



I& EnvironmentAgency

Framework:	Client Support Framework
Supplier:	Capita Binnie
Company Number:	02018542 / 03163649
Geographical Area:	North West
Project Name:	Northwich Building Repairs
Project Number:	
Contract Type:	Professional Service Contract
Option:	
Contract Number:	35938
Stage:	Design

Revision	Status	Originator	Reviewer	Date

PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework
CONTRACT DATA

Project Name Northwich Building Repairs

Project Number

- This contract is made on
between the *Client* and the
- 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

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	<div></div>	Option for resolving and avoiding disputes	<div>W2</div>
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Secondary Options

- X2: Changes in the law
- X9: Transfer of rights
- XII: 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 The preparation of the detailed design for the preferred option identified in the options appraisal for the Northwich FRMS Coulby Conduct design review project. The outline design must be of sufficient detail to be able to be priced and taken to detailed design

The *Client* is Environment Agency

Address for communications DEANERY ROAD
BRISTOL
BS1 5AH

Address for electronic communications

The *Service Manager* is

Address for communications

Address for electronic communications

The Scope is in 412_13_SD02 PSC Scope Template (Northwich Property Repairs detailed design)

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
'none set' 'none set' *key date*
'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 27th June 2022

The *Client* provides access to the following persons, places and things
access
2 & 2a Bullring building, Northwich 28th June 2022 *access date*

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

The *completion date* for the whole of the *service* is 11th January 2023

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 *Consultant's share percentages* and the *share ranges* are
share range *Consultant's share percentage*

[REDACTED]

The *exchange rates* are those published in
on

6 Compensation events

These are additional compensation events

1. 'not used'
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 <i>SERVICE</i> OR TERMINATION
The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i>	██████████ 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 <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> Providing the Service	Which ever is the greater of ██████████ 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 <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Which ever is the greater of ██████████ 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 <i>Consultant's</i> total liability to the <i>Client</i> for all matters arising under or in connection with the contract, other than the excluded matters is limited to		£1 million

Resolving and avoiding disputes

The <i>tribunal</i> is	litigation in the courts
The <i>Adjudicator</i> is	'to be confirmed'
Address for communications	'to be confirmed'
Address for electronic communications	████████████████████
The <i>Adjudicator nominating body</i> 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

Z4 Share on termination

Delete existing clause 93.3 and 93.4 and replace with:

93.3 In the event of termination in respect of a contract relating to services there is no *Consultant's* share.

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.

ZS 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, 214.4.

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 212. 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 X18: Limitation of liability

The *Consultant's* liability to the *Client* for indirect or consequential loss is limited to

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects date* is limited to

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

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

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

V(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

Capita Binnie

Address for communications

Capita Property & Infrastructure Ltd

Binnies UK Ltd

Address for electronic communications

The *fee percentage* is

The *key persons* are

Name (1)

The *key persons* are

Name (2)

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

3Time

The programme identified in the Contract Data is

Coulby Conduct programme 2022-07-05

5 Payment

The *activity schedule* is

Northwich Coulby Conduct Detailed Design Quotation 2022-07-05

The tendered total of the Prices is

£52,969.09

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1)
Address for

Address for

Name (2)
Address for

Address for

Contract Execution

Client execution

Signed Underhand by [PRINT NAME] for and on behalf of the Environment Agency

[Redacted Signature]

Signature Date Role

Consultant execution

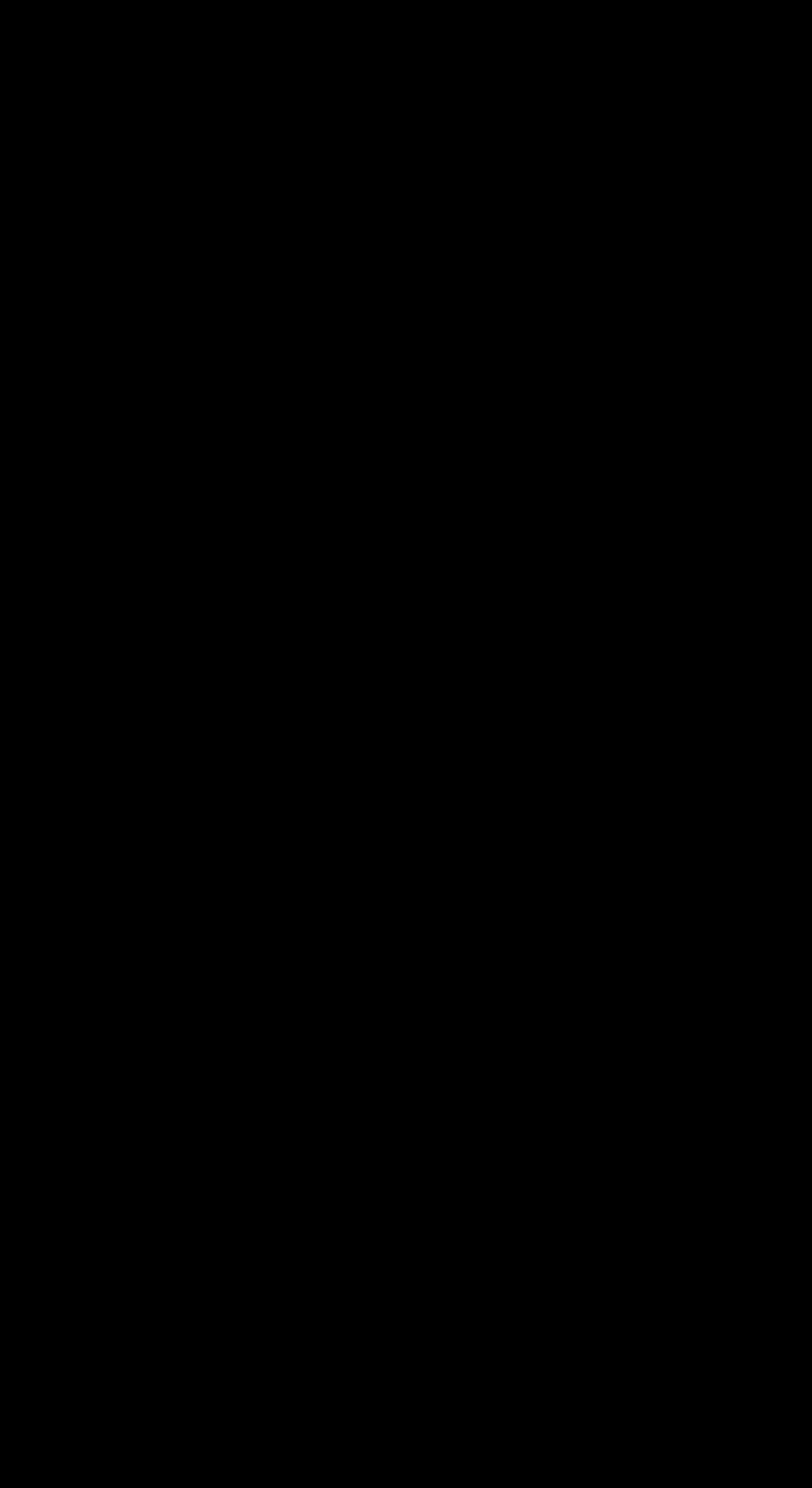
Signed Underhand by [PRINT NAME] for and on behalf of Capita Binnie

[Redacted Signature]

Signature Date

[Redacted Signature]

Role



PSC Scope template

NEC4 professional services contract {PSC}



Environment
Agency

412_13_SD02

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	Northwich property repairs
Project SOP reference	ENV0004701C
Contract reference	
Date	06/07/2022
Version number	2.0
Author	

Revision history

Revision date	Summary of changes	Version number
15/06/2022	Creation of PSC Scope by Environment Agency Project Manager	1.0
06/07/2022	Alterations following Consultant feedback	2.0

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.

1 Overview

1.1 Objectives of the *service*

Objective

- The objective is to produce the detailed design for the preferred option identified in the options appraisal report for 2 & 2a Bullring in Northwich. The preferred option is the construction of a new internal flood defence wall which follows the existing building perimeter wall. This is to be built to the Flood Defence Level of 13.165mAOD.

The detailed design must have sufficient detail to enable a contractor to complete the design and undertake construction under a Design & Build Engineering and Construction Short Contract (ECSC). The detailed design must improve the maintenance arrangements and reduce the need for scaffolding and permits.

2 The Service

2.1 Outcome Specification

The *Consultant* shall deliver the *service* such that it meets the outcomes listed in this section.

- 2.1.1 The required outcome of this commission is to develop the full ECSC Scope and detailed design (including any required specifications) for the preferred option such that it meets the project objectives as stated in section 1.1 and enables the scheme to be developed to detailed designs under an NEC4 Engineering and Construction Contract.
- 2.1.2 The *Consultant* shall ensure that the detailed design takes into consideration all relevant guidance and legislation and seeks to minimise long-term asset/land management, maintenance costs and whole life carbon.
- 2.1.3 Working with the *Client*, the *Consultant* shall be responsible for ensuring the detailed design is acceptable to the *Client*.
- 2.1.4 The *Consultant* shall demonstrate sustainability leadership through fully considering and contributing to achieving the *Client*'s environment and sustainability ambitions and targets. These are set out in the EA2025 Action Plan, e:Mission 2030 Strategy, the Defra 25 Year Environment Plan and are in line with the principles of sustainability as described by the United Nation's Sustainable Development Goals.
- 2.1.5 The *Consultant* shall ensure the detailed design process considers and addresses sustainability including carbon reduction as strategic outcomes.
- 2.1.6 The *Consultant* shall ensure the detailed design process considers and addresses heritage, including the building age and aesthetic.
- 2.1.7 The *Consultant* shall produce the Scope of works which will be instructed to others under separate ECSC form of contract by the *Client* or *Client* representative.

2.2 Constraints on how the *Consultant* provides the services

- 2.2.1 The *Consultant* is required to produce a detailed ECSC Scope for the preferred option.
- 2.2.2 The *Consultant* will be the COM Designer up until the construction phase begins and will liaise with the project's Principal Designer throughout.
- 2.2.3 The *Consultant* will produce Pre-Construction Information within a standard template provided by the *Client*.
- 2.2.4 The *Consultant* will submit their detailed scoping documents, detailed design and any required specifications to the *Client* for review and will be required to make any amendments/ revisions following this review. The *Client* review period will be 2 weeks. The *Consultant* will obtain written approved sign-off from the *Client* for the final scoping documents and Outline Design.
- 2.2.5 Public and Operational Safety must be considered by the *Consultant* in the outline design.
- 2.2.6 The *Consultant* will support the *Client* representative with the relevant information to update the Health and Safety file for the Northwich Property Repairs scheme.
- 2.2.7 The *Consultant* may publicise information about the *services*, so long as the *Client* has agreed in writing following review of the publication.
- 2.2.8 All designs prepared by the *Consultant* must comply fully with Minimum Technical Requirements (MTRs) (v12 December 2021).

- 2.2.9 The *Consultant* must allow for 2 weeks in the programme for *Client* approval.
- 2.2.10 The *Consultant* and *Client* will abide by the SHEW Code of Practice at all stages of the project.
- 2.2.11 The *Consultant* should make all provisions possible to eliminate, offset or reduce its carbon output and enhance the environment where possible (e.g. biodiversity and water quality).
- 2.2.12 The *Client* will take the risk of further asbestos being found.

2.3 *Consultant* Project Management

- 2.3.1 In managing the *service*, the *Consultant* shall follow all the requirements as set out in the Client Support Framework schedules and the relevant content of the Minimum Technical Requirements.
- 2.3.2 The overall management of the commission shall:
 - i. Contribute monthly to the updates to the project risk register.
 - ii. The *Consultant* is required to attend monthly progress meetings with the *Client*.
 - iii. Produce monthly financial updates and forecasts meeting the *Client*'s project reporting timetable together with progress reports. Monthly financial updates and forecasts to meet EA deadlines provided by no later than the 10th day of each month or otherwise agreed at the project start up meeting.
 - iv. Deliver a monthly progress report giving progress against programme, deliverables received and expected and financial and carbon summary against programme. For example, a monthly progress dashboard.
 - v. Capture lessons learnt relevant to scheme delivery for the EA PM to include in the scheme lessons learnt log.
- 2.3.3 The contract will be administered using Fastoraft.
- 2.3.4 The *Consultant* documents will be submitted to the *Client* for comment and amended to meet *Client* requirements.
- 2.3.5 If compliance with the guidance is not practical given site constraints, alternative solutions can be considered with agreement from the *Client*.
- 2.3.6 The *Consultant* shall ensure that the solution/options considered can comply with current guidance and legislation and seek to minimise long-term asset/land management and maintenance costs.

2.4 Outputs and Deliverables

- 2.4.1. The *Consultant* shall produce the following key documents for this commission:
 - i. The *Consultant* is required to complete a scope of works in the form of a detailed design, general arrangement drawing and high-level specification (suitable for inclusion in a construction tender document, (ECSC)).
 - ii. The detailed design, general arrangement drawing and high-level specification produced by the *Consultant* for the works shall comply with all *Client* specifications as noted within the scope.
 - iii. Programme showing milestones to outline design completion.
 - iv. The *Consultant* provides an Asbestos Management Plan and undertakes an Asbestos Refurbishment Survey and provides an associated report.
- 2.4.2. The detailed design should include but not be limited to:
 - i. Design philosophy statement, giving design process, standards used, and assumptions made to the satisfaction of the *Client*. This should demonstrate compliance with the *Client*'s sustainability targets.
 - ii. Calculations.
 - iii. Drawings.
 - iv. Specifications:
 - i. Internal design works
(*Client*'s assumption that alterations to existing building services will be *Contractor* design; fitted furniture will be removed but not reinstated;

internal finishes reinstated on a like-for-like basis (eg. plasterwork, insulation, flooring) affected rooms to be fully re-painted - no specification provided

- ii. Building repair specification with respect to the defects recorded in the riverside elevation (Pebble report dated 210112-04-200)
- v. Design report, including asset schedule, buildability statement and maintenance plan.
- vi. Designer's Risk Register.
- vii. Site Waste Management Plan
- viii. Carbon Calculator
- ix. Pre-construction information.

3 Site Investigation

- The *Consultant* is required to attend a site walkover with the EA representative to discuss the works and requirements of the site to adequately inform the preparation of the scope and outline design.
- The *Consultant* is required to carry out an Asbestos Refurbishment Survey. To meet the *Client's* programme target of having the design issued for *Client* comment and review in October 2022, the *Client* assumes that the survey outcome has no impact on the design, and that any issues identified by the survey that impacts on the *Consultant's* design is a *Client* risk. This allows the *Consultant* to commence design ahead of receiving the survey outcome.

4 Exclusions

- a) The *services* specifically excludes -
 - a. the preparation and submission of applications for consents and approvals for the permanent and temporary works. The requirement for such is an *Client* owned risk.
 - b. The preparation of an Environmental Action Plan.

5 Specifications or standards to be used

- MTR and relevant building regulations.
- This is a building in the Northwich conservation area and it is locally listed (and therefore treated as a non-designated heritage asset), so Local Plan policies OM 46 and 48 will be relevant.
 - o [Local Plan Policy OM 46 - Development in Conservation Areas](#)
 - o [Local Plan Policy DM48 Non-Designated Heritage Assets](#)

6 Services and other things provided by the *Client*

a) Access to ASite

b) Access to FastDraft

Appendix A Existing Information

Title	Format	Available from
Options Appraisal report	PDF	Environment Agency
Structural survey report	PDF	Environment Agency

