# engineering and Construction

# **Short Contract**

Α	contract
he	etween

**DEFRA Estates** 

and Interserve (Facilities Management) Itd

for B265 - Autoclave Suite A Upgrade Main Works

Contents	Page
Contract Forms	
Contract Data	2
The Contractor's Offer	4
The Employer's Acceptance	4
Price List	5
Works Information	6
Site Information	9
Conditions of Contract	CC1

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

The Employer is

Name THE SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS.

Address Noble House

17 Smith Square, Westminster, London, SW1P 3JR

The works are B265 Autoclave Suite A Upgrade Enabling Works

Contact for all matters: ash.paine@defra.gov.uk

The site is Weybridge, KT15 3NB

The starting date is 01/05/2020

The completion date is 31/08/2020

The period for reply is ASAP up to 3 days.

The defects date is 52 weeks

The defect correction period

1 week

weeks after Completion

The delay damages are

Nil

The assessment day is the

. ...

31

The *retention* is 0

per day.

weeks.

of each month.

%.

Does the United Kingdom Housing Grants, Construction and

Regeneration Act (1996) apply?

Yes

The Adjudicator is

Name The Royal Institution of Chartered Surveyors

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

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

#### **Option X7: Delay damages**

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

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

**Applies** 

#### **Option X16: Retention**

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

#### **Option X18: Limitation of liability**

- X18.1 The Contractor's liability to the Employer for indirect or consequential loss is limited to Nil
- X18.2 For any one event, the Contractor's liability to the Employer for loss of or damage to the Employer's property, loss of damage to the Works, Plan and Materials and Equipment or liability for bodily injury or death for a person (not an employee of the Contractor) is limited to £1,000,000
- X18.3 The Contractor's liability for Defects due to his/her design which are not listed on the Defects Certificate is limited to £1,000,000
- X18.4 The Contractor's {Subcontractors} total employer liability, other than excluded matters detailed in Schedule 16 Insurance, is limited to £10,000,000 in respect of each claim.
- X18.5 The end of liability date is 6 years after the Completion of the whole of the works.

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

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

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

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

#### Option Z1 Option Z1: Amending the Interpretation Provisions

#### Option Z1.1 Delete existing clause 12.1 and replace with:

"In this contract, except where the context shows otherwise

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

- references to a statute or statutory instrument include any amendment or reenactment of it from time to time and any subordinate legislation or code of practice made under it and
- references to a standard include any current relevant standard that replaces it."

#### Option Z2

#### **Option Z2: Confidentiality**

#### Option Z2.1

For the purpose of this contract, **Personal Data** is information collected by the Contractor on behalf of the *Employer* in relation to this contract, which relates to living individuals who can be identified:

- from that information
- from that information combined with other details in (or likely to come into) the possession of the *Employer*.

#### Option Z2.2

The *Contractor* keeps (and ensures that its employees and Subcontractors keep) confidential and does not disclose to any person, including, without limitation, Others:

- · the terms of this contract and
- any confidential or proprietary information (including Personal Data) provided to or acquired by the *Contractor* in the course of Providing the Works

except that the Contractor may disclose information

- to its legal or other professional advisers,
- to its employees and Subcontractors as needed to enable the Contractor to Provide the Works,
- where required to do so by law or by any professional or regulatory obligation
  or by order of any court or government agency, provided that (unless the
  Contractor is prohibited by law from doing so) prior to disclosure the
  Contractor consults the Project Manager and takes full account of the
  Employer's views about whether (and if so to what extent) the information
  should be disclosed,
- which it receives from a third party who lawfully acquired it and who is under no obligation restricting its disclosure,
- which is in the public domain at the time of disclosure other than due to the fault of the Contractor or with the consent of the Project Manager.

#### Option Z2.3

The *Contractor* does not (and ensures that its employees and Subcontractors do not) use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Works.

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

	1
	the Contractor is the Data Processor.
Option Z4.4	The <i>Contractor</i> processes the Personal Data in accordance with (and so as not to put the <i>Employer</i> in breach of) the Data Protection Acts and only to the extent necessary for the purpose of performing its obligations under this contract.
Option Z4.5	<ul> <li>The Contractor has in place and maintains until the defects date</li> <li>appropriate technical and organisational measures (having regard to the nature of the Personal Data) to protect the Personal Data against accidental, unauthorised or unlawful processing, destruction, loss, damage, alteration or disclosure and</li> <li>adequate security programmes and procedures to ensure that unauthorised persons do not have access to the Personal Data or to any equipment used to process Personal Data.</li> </ul>
Option Z4.6	<ul> <li>The Contractor immediately notifies the Project Manager if it receives</li> <li>a request from any person whose Personal Data it holds to access his Personal Data or</li> <li>a complaint or request relating to the Employer's obligations under the Data Protection Acts.</li> </ul>
Option Z4.7	<ul> <li>The Contractor assists and co-operates with the Project Manager in relation to any complaint or request received, including</li> <li>providing full details of the complaint or request,</li> <li>complying with the request within the time limits set out in the Data Protection Acts and in accordance with the instructions of the Project Manager and</li> <li>promptly providing the Project Manager with any Personal Data and other information requested by him.</li> </ul>
Option Z4.8	The Contractor allows the Employer to conduct periodic audits of the Contractor's compliance with the Data Protection Acts. The Contractor complies with the instructions of the Project Manager to enable such audits to be carried out.
Option Z4.9	The <i>Contractor</i> complies with the requirements of the <i>Employer</i> in relation to the storage, dispatch and disposal of the Personal Data in any form or medium.

Option Z4.10
Page 6

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

Option Z6.1	Material means all materials prepared by or on behalf of the Contractor for the works
	and all updates, additions and revisions to them and any designs or inventions
	incorporated in them.
Option Z6.2	Permitted Uses means the design, construction, completion, reconstruction,
Option 2012	modification, extension, refurbishment, maintenance, funding, disposal, letting, fitting-
	out, advertisement, demolition, reinstatement, building information, modelling and
	repair of the works.
Option Z6.3	The Contractor grants to the Employer with improdicts offert on improcessing non-
	The Contractor grants to the Employer, with immediate effect, an irrevocable, non- exclusive, royalty-free licence to copy and make full use of the Material for any
	purpose, including without limitation any of the Permitted Uses.
	purposes, morading without immediate any of the Formition coost.
Ontion 76 4	The Employer's licence carries the right to grant sub-licences and is transferable to
Option Z6.4	third parties without the consent of the Contractor and survives termination (for any
	reason) of the Contractor's employment under this contract.
Option Z6.5	The Contractor is not liable for use of the Material for any purpose other than that for
	which it was prepared or provided.
Option Z7	Option Z7: Discrimination
	The Contractor does not discriminate directly or indirectly or by way of victimisation or
Option Z7.1	harassment against any person contrary to the Race Relations Act 1976, the Sex
	Discrimination Act 1975, the Disability Discrimination Acts 1995 and 2005 or the
	Equality Act 2010 (the "Discrimination Acts").
Option Z7.2	Where possible in Providing the Works, the <i>Contractor</i> co-operates with and assists
	the <i>Employer</i> to satisfy its duty under the Discrimination Acts to eliminate unlawful
	discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.
	radial groups and between disabled people and other people.
Ontion 77.2	Where an employee or Subcontractor employed by the Contractor is required to carry
Option Z7.3	out any activity alongside the Employer's employees in any premises, the Contractor
	ensures that each such employee or Subcontractor complies with the Employer's
	employment policies and codes of practice relating to discrimination and equal
	opportunities.

#### Option Z7.4

The *Contractor* notifies the *Project Manager* in writing as soon as he becomes aware of any investigation or proceedings brought against the *Contractor* under the Discrimination Acts in connection with this contract and

- provides any information requested by the investigating body, court or tribunal in the timescale allotted,
- attends (and permits a representative from the Employer to attend) any associated meetings,
- · promptly allows access to any relevant documents and information and
- co-operates fully and promptly with the investigatory body, court or tribunal.

#### Option Z7.5

The *Contractor* indemnifies the *Employer* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Employer* arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the *Contractor*.

#### Option Z7.6

The *Contractor* includes in the conditions of contract for each Subcontractor obligations substantially similar to those set out above.

#### Option Z8

#### **Option Z8: Quality Management and Audit**

#### Option Z8.1

The Contractor operates a quality management system for Providing the Works which

- complies with the relevant parts of ISO 9001:2008 and ISO 9001:2008/Cor 1:2009,
- incorporates an environmental management system consistent with ISO 14001:2004,
- includes processes for delivering continual improvement following the guidance in ISO 9004:2009,
- has third party certification from a UKAS approved accreditation body (or its equivalent) or is operating in preparation for accreditation within 12 months of the Contract Date
- · complies with good industry practice and
- otherwise fully complies, and is consistent with the requirements set out in the Works Information.

#### Option Z8.2

The *Contractor* provides to the *Project Manager*, within one week of the Contract Date, a quality policy statement and a quality plan for acceptance. The quality policy statement and quality plan comply with the requirements stated in the Works Information and are sufficiently detailed to demonstrate how the *Contractor* will Provide the Works in accordance with this contract.

Option Z8.3

The *Contractor* keeps a controlled copy of the quality plan available for inspection by the *Project Manager* at all times.

Option Z8.4

The Contractor complies with an instruction from the Project Manager to

- change the quality plan so that it complies with the requirements of this contract or
- correct a failure of the *Contractor* to comply with the quality plan.

Option Z8.5

The *Project Manager* and other persons authorised by him may carry out periodic audits of the *Contractor's* quality management system as specified in the Works Information. The *Contractor* allows access to the Working Areas and other premises used by the *Contractor* to Provide the Works and provides all facilities and assistance necessary to enable such audits to be carried out.

Option Z9

#### **Option Z9: Compliance with Legislation**

Option Z9.1

The Contractor Provides the works:

- in a proper and workmanlike manner, and
- in compliance with
  - all statutes, statutory instruments, regulations, rules and orders made under any statute or directive having the force of law which affect the works or performance of any obligations under this contract, and
  - any regulation, bye-law, permission or approval of any local authority or statutory undertaker having jurisdiction in relation to the works or with whose systems the works are, or are to be, connected.

Option Z9.2

The project that comprises or includes the *works* is not notifiable for the purposes of the Construction (Design and Management) Regulations 2015 (the "CDM

	Regulations"). The Contractor is the principal contractor under the CDM Regulations				
	in respect of the works and performs all the functions and obligations required to be				
	performed by the principal contractor under the CDM Regulations.				
Option Z10	Option Z10: Fair Payment				
Option Z10.1	The Contractor assesses the amount due to a Subcontractor without taking into account the amount certified by the Project Manager.				
Option Z10.2	The Contractor includes in the contract with each Subcontractor				
Option 210.2	a period for payment of the amount due to the Subcontractor not greater than				
	19 days after the due date in this contract. The amount due includes, but is				
	not limited to, payment for work which the Subcontractor has completed from				
	the previous assessment date up to the current assessment date in this contract,				
	a provision requiring the Subcontractor to include in each subsubcontract the				
	same requirement, except that the period for payment is to be not greater than				
	23 days after the due date in this contract and				
	a provision requiring the Subcontractor to assess the amount due to a				
	subsubcontractor without taking into account the amount paid by the				
	Contractor.				
Option Z10.3	The due date in this contract is the date on which the <i>Project Manager</i> certifies payment.				
	The Contractor notifies non-compliance with the timescales for payment through the				
Option Z10.4	Efficiency and Reform Group Supplier Feedback Service. The Contractor includes this				
	provision in each subcontract, and requires Subcontractors to include the same				
	provision in each subsubcontract.				
Option Z11	Option Z11: Assignment				
Option Z11.1	The Contractor does not assign its interest in or any rights arising under this contract				
	without the consent of the Employer.				

#### Option Z11.2

The *Employer* may assign, charge or transfer its interest in this contract or any rights arising under it at any time without the consent of the *Contractor*. The *Employer* notifies the *Contractor* of any such assignment, charge or transfer.

#### Option Z11.3

The *Contractor* does not (and ensures that its employees and Subcontractors do not) use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Works.

#### Option Z12

#### **Option Z12: Contractor's Design Submission Procedure**

#### Option Z12.1

Insert a new definition in clause 11.2:

"Contractor's Design Documents are drawings, design details and specifications of work, Plant and Materials prepared by the Contractor for the works".

#### Option Z12.2

Delete clauses 21.2 and 21.3 and replace with the following:

"21.2 The *Contractor* submits the *Contractor's* Documents to the *Supervisor* for acceptance at the times and in the manner and format stated in the Works Information.

- 21.3 The *Supervisor* returns each *Contractor's* Document to the Contractor marked either 'A' (accepted), 'B' (accepted with comments) or 'C' (rejected). If the *Supervisor* marks a *Contractor's* Document 'B' or 'C', he will state his reasons. A reason for not accepting a *Contractor's* Document is that it does not comply with:
  - the Works Information,
  - any previous Contractor's Document which:
    - the Supervisor has returned marked 'A', or
    - the *Supervisor* has returned marked 'B' and the *Contractor* has amended to incorporate the *Supervisor*'s comments,
  - the applicable law or
  - any other provision of this contract.
- 21.4 If the *Supervisor* does not return a *Contractor's* Document within the *period for reply,* it is treated as having been returned marked 'A'.
- 21.5 Where a *Contractor's* Document is returned marked 'A', the *Contractor* proceeds with the relevant work in accordance with the *Contractor's* Design Document.
- 21.6 Where a Contractor's Document is returned marked 'B', the Contractor

- amends the Contractor's Document to incorporate the Supervisor's comments,
- submits the Contractor's Document as so amended to the Supervisor and
- proceeds with the relevant work in accordance the Contractor's Document as so amended.
- 21.7 Where a Contractor's Design Document is returned marked 'C', the Contractor
  - amends the Contractor's Document to incorporate the Supervisor's comments,
  - · re-submits it to the Supervisor for acceptance and
  - does not proceed with the relevant work until the Supervisor has returned it marked 'A' or 'B' and, where it is marked 'B', it has complied with clause 21.6

21.8 If the *Contractor* disagrees with the comment of the *Supervisor* on a *Contractor's* Document marked 'B' or 'C', he notifies the *Supervisor* within one week of receipt stating his reasons and that in his opinion compliance with the comment will give rise to a change in the Works Information. The *Supervisor* replies within one week of receipt of the *Contractor's* notice either confirming or withdrawing his comment. A confirmation or withdrawal by the *Supervisor* is not an acceptance of the *Contractor's* opinion.

21.9 If the *Contractor* does not notify the *Supervisor* within one week that he disagrees with a comment of the *Supervisor*, compliance with the comment does not give rise to a change in the Works Information."

Option Z14

#### **Option Z14: New Clause 60.1 (20)**

60.1 (20) Provisional Sums referered to in the Activity Schedule will be dealt with as a Compensation Event.

### The Contractor's Offer

The Contractor is

Name Interserve (Facilities Management) Itd

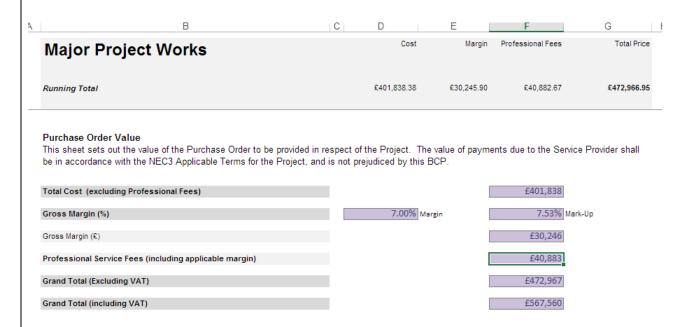
Address Capital Tower, Waterloo Road, London

The percentage for overheads and profit added to the Defined Cost for people is 7.00% (as per the ECC fees referenced in Schedule 31B of the Defra/Interserve Contract).

The percentage for overheads and profit added to other Defined Cost is 7.53%

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

The offered total of the Prices is £472,967.



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

# The Employer's Acceptance

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

### **Price List**

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

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

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

**Issued Cost plan** as per information contained within the attachments area of invitation to tender itt\_6843 – B265 Autoclave Suite A Upgrade Enabling Works attachments issued 30/01/2020

- Email -----Original Message-----

From: Paine, Ash

Sent: 30 January 2020 09:28

To: Goodlake, Wayne <wayne.goodlake@interserve.com>

Subject: Emailing: MAIN WORKS PHASE 2



Autoclave Suite A Price List\_Main Work

Submitted Cost Plan BCP W846238 submitted by IFM 1/04/2020



BCP W846238 B846238) v2.1.xlsx

----Original Message----

From: Goodlake, Wayne [mailto:wayne.goodlake@interserve.com]

Sent: 01 April 2020 08:42

To: Paine, Ash <Ash.Paine@defra.gov.uk>

Cc: Embleton, Paul <paul.embleton@interserve.com>

Subject: RE: B265 Autoclave Suite A BCP

ITEM COST

#### **Works Information** (Summary and Input Sheet) and confirms it is value for n The Works Information should be a uirements. If it is incomplete or i contractor Paul Walker Name of DEFRA SRO approving this BCP juired, is r other nart Approval Date by the DEFRA SRO (dd/mm/yy) \*\*\*\* This BCP may be subject to an audit at a later stage. \*\*\*\* BCP Reference: \*\* To be provided by the Project Inbox (Defra.Projects@Interserve.com) once this BCP has been processed Give a detailed description or what the Contractor is required to do and or any work the Contractor is to design. All works as per information contained within the attachments area of invitation to tender itt\_6843 – B265 Autoclave Suite A Upgrade Enabling Works attachments issued 30/01/2020 – Email -----Original Message-----From: Paine, Ash Sent: 30 January 2020 09:28 To: Goodlake, Wayne <wayne.goodlake@interserve.com> Subject: Emailing: MAIN WORKS PHASE 2 2 Drawings List the drawings that apply to this contract. **Drawing number** Revision Title All drawings as per information contained within the attachments area of invitation to tender itt\_6843 -B265 Autoclave Suite A Upgrade Enabling Works attachments issued 30/01/2020 - Email -----Original Message----From: Paine, Ash Sent: 30 January 2020 09:28 To: Goodlake, Wayne <wayne.goodlake@interserve.com> Subject: Emailing: MAIN WORKS PHASE 2

## **Works Information**

Title	Date or revision	Tick if publicly available	
4 Constraints on how the <i>Contractor</i> Provides the Works			
State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the <i>Employer</i> .			
As per IFM site rules			

Works Information		
5 Requirements for the programme		
To be agreed between Defra and IFM project manager. Start and end accordingly.	date schedule that plans	
DEFRA can assist with this at weekly meetings		
Any format accepted		
6 Services and other things provided by the <i>Employer</i>		
As per IFM site arrangements with DEFRA		
Item	Date by which it will be provided	

Contract Data		
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# Site Information

Give information about the *site* such as the ground conditions and any other information which is likely to affect the *Contractor*'s work such as limitations on access and the position of adjacent structures.

As per IFM site arrangements with DEFRA