

<b>Framework:</b>	<b>Client Support Framework</b>
<b>Supplier:</b>	[Redacted]
<b>Company Number:</b>	[Redacted]
<b>Geographical Area:</b>	<b>Midlands</b>
<b>Project Name:</b>	<b>Flood Warning Threshold Review for WMD</b>
<b>Project Number:</b>	<b>ENV0003548C</b>
<b>Contract Type:</b>	<b>Professional Service Contract</b>
<b>Option:</b>	<b>Option A</b>
<b>Contract Number:</b>	<b>project_31474</b>

Revision	Status		Originator		Reviewer		Date

**PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework  
CONTRACT DATA**

**Project Name** Flood Warning Threshold Review for WMD

**Project Number** ENV0003548C

This contract is made on 18 December 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

**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 A

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

Review Flood Warning and Flood Alert thresholds for 6 areas.

The *Client* is

[REDACTED]

Address for communications

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Address for electronic communications

The *Service Manager* is

Address for communications

[REDACTED]

Address for electronic communications

The Scope is in  
WMD Threshold Review Scope Ver3 (081220) Final

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 *expenses* at intervals no longer than 4 weeks

## 3 Time

The *starting date* is 04 January 2021

The *Client* provides access to the following persons, places and things  
 access *access date*  
 Data identified in schedule 1 of the scope 04 January 2021

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

- Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time, between 1st November 2020 and 31st March 2021
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>	£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 <i>Consultant</i> ) arising from or in connection with the <i>Consultant</i> 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 <i>Consultant</i> 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 <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		£5 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	<a href="#">'to be confirmed'</a>
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

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 £5,000,000.00

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

Q20-2490 - WMD Threshold Review 2020\_21\_Programme\_v2a.pdf

**5 Payment**

The *activity schedule* is

Q20-2490 - WMD Threshold Review 2020\_21\_Activity\_Schedule\_v2a (FWA

[REDACTED]

**Resolving and avoiding disputes**

[REDACTED]

**X10: Information Modelling**

The *information execution plan* identified in the Contract Data is



## Contract Execution

### *Client* execution

Signed under hand by



### *Consultant* execution

### *Consultant* execution

Signed under hand by



# PSC Scope template

## NEC4 professional services contract (PSC)

412\_13\_SD02

## NEC4 professional services contract (PSC) Scope


### Project / contract Information

Project name	WMD Threshold Review 2020-21
Project SOP reference	ENV0003548C
Contract reference	project_31474
Date	08/12/2020
Version number	V3.0
Author	

### Revision history

Revision date	Summary of changes	Version number
October 2020	First issue	Ver1.0
11/11/20	Second issue	Ver2
08/12/20	Third issue – removing some scope	Ver 3

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	 LIT 13258 - Minimum technical requirement	18/03/2020

## Details of the Scope

Details of the Scope are as follows.

### 1. Description of the service:

#### 1.1. Objective

There are 3 main aims of the project are for the *Consultant* to:

- Review and assess the current river level thresholds for the 'Action Consider' and 'Result' thresholds for the 5 Flood Warning Areas detailed below and one Flood Alert Area as well (6 sites in total).
- Ensure that the 'Action Consider' and 'Result' thresholds derived as part of the project meet the guidance documents, Operational Instruction 55\_07 'Threshold Setting in Flood Incident Management' and 342\_05 'Principles and use of Flood Warning Service Codes and Messages'. This is to include confirming that the existing levels are in line with the guidance, or stating new levels that do conform with the guidance if/where necessary.

#### Flood Warning Areas to be reviewed, with associated river gauge in brackets below:

- Sandyford Brook at Sandon Road, Stafford (Astonfields river gauge)
- River Teme at Leintwardine and Walford (Leintwardine river gauge)
- River Lyd at Lydney (Lydney river gauge)
- River Stour at Stourport (Puxton river gauge)
- River Stour at Kidderminster (Puxton river gauge)

#### Flood Alert Area to be reviewed:

- Lower Teme (Flood Alert area but based off the Kempsey Yacht Club river gauge)

#### 1.2. Outcome Specification

The *Client* intends to undertake the full scope of service, however due to limited funds in the 2020-21 financial year, it may be necessary to reduce the scope of this contract. Therefore, to allow the *Client* to prioritise the work to be carried out, the *Consultant* is to provide costing for each of the tasks identified in Table 1 below:

Table 1 - Items to be priced separately from within section 1 – Description of the work	
1	Review existing data and calculate 'Action Consider' and 'Result' thresholds for each of the 5 Flood Warning Areas and 1 Flood Alert Area, as part of desktop exercise. Ensure these thresholds meet the specified guidance, or state new levels where necessary. The <i>Consultant</i> is to provide a breakdown of cost for delivering each individual Flood Warning and Alert Area, as well as a total cost for delivering all 8 Areas.

The *Consultant* is to undertake the following activity, and summarise the results in a report:

### 1.2.1 Flood Warning Thresholds:

The *Consultant* is to review the existing flood warning thresholds for the 6 areas (as provided by the *Client*) against the historic flooding and models to ascertain if the current thresholds are:

- accurate representations of when property flooding takes place
- and in accordance with the following guidance documents: Operational Instruction 55\_07 'Threshold Setting in Flood Incident Management' (Appendix B) and 342\_05 'Principles and use of Flood Warning Service Codes and Messages' (Appendix C).

The *Consultant* shall confirm that the existing levels are in line with the guidance, or state new levels that do conform with the guidance if/where necessary.

The *Consultant* must consider a number of sources when determining appropriate river level gauge thresholds. For instance:

- 'Result' thresholds should be calculated using existing property level survey data, observation records, river level models and LiDAR data.
- 'Action Consider' thresholds should be calculated for gauges upstream of the Result threshold gauge wherever possible, and appropriate thresholds set using level to level plots, river level models and travel time data.

A thorough check of historic flooding records should be undertaken before calculating new thresholds. Following this review, where thresholds do not match or further investigation is required, the *Consultant* shall carry out a full review of the data and provide new thresholds to the *Client*.

When providing the *Client* with the new thresholds, the *Consultant* shall provide details in the report regarding how this threshold was derived, including: model nodes, LIDAR, historic events and what the first property to flood is at this threshold.

The *Consultant* must also check whether any raised flood defences exist at the Flood Warning Areas, and take these into account before calculating new threshold levels, to provide the defended scenario. For example, this may be needed when reviewing the Hampton Bishop Flood Warning Areas.

### 1.3 Outcomes required

a) The *Consultant* shall provide a final report in PDF format outlining the methodology used to derive each 'Action Consider' and 'Result' threshold. The information within in the report shall include:

- A 'Result' threshold for each identified Flood Warning Area and Flood Alert Area, set on a gauge meeting the conditions outlined in Operational Instruction 55\_07 'Threshold Setting in Flood Incident Management', or nearest equivalent gauge.
- An 'Action Consider' threshold for an upstream gauge in each identified Flood Warning Area and Flood Alert Area, where available and appropriate.
- A table containing the final results, giving details of each Flood Warning Area and Flood Alert Area, the relevant thresholds and reasons for the level of the result threshold. Where property flooding is the reason an OS address point should be quoted. Where over topping of defences is the reason a National Grid Reference should be quoted. And where infrastructure is the reason a brief description of the infrastructure affected and the likely impact should be quoted.

- Details for all new thresholds regarding how the threshold was derived, including: model nodes, LIDAR, historic events and what the first property to flood is at this threshold.
- b) The *Consultant* shall provide an appendix containing detailed calculations to explain how the thresholds have been reached.
- c) The *Consultant* shall provide ArcGIS shapefiles identifying any new or recommended changes to existing Flood Warning Areas.

## **2. Drawings, Site Information or Reports already available**

### **a) Location**

See above for the Flood Warning Area and Flood Alert Area locations. Also see the shapefiles included within Appendix A for the locations.

### **b) Data available**

- Models for all Flood Warning Areas and the Flood Alert Area will be provided upon project start up.
- Existing thresholds for Flood Warning Areas and the Flood Alert Areas will be provided using the threshold issue criteria
- Historic flood event data will be provided in Powerpoint Gaugeboards and Excel databases for all sites.
- Historic review studies will be provided where the *Client* has the data available. This may not be included for all sites.
- Where property threshold data is required for setting Flood Warning Area thresholds the *Client* will check availability and provide at project start up where possible.
- Lidar – this can be accessed from Open Data GOV website.

## **3. Constraints on how the *Consultant* provides the services**

a) The *Consultant* shall ensure that appropriate use is made of existing data, to avoid duplicating work already undertaken. Relevant *Client* data is identified in Schedule 1. In addition, any other existing sources known to the *Consultant* should be utilised.

b) The *Consultant* shall allow 3 weeks in the programme for review of a draft report and deliverables by the *Client*, with sufficient time in the programme for necessary updates or defects correction following the *Client*'s review.

c) The *Consultant* shall ensure that any new data or information that is created as part of a commission is submitted to the *Client* with associated metadata, including a completed IAR (Information Asset Register) spreadsheet.

## **4. Exclusions**

Not Applicable.

## **5. Specifications or standards to be used**

- a) Operational Instruction 55\_07 'Threshold Setting in Flood Incident Management'

- b) Operational Instruction 342\_05 'Principles and use of Flood Warning Service Codes and Messages'

## 6. Specific Project Requirements

- a) The *Consultant* must complete the service and provide all deliverables, including time allowed for *Client* review, by the 31<sup>st</sup> March 2021.
- b) The *Consultant* shall attend meetings with the *Client* every 3 weeks, in which the *Consultant* provides a progress update, and presents the work undertaken to date.
- c) The *Consultant* is to submit all data in formats and using software that is compatible with *Client's* software and systems. These are as follows:
  - i. Microsoft Word, 2013
  - ii. Microsoft Excel, 2013
  - iii. ArcGIS shapefile
  - iv. Any others to be agreed with the *Client*

## 7. Services and other things provided by the *Client*

- a) Access to Fastdraft for contact management and payment purposes.
- b) Any data supplied to the *Consultant* as part of this study will be done so in accordance with the *Client's* policies, and appropriate data licences. All data will be provided and licensed for the duration of the study only.

### Schedule 1 - Table of Existing Information

	Format	Available from
	ArcGIS Shapefile	Appendix A – West Midlands Flood Warning Areas
	ArcGIS or MapInfo	To be provided by Service Manager upon project start up
	ArcGIS or MapInfo	To be provided by Service Manager upon project start up
	ArcGIS Shapefile	To be provided by Service Manager upon project start up
	Powerpoint and Excel	To be provided by Service Manager upon project start up
	ArcGIS	To be provided by Service Manager upon project start up
	ArcGIS	To be provided by Service Manager upon project start

		up
	PDF	Appendix B
	PDF	Appendix C
	ArcGIS Shapefile	To be provided by Service Manager upon project start up
	PDF/Word	To be provided by Service Manager upon project start up

## 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](http://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 tenderers and price**



