress Report**

- a. The Contractor shall promptly supply the Authority with a Project Progress Report on the dates agreed and notified to the Contractor.

#### **10. Variation of Contract**

- a. Without prejudice to any other of the Conditions a Contract Variation shall not be valid or of any effect unless it is agreed pursuant to this clause and confirmed in writing (including e-mail) by the Nominated Officer and the duly authorised agent or representative of the Contractor. Contract Variations for which there is no written confirmation are not authorised and will not be paid for under any circumstances. No other variations to the Contract shall be accepted by the Authority.
- b. The Nominated Officer may request any Contract Variation that are in his opinion necessary or desirable for the most efficient performance of the Contract.
- c. Upon receipt of the request for a Contract Variation the Contractor shall calculate the additional cost (if any) of incorporating the Contract Variation into the Works and shall as soon as practicable provide details of such sum (in writing) to the Authority ("the Contract Variation Sum") together with an indication of whether the proposed Contract Variation shall cause any delay on the Programme of Works.
- d. If the Contract Variation Sum is agreed by the Authority the Contract Variation shall be recorded in writing and shall form a part of the Works.
- e. Where in the absolute opinion of the Nominated Officer a written Contract Variation is impossible or impractical the Nominated Officer may give such order verbally but shall confirm it in writing to the Contractor as soon as practicable after the event and in any case within 48 hours of the Contract Variation.
- f. No Contract Variation in accordance with this clause shall in any way vitiate or invalidate the Contract but the Contract Variation Sum (if any) shall be taken into account in ascertaining the amount of the Payments (if any).

#### **11. Payment and Invoices**

- a. On completion of the Contract (or any phase of the Contract) pursuant to a Purchase Order form and provided that the Contractor shall have performed his duties, obligations and functions under the Contract to the satisfaction of the Nominated Officer the Contractor may submit to the Nominated Officer an invoice ('Invoice') for the sum due to him in respect of that Purchase Order form.



- b. Within thirty (30) days of the receipt of the Invoice (unless the Nominated Officer shall disagree with the amount claimed or require further information) the Nominated Officer shall (subject to being satisfied as to the performance and standard of the Contractor's work) certify that the Invoice is correct for payment and shall procure payment to the Contractor of the amount so certified.
- c. Provisions for phasing of Payments (if any) shall be included in the Contract.

## **12. Value Added Tax**

- a. All sums payable under this Contract are (unless otherwise stated) exclusive of VAT and other duties or taxes and shall be payable upon production of a valid VAT invoice.

## **23. CDM Regulations**

- a. The Authority and the Contractor acknowledge that they are aware and undertake to the other that in relation to the Works and Site he will duly comply with the CDM Regulations to the extent applicable to the Project.
- b. Without limitation, in accordance with the CDM Regulations:-
  - i. The Authority's main duty is to plan, manage, monitor and coordinate health and safety during pre-construction phase.
  - ii. The Contractor's main duty is to plan, manage, monitor and coordinate the works under their control in a way that ensures the health and safety of anyone it might affect (including members of the public) during the construction phase.
  - iii. The Contractor shall ensure that the Health and Safety Plan is received by the Authority before any works under the Contract is commenced and that any subsequent amendment to it by the Contractor is notified to the Authority;
  - iv. Promptly upon the written request of the Principal Designer (as defined in the CDM Regulations (where appointed)) and in the absence of a Principal Designer being appointed the Authority, the Contractor shall provide (and shall ensure that any sub-contractor through the Contractor provides) such information as the Principal Designer requires for the preparation of the health and safety file.
- c. The Contractor will ensure that all personnel engaged in undertaking the works shall be competent to undertake the Works, in accordance with the CDM Regulations.
- d. The Contractor shall at all times during the subsistence and operation of the Contract provide a sufficient number of personnel having the requisite type and level of qualifications, expertise and experience to operate as team leaders to control, supervise and perform its obligations under the contract to ensure that such performance is carried out efficiently and safely. In particular but without limitation, such personnel shall be required to possess adequate knowledge of the operations to be carried out (including methods and techniques required, the hazards likely to be encountered and methods of preventing accidents) as may be requisite for the satisfactory performance of the Contract and shall notify the Nominated Officer of their names and contact details.
- e. The Contractor shall notify the Nominated Officer of the name, address and telephone number of the person who will be the authorised agent or representative appointed by the Contractor to be in full operational control and who is authorised by the Contractor to receive on behalf of the Contractor directions and instructions from the Nominated Officer. Any instructions given to this representative shall be deemed to have been issued to the Contractor.

## **14. Insurance**

- a. The Contractor shall at all times from and including the Works Commencement Date or Contract Date (whichever is the earlier) effect and maintain in force such policies of insurance with reputable insurers approved by the Authority in respect of its liabilities hereunder and shall fully insure and indemnify the Authority against liability:



1. To the Authority and to any of their employees;
2. To the employees of the Contractor;
3. To the public and to any other person (including for the avoidance of doubt a Landowner or User);
4. In respect of the replacement of the Works.

in the sum of at least £5,000,000 (FIVE MILLION POUNDS) in respect of any single claim (£10,000,000 TEN MILLION POUNDS in the event that there are any Airlifting Works).

- b. The Contractor shall be liable for and indemnify the Authority against and insure and procure any sub-contractor to insure against any expense, liability, loss, claim, action, or proceedings in respect of any damage whatsoever (whether directly or indirectly) to private property real or personal in so far as such damage arises out of or in the course of or by reason of carrying out the Contract and which is due to any negligence, omission or default of the Contractor or person for whom the sub-contractor is responsible.
- c. The Contractor shall, prior to the Works Commencement Date or Contract Date (whichever is the earlier) and also upon request supply copies of all insurance policies, cover notes, premium receipts and other documents necessary to comply with this Clause.
- d. In the event that the Contractor is in breach of this Clause the Authority may be at liberty to obtain such insurance as is required at the cost of the Contractor (payable on demand).

#### **15. Agency**

- a. The Contractor is not and shall not in any circumstance hold itself out as being the agent of the Authority.
- b. The Contractor is not and shall in no circumstance hold itself out as being authorised to enter into any Contract on behalf of the Authority or in any other way to bind the Authority to the performance, variation, release or discharge of any obligation.
- c. The Contractor will not itself or permit any employee or other person engaged by the Contractor to represent themselves as being, servants or agents of the Authority for any purposes whatsoever.

#### **16. Liability of the Contractor**

- a. The Contractor hereby indemnifies and shall keep indemnified the Authority from and against any liability to any person whatsoever arising directly or indirectly out of or connected with the performance, non-performance or breach of the Contract or any act neglect default or omission of any employee, agent, servant invitee or visitor of the Contractor or any sub-contractor including, without limitation:
  - i. any and all losses, costs, expenses, (including professional and legal fees) liabilities and damages;
  - ii. any and all proceedings, demands, penalties, statutory charges and fines;
  - iii. death, illness or injury to any third party or for any loss of or damage to any property belonging to any third party and against all losses, costs, expenses, liabilities, damages, claims, demands or causes of action resulting therefrom;
- b. in each case to the extent arising out the Contractor's or any of its sub-contractors' breach or failure in performance of the Contractor's obligations in the Contract or omission whether arising from breach of contract, negligence or default or otherwise, except and to the extent that such losses, costs, expenses, liabilities, damages, claims, demands were wholly and directly caused by the negligence or wilful misconduct of the Authority or its officers, agents or employees. Any damage or loss which may occur



during the Contract Period in relation to the Works or Materials or Equipment on or before the Works Completion Date or to any materials implements or property whatsoever of the Authority which may at any time for the purpose of the Works be in the custody or use of the Contractor or sub-contractor which shall arise from negligence of the Contractor or theft, spoiling, decay, waste, wind, rain or fire shall immediately be made good by the Contractor at the Contractor's cost to the satisfaction of the Nominated Officer.

- c. The Contractor shall indemnify the Authority against all claims liability and actions for or in respect of any damage or injury to property or persons or claims for the infringement of patent rights or copyrights arising from or occasioned by the conduct of the Contractor or his sub-contractor or of any person employed by him or them or arising howsoever from or by the manner in which the Works shall be performed and executed and against all costs and proceedings in respect of any such claim.

## **17. Force Majeure**

- a. Neither party shall be liable for any failure to fulfil or delay in fulfilling its obligations under the Contract (other than an obligation to pay monies due) where such delay or failure is due to a Force Majeure Event Provided That:
  - i. the party so affected could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all matters known to it before the occurrence of the Force Majeure Event and all relevant factors, it ought reasonably to have taken but it did not take; and
  - ii. the party so affected has taken all steps as are reasonably necessary to mitigate the effect of the Force Majeure Event and to carry out its obligations under the Contract in any other way that is reasonably practicable; and
  - iii. the party so affected shall immediately notify the other in writing of the existence of the Force Majeure Event and of its anticipated duration.
- b. If the Contractor is the party affected by the Force Majeure Event, the Authority shall be relieved of its liability to make any payments to the Contractor for the duration of the Force Majeure Event and shall be entitled to obtain services the same as or similar to the Works from any third party during such period that the Force Majeure Event continues and the Contractor shall give all assistance and information necessary to such third party to enable such third party to fulfil the obligations of the Contractor under the Contract.

## **18. Defects Liability Provisions**

- a. The Authority shall have the right at any time to inspect the progress of the Works and may make representations to the Contractor following any such inspection.
- b. The Contractor shall comply with the Nominated Officers directions following such inspections (insofar as they do not constitute Contract Variations).
- c. Upon the completion of the Works the Contractor shall notify the Nominated Officer and the Nominated Officer shall in its absolute discretion notify that the Works have been completed ("the Completion Certificate").
- d. In the event that the Nominated Officer cannot so notify the Contractor shall at its own cost carry out such works as shall be required to enable the Nominated Officer to confirm that the Works have been completed to its entire satisfaction.
- e. The Contractor shall procure that all defects in the Works notified to it during the Defects Liability Period by the Nominated Officer shall be promptly and at its own cost made good to the Nominated Officer's entire satisfaction.



## 19. Bribery and Corruption

- a. The Contractor warrants and undertakes to the Authority that:
  - i. it will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Anti-Bribery Law");
  - ii. it has not and shall not give any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972;
  - iii. it will comply with the Authority's anti-bribery policy as may be amended from time to time, a copy of which will be provided to Contractor on written request;
  - iv. it will procure that any person who performs or has performed services for or on its behalf ("Associated Person") in connection with this Contract complies with this Clause;
  - v. it will not enter into any agreement with any Associated Person in connection with this Contract, unless such agreement contains undertakings on the same terms as contained in this Clause;
  - vi. it has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with the Contract;
  - vii. from time to time, at the reasonable request of the Authority, it will confirm in writing that it has complied with its undertakings under this Clause and will provide any information reasonably requested by the Authority in support of such compliance;
  - viii. it shall notify the Authority as soon as practicable of any breach of any of the undertakings contained within this clause of which it becomes aware.
- b. Breach of any undertakings in this clause shall be deemed to be a material breach of the Contract for the purposes of **Clause 20 (Termination)**.

## 20. Termination

- a. The Authority shall be entitled immediately upon the happening of any of the following events to terminate this Contract by the service of a notice (a "Termination Notice"), such events being:
  - i. The failure to materially perform the obligations under **Clause 2 (Performance)**;
  - ii. Any material breach by the Contractor of any other provision of the Contract;
  - iii. The Contractor having failed to perform a material part of the Contract for a period of 7 consecutive days;
  - iv. The Contractor suffering a legal claim against its possessions or if the Contractor consists of one or more individual, any such individual dying, entering into a composition or arrangement for the benefit of its creditors or having a receiving order in bankruptcy made against it or, if the Contractor consists of a body corporate, the Contractor having a Receiver or a Receiver and a Manager appointed or being the subject of a resolution or order for winding up (save for an amalgamation or reconstruction of a limited company);
  - v. Any governmental or other licence, consent or authority required by the Contractor to enable it to perform any of its obligations under the Contract ceases to be in full force and effect or at any time it becomes unlawful for the Contractor to perform any of its obligations thereunder;
  - vi. The continuation of a Force Majeure Event for a period of time which in the opinion of the Nominated Officer materially affects or prejudices compliance by



the Contractor of its obligations to the Authority or is likely to do so, preventing the Contractor from fulfilling its obligations under the Contract for a period of 45 days or more or the occurrence of a Force Majeure Event which in the opinion of the Nominated Officer is substantially unlikely to cease to be a Force Majeure Event for the remainder of the Contract Period

- vii. The withdrawal of the Authority's funding for a Project;
- viii. The re-organisation (and/or abolition) of the Authority to the extent that the licence consent or authority required by it to enable to perform any of its obligations under the Contract ceases to be in full force and effect or at any time it becomes unlawful for the Authority to perform any of its obligations thereunder.
- b. A Termination Notice shall be in writing and may be given by the Nominated Officer on behalf of the Authority.
- c. Upon receipt of a Termination Notice, in addition to such consequences as are set out in other provisions of the Contract:
  - i. The Contractor shall forthwith cease to perform of the Works;
  - ii. (Save where a Termination Notice is served pursuant to an event within the Authority's control) the Contractor shall fully and promptly indemnify the Authority in respect of:
    - a. all losses damages and costs (including professional costs) and expenses incurred or suffered by the Authority from such termination; and
    - b. the cost of causing to be performed such part of the Contract as would be performed by the Contractor during the remainder of the Contract Period. The Authority shall be at liberty to procure such performance by any persons (whether or not employees of the Authority) as the Authority shall in its entire discretion think fit and shall be under no obligation to employ the least expensive method of having such Works performed.
  - iii. The Authority shall be under no obligation to make any further Payments to the Contractor and shall be entitled to retain any Payments which may have fallen due to the Contractor before termination until the Contractor has paid in full to the Authority all sums due under this Contract or to deduct from it any sum due from the Contractor to the Authority under this Contract.
  - iv. The Authority shall not be liable for any claim demands costs expenses losses incurred or suffered by the Contractor (or any sub-contractor) resulting (either directly or indirectly) from the serving of a Termination Notice.
  - v. The Contractor shall immediately give up possession of the Site(s) in accordance with these Conditions.

## **21. Contract Suspension**

- a. In the event that a Termination Event occurs the Authority may at its option on written notice to the Contractor suspend this Contract for such reasonable period as the Authority shall notify the Contractor (the "Contract Suspension Period") and the Authority shall have the right to instruct another contractor to carry out the Works during the Contract Suspension Period and the cost of the Authority in relation to such suspension shall be deducted from the Price.
- b. The exercise of the rights in this Clause above shall be without prejudice to any antecedent claim by the Authority and shall not prohibit the Authority from serving a Termination Notice at any time.

## **22. Assignment**

- a. The Authority shall be entitled to assign or transfer the benefit of the Contract or any part thereof and shall give written notice of any assignment or transfer to the Contractor.



- b. The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or there under without the written consent of the Authority.
- c. The Contractor shall not sub-let the whole or any part of the Works without the written consent of the Nominated Officer together with any conditions. If such consent is given it shall not relieve the Contractor from liability or obligation under the Contract and it shall be responsible for the acts defaults omissions and neglects of any sub-contractor, its agents, servants or workmen.

#### **23. Gangmasters (Licensing) Act 2004 (“the Act”)**

- a. If the Works are subject to the Act (and if in doubt the Contractor shall liaise with the Nominated Officer) or (at the direction of the Authority) the Contractor shall obtain and provide a full copy of its gangmasters licence pursuant to the Act (“the Licence”).
- b. Where the Contractor is required to obtain a Licence, it shall ensure that such licence is valid and maintained and shall notify the Authority immediately if such licence is revoked or modified.

#### **24. Title**

- a. All items of whatever nature and any other artefacts excavated or found during the execution of the Works shall remain the property of the Landowner, and the Contractor will have no right of ownership. The Nominated Officer must be immediately notified of the location of any artefacts found during the course of the Works and the Contractor shall comply with all instructions issued by the Nominated Officer.

#### **25. Notices**

- a. No notice to be served upon the Authority shall be valid or effective unless it is sent by prepaid post or delivered by hand to the Authority at the address specified below or to such other address as the Nominated Officer may notify the Contractor in writing.

**Head of Law  
Peak District National Park Authority  
Aldern House  
Baslow Road  
Bakewell  
Derbyshire  
DE45 1AE**

Any notice to be served upon the Contractor shall be valid and effective if it is sent by prepaid post or delivered by hand to the registered principal place of business or to the address shown in this Contract if different or is delivered by hand to a Director, Company Secretary, or other responsible representative of the Contractor.

#### **26. Arbitration**

- a. All disputes under this Contract shall be settled by arbitration under the Arbitration Act 1996 (or any statutory modification or re-enactment thereof for the time being in force) by a single Arbitrator to be appointed in default of agreement between the parties by the President of the Institute of Arbitrators.
- b. Any award or decision of such Arbitrator shall be final and binding on the Parties.
- c. Unless the Contract shall have already been determined or abandoned the Contractor shall in every case continue to proceed with the Works with all due diligence and the Contractor and the Authority shall all give effect to every such decision of the Nominated Officer unless and until the same shall be revised by an arbitrator as hereinafter provided.

#### **27. Observation of Statutory Requirements**



The Contractor shall at all times observe and comply with all the relevant Acts of Parliament, regulations and codes of practice (the Statutory Requirements) relating to the performance of the Works including (but not limited to) compliance with any obligations that may be imposed upon the Authority resulting from the Works (where the same are within the power and control of the Contractor) and the Contractor shall indemnify the Authority accordingly.

## **28. Stamp Duty and Professional Fees**

Each party shall bear its own legal and other fees in relation to the preparation and submission of the Tender Documentation and any formal Contract documents arising therefrom.

## **29. Waiver**

Failure by the Authority at any time to enforce the provisions of the Contract or to require performance by the Contractor of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof or the right of the Authority to enforce any provision in accordance with these conditions.

## **30. Whole Contract**

The Contract (which includes the Tender Documentation) constitutes the whole agreement and understanding of the parties as to the subject matter hereof and there are no prior or contemporaneous agreements between the parties with respect thereto.

## **31. Warranty**

The Contractor and the Authority warrant their power to enter into this Contract and have obtained all necessary approvals to do so.

## **32. Rights and Duties Reserved**

For the avoidance of doubt nothing herein contained or implied shall prejudice or affect the Authority's rights or powers duties and obligations in the exercise of its functions as a local authority for the enforcement of or pursuance of any enactment by-law or regulation for the time being in force.

## **33. Confidentiality and Data Protection**

- a. Each Party will procure that all confidential information which may already have come into the ownership, possession or control it or of a subsidiary prior to the execution of the Contract provided by the Contractor, or which may at any time hereafter until termination hereof come into the ownership, possession, or control of either of them relating to the other Party or its operation or management, or otherwise in connection with or in anticipation of the performance of the Contract (hereinafter referred to as "the Confidential Information"), shall strictly:-
  - i. not be used for any purpose other than the performance of the Contract;
  - ii. not to be disclosed during the continuance of the Contract to any third party including for the avoidance of doubt any company, organisation or individual whatsoever employed by the Contractor now or at any time in the future; and
  - iii. not after termination be used for any purpose whatever or disclosed to any third party.



- b. The receiving Party shall inform the disclosing Party immediately if it comes to the notice of the receiving Party that any confidential information has been improperly disclosed or misused.
- c. The above obligations shall cease to apply to any particular piece of Confidential Information once it becomes public knowledge other than through any act or default of the receiving Party or any person acting or employed by them or acting on their behalf.
- d. Upon termination hereof, or at the request of the Authority the receiving Party shall procure that all documents and other written material (including material on disks and tape) containing Confidential Information shall be returned (together with all copies thereof) to the disclosing Party.
  - i.
- e. The Parties shall comply with the provisions of the Data Protection Act 1998.

#### **34. Freedom of Information and Transparency**

- a. The Contractor acknowledges that the Authority is subject to the requirements of the Freedom of Information Act 2000 ("FOIA"), the Environmental Information Regulations 2004 ("EIR") and the Local Government Transparency Code 2014 ("the Code"). The Contractor shall assist and co-operate with the Authority as necessary to comply with these requirements and acknowledge that the Authority may be required to disclose information pursuant to the FOIA, the EIR or the Code. The Contractor shall provide all necessary assistance reasonably requested to enable the Authority to respond to a request for information within the time for compliance and permit the Authority to inspect such records as requested from time to time.
- b. The Contractor acknowledges that all payments over £250 are published in the public domain in accordance with guidelines issued by the Department of Communities and Local Government.

#### **35. Copyright**

- a. The copyright, design right, trademark or patent or other form of intellectual property in all data, reports, documents, drawings and designs (whether in paper or electronic format) created by the Contractor or the Authority in connection with the Works shall be vested in the Authority. The use or disclosure of any such report for any purpose at any time is strictly prohibited except with the explicit written consent of the Authority.

#### **36. Contract Period**

- a. This Contract shall extend for the Contract Period and shall not be terminable by either party within that period save in accordance with these Conditions.
- b.
- c. Notwithstanding the Contractor's obligations to maintain a capability to carry out the Works under the Contract or the Contractor's obligations generally, the Authority does not guarantee any level or volume of work or Purchase Order forms in respect of the Works at any time during the Contract Period.

#### **37. Sub-contracting**

- a. The Authority's prior written approval must be obtained before any part of the Works is sub-contracted. The Authority reserves the right to refuse such approval as its absolute discretion.
- b. An approved sub-contractor must give a direct warranty and undertaking to the Authority but the Tenderer will nonetheless remain primarily liable for carrying out and completing the Works.



### 38. Ancient Monuments and Archaeological Areas

- a. Unauthorised works and wilful or reckless damage to Scheduled Monuments are offences under Sections 2 and 28 of the Ancient Monuments and Archaeological Areas (as amended) Act 1979 ("the 1979 Act").
- b. The Contractor (and any subcontractor) must have particular regard to the following statement provided by English Heritage:

"Any person...operating or causing to be operated mechanised cutting equipment on a Scheduled Monument in England containing upstanding stone features would potentially place themselves at risk of prosecution under the above Act given the reckless nature of such action in the clear knowledge of the following facts:-

  - i. Scheduled Monuments are protected under the 1979 Act and exist at numerous locations across England.
  - ii. The locations of Scheduled Monuments can be readily established by correspondence with English Heritage.
  - iii. The practise of mechanised cutting of heather when conducted over a cairnfield or other upstanding stone features is likely to cause damage to such features which may comprise offences under Sections 2 and 28 of the 1979 Act
- c. The Authority shall, wherever possible provide details of any Scheduled Monuments at any of the Sites however, this does not obviate the need for the Contractor to carry out its own searches and enquiries including (but not limited to);
  - i. Consultation of the National Heritage List for England at <http://www.english-heritage.org.uk/professional/protection/process/national-heritage-list-for-england/>; and
  - ii. Consultation of the Peak District National Park Authority archaeological department.
- d. Any Contractor (and any subcontractors) shall provide a copy of all such searches, enquiries and associated consents to the Nominated Officer.
- e. The Contractor (and any subcontractors) shall comply with all conditions requirements and consents required by English Heritage and Peak District National Park (whether supplied by the Authority or otherwise) relating to the Works at the Sites and shall notify the Authority of and fully indemnify the Authority against all losses costs claims and demands arising from any breach of such conditions consents or requirements or any breach of the 1979 Act.

### 39. Conditions

- a. In the event of any contradiction between the Standard Conditions and the Detailed Conditions then the Detailed Conditions shall prevail.
- b. The Conditions and all other conditions contained in the Tender Documentation shall take precedence over all other terms and conditions provided by a Contractor (including any terms and conditions which a Contractor purports to imply under any confirmation of order, specification or other document).
- c. No terms and conditions endorsed on, delivered with or contained in a confirmation of order, specification or other document provided by the Contractor shall form part of the Contract.

## **Appendix 1 - Plug plant Care Guidelines**

Upon delivery the Contractor becomes and remains wholly responsible for the maintenance and condition of the plugs

### **Storage and care of Plugs;**

- Plugs should be kept in a cool, sheltered location with some natural sunlight (not in direct sunlight but also not in the dark)
- Plugs should not be allowed to freeze
- Plugs should be kept moist (whitening of plant branches indicates drying out)
- Plugs should only be watered with rainwater (tap water will kill them)
- Plugs should be stored so they are not getting squashed by the weight of other Plants on top.
- Plugs should be kept out of reach of animals



Photo 1: *Sphagnum* Bundle of 20 Plugs securely wrapped in clear film. *Sphagnum* Bundle is moist and vibrant green



Photo 2: Dwarf Shrub Plugs supplied with a peat base in plant trays.

## **Appendix 2 - An Illustrated Guide to Planting *Sphagnum* Plug Plants**

### **Areas to plant**

*Sphagnum* plugs should be planted in the flattest wettest areas. Cotton Grass beds and revegetated peat pans are ideal. The ground should be wet and spongy, even during dry spells. The photo below shows an ideal planting area. The planting density is 1250 per hectare, however the suitable areas within a hectare will be limited so planting could occur as frequently as 1 plug every metre. Exact details of the planting areas will be discussed with the contractors at the on-site pre-start meeting.



*Sphagnum* plugs require shelter from the wind and direct sunlight; therefore they should be planted in areas of existing vegetation rather than on bare peat. The photo below shows vegetation cover required for planting. Due consideration needs to be made of the density of the intact vegetation as it needs to provide sufficient shelter for the plugs without the risk of shading out the light to the plug.



*Sphagnum* should not be planted directly in stream or gully channels but could be placed on the edges of channels ensuring that they will not be directly in fast running water.



Where there are gully blocks, plant the plugs at the water's edge in locations where the plug is sheltered from any significant water flow. Four plugs should be planted at each gully block.



### **Planting**

1. Plug Plants will be received in Clumps bundles of 20 wrapped together with clear film.



2. Unwrap the clear film until the first loose plug is found



3. Take the individual Plug Plant and tease it out to ensure the plug becomes rounded rather than flat.



4. Using your thumb or a dibber at the base of the plant, push the plant gently into the peat. The plug needs to be planted a depth where the *sphagnum* head is at the surface level. A demonstration of this will be made on the first day of the works.



5. If the ground is firm use a dibber of approximately 1cm diameter. In this example we used a screw driver



6. Make a hole of sufficient size to allow the plug to be planted in a way that ensures the plug is anchored in the ground. Based on previous examples this will be approximately 2cm wide by 5cm deep with the dibber.



7. Push the plug plant in to approximately two thirds of its depth, leaving the top of the plug showing above the surface



8. Gently heel in the plug plant with your fingers to ensure the plant is secure and any air-pockets are removed.



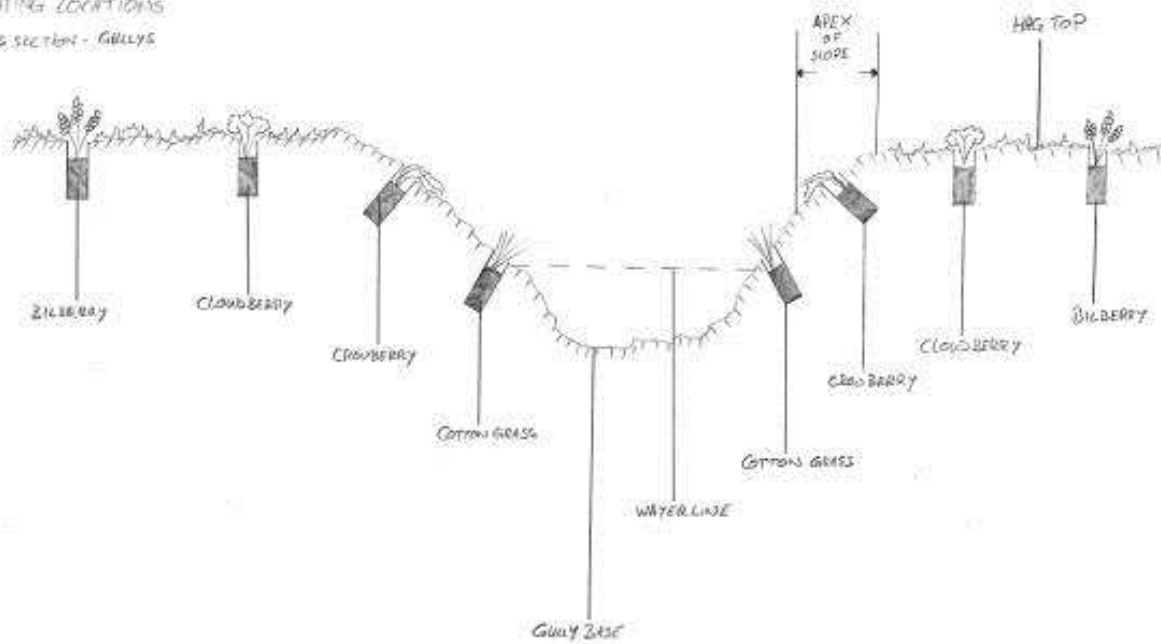
9. Your planted plug should look like this



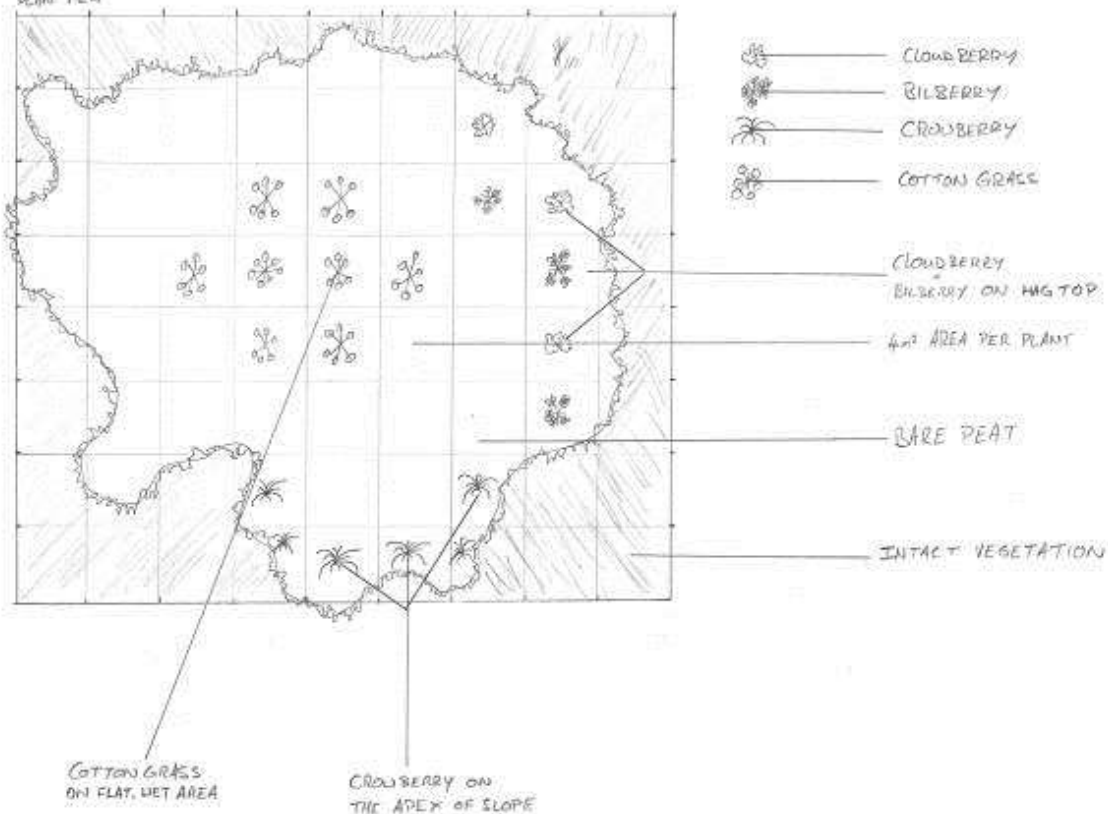
## Appendix 3 – Dwarf Shrub Plug Planting Specification

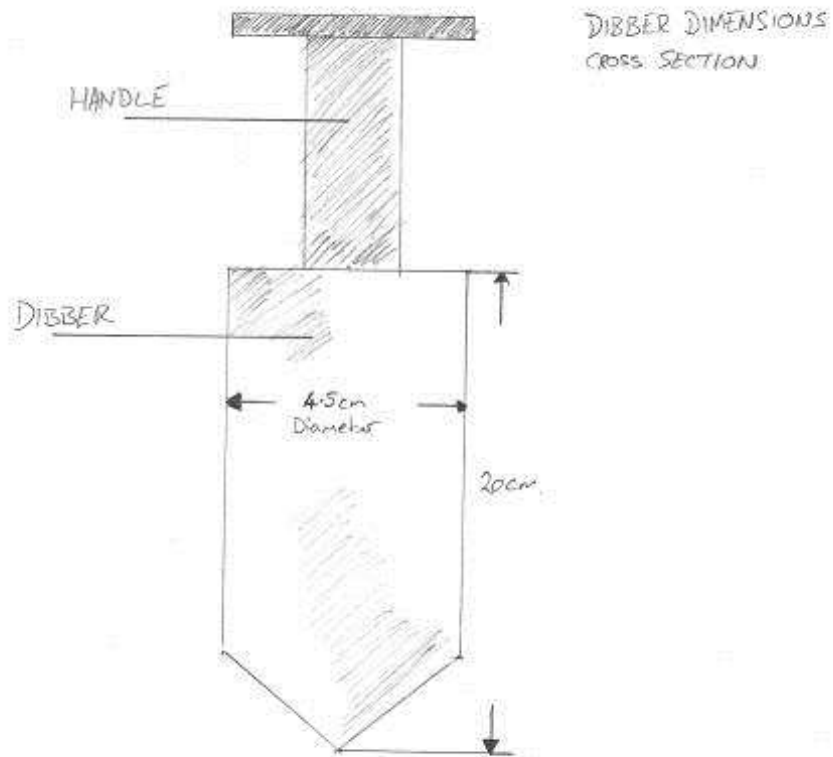
### PLANTING LOCATIONS

#### CROSS SECTION - GULLYS

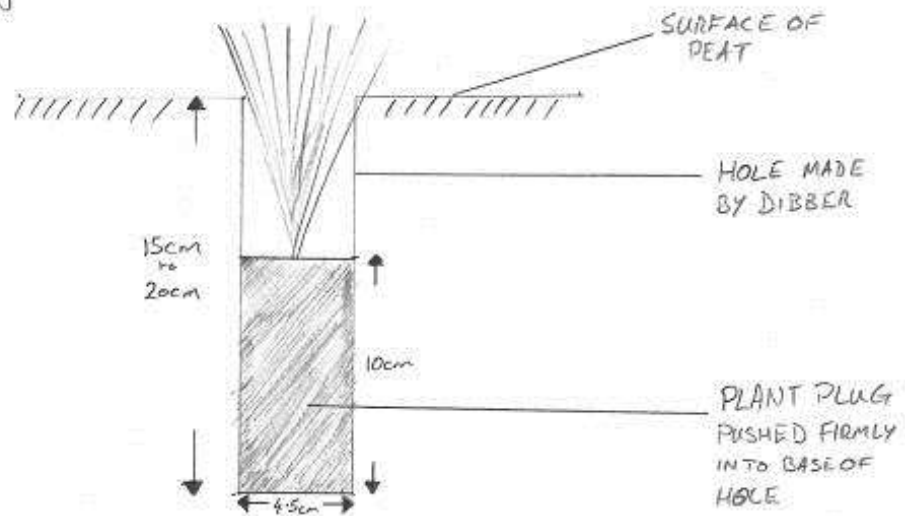


### PLUG PLANTING - LOCATION + DENSITY PLAN VIEW





PLUG HOLE DIMENSIONS  
CROSS SECTION





## **Appendix 4 – PDNPA Helicopter Policy**

### **Peak District National Park Authority Helicopter policy May 2017**

As of 21<sup>st</sup> April 2017 commercial helicopter operations in the UK must comply with EASA (European Aeronautical Safety Agency) regulations.

In order to comply with the new regulations helicopter companies must make a SPO (Specialised Operations) Declaration to the CAA (Civil Aviation Authority) and must be able to provide all relevant documentation required by the regulations upon request.

The Peak District National Park Authority will also make enquiries of operators to check they are compliant with their Declaration.

### **Regulation Compliance**

To show their compliance contractors will be expected to supply the Authority with copies of the following:

- SPO (& HRSPO if applicable) Declaration
  - It is acknowledged that the classification of an activity as SPO or HRSPO is the responsibility of the contractor, however the contractor will have due regard to the representations of the Authority when classifying the activity, including the circumstances and environment in which the activity is carried out.
- Safety Management System
- Special Operations Manual
- Standard Operations Manual (if applicable for Part CAT operations)
- Risk Assessments
- Any Specific Operations approval
- Aerial Application Certificate (if applicable for aerial spraying operations. E.g. bracken control or lime or fertiliser application)
- Certificate (s) of Registration
- Certificate (s) of Airworthiness
- Pilot (s) Licence (s) / Aircraft Ratings (pilot)
- Air Operators Certificate (if applicable for non-task specialist passenger flying, e.g. VIP flights)
  - The Authority will notify the contractor if any CAT operations are expected, however the determination of whether any personnel are Task Specialists remains with and is the responsibility of the contractor.
- Radio Licence
- Insurance
- Annual SPO Check (s)
- Annual Operator Proficiency Check (s)



- Biennial Slingshot Competence Check (s)

Any new company bidding for work with the Authority should also be required to supply all documentation, listed above, prior to any contract being entered into.

**No contracts may be entered into without proof of compliance.**

On an on-going annual basis operators who provide aerial services to the Authority will be expected to provide confirmation that the Declaration and all supporting documentation and requirements are and remain valid and correct. If this does not apply or likely to not apply, the contractor will immediately notify the Authority and cease operations until the Declaration is reinstated or the issue arising has been resolved.

The contractor will be expected to notify the Authority in the event that any approvals required by the Declaration have been withdrawn.

Contractors will also be expected to supply the Authority with the following, on an annual basis:

Any updates relevant to the Authorities works for;

- Safety Management System,
- Standard Operations Manual,
- Special Operations Manual ,
- Risk Assessments,

And copies of;

- Any new Declaration for new aircraft
- Any amended/ new Declaration for operational changes
- Aerial Application Certificate (if applicable)
- Certificate of Registration
- Certificate of Airworthiness
- Pilot Licence/ Aircraft Ratings
- Air Operators Certificate (if applicable for non-task specialist passenger flying, e.g. VIP flights)
- Radio Licence
- Insurance (£10,000,000.00 Public Liability minimum)
- Annual SPO Check (s)
- Annual Operator Proficiency Check (s)
- Biennial Slingshot Competence Check (s)
- Any other relevant documentation requested by the Authority

### **Contract works**

In advance of entering into any contract the Nominated Officer will make representation to the Contractor of the circumstance and environment of the proposed activity, with due regard to the risks posed to third parties in relation to HRSPO activities.



When carrying out contracts on behalf of Peak District National Park Authority Contractors must;

- Provide Site Specific RAMS and follow the methodologies and safety procedures laid out in their RAMS.
- Carry a copy of the SPO Declaration and any relevant HRSPO Authorisation on board the helicopter.
- Provide Public liability insurance (£10,000,000.00 minimum)
- Provide any other information or documentation requested by the Authority.

All final invoices for helicopter related work must be accompanied by copies of relevant technical logs relating to the aircraft used for the full duration of the contract and any GPS flight data relevant to the contract. Failure to supply copies of relevant technical logs and/or relevant GPS flight data will mean invoices cannot be paid.

A failure to adhere to this policy on the part of any contractor or his/her sub-contractors will be deemed a material breach of contract and the contract may be terminated.

### **Definitions**

- EASA - European Aeronautical Safety Agency
- CAA - Civil Aviation Authority
- SPO - Specialised Operations
- HRSPO – High Risk Specialised Operations
- CAT – Commercial Air Transport
- AOC – Air Operators Certificate
- RAMS – Risk assessments and Method Statements

### **Useful Links**

- [https://publicapps.caa.co.uk/docs/33/CAP1452\\_PartSPOWorkshopSlides.pdf](https://publicapps.caa.co.uk/docs/33/CAP1452_PartSPOWorkshopSlides.pdf)
- <https://www.easa.europa.eu/regulation-groups/air-operations>
- <http://www.caa.co.uk/Commercial-industry/Aircraft/Operations/Types-of-operation/Part-SPO/Make-a-Part-SPO-declaration/>

### **Policy Review**

- This Policy should be reviewed on an annual basis
- The first Review date is May 2018