



Framework:	Client Support Framework
Supplier:	
Company Number:	
Geographical Area:	Midlands
Project Name:	LNA Sub Programme Site Supervisor roles
Project Number:	
Contract Type:	Professional Service Contract
Option:	Option E
Contract Number:	29692

Revision	Status		Originator		Reviewer		Date

PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework
CONTRACT DATA

Project Name LNA Sub Programme Site Supervisor roles

Project Number

This contract is made on 13 July 2020
between the Client and the Consultant

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 02nd day of July 2019 between the Client and the Consultant in relation to the Client Support Framework. The entire Agreement and the following schedules are incorporated into this contract by reference
- Schedules 1 through to 14 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference
LNA sub programme site supervisors Scope final. Dated 16th June 2020

Part One - Data provided by the Client
Statements given in
all Contracts

1 General The conditions of contract are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Professional Service Contract June 2017.

Main
Option

Option E

Option for resolving and
avoiding disputes

W2

Secondary Options

X2: Changes in the law

X9: Transfer of rights

X10: Information modelling

X11: Termination by the Client

X18: Limitation of liability

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

Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

Z: Additional conditions of contract

The service is This commission is to provide the ECC Supervisor for the NEC4 ECC works contract for individual sub programme projects.

The Client is Environment Agency

Address for communications

Address for electronic communications

The Service Manager is

Address for communications

Address for electronic communications

The Scope is in
LNA sub programme site supervisors Scope final. Dated 16th June 2020

The language of the contract is English

The law of the contract is
the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

The period for reply is 2 weeks

The period for retention is 6 years following Completion or earlier termination

The following matters will be included in the Early Warning Register

Early warning meetings are to be held at intervals no longer than 2 weeks

2 The Consultant's main responsibilities

The key dates and conditions to be met are
 condition to be met key date
 'none set' 'none set'
 'none set' 'none set'
 'none set' 'none set'

The Consultant prepares forecasts of the total Defined Cost plus Fee and expenses at intervals no longer than 4 weeks

3 Time

The starting date is 13 July 2020

The Client provides access to the following persons, places and things
 access access date

The Consultant submits revised programmes at intervals no longer than 4 weeks

The completion date for the whole of the service is 31 March 2021

The period after the Contract Date within which the Consultant is to submit a first programme for acceptance is 4 weeks

4 Quality management

The period after the Contract Date within which the Consultant is to submit a quality policy statement and quality plan is 4 weeks

The period between Completion of the whole of the service and the defects date is 26 weeks

5 Payment

The currency of the contract is the £ sterling

The assessment interval is Monthly

The expenses stated by the Client are as stated in Schedule 6.

The interest rate is 2.00% per annum (not less than 2) above the
 Base rate of the Bank of England

The locations for which the Consultant provides a charge for the cost of support people and office overhead are All UK Offices

The exchange rates are those published in
 on

6 Compensation events

These are additional compensation events

1. Managing and mitigating the impact of Covid 19 and working in accordar
2. 'not used'
3. 'not used'
4. 'not used'
5. 'not used'

8 Liabilities and insurance

These are additional Client's liabilities

1. 'not used'
2. 'not used'
3. 'not used'

The minimum amount of cover and the periods for which the Consultant maintains insurance are

EVENT	MINIMUM AMOUNT OF	PERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE SERVICE OR TERMINATION
The Consultant's failure to use the skill and care normally used by professionals providing services similar to the service	£5 million in respect of each claim, without limit to the number of claims	12 years
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the Consultant) arising from or in connection with the Consultant Providing the Service	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	12 months
Death of or bodily injury to employees of the Consultant arising out of and in the course of their employment in connection with the contract	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	For the period required by law
The Consultant's total liability to the Client for all matters arising under or in connection with the contract, other than the excluded matters is limited to		£5 million

Resolving and avoiding disputes

The tribunal is	litigation in the courts
The Adjudicator is	'to be confirmed'
Address for communications	'to be confirmed'
Address for electronic communications	'to be confirmed'
The Adjudicator nominating body is	The Institution of Civil Engineers

Z Clauses

Z1 Disputes

Delete existing clause W2.1

Z2 Prevention

The text of clause 18 Prevention is deleted.

Delete the text of clause 60.1(12) and replace with:

The service is affected by any of the following events

- War, civil war, rebellion, revolution, insurrection, military or usurped power;
- Strikes, riots and civil commotion not confined to the employees of the Consultant and sub consultants,
- Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel,
- Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
- Natural disaster,
- Fire and explosion,
- Impact by aircraft or other aerial device or thing dropped from them.

Z3 Disallowed Costs

In second bullet of 11.2 (18) add:

(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken).

Add the following additional bullets after 'and the cost of ':

- Mistakes or delays caused by the Consultant's failure to follow standards in Scopes/quality plans.
- Reorganisation of the Consultant's project team.
- Additional costs or delays incurred due to Consultant's failure to comply with published and known guidance or document formats.
- Exceeding the Scope without prior instruction that leads to abortive cost
- Re-working of documents due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design errors.
- Production or preparation of self-promotional material.
- Excessive charges for project management time on a commission for secondments or full time appointments (greater than 5% of commission value)
- Any hours exceeding 8 per day unless with prior written agreement of the Service Manager
- Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with the Service Manager
- Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the Service Manager
- Costs associated with the attendance at additional meetings after programmed Completion, if delay is due to Consultant performance.
- Costs associated with rectifications that are due to Consultant error or omission.
- Costs associated with the identification of opportunities to improve our processes and procedures for project delivery through the Consultant's involvement
- Was incurred due to a breach of safety requirements, or due additional work to comply with safety requirements
- Was incurred as a result of the Client issuing a Yellow or Red Card to prepare a Performance Improvement Plan
- Was incurred as a resulting of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

When appointing Consultants on a secondment basis only:

Add clause 19

19.1 The Client will from starting date to Completion Date indemnify the Consultant against any and all liabilities, proceedings, costs, losses, claims and demands whatsoever arising directly or indirectly out of the activities of the Consultant in providing the services save where such claims, in the reasonable opinion of the Client, arise from or are contributed to by:

19.1.1 Misrepresentation or negligence by or on behalf of the Consultant;

or

19.1.2 The Consultant has acted contrary to the Service Manager's reasonable instructions or wholly outside the scope of the Consultant's duties as defined by the Service Manager.

Z6 The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 6.

Z7 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the Consultant under this contract or a previous contract will neither be an allowable cost under this contract or any subsequent contract, nor will it be a Compensation event under this contract or any subsequent contract under this project or programme.

Z8 Requirement for Invoice

Insert the following sentence at the end of clause 51.1:

The Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week of the Service Manager's certificate.

Delete existing clause 51.2 and insert the following:

51.2 Each certified payment is made by the later of

- one week after the paying Party receives an invoice from the other Party and
- three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period stated.

If a certified payment is late, or if a payment is late because the Service Manager has not issued a certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made

Z9 Conflict of Interest

The Consultant immediately notifies the Client of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the Consultant (including without limitation its reputation and standing) and/or the Client of which it is aware or which it anticipates may justify the Client taking action to protect its interests. Should the Parties be unable to remove the conflict of interest to the satisfaction of the Client, the Client, in its sole discretion, may terminate this Contract.

Z10 Change in Control

The Consultant shall notify the Client as soon as reasonably practicable, in writing, of any agreement, proposal or negotiations which will or may result in a Consultant Change in Control and shall give further notice to the Client when any Change in Control has occurred. The Client may terminate this contract with immediate effect by notice in writing and without compensation to the Consultant within six (6) months of being notified that a Change of Control has occurred, or, where no notification has been made, the date that the Client becomes aware of the Change of Control, but shall not be permitted to terminate where the Client's prior written acceptance was granted prior to the Change in Control. A Change of Control is defined as per the Deed of Agreement, Z14.4.

Z11 Rate Increase Provision

Contracts with a duration of less than two years, which are extended over this duration by the Service Manager due to Client Scope increases, may apply a rate review as follows. The Consultant will charge the Client the contract staff rates for a minimum of two full years, and at the next annual rate review where a new staff rate list is accepted (as stated in Schedule 6), the new staff rate will apply to the contract as per Schedule 6. No Compensation Event is permitted for this different contract staff rate.

Z12 Waiver

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party by the Service Manager in writing in accordance with the Contract, and with express reference to Clause Z12. The failure of either party to insist upon strict performance of the Contract, or any failure or delay in exercising any right or remedy shall not constitute a waiver or diminution of the obligations established by the Contract.

Secondary Options

OPTION X2: Changes in the law

The law of the project is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

OPTION X10: Information modelling

The period after the Contract Date within which the Consultant is to submit a first Information Execution Plan for acceptance is 2

OPTION X18: Limitation of liability

The Consultant's liability to the Client for indirect or consequential loss is limited to £1,000,000.00

The Consultant's liability to the Client for Defects that are not found until after the defects date is limited to £1,000,000.00

The end of liability date is 6 Years after the Completion of the whole of the service

Y(UK2): The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 Days after the date on which payment becomes due

Y(UK3): The Contracts (Rights of Third Parties Act) 1999

term beneficiary

Part Two - Data provided by the Consultant

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

1 General

The Consultant is
Name and company number

Address for communications

Address for electronic communications

The fee percentage is

The key persons are

Name (1)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (2)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (3)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (4)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (5)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (6)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (7)
Job
Responsibilities
Qualifications

Experience

The following matters will be included in the Early Warning Register

3 Time

The programme identified in the Contract Data is

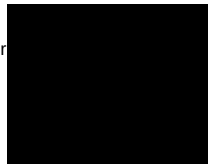
n/a

Resolving and avoiding disputes

The Senior Representatives of the Consultant are

Name (1)

Address for

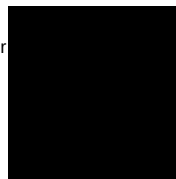


Address for electronic communications



Name (2)

Address for



Address for electronic communications



X10: Information Modelling

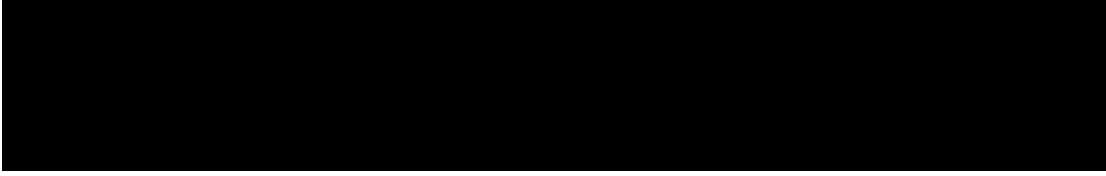
The information execution plan identified in the Contract Data is

Contract Execution

Client execution

Signed under hand by

for and on behalf of the Environment Agency



Consultant execution





PSC scope template – Supervisor

NEC4 professional services contract (PSC)

412_13_SD08

Use the template on the pages that follow to assist you when preparing the scope for an NEC4 professional services contract (PSC).



Environment Agency

NEC4 professional services contract (PSC)

Scope

Project / contract information

Project name	LNA Sub Programme Site Supervisor roles
Project SOP reference	
Contract reference	29692
Date	16/06/20
Version number	1
Author	

Revision history

Revision date	Summary of changes	Version number
	First issue	

This Scope should be read in conjunction with the version of the Minimum Technical Requirements current at the Contract Date. In the event of conflict, this Scope shall prevail. The services are to be compliant with the version of the Minimum Technical Requirements.

Document	Document Title	Version No	Issue date
412_13_SD01	Minimum Technical Requirements	Insert latest version of MTR on ASite	Insert date of latest version of MTR on ASite



1 Objectives of the project (project outcomes)

Objective and Outcome Scope

Within the Recovery programme and intermittent Maintenance works within the Lincolnshire and Northamptonshire area of the Environment Agency, the *Client* requires works to enable assets to return to a state of flood defence and works will be delivered as part of a sub-programme method of working.

At present there are in excess of 10 subprogrammes that have been identified with work type ranging from bank slippage to refurbishment of existing assets.

Each subprogramme includes between 20 and 50 separate schemes at varying locations and will be for a duration of approximately one year. The annualization of the sub-programmes is in line with the Environment Agency funding cycle and will not be extended. Further sub-programmes will be developed on an ongoing basis.

This commission is to provide the ECC Supervisor for the NEC4 ECC works contract for individual sub programme projects.

The sub programme projects will be delivered by the *Client's* differing frameworks.

A contract will be placed through the existing *Client* frameworks for each subprogramme.

It is anticipated that an ECC Supervisor will be required on a fulltime basis to complete the required duties under the contracts. The ECC Supervisor may be allocated multiple subprogrammes to work on depending on scale and complexity.

The *Client* may require this time to reduce depending on work load through consultation with the *Consultant*.

2 Project team

- 1 The design consultant is [REDACTED] (depending on work type)
- 2 The Contractor is [REDACTED]
- 3 The Project Manager is TBC from TBC
- 4 The Contractor will be appointed using the NEC4 Engineering and Construction Contract option C.
- 5 Cost management will be provided by the co-located cost manager
- 6 Principal Designer is [REDACTED]
- 7 The Environmental Clerk of Works is TBC
- 8 The *Service Manager* will be [REDACTED]



3 **Consultant provides the services**

Supervisor

- 1 Carry out the duties of Supervisor as required by the *Client's* NEC4 Engineering and Construction Contract. The Supervisor is to maintain close contact with the *Client* in order that their actions reflect the *Client's* objectives for the project. The Supervisor is to conduct all duties and correspondence on all NEC ECC contracts using the *Client's* online contracts management system, namely Fast Draft.
- 2 The Supervisor is to carry out their duties strictly in accordance with the *Client's* version of the ECC. Primarily this is to ensure the quality of works is in accordance with the ECC scope.
- 3 The Supervisor is to carry out additional duties as set out in Section 6. The ECC PM will issue a Project Manager Instruction (PMI) at the start of the works to formally delegate these duties.
- 4 Where the main works contract documents is for construction only, the *Consultant* is to refer to the design consultant for a response to technical queries

4 **Definition of completion and defects**

- 1 Completion is only achieved when all of the *services* have been provided and accepted by the *Client*. Population of the *Client's* latest version of the Project Cost Tool, Carbon Tool and provision of BIM information is an absolute requirement of Completion.
- 2 A defect is part of the *services* which is not in accordance with the Scope or the applicable law.

5 **Constraints on how the consultant provides the services**

- 1 The named Supervisor is not to delegate their duties or powers without prior written agreement from the *Client*.

6 **Standards to be achieved**

6.1 **Health and safety**

Health, safety and welfare is of paramount importance to the *Client* and one of the objectives for the contract is that the works should be undertaken in a manner that achieves highest possible standards. Health, safety and welfare provisions must be seen as integral parts of carrying out the works and not as stand-alone considerations. The *Project Manager* will take reasonable steps, when considering documents supplied to him by the Contractor, that the **management arrangements** adopted by the Contractor for safety are suitable.

The contract requires the Contractor to produce a schedule of activities for which risk assessments and method statements must be prepared. The schedule and method statements will meet the dual requirements of the Construction Design and Management Regulations and the requirements of sub-clause 31.2 of the contract.

The Contractor will be free to add to the schedule as the work progresses. Prior to the start of construction work, and again after any revisions prior to implementation of the revisions, the Contractor must forward the schedule to the *Consultant*, with the programme for acceptance.

The level of detail required will depend on the activity. As a minimum the Contractor must ensure that risk assessments and method statements are prepared and submitted for review in accordance with the ECC Scope covering:

- full, timing and sequence of construction including the use and design of temporary works, materials, plant and equipment proposed by the Contractor;
- Indication of activities that represent a higher than normal level of health and safety risk.

Some additional information may be required in respect of compliance with the Environmental Action Plan and the minimisation of environmental impacts of the activities.

Method statements supplied in support of the ECC Scope are to be formatted for the benefit of those personnel undertaking the works, and contain language and detail appropriate for those individuals. They shall take account of experience, to ensure that account is taken of the matters identified above

In particular the *Consultant* will be required to:

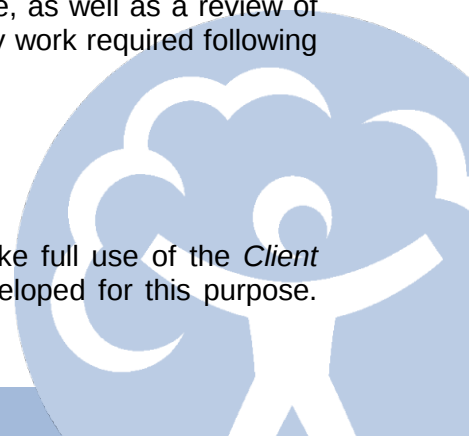
- Before the start of construction work, or thereafter in the case of a proposal for a revision, receive from the Contractor the schedule of risk assessments and method statements for acceptance;
- Take reasonable steps to ensure that the persons carrying out risk assessment on behalf of the Contractor are competent for the type of risks, and have adequate resources including time, to properly consider, in an appropriate time, risks identified in the schedule.
- Take reasonable steps, for ensuring the effectiveness of method statements as regards language, appropriate detail and quality of briefing arrangements for example by review at progress meetings of risk assessments and method statements to be employed for higher risk or unusual tasks in the coming period.
- Seek a more specialised opinion, about the content of a submission from the Principal Designer, *Client* project manager and/or pcm safety advisor or safety, health and environment manager as appropriate.
- Ensure that the Contractor completes, updates and holds on behalf of the *Client*, the schedule of risk assessments and method statements.

6.2 Co-operation with the Principal Designer

There will be a Principal Designer for this scheme. The Principal Designer duties will include for a review of any site based works and notifying the HSE of these, as well as a review of the design. The Principal Designer will comment and include for any work required following review. The Supervisor will co-operate with the Principal Designer.

6.3 Specifications or standards to be used

In managing the Contract the Supervisor and Contractor shall make full use of the *Client* ECC standard commercial and contract forms that have been developed for this purpose. Some examples are:



- Contract administration must always be done with reference to the contract including the Standard ECC Scope [*Client* document ref 412_13_SD03]
- Project Manager's Instruction [*Client* Contract Management system]
- Contractor's Technical Query [*Client* Contract Management system]
- Weekly Site Record [*Client* document ref 413_13_SD14]

The *Consultant* is to make full use of the *Client's* web based project collaboration tool. All contract records are to be distributed and stored using this project collaboration tool.

7 Requirements of the programme

7.1 Programme

The Completion Date for this Scope will be 31st March 2021.

The *Consultant* shall provide a programme if and when requested by the *Service Manager*.

Any programme required by the *Client* shall cover all the activities to be undertaken by the *Consultant* and other members of the project team. Include all major project milestones from commencement to the end of the reporting, consultation and approvals stage.

Include appropriate review and consultation periods for drafts, scoping reports, statutory consultation etc.

8 Services and other things provided by the *Client*

8.1 Contract to be administered

The *Client* will provide a copy of the contract to be administered to the Supervisor on A-Site. This will include the ECC Scope and Site Information. Other information referred to in the Contract will also be available on Project Collaboration Tool.

8.2 Training to be provided by the *Client*

The *Client* will provide access to and training on their web based Project Collaboration Tool.

8.3 Data and information management and intellectual property rights

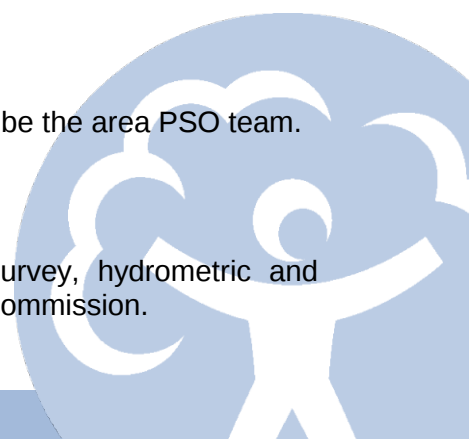
All of the data listed as being supplied to the supplier as part of this study remains the Intellectual Property of the *Client*.

8.4 Data custodianship

The data custodian for project deliverables from this commission will be the area PSO team.

8.5 Licensing information

Licences for LiDAR Data, Ordnance Survey mapping, model, survey, hydrometric and historical data will be provided to the *Consultant* upon award of this commission.



8.6 Metadata

The *Client* populates a metadata database called the Information Asset Register (IAR). It is a requirement that all information produced by modelling work is appropriately tagged with metadata. The *Client's* project manager will supply an IAR spreadsheet (and any supplementary local metadata requirements if appropriate) where all relevant metadata can be recorded and handed over on project completion.

8.7 Data security

All model and survey information will be provided to the supplier in an encrypted format (using WinZip 128 bit encryption) according to *Client* data security policy. It is expected that once the commission is completed, all the original data sent to the supplier, which is classed as commercially sensitive, is returned in an encrypted format using WinZip 128 bit encryption.

Project deliverables such as model files, survey data or anything of a personal nature such as questionnaires or address data must also be returned in an encrypted format using WinZip 128 bit encryption.

Further details regarding security measures will be discussed at the start-up meeting for this commission

8.8 Timesheets

Timesheets as normally utilised by the *Consultant* shall be submitted with fee notes unless otherwise agreed with the *Client's* project manager. Electronic submissions would be acceptable.

8.9 Payment procedure

Payment is subject to the procedure agreed in or under the framework

8.10 Quality

The quality management system complies with the requirements of ISO9001 and ISO14001.

Please detail any other requirements of the Quality Plan



Appendices

Appendix 1 BIM Protocol – Production and Delivery Table

All *Client* issued information referenced within the Information Delivery Plan requires verifying by the *Consultant* unless it is referenced elsewhere within the *Scope*.

www.Pow.bim4.info

You need google chrome for this link to work. Once the table is completed it should be printed for issue in the tender document, so that the correct baseline position can be seen by supplier

