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Food & Rural Affairs

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Tinstraat 12  
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The Netherlands

**Our ref:** 32318  
**Date:** 1<sup>st</sup> July 2021

Dear [REDACTED],

**Project 32318 – Supply of supply of one (1) Total Suspended Solids  
Filter Weighing Robot – ref 32318**

I am pleased to inform you that the Environment Agency (EA) hereby accepts your tender dated 5<sup>th</sup> May 2021 in respect of the above Contract. The Contract shall be carried out in accordance with:

- This Contract Award Letter, Conditions of Contract, Appendix and Specification
- Our Bidder Pack dated 12<sup>th</sup> April 2021
- Your response received dated 5<sup>th</sup> May 2021

The price for this contract is as follows:

Item No	Description	Price (£ GBP)	Quantity
21088905 SP2000-5	Suspended Solids Filter Weighing Robot	£106,730.00	1

Price inclusive of: Delivery to site (UK Mainland) Off loading, all costs associated with Delivery Duty Paid (DDP) incoterms.

The Contract is awarded effective from 1<sup>st</sup> July 2021 and ending two (2) years from the date of installation. The date of installation shall be the date at which the Contractor arrives at the EA's premises and successfully installs Goods as outlined in the Specification estimated to be on or around 4<sup>th</sup> October 2021.

Within ten (10) Working Days of receipt of your acceptance of this letter via Bravo, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice to:

SSCL  
Environment Agency  
PO BOX 797  
Newport  
Gwent  
NP10 8FZ

Invoices not containing the correct Purchase Order number will mean we are unable to process them and they will be returned to you.

This Contract will be managed on behalf of the Environment Agency by [REDACTED] (Contract Manager) contactable on telephone number [REDACTED] and email address [REDACTED]. The Contract reference and title given above should be quoted on all correspondence.

The Contract will be governed by the accompanying EA Terms and Conditions for Goods as detailed in Annex one (1).

Acceptance of the award of this Contract will be made by electronic signature carried out in accordance with the 1999 EU Directive 99/93 (Community framework for electronic signatures) and the UK Electronic Communications Act 2000.

Acceptance of the offer comprised in this Contract must be made within seven (7) days from the date of this Award Letter and the Contract is formed on the date on which the Contractor communicates acceptance on the Agency's electronic contract management system ("Bravo").

No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours sincerely,

[REDACTED]  
Senior Category Officer  
Defra group Commercial

T: [REDACTED]  
[REDACTED]



Environment  
Agency

## Annex 1

# Conditions of Contract – Goods

[Ref: 32318 ]

[Title: **Provision of a Total Suspended Solids  
Filter Weighing Robot**]

July 2021

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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 The Agency**

The Environment Agency, its successors and assigns.

### **1.1.2 The Appendix**

The Appendix to these Conditions.

### **1.1.3 The Contract**

These Conditions including the Appendix, any Special Conditions, the 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 The Contractor**

The person, firm company or body who undertakes to supply the Goods to the Agency.

### **1.1.5 Contract**

The time period stated in the Appendix or otherwise

Period provided in the Contract, for the delivery of the Goods.

### **1.1.6 Contract Price**

The price exclusive of VAT set out in the Contract for which the Contractor has agreed to supply the Goods.

### **1.1.7 Contract Supervisor**

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 communication given by or made to the Contract Supervisor, shall be taken as given by or made to the Agency.

### **1.1.8 Contracting Authority**

Means any contracting authorities (other than the Environment Agency) as defined in regulation 2 of the Public Contract Regulations 2015 (SI 2015/102) (as amended).

### **1.1.9 Contractor Personnel**

Means 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.

### **1.1.10 Data Protection Legislation**

Means: (i) 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 (ii) 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; (iii) all applicable Law about the processing of personal data and privacy.

### **1.1.11 Data Protection Schedule**

The Schedule attached to this Contract describing how the Parties will comply with the Data Protection Legislation.

### **1.1.12 Goods**

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 provision of Goods *and*

Services, the words “the Goods” shall mean, where the context allows, to include the Services the Contractor has agreed to provide.

#### 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

Means 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:

- i. 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.
- ii. First class post to the Contractor's registered office. Such Notices are 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

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

1.2 Except as set out above and in the Data Protection Schedule, 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**

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.

If these Conditions are used in the production of an order under pre-existing arrangements, then the Conditions of Contract of the pre-existing arrangements shall prevail.

### **3. CONTRACT SUPERVISOR**

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. GOODS**

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, 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**

The Contractor shall deliver the Goods within the time stated in the Contract Award Letter, 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 cause 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.

## **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 for 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 replacing the Contract at large, if that variation is reasonably consistent with the nature, scope and value of the Contract.
- 9.6 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.
- 9.7 The Agency may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
  - 9.7.1 any Contracting Authority; or
  - 9.7.2 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
  - 9.7.3 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.
- 9.8 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 five 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.
  - 10.1.3 No extension of time shall be granted where in the opinion of the Agency the Contractor has failed to use reasonable endeavours to avoid or reduce the cause and/or effects of the delay.
  - 10.1.4 Any extension of time granted under this Condition shall not affect the Agency's rights to terminate or determine the Contract under Conditions 12 and 13.

## **11. PROPERTY AND RISK**

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 as stated in the Appendix and unloaded.

## **12. REJECTION OF 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 fourteen 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 Contractors 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 five 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.

Termination under the Regulations'

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

- (a) the contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
- (b) 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
- (c) 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 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 Services 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 five million pounds whichever is the greater.

## **18 INSURANCE**

- 18.1 The Contractor shall insure and maintain insurance against liabilities under Condition 16 (Indemnity) in the manner and to the values listed in the Appendix. If no sum is stated, the value insured shall be five million pounds.
- 18.2 If specifically required by the Agency, nominated insurances shall be in the joint names of the Contractor and the Agency.
- 18.3 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 this clause 19 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 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 and 15.

## **23 WARRANTY**

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**

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**

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**

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**

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 forty five 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 forty five 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 forty five 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 stated to be or 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 to Conditions Goods[

Ref: 32318

Title: Provision of a Total Suspended Solids Filter Weighing Robot

### 1 Contract Supervisor

  
NLS Environment Agency  
Starcross Laboratory  
Staplake Mount  
Starcross  
Exeter  
EX6 8FD

### 2 Contractor

Skalar Analytical B.V.  
Tinstraat 12  
4823 AA Breda  
The Netherlands

### 3 Completion

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Contract Start Date	01/07/2021
Contract End Date	03/10/2023

### 4 Delivery

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Address:-  
NLS  
Ada Lovelace Building  
Exeter Science Park  
6 Babbage Way  
Exeter  
EX5 2FN

### 5 Insurance

18

Professional Indemnity Min. Cover	£5 million
Third Party Minimum Cover	£5 million
Public Liability Min. Cover	£5 million

### 6 Limit on Liability

17

Limit on Contractors Liability	£5 million ]
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## Specification

This section sets out the Authority's requirements.

### 1.1 Overview

The Environment Agency, National Laboratory Service (NLS), gravimetrically analyse thousands of environmental and waste water samples for total suspended solids. This volume of analysis is challenging to accomplish manually and the NLS wishes to purchase automated weighing equipment that can automatically and reliably undertake the repeated weighing of filter papers and calculate results whilst maintaining an acceptable level of data quality.

### 1.2 Requirements

The requirement is for the purchase, installation and commissioning of a single Total Suspended Solids Filter Weighing Robot (the Equipment).

#### 1.1.1 Process Overview

This is an overview of the process that the Equipment will be required to carry out. Please ensure you have read all the additional information and detail provided in this Specification.

- The EA will manually place filter papers on to the racks supplied with the Equipment.
- The Equipment will pre-weigh filter papers and uniquely identify individual filter papers.
- EA will manually remove the pre-weighed filter papers and carry out off-line testing of the pre-weighed filter papers and then manually feed these pre-weighed papers back on to the Equipment.
- The Equipment will match the post testing filter paper with the pre-weighed filter paper.
- The Equipment's software will capture this data as outlined below.
- The Equipment's software will calculate the total suspended solids result.
- EA will manually remove weighed back filter papers.

### 1.3 Specific Requirements

#### 1.3.1 Equipment Outline

- The Equipment shall comprise of a fully automated, computer controlled, robotic weighing system including an enclosed balance able to accept Glass Fibre (Type C) filter papers (70mm), 1.2 micron and weighing these to 5 decimal places.
- The Equipment shall include a software solution, suitable computer and printer that meets all the requirements outlined in this specification.

- The Equipment shall include all required accessories that are needed to operate the Equipment to meet the requirements of this specification.
- The Equipment can be either a floor standing model or a bench top model.

a) Racking

- The Equipment shall be supplied with racking with a minimum of two hundred (200) places.
- Sample racks shall be compatible with oven temperatures of 105 degrees Celsius and hold at least twenty (20) samples per rack.  
The racks must be corrosion and heat resistant, with numbered paper positions, and be designed to allow the analyst to easily place folded papers within each numbered paper position.

b) Paper Pre-Weighing

- Pre-weighing of unfolded papers must be achievable at a minimum rate of one hundred (100) samples per hour, with the papers clearly identifiable using a unique number that can withstand the filtration and drying process. This process is outlined by: Standing Committee of Analysts Blue Book – Suspended, Settleable and Total Dissolved Solids in Waters and Effluents ISBN 0 11 751957X.
- Pre-weighed papers must be stored in the order that they have been weighed in a collection vessel that easily allows the EA analyst to transfer the papers to a desiccator. The weights of these papers must be stored in an accessible database (paper bank) that can be edited and updated if required via the software supplied with the Equipment.

c) Worksheet creation

- The Equipment must allow for the user to easily import from an EA secure USB memory stick, a LIMS (Laboratory Information Management System) generated worksheet and assign papers from the paper bank, editing known dilutions or volume changes if required.
- The software provided with the Equipment is not expected to directly interface with EA IT system; it is expected that data will be transferred via an EA secure USB memory stick.

d) Weighing back

- The Equipment shall be able to weigh back a minimum of two hundred (200) folded sample glass fibre filter papers (70mm) within two (2) hours and record this weight on an EA worksheet, to calculate the total suspended solids in mg/L for a given sample.
- The Equipment must have the ability to append multiple worksheets on the software to enable more than one rack of samples to be weighed back at once without stopping the Equipment.

- The Equipment must include a mechanism for uniquely identifying each weighed filter paper, allowing the paper to be identified prior to and after it is used for sample filtration.
- Weighed sample papers must be automatically disposed of in a paper bin.

e) Data Processing

- The Equipment must be provided with software that automatically calculates the Total Suspended Solids result in mg/L based on the volume of samples filtered, the pre and final weights of the paper, subtraction of an averaged blank result and any dilution of the sample, based upon the formula below. The volumes and dilution can be inputted by the user after weighing back is complete and before transfer of the data file from the Equipment to a memory stick.

$$\text{Suspended solids (mg/L)} = \frac{[(B - A) - D] \times 10^6}{V}$$

Where:

A = Initial weight of filter paper (g)

B = Final weight of filter paper (g)

V = Volume of sample used (ml)

D = mean weight loss of blank paper (g)

$$D = \frac{(A_n - C_n)}{m}$$

A<sub>n</sub> = Initial weight of blank paper n (g).

C<sub>n</sub> = Weight of blank paper after washing (g)

m = Number of blank papers analysed.

- The Equipment must have editable fields against the sample identity which shall include the volume of samples filtered and sample dilution. Editing these fields must correct the final result accordingly.

f) Automation

- The Equipment must provide for minimal operator intervention after setting up and must be capable of unattended overnight operation with automatic shutdown at the end of the run. It is therefore imperative that the Equipment must be fitted with the necessary interlocks and any other features to enable this mode of operation to be used. Should there be a failure of services, the Equipment must shut down safely and automatically and not restart until proper operating conditions have been restored.

g) Other requirements

- The balance must be accessible to the user for calibration and cleaning purposes.

- If the Equipment is designed to run on compressed air, a suitable compressor should be provided with the Equipment.
- A safety cut off shall be included in the Equipment in order to prevent damage to racking or the balance by the Equipment if misalignment of racking occurs.
- Twelve (12) months full manufacturer supplied warranty, including parts and labour is required.
- All aspects of the Equipment must conform to the requirements of Good Laboratory Practice (GLP), Good Automated Laboratory Practice (GALP) and must meet the requirements of the international standard BS EN ISO/IEC 17025:2005 (General requirements for the competence of testing and calibration laboratories).
- Spares for the Equipment must continue to be available for purchase for at least seven (7) years, post installation.
- Any initial design work and modifications shall be included as part of the Equipment.

### 1.3.2 Analytical Performance

- The Equipment must be robust enough to be able to weigh papers consistently and enable a reporting limit of 2mg/L to be achieved based on eleven (11) batches of duplicate analysis used to determine RSD and bias targets which shall be within 5% and 10% respectively.
- The Equipment must be capable of detecting a paper weight change of 0.2mg/L to the limits of detection (LOD) stated (LOD calculated as specified in \*NS30 – See point below). The relative standard deviation of any results, greater than x 10 the limit of detection, must be less than 5%.
- \*The means of determining the above criteria must be in line with guidance provided by the Water Research Council 'A Manual on Analytical Quality Control for the Water Industry', NS30, (ISBN 0 902156 853).
- If requested by the EA, the Equipment must be capable of meeting the full performance tests described in the above publication.

Table 1

Analyte	Limit of Detection (milligram/litre)
	Waste water samples
Total Suspended Solids	2

- The above LOD must be routinely achievable using a throughput rate of at least one hundred (100) samples per hour

### 1.3.3 Data Handling

The Equipment must be provided with the appropriate computer hardware and software, fully programmed for operation.

The computer hardware and software supplied must have the following minimum specifications:

- Sample identifiers consisting of an alpha numeric field of at least ten characters will be required. Capacity on the Equipment must provide for the input of two hundred (200) papers at a time.
- Storage of all raw data, analytical quality control and results files must be provided and the degree of protection against corruption or loss during operation must be specified.
- Separate identification of analytical quality control standards and blank samples must be possible. Scheduling of blanks and standards at pre-set intervals must be catered for.
- Results files shall be available for editing or amendment under password control. The format of the results report must be user-definable. The software must allow post-run reprocessing of data.
- For data transfer to and from the NLS system, via EA secure USB data stick, it is essential that sample information can be imported into the Equipment's software, and result information exported. Electronic file formats to be user defined.
- Manual updating and / or editing of the sample identifiers after the test run has started, including extension of the run, must be possible.
- The facility to input sample volumes, dilutions and weights for incorporation into the final calculated results, must be provided.
- The data held on the software must be held securely and regular back up in place.
- The software must allow for multi-tasking operations such as:-
  - Setting up a batch of sample details while the previous batch is being analysed.
  - Data transfer to and from the LIMS system while other samples are being analysed.
  - Amendment of the methods while analysis is in progress.
  - Reprocessing of stored data.
  - Facility to view real time sample analysis data on screen.

#### **1.4 Delivery**

- Delivery is required by 30th September 2021.
- The Equipment will be delivered to:

NLS  
Environment Agency  
Ada Lovelace Building  
Exeter Science Park  
Babbage Way  
Clyst Honiton  
Exeter

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- Delivery shall be made within normal Working Hours 9am – 5pm Monday to Friday (excluding Public Holidays).
- All freight costs, door-to-door, to be met by the Contractor.
- All costs in order to be able to deliver under Delivered Duty Paid incoterms, to be met by the Contractor.
- All packaging shall be removed by the Contractor and recycled/reused where possible. Disposal of waste must comply with all relevant legislation.

### **1.5 Installation and Training**

- Following Delivery, the EA shall require installation and commissioning of the Equipment to include initial assembly, calibration and programme set-up within one (1) week.
- The EA will supply Personal Protective Equipment (PPE) on entry into the laboratory and social distancing measures will need to be followed.
- An operation manual will be provided with the Equipment which will include Equipment set-up instructions.
- The Contractor shall be responsible for the complete installation of the Equipment, including off-loading, erection, electrical and mechanical connections, testing and commissioning.
- The Contractor will be responsible for, including the cost of, off-loading, handling and installation of the Equipment on site. Adequate labour must be provided by the Contractor to enable safe and efficient off-loading and installation of the System. It is the Contractor's responsibility to check on the availability and loading capacity of any lifts on site and to check that adequate access via corridors and doorways exists for the Equipment, as delivered and packed. The Agency will not have staff available to assist.
- The Contractor shall provide on-site training to a minimum of four (4) EA users on routine use of the Equipment, either during installation or within one (1) week of installation.
- The Contractor shall also provide ongoing technical advice, via telephone and/or email, to EA users to allow users of the Equipment to raise technical questions and queries to support effective operation of the Equipment.

### **1.6 Price and Payment**

- The Contract Price shall include the cost of packaging, packing materials, addressing, labelling, loading, delivery to the address named in the Official Order, installation, commissioning and training and be in accordance with the amount set out in the Contractor's Response. All other costs, charges, fees and expenses of whatever kind for or arising out of or in connection with the provision of the Goods

and Services shall be paid by the Contractor unless otherwise agreed in writing by the Agency.

- The Contractor's invoice shall be sent on completion of the satisfactory delivery, installation, commissioning and training of users.

### **1.7 Warranty**

- The Equipment will carry a two (2) year warranty period including all parts, labour, breakdown, call-outs and servicing, estimated to start on or around 4<sup>th</sup> October 2021 .
- The warranty period will commence on the date of installation.
- In the event of any break-downs, call-outs, servicing or other circumstance, EA will inform the Contractor, specifying the relevant details and required timings for resolution.
- The warranty shall include any software updates that are required for the operation of the Equipment.

### **1.8 Preventative and Corrective Maintenance Services**

- Following the warranty period, the Environment Agency requires the option of up to a further four (4) years Preventative and Corrective Maintenance service as part of this Contract (for Equipment supplied by the Contractor).
- The Preventative Maintenance service plan will include:
  - One (1) annual Preventative Maintenance service per year which can be on site or the Equipment can be returned to the Contractor's premises.
  - A comprehensive Service report to be provided within two (2) Working Days of Preventative Maintenance completion.
- The Corrective Maintenance will ensure minimal downtime of the Equipment and the Contractor shall resolve the issue or fault within 48 hours and, where necessary, carry out an on-site visit within five (5) Working Days.
- The Contractor will be required to provide details of the proposed Preventative and Corrective Maintenance service as part of their Tender Response.
- The Contractor will be required to submit, as part of their Tender Response, an annual charge payable in advance at annual intervals for the service plan. If this option is taken up, the first year's annual charge will only be made upon the first anniversary of commencement of the Contract, subject to funding approval.

### **1.9 Additional information**

- The Contractor will ensure that EA is aware of any communications or safety alerts applicable to the Equipment at any time during the life of the Contract.



### **1.10 Staff**

- While on the premises of the Agency the Contractor shall comply, and shall ensure that its staff comply, with the requirements of the Health and Safety at Work etc Act 1974 and other relevant legislation, including regulations and codes of practice issued thereunder, and with the Agency's policies and procedures.
- The Contractor shall provide its staff with a form of identity acceptable to the Agency, which they shall display on their clothing at all, times when they are on the Agency's premises.
- All Contractor's staff shall report to the Authorised Officer on arrival and departure from the premises. Visits to the Installation Site are not permitted without the consent of the Agency.
- The Contractor shall cause as little interference as possible with the activities on the premises.
- The Contractor shall instruct its staff as to fire risks and require them not to smoke on the premises except where it is expressly permitted.
- The Contractor shall remove any of its staff from the premises where the Agency requests on grounds of efficiency, safety or public interest.