

Schedule 2 – Call Off Employer Contract Data and Terms



MF1 (Rev 6) Call off Contract

**South East MEICA Framework
9WAL-G23EAE**

A contract between

The Environment Agency

and ECS Engineering Services Limited

**for: KSL Reconditioning Programme 2021/2022 –
Package 2 - Hollowshore Outfall (SOP Code -
ENV0003885C)**

Contract Ref: 33143

FORM OF AGREEMENT

This Agreement is made the 10th day of December 2021 between:

(1) ENVIRONMENT AGENCY of Horizon House, Deanery Road, Bristol, BS1 5AH (the "Purchaser") of the one part;
and

(2) ECS ENGINEERING SERVICES LIMITED (Company Number: 2454269) of Fulwood Road South, Huthwaite, Nottingham, Nottinghamshire, NG17 2JZ (the "Contractor") of the other part.

Recitals:

(A) The Purchaser wishes to have certain Works executed by the Contractor, briefly described as:

Design and Build of Hollowshore Outfall Repair works in line with the requirements and constraints set out in the specifications document.

and has appointed the Purchaser's [REDACTED] as the Engineer for the purposes thereof (the "Engineer").

(B) The Purchaser has agreed to engage the Contractor for the design, manufacture, delivery to Site, installation, testing and completion of the Works and the remedying of defects in the Works in accordance with the Contract, under the direction of the Engineer, in the sum of £ 19,882.00 (Ninetneen Thousand eight hundred and eighty two pounds) (the "Contract Price").

It is agreed as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions.
2. The following documents and their annexes which have been bound in herewith shall be deemed to form and be read and construed as part of the Contract:
 - (a) this Agreement;
 - (b) the General Conditions and Appendix;
 - (c) the Special Conditions;
 - (d) the Specification and the drawing (if any) annexed to, or referred to in, the Contract;
 - (e) the Schedules;
 - (f) the Letter of Acceptance; and
 - (g) the Tender or Contractor's submission.
3. In consideration of the payments to be made by the Purchaser to the Contractor in accordance with the Contract, the Contractor agrees to design, manufacture, deliver to Site, install, test and complete the Works and to remedy defects in the Works in conformity in all respects with the provisions of the Contract.

4. The Purchaser shall pay the Contractor, in consideration of the execution and completion of the Works and the remedying of defects in the Works, the Contract Price or such other sum as may become payable under the provisions of the Contract together with the Value Added Tax properly chargeable on such sums, at the times and in the manner prescribed by the Contract.
5. If any question, dispute or difference shall arise between the Purchaser and the Contractor in relation to the Contract or in any way related to the Works which cannot be settled amicably it shall be referenced to arbitration in accordance with Clause 52 (Disputes) of the General Conditions.

The parties have entered into this Agreement in the manner required by their respective constitutions and the laws of their respective countries.

Signed for and on behalf of the **Environment Agency** by:

Authorised Signatory:

Name:

Position:

Date:

13/12/2021

Signed for and on behalf of ECS Engineering Services Limited by:

Authorised Signatory:

Name:

Position:

Date:

8th December 2021

The Terms and Conditions comprise the:

Model Form MF/1 (Rev 6) General Conditions of Contract (2014 Edition) including:

- Tender
- Form of Taking-Over Certificate
- Form of Sub-Contract

amended as set out in:

- the Appendix to the General Conditions of Contract attached hereto;
- the Amendments and Additions to the General Conditions of Contract contained in Schedule 2 of the Deed of Agreement concerning the South East MEICA Framework; and
- the Special Conditions of Contract attached hereto.

General Conditions of Contract**Appendix**

Where Clause numbers are specified here they refer to the General Conditions of Contract unless otherwise indicated.

Clause 1 - Definitions

Sub-Clause 1.1m	The Engineer is [REDACTED] from [REDACTED]
Sub-Clause 1.1s	The Nominator is from the following institution: The President of the Institution of Electrical Engineers or the President of the Institution of Mechanical Engineers as determined by the Purchaser
Sub Clause 1.1v	Performance Tests The Performance Tests are detailed in the Specification or set out below (as may be further defined in the Specification) or otherwise agreed between the parties.
Sub-Clause 1.1cc	Sections The Works are not divided into Sections.
Sub-Clause 1.1ee	Special Conditions The following Special Conditions form part of the Contract: [Special Condition 1: Incidental supply of hardware and software] [Special Condition 2: Adjudication]
Sub Clause 1.1ll	Time for Completion The Time for Completion of the Works means 37 weeks from the Date of Commencement The date specified for the commencement of the Works is 15 December 2021.

Sub-Clause 2.1	<p>Engineer's duties</p> <p>The Engineer is required to obtain the Purchaser's prior specific approval before exercising any duties that involves decisions, programme (time) or cost impacts.</p>
Sub-Clause 4.1	Precedence of documents
Sub-Clause 10.1	<p>The order of precedence of the documents forming the Contract is as follows:</p> <ul style="list-style-type: none"> (a) this Agreement; (b) the Letter of Acceptance; (c) the Appendix; (d) the Special Conditions; (e) the General Conditions; (f) the Specification; (g) the drawing annexed to, or referred to in, the Contract (h) the Schedules; (i) the Tender or Contractor's submission
Sub-Clause 5.5	<p>Prime Cost items</p> <p>Percentage to be added - (Not applicable) N/A or 0%</p>
Sub-Clause 6.2	<p>Labour, materials and transport</p> <p>Sub-clause 6.2 of the General Conditions shall not apply</p>
Sub-Clause 8.1	<p>Provision of bond or guarantee</p> <p>Not required</p>
Sub-Clause 10	<p>Notices</p> <p>Purchaser's contact details:</p> <p>Address: [REDACTED]</p> <p>E-mail address [REDACTED]</p> <p>Engineer's contact details:</p> <p>Address: [REDACTED]</p> <p>E-mail address: [REDACTED]</p> <p>Contractor's contact details:</p> <p>Address: ECS Engineering Services Limited</p> <p>Facsimile Number: N/A</p> <p>E-mail address [REDACTED]</p>
Sub-Clause 11.5	The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract
Sub-Clause 11.6	The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract
Sub-Clause 11.7	<p>Power, etc. for tests on Site</p> <p>The Contractor shall provide adequate provisions to deliver the projects. All site services required to deliver the projects should be provided by the Contractors, unless agreed otherwise with the Purchaser.</p>
Sub-Clause 14.2	<p>Form of Programme</p> <p>The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract</p>

Sub-Clause 18.2	<p>Site Services</p> <p>The Contractor shall provide adequate provisions to deliver the projects. All site services required to deliver the projects should be provided by the Contractors, unless agreed otherwise with the Purchaser.</p>
Sub-Clause 34.1	<p>Delay in Completion</p> <p>Amount to be paid or deducted for each week of delay to completion of the whole of the Works is £1,720.00</p>
Sub-Clause 34.2	<p>Maximum Percentage of Contract Value which payments or deductions shall not exceed 25%</p> <p>Prolonged delay</p> <p>Maximum loss recoverable by the Purchaser</p> <p>£50,000</p>
Sub-Clause 35.8	<p>Consequences of failure to pass performance tests</p> <p>The damages shall be treated wherever they cause delay to the Programme as delays to Completion and the details for such delays are set out in the Sub-Clause 34.1 within this Appendix to the General Conditions of Contract</p>
Sub-Clause 36.1	<p>The Defects Liability Period shall be 12 Months after taking-over.</p>
Sub-Clause 36.3	<p>Notice of defects</p> <p>The Defects Liability Period in respect of any repair or replacement shall not extend beyond 12 months from the date of taking-over under clause 29 (Taking-over)</p>
Sub-Clause 39.1	<p>Payments by instalments</p> <p>The Contractor is entitled to monthly payments in respect of:</p> <p>(a) The value of work executed on Site;</p> <p>[Less</p> <p>(b) retention of nil %.</p> <p>Time for application</p> <p>(a) Time for applications for interim certificates of payment</p> <p>Applications for interim payment certificates shall be made on or after the date that the relevant milestone deliverable has been achieved</p> <p>If the whole or any part of the Works have been suspended pursuant to sub-clause 25.1 (Suspension of work, delivery or installation), applications for interim payment certificates shall be made on or after the last Friday of each month in relation to the Works affected by the suspension until the suspension is lifted, the suspended Works are omitted or the Contract is terminated.</p> <p>(where payment is to be made by way of monthly valuations)</p> <p>Applications for interim payment certificates shall be made on or after the last Friday of each month</p> <p>Form of application</p> <p>(d) Document to accompany applications for a certificate of payment</p> <p>(where payment is to be made by way of monthly valuations)</p> <p>(i) Evidence required of the value of work done on the Site:</p> <p>"Each application shall be supported by separate sheets setting forth in detail the order of the Schedules of Rates the Contract Price particulars of the Works executed on the Site and of the Plant</p>

Sub Clause 39.2	delivered to the Site pursuant to the Contract since the period covered by the last preceding certificate (if any)"
Sub-Clause 39.5	Final date for payment The Final Date is 30 days after the Due Date
Sub-Clause 40.4	Delayed Payment The rate of interest on overdue payment shall be 2% per annum above the Bank of England base rate in force from time to time during the period of delay
Sub-Clause 40.6	Advance Payment Advance Payments does not apply
Sub-Clause 40.7	Currencies of Payment The Contract Price (including any adjustments) shall be paid in the following currencies: English Pound Sterling
Sub-Clause 40.8	Taxes The Purchaser is responsible for the following taxes: Unless otherwise stated in the Contract the Contract Price is deemed to exclude Value Added Tax. To the extent that Value Added Tax is properly chargeable on the supply to the Purchaser of any goods or services provided by the Contractor under the Contract, the Purchaser shall pay such Value Added Tax as an addition to payments otherwise due to the Contractor under the Contract
Sub-Clause 41.2	Allowance for profit on claims Percentage to be added – nil %
Sub-Clause 44.3	Limitation of contractor's liability Limit of Liability - £5,000,000 (five million pounds)
Sub-Clause 47.4	Third party insurance The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract
Sub-Clause 52.1	Arbitration (c) The arbitration rules are Rules of Arbitration of the International Chamber of Commerce (2012) (d) The seat of the arbitration is London, England (where Special Condition 2: Adjudication applies)
Sub-Clause 52.4	Adjudication (c) The adjudication rules are: As set out in Construction Industry Council Model Adjudication Procedure: Fourth Edition
Sub-Clause 53.1	Applicable law The substantive law of the contract is the law of England