

Our ref: 32051
Your ref:

Date: 25 March 2021



[REDACTED]
Geodesign Barriers Ltd

Dear Sirs

CONTRACT No: 32051 DATED: 25 MARCH 2021
SUPPLY OF SPARES FOR GEODESIGN EUR101 TEMPORARY FLOOD BARRIERS

On behalf of the Environment Agency, I hereby accept the offer contained in your tender reference 32051 dated 18 February 2021 as amended by your communication dated 24 March 2021 for the above mentioned goods, in accordance with the terms and conditions contained in or referred to in the said tender.

The main details of the accepted tender are shown below and attached:

Item No	Item Description	Start Date	Completion Date	Total Price £s (ex VAT)
1	Supply of Geodesign EUR101 Steel Barrier spares and component parts.	25 March 2021	28 February 2025	The prices stated in the Pricing Schedule.

Invoicing & Payment: Invoicing on delivery, payment within 30 days from date of invoice. Invoices to be sent or emailed to Environment Agency, [REDACTED] Tel: [REDACTED] Email: [REDACTED]

Conditions of Contract: Environment Agency Conditions of Contract – Goods (Issue 5).

Contract No 32051 has been allocated to cover this agreement. Contract Documentation is enclosed. Please complete and sign the 'Form of Agreement' and return the signed version within seven days of the date of this letter via Bravo portal. Please retain a signed copy of the Documentation for your own records.

Yours faithfully

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] - Defra group Commercial

Encs: 32051 Contract Documentation

cc: [REDACTED] (Defra group Commercial)
[REDACTED] (Environment Agency)

Department for Environment, Food and Rural Affairs

[REDACTED]

[REDACTED]

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FORM OF AGREEMENT

CONTRACT No: 32051**ESTIMATED CONTRACT VALUE: £600,000**
(Exclusive of VAT)**CONTRACT RELATING TO:**

the supply of Geodesign EUR101 Steel Barrier Spares and Consumables.

CONTRACT dated

25 March 2021

between:

- (1) The Environment Agency whose head office at Horizon House, Deanery Road, Bristol BS1 5AH ("the Agency"); and
- (2) Geodesign Barriers Ltd whose registered office is at 1 Chapel Street, Warwick, Warwickshire CV34 4HL and whose registered number is 04648321 ("the Contractor").

IT IS AGREED as follows:

1. The provisions of the following documents form part of this Contract:

- the attached 'Conditions of Contract - Goods — Issue 5: (05/18)';
- the attached 'Pricing Schedule — Issue 1: (02/21)';
- the attached 'Specification — Issue 1: (03/21)'.

and which, in the case of conflict, have precedence in the order listed.

2. In consideration of the Agency's obligations under this Contract, the Contractor shall complete and deliver to the Agency such Goods and/or Services and/or such Work (as the case may be) as the Agency may order from time to time within the Contract Period in accordance with and subject to, the provisions of this Contract.
3. NO VARIATION TO THIS CONTRACT SHALL HAVE EFFECT UNLESS AGREED IN WRITING BY AN AUTHORISED OFFICER OF THE AGENCY.

Signed for and on behalf of the Contractor:

Signed for and on behalf of the Agency:

Signature



Signature:

Name:
(BLOCK CAPITALS)

Name:



Position: .



Position:



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PRICING SCHEDULE – ISSUE 1: (03/21)

W.E.F. 25 MARCH 2021

32051: SUPPLY OF SPARES FOR GEODESIGN EUR101 TEMPORARY FLOOD BARRIERS

1 PRICING - GENERAL

1.1 The prices to be paid for the Goods supplied in accordance with the Contract are as follows:

Table 1: Pricing & Contract Period

Item No	Item Description	Start Date	Completion Date	Total Price £s (ex VAT)
1	Supply of Geodesign EUR101 Steel Barrier spares and component parts.	25 March 2021	28 February 2025	The prices stated in Table 2.

- 1.2 All prices shall be held fixed for a minimum of the first 12 months of the duration of the Contract, then shall be adjusted by the change in the UK 'Consumer Prices Index' (as published by the Office for National Statistics) over the preceding twelve months of the Contract Period.
- 1.3 All prices payable by the Environment Agency are inclusive of all non-returnable packing, delivery (carriage paid by Contractor), any relevant licence fees and all other charges associated with the Goods.
- 1.4 All prices shown in the Contract are exclusive of Value Added Tax.

2 PRICING & DELIVERY TIMESCALES

- 2.1 The prices to be paid for the Goods supplied in accordance with the Contract and the standard delivery leadtimes (weeks from date of order) are as follows:

Table 2: Pricing & Delivery Leadtimes

Item No	Item Description	Unit	Unit Price Delivered £s (ex VAT)	Minimum Order Quantity	Estimated Quantity	Total Price Delivered £s (ex VAT)	Standard Delivery Leadtime (weeks from date of order)
Geodesign EUR101 Steel Barrier component parts:							
2	EUR101 blue plastic membrane – standard delivery. (3.7m x 52m package).	per pack		10			3 weeks
3	EUR101 blue plastic membrane – urgent delivery. (3.7m x 52m package).	per pack		5			< 1 week
4	EUR101 Wall fastener WF101.	per each		n/a			6 weeks
5	EUR101 Level sheet.	per each		n/a			6 weeks
6	EUR101 45 degree inner corner element.	per each		n/a			6 weeks
7	EUR101 45 degree outer corner element.	per each		n/a			6 weeks
8	Storage container – EUR101 barrier metal crate. (holds 50m of EUR101 steel barrier).	per each		n/a			10 weeks
9	EUR101 30 degree inner corner element.	per each		n/a			6 weeks
10	EUR101 30 degree outer corner element.	per each		n/a			6 weeks
11	Corner storage container – EUR101 corners metal crate. (holds 4 complete 90 degree corners).	per each		n/a			10 weeks
12	EUR101 metal support.	per each		n/a			3 weeks
13	EUR101 metal sheet.	per each		n/a			3 weeks
14	EUR101 sealer clip. (pack of 50).	per pack		n/a			3 weeks
15	EUR101 metal basket for sealer clips. (holds 1 x item 14).	per each		n/a			6 weeks
16	EUR101 chain. (5m x 12mm, with karabiner and 5 cable ties).	per each		n/a			3 weeks

- 2.2 The Contractor shall supply the Goods to the Environment Agency on such occasions and in such quantities as may be ordered by the Environment Agency within the Contract Period.
- 2.3 The Contract is not for any specific quantity of the Goods, but only for such quantities as may be ordered by the Agency from time to time within the Contract Period. Any estimated total contract price shown on or in the Contract is for the Agency's information purposed only and shall neither be binding or put any obligation of any kind on the Agency.

3 GOODS DELIVERY ADDRESS

- 3.1 The Goods shall be delivered to the following address(es):

Table 3: Delivery Address(es)

Item No	Qty	Delivery Address	Delivery Contact
All	All	The Environment Agency, specific depot addresses in England to be advised on purchase order.	Specific contact details to be advised on purchase order.

4 INVOICING & PAYMENT

4.1 Invoicing on delivery, payment within 30 days from date of invoice. Invoices to be sent or emailed to the Environment Agency at the following address:


Environment Agency






Tel:

Email:



SPECIFICATION – ISSUE 1: (02/21)

32051 SUPPLY OF SPARES FOR GEODESIGN EUR101 TEMPORARY FLOOD BARRIERS

THE GOODS:

The Goods to be supplied shall comprise of the contractor's proprietary items listed in the 'Pricing Schedule' and shall be fully technically compatible and interoperable with those Geodesign EUR101 Steel Barrier and ancillary parts procured by the Agency in 2016 and 2017 against the Environment Agency / Geodesign Barriers Ltd Framework Agreements Nos A92F-2YCXQJ/C dated 04 July 2016 and A92J-9YGXQC/A dated 22 July 2016.

The Goods shall be brand new, of sound materials and good manufacture and in accordance with any descriptions, specifications, patterns and manufacturer's samples relevant to the Contract.

The Goods must conform in all respects with the Contract and to recognised British, International or equivalent standards and codes (where applicable) and be to the reasonable satisfaction of the Environment Agency.

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ENVIRONMENT AGENCY

CONDITIONS OF CONTRACT - GOODS

ISSUE No 5 05/2018

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1 DEFINITIONS

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

- | | | |
|--------|------------------------------------|--|
| 1.1.1 | <u>the Agency</u> | The Environment Agency, its successors and assigns. |
| 1.1.2 | <u>the Appendix</u> | The appendix to these Conditions. |
| 1.1.3 | <u>the Contract</u> | These Conditions including the Appendix, any Special Conditions, Specification, Pricing Schedule, Contractor's tender, acceptance letter and any relevant documents agreeing modifications exchanged before the Contract is awarded, and any subsequent amendments or variations agreed in writing. |
| 1.1.4 | <u>the Contractor</u> | The person, firm, company or body who undertakes to supply the Goods to the Agency as defined in the Contract. |
| 1.1.5 | <u>Contract Period</u> | The time period stated in the Appendix or otherwise provided in the Contract, for the delivery of the Goods. |
| 1.1.6 | <u>Contractor Personnel</u> | All directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor engaged in the performance of its obligations under this Contract. |
| 1.1.7 | <u>Contract Price</u> | The price exclusive of VAT set out in the Contract for which the Contractor has agreed to supply the Goods. |
| 1.1.8 | <u>Contract Supervisor</u> | Any duly authorised representative of the Agency, notified in writing to the Contractor for all purposes connected with the Contract. Any Notice or other written instruction given by or made to the Contract Supervisor, shall be taken as given by or made to the Agency. |
| 1.1.9 | <u>Contracting Authority</u> | Any contracting authorities (other than the Environment Agency) as defined in regulation 2 of the Public Contract Regulations 2015 (SI 2105/102) as amended. |
| 1.1.10 | <u>Data Protection Legislation</u> | <ul style="list-style-type: none"> a) The General Data Protection Regulation (Regulation (EU) 2016/679) or GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) ("LED") and any applicable national implementing Laws as amended from time to time; b) The Data Protection Act 1998 ("DPA 1998") and/or the Data Protection Act 2018 ("DPA 2018") to the extent that it relates to processing of personal data and privacy; c) All applicable Law about the processing of personal data and privacy. |
| 1.1.11 | <u>Data Protection Schedule</u> | The Schedule attached to this Contract describing how the Parties will comply with the Data Protection Legislation. |
| 1.1.12 | <u>Goods</u> | All Goods detailed in the Specification including any |

additions or substitutions as may be requested by the Contract Supervisor where the Contract is for the supply of Goods and Services, the words "the Goods" shall mean, where the context allows, to include the Services the Contractor has agreed to supply.

1.1.13 Intellectual Property Rights

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

1.1.14 Law

Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply.

1.1.15 Notice

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

- a) fax, or hand delivery to the Contractor's registered office or other address notified for the purposes of the Contract and deemed to have been served at the date and time of delivery;
- b) first class post to the Contractor's registered office. Such Notices shall be deemed to have been served 48 hours after posting.

1.1.16 Permission

Express permission given in writing before the act being permitted.

1.1.17 Regulations

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

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

2 PRECEDENCE

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

Conditions of Contract including Appendix, Data Protection Schedule and any Special Conditions;
Specification;
Pricing Schedule;
Drawings, maps or other diagrams.

3 CONTRACT SUPERVISOR

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

4 THE GOODS

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

5 ASSIGNMENT

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

6 CONTRACT PERIOD

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

7 MATERIALS

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

8 SECURITY

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

9 VARIATIONS

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

10 EXTENSIONS OF TIME

- 10.1 Should the performance of the Contract be directly delayed by any cause beyond the reasonable control of the Contractor, and provided that the Contractor shall first have given the Contract Supervisor written notice within 5 working days after becoming aware that such delay was likely to occur, then the Contract Supervisor, if satisfied that this Condition applies:
- 10.1.1 in the case of any delay of which the Agency is not the cause, may grant the Contractor such extension of time, as in his opinion is reasonable, having regard without limitation, to any other delays or extensions of time that may have occurred or been granted under the Contract. The Contract Price shall not increase as a result of such an extension of time.
 - 10.1.2 in the case of any delay of which the Agency is the cause, shall grant the Contractor a reasonable extension of time to take account of the delay.
- 10.2 No extension of time shall be granted where in the opinion of the Agency, the Contractor has failed to use best endeavours to avoid or reduce the cause and/or effects of the delay.

- 10.3 Any extension of time granted under this Condition shall not affect the Agency's rights to terminate or determine the Contract under Conditions 14 (Termination) and 15 (Determination).

11 PROPERTY AND RISK

- 11.1 The property and risk in the Goods shall pass to the Agency when the Goods have been delivered to the Agency's nominated address or addresses, unloaded and accepted by the Agency.

12 REJECTION OF THE GOODS

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

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

12.1.2 do not comply with any term (express or implied) of the Contract.

- 12.2 Without prejudice to the operation of Condition 12.5, the Agency shall notify the Contractor of the discovery of any defect within 14 days and shall give the Contractor all reasonable opportunities to investigate such defect.

- 12.3 The whole of any consignment may be rejected if a reasonable random sample of the Goods taken from the consignment is found not to conform in every respect with the requirements of the Contract.

- 12.4 Goods so rejected after delivery shall be removed by the Contractor within 14 days of receipt of the Agency's notification of rejection. If the Contractor fails to remove the rejected Goods within this time period, the Agency may return the rejected Goods at the Contractor's risk and expense.

- 12.5 The Agency's right of rejection shall continue irrespective of whether the Agency has accepted the Goods. In particular, taking delivery, inspection, use or payment for the Goods, or part of them shall not constitute acceptance, waiver or approval and shall be without prejudice to any right or remedy the Agency may have against the Contractor.

13 DEFAULT

- 13.1 The Contractor shall be in default if he:

13.1.1 fails to perform the Contract with due skill, care, diligence and timeliness;

13.1.2 refuses or neglects to comply with any reasonable written instruction given by the Contract Supervisor;

13.1.3 is in breach of the Contract.

- 13.2 Where in the opinion of the Contract Supervisor, the Contractor is in default, the Contract Supervisor may serve a Notice giving at least 5 working days in which to remedy the default.

- 13.3 If the Contractor fails to comply with such a Notice, the Contract Supervisor may, without prejudice to any other rights or remedies under the Contract, purchase other Goods of the same or equivalent description. Any extra costs arising from this action, will be paid by the Contractor or deducted from any monies owing to him.

14 TERMINATION

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

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

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

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

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

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

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

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

15 DETERMINATION

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

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

15.3 The Agency will not pay for any costs or commitments that the Contractor is able to mitigate and shall only pay those costs that the Agency has validated to its satisfaction. The Agency's total liability under this Condition shall not in any circumstances exceed the Contract Price that would have been payable for the Goods if the Contract had not been determined.

16 INDEMNITY

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

16.1.1 death or injury to any person;

16.1.2 loss or damage to any property excluding indirect and consequential loss;

16.1.3 infringement of third party Intellectual Property Rights;

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

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

17 LIMIT OF CONTRACTOR'S LIABILITY

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

17.1.1 the sum stated in the Appendix;

17.1.2 if no sum is stated, the Contract Price or £5million whichever is the greater.

18 INSURANCE

18.1 The Contractor shall insure, and maintain insurance against the liabilities under Condition 16 (Indemnity) in the manner and to the values listed in the Appendix to these Conditions. If no sum is stated, the value insured shall be £5million.

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

19 PREVENTION OF FRAUD AND CORRUPTION

19.1 The Contractor shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or for showing or refraining from showing favour or disfavour to any person in relation to the Contract.

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

19.3 If the Contractor or the Contractor's staff engages in conduct prohibited by clause 19.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Agency) the Agency may:

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

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

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

20 CONTRACT PRICE

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

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

21 INVOICING AND PAYMENT

21.1 Invoices shall only be submitted for those Goods already delivered, and accompanied by such information as the Contract Supervisor may reasonably require to verify the Contractor's

entitlement to payment. Such invoices will be paid in 30 days from receipt by the Agency.

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

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

22 INTELLECTUAL PROPERTY RIGHTS

22.1 The Contractor warrants to the Agency that the Goods, shall not in any way infringe any Intellectual Property Rights belonging to any third party and shall fully indemnify the Agency against all actions, claims, costs, charges, expenses and liabilities of whatsoever nature arising from or incurred by reason of any infringement, or alleged infringement.

22.2 The Contractor shall not be liable under this Condition if such infringement arises from the use of any design, technique or method of working provided by or specified by the Agency.

22.3 If the Contractor is prevented from carrying out his obligations under the Contract due to any infringement or alleged infringement of any Intellectual Property Rights, the Agency may without prejudice to any other rights and remedies under the Contract, exercise the powers and remedies available to it under Conditions 14 (Termination) and 15 (Determination).

23 WARRANTY

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

24 GUARANTEES

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

25 STATUTORY REQUIREMENTS

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

26 ENVIRONMENT, SUSTAINABILITY AND DIVERSITY

26.1 The Contractor in the performance of this Contract should adopt a sound proactive environmental approach, designed to minimise harm to the environment, to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of single-use plastic, ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and/or the environment, and be able to provide proof of so doing to the Agency on demand.

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

supply chain;

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

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

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

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

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

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

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

27 PUBLICITY

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

28 LAW

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

29 WAIVER

29.1 No delay, neglect or forbearance by the Agency in enforcing any provision of the Contract shall be deemed to be a waiver, or in any other way prejudice the rights of the Agency under the Contract.

29.2 No waiver by the Agency shall be effective unless made in writing.

29.3 No waiver by the Agency of a breach of the Contract shall constitute a waiver of any subsequent breach.

30 ENFORCEABILITY AND SURVIVORSHIP

30.1 If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid or legally unenforceable, that part will be severed from the remainder of the Contract which will continue to be valid and enforceable to the fullest extent permitted by law.

30.2 The following clauses shall survive termination of the Contract, howsoever caused: 14, 15, 16, 22, 23, 25, 28, 30, 31, 32, 33 and 34.

31 DISPUTE RESOLUTION

31.1 All disputes under or in connection with this agreement shall be referred first to negotiators

nominated at a suitable and appropriate working level by the Agency and the Contractor.

- 31.2 If the parties' negotiators are unable to resolve the dispute within a period of 45 days from its being referred to them, the dispute shall be referred at the instance of either party to the parties' respective senior managers or directors (supported as necessary by their advisers).
- 31.3 If the parties' respective senior managers or directors are unable to resolve the dispute within 45 days the dispute shall be referred to the Centre for Dispute Resolution who shall appoint a mediator and the parties shall then submit to the mediator's supervision of the resolution of the dispute.
- 31.4 Recourse to this dispute resolution procedure shall be binding on the parties as to submission to the mediation but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until 45 days after the appointment of the mediator.
- 31.5 If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be put in writing and, once signed by a duly authorised representative of each of the parties, shall remain binding on the parties.
- 31.6 The parties shall bear their own legal costs of this dispute resolution procedure, but the costs and expenses of mediation shall be borne by the parties equally.
- 31.7 Any of the time limits in Condition 31 may be extended by mutual agreement. Such agreed extension shall not prejudice the right of either party to proceed to the next stage of resolution.

32 GENERAL

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

33 FREEDOM OF INFORMATION ACT

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

and the time period applicable to that sensitivity. The Contractor acknowledges that if it has indicated that information is commercially sensitive, such information may still be required to be disclosed by the Agency under the Act or the Regulations. The receipt of any material marked 'confidential' or equivalent by the Agency shall not be deemed to infer that the Agency agrees any duty of confidentiality by virtue of that marking.

34 DATA PROTECTION

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

APPENDIX

32051 SUPPLY OF SPARES FOR GEODESIGN EUR101 TEMPORARY FLOOD BARRIERS

			Condition No
1	Contract Supervisor Representative:	[REDACTED]	3
	Address:	Environment Agency [REDACTED]	
	Tel:	[REDACTED]	
	Mob:	[REDACTED]	
	Email:	[REDACTED]	
2	Contractor Representative:	[REDACTED]	
	Address:	Geodesign Barriers Ltd [REDACTED]	
	Tel:	[REDACTED]	
	Mob:	[REDACTED]	
	Email:	[REDACTED]	
3	Contract Period Start Date: Contract Period: Completion Date: Options to extend up to:	25 March 2021 48 months 28 February 2025 Not Applicable	6
4	Insurance (Minimum Cover) Public Liability: Product Liability	£5 million £5 million	18
5	Limit on Liability Limit of Contractor's Liability:	£5 million	17
6	Delivery Rate of Delivery: Delivery Address:	As may be ordered by the Agency As may be specified by the Agency	6

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SPECIAL CONDITIONS

32051 SUPPLY OF SPARES FOR GEODESIGN EUR101 TEMPORARY FLOOD BARRIERS

2 PRECEDENCE [Substitute Condition]

- 2.1 To the extent which any documents form part of the Contract, they shall in the case of conflict have the order of precedence as stated in the 'Form of Agreement'.

21 INVOICING AND PAYMENT [Additional Clause]

- 21.4 The Contractor shall on its own forms render invoices to the Agency at the following address:

Environment Agency



Tel: [REDACTED]

Email: [REDACTED]

35 PRICING [Additional Condition]

- 35.1 The prices to be paid for the Goods supplied in accordance with the Contract are shown in the Pricing Schedule.
- 35.2 All prices shall be held fixed for a minimum of the first 12 months of the duration of the Contract, then shall be adjusted by the change in the UK 'Consumer Price Index' (CPI) (as published by the Office for National Statistics) over the preceding 12 months of the Contract Period.
- 35.3 The prices payable by the Agency are inclusive of all non-returnable packing, delivery (carriage paid by Contractor), any licence fees and all other charges associated with the Goods.
- 35.4 All prices shown in the Contract are exclusive of Value Added Tax.

36 HEALTH AND SAFETY [Additional Condition]

- 36.1 The Contractor shall ensure that his staff, agents and suppliers act in full accordance with the provisions of the Health and Safety at Work etc. Act 1974, Management of Health and Safety at Work Regulations 1992, Control of Substances Hazardous to Health Regulations 2002 (COSHH) and any other Acts, Regulations or Orders pertaining to Health and Safety.
- 36.2 The Contractor shall ensure that the Goods are of a condition that complies with and allows the Agency to comply the HSE Manual Handling Operations Regulations 1992 (as amended).
- 36.3 The Contractor shall comply with the Agency's procedures (as amended from time to time) relating to Health and Safety.
- 36.4 The Contractor shall ensure that all delivery vehicles and drivers comply with any UK transport legislation or EU Driver Regulations.
- 36.5 In addition to any health and safety procedures the Agency informs the Contractor of, the Contractor, their staff, agents and suppliers shall have the required Personal Protective Equipment (PPE) for Agency sites. This PPE will be in a safe, clean and serviceable condition.

The minimum requirements are: hard hat, safety footwear, Hi-Vis jacket, plus additional PPE as required by the Contractor's specific risk assessment for the task being carried out.

37 QUALITY ASSURANCE
[Additional Condition]

37.1 The Contractor shall ensure that its Quality Assurance System meets the requirements of ISO 9001 (or equivalent).

38 SUPPLY OF THE GOODS
[Additional Condition]

38.1 The Contractor agrees to supply the Goods to the Agency on such occasions and in such quantities as may be ordered by the Agency within the Contract Period.

38.2 The Contractor agrees that the Contract is not for any specific quantity of the Goods, but only for such quantities as may be ordered by the Agency from time to time within the Contract. Any estimated total contract price shown on or in the Contract is for the Agency's information purposed only and shall neither be binding or put any obligation of any kind on the Agency.

38.3 The Contractor shall provide details on request of the rate at which they can manufacture and deliver the Goods to the Agency.

38.4 Where the Contractor's supply chain is adversely affected in any way the Contractor shall notify the Agency immediately.

39 ORDERING ARRANGEMENTS
[Additional Condition]

39.1 Orders may be placed by the Agency from time to time by the means of a standard Purchase Order.

39.2 The Contractor shall acknowledge receipt of all orders and shall advise the Agency of the forecast delivery date for the Goods ordered.

40 DELIVERY
[Additional Condition]

40.1 Time being of the essence, the Contractor shall deliver the Goods within the standard delivery leadtimes stated in the Pricing Schedule.

40.2 The Contractor shall deliver the Goods ordered by the Agency to the address or addresses in England specified on the purchase order.

40.3 The Contractor shall be responsible for the cost of and safe and timely carriage of the Goods to the Agency.

40.4 The Contractor shall be responsible for all import/export documentation should it be required and must insure the Goods for their full value up until point of delivery and acceptance of delivery at Agency depots or its agent's warehouses.

40.5 In the event that the Goods are not available for delivery at the agreed time, the Contractor shall (without prejudice to the Agency's rights under the Contract) immediately inform the Contract Supervisor and the Agency's delivery contact by telephone or email.