



# Professional Service Contract

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## Contract Data Forms

June 2017

(with amendments January 2019)

## Contract Execution

This agreement is made between the *Client*, the *Consultant* and the Named Suppliers.

Terms in this agreement have the meanings given to them in the contract between the Environment Agency and [REDACTED]

The Consultant offers to Provide the Services in accordance with these conditions of contract for an amount to be determined in accordance with these conditions of contract.

The Consultant was appointed to the framework and executed the framework agreement (with reference number RM6165).

**Executed under hand . . . . .**

by

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(Named Suppliers)

[REDACTED]

# Contract Data

## PART ONE – DATA PROVIDED BY THE *CLIENT*

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

### 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 (with amendments January 2019)

Main Option

E

Option for resolving and avoiding disputes

W2

Secondary Options

X2, X9, X10, X11, X18, Y(UK)1, Y(UK)2, Y(UK)3, Z1, Z2, Z3, Z8, Z9, Z12

The *service is*

To procure a Project Manager and Technical specialist for Health and safety specific work.

The *Client is*

Name

[REDACTED]

Address for communications

[REDACTED]

Address for electronic communications

[REDACTED]

The *Service Manager is*

Name

[REDACTED]

Address for communications

[REDACTED]

Address for electronic communications

[REDACTED]

The Scope is in

[REDACTED]

The <i>language of the contract</i> is	<div>English</div>		
The <i>law of the contract</i> is the law of	<div>England and Wales, subject to the jurisdiction of the courts of England and Wales</div>		
The <i>period for reply</i> is	<div>2 weeks</div>	except that	
• The <i>period for reply</i> for	<div>n/a</div>	is	<div>n/a</div>
• The <i>period for reply</i> for	<div>n/a</div>	is	<div>n/a</div>

The *period for retention* is 

6

 year(s) following Completion or earlier termination

The following matters will be included in the Early Warning Register

N/A

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

2 weeks

## 2 The Consultant's main responsibilities

If the *Client* has identified work which is set to meet a stated *condition* by a *key date*

The *key dates* and *conditions* to be met are

	<i>condition</i> to be met	<i>key date</i>
(1)	<div>n/a</div>	<div></div>
(2)	<div>n/a</div>	<div></div>
(3)	<div>n/a</div>	<div></div>

If Option A is used

The *Consultant* prepares forecasts of the total *expenses* at intervals no longer than

n/a

If Option C or E is used

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

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

	access	access date
(1)	n/a	n/a
(2)	n/a	n/a
(3)	n/a	n/a

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

4 weeks

If the *Client* has decided the *completion date* for the whole of the *service*

The *completion date* for the whole of the *service* is

If no programme is identified in part two of the Contract Data

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, if not previously provided by the *Consultant*

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

52 weeks

#### 5 Payment

The *currency of the contract* is the

£ sterling

The *assessment interval* is

Monthly

If the *Client* states any *expenses*

The *expenses* stated by the *Client* are

item	amount
n/a	n/a

The *interest rate* is

Bank of England

bank

If the period in which payments are made is not three weeks and Y(UK)2 is not used

The period within which payments are made is

1 Month

If Option C or E is used and the *Client* states any locations

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

All UK offices

If Option C is used

The *Consultant's share percentages* and the *share ranges* are

*share range*

*Consultant's share percentage*

less than	<input type="text" value="n/a"/>	%	<input type="text" value="n/a"/>	%
from	<input type="text" value="n/a"/>	% to	<input type="text" value="n/a"/>	%
from	<input type="text" value="n/a"/>	% to	<input type="text" value="n/a"/>	%
greater than	<input type="text" value="n/a"/>	%	<input type="text" value="n/a"/>	%

If Option C or E is used

The *exchange rates* are those published in

on  (date)

## 6 Compensation events

If there are additional

These are additional compensation events

The total of the prices are an estimate for the first 3 months .  
The *Client* may seek to extend this contract up to 9 months via a Compensation Event. In the event the contract is extended, and the scope/hours are increased the *Client* and *Consultant* will continue utilising the rates contained in the pricing document in accordance with clause 61  
Notifying compensation events

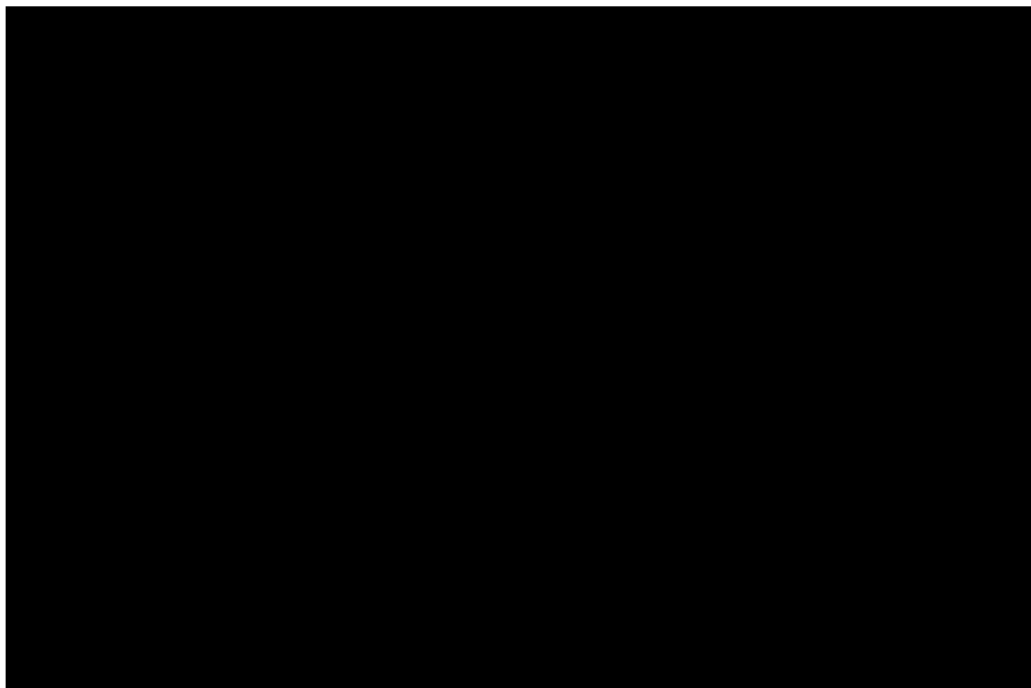
## 8 Liabilities and insurance

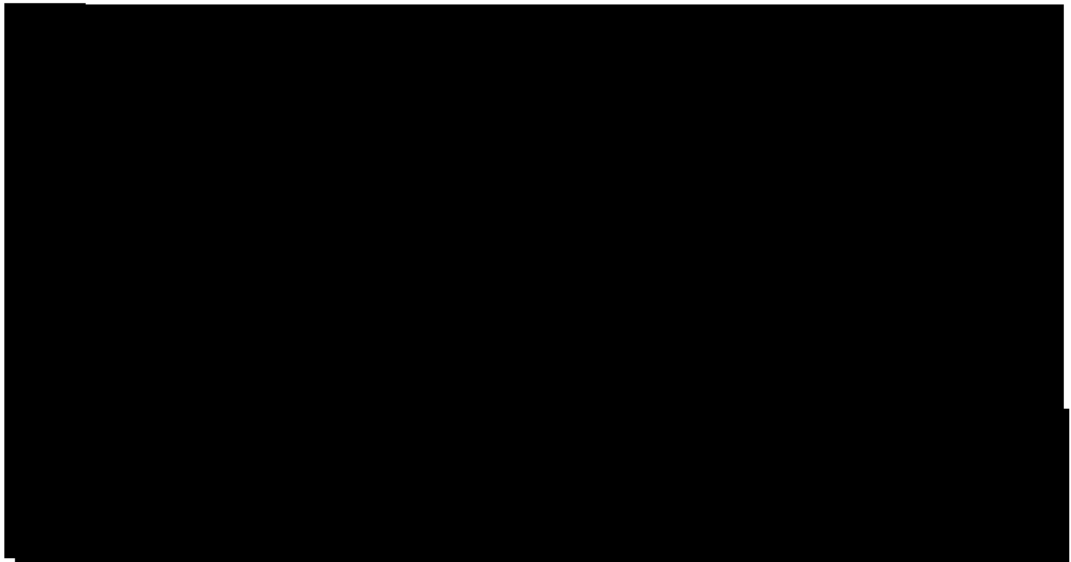
If there are additional  
*Client's liabilities*

These are additional *Client's liabilities*

- (1)
- (2)
- (3)

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





## Resolving and avoiding disputes

The *tribunal* is

Litigation in the courts

If the *tribunal* is arbitration

The *arbitration procedure* is

'to be confirmed'

The place where arbitration  
is to be held is

'to be confirmed'

The person or organisation who will choose an arbitrator if the Parties cannot agree a choice or if the *arbitration procedure* does not state who selects an arbitrator is

The *Senior Representatives* of the *Client* are

Name (1)

Address for communications

Address for electronic communications

Name (2)

Address for communications

Address for electronic communications

The *Adjudicator* is

Name

'to be confirmed'

Address for communications

'to be confirmed'

Address for electronic communications

'to be confirmed'

The *Adjudicator nominating body* is

Institution of Civil Engineers



## X2: Changes in the law

If Option X2 is used

The *law of the project* is

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

## X8: Undertakings to Others

If Option X8 is used

The *undertakings to Others* are provided to

n/a

## X9: Transfer of Intellectual Property Rights

## X10: Information modelling

If Option X10 is used

If no *information execution plan* is identified in part two of the Contract Data

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

4 weeks

## X11: Termination by the Client

## X13: Performance bond

If Option X13 is used

The amount of the performance bond is

n/a

## X18: Limitation of liability

If Option X18 is used

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

[REDACTED]

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

## X20: Key Performance Indicators (not used with Option X12)

If Option X20 is used

The *incentive schedule* for Key Performance Indicators is in

n/a

A report of performance against each Key Performance Indicator is provided at intervals of

n/a

months

## Y(UK)1: Project Bank Account

Charges made and interest paid by the *project bank*

The *Consultant* **is not** to pay any charges made and to be paid any interest paid by the *project bank* (Delete as applicable)

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

If Option Y(UK)2 is used and the final date for payment is not fourteen days after the date on which payment becomes due

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

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

If Option Y(UK)3 is used

term

*beneficiary*

Not used

Not used

If Y(UK)3 is used with

term

*beneficiary*

Y(UK)1 the following entry is added to the table for Y(UK)3

The provisions of Options Y(UK)1

Named Suppliers

## Z: Additional conditions of contract

If Option Z is used

The *additional conditions of contract* are

### Z1 Disputes:

Option W2 subclause W2.1(4) is deleted. The Parties agree that adjudication under Clause option W2 should only commence if the dispute resolution procedure has been exhausted and that the dispute resolution procedure in the Scope, takes precedence over Option W2.

### 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

### 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.

### 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.

## 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

Address for communications

Address for electronic communications

The *fee percentage* is

 %

The *key persons* are

The following matters will be included in the Early Warning Register

2 The Consultant’s main responsibilities

If the <i>Consultant</i> is to provide Scope	The Scope provided by the <i>Consultant</i> is in	N/A
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5 Payment

If the <i>Consultant</i> states expenses	The <i>expenses</i> stated by the <i>Consultant</i> are any	
	item	amount
	<div></div>	<div></div>
	<div></div>	<div></div>
	<div></div>	<div></div>
If Option A or C is used	The <i>activity schedule</i> is	<div></div>
If Option E is used	The forecast of the prices is	<div></div>

Resolving and avoiding disputes

The <i>Senior Representatives</i> of the <i>Consultant</i> are	
<div></div>	<div></div>
<div></div>	<div></div>
<div></div>	<div></div>
<div></div>	<div></div>
<div></div>	<div></div>
<div></div>	<div></div>
<div></div>	<div></div>

## X10: Information modelling

If Option X10 is used

If an *information execution plan* is to be identified in the Contract Data

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

N/A

## Y(UK)1: Project Bank Account

If Option Y(UK)1 is used

The *project bank* is

*named suppliers* are

## Data for the Schedule of Cost Components (used only with Options C or E)

The *overhead percentages* for the cost of support people and office overhead are

location

*overhead percentage*

N/A	<input type="text"/>	%
<input type="text"/>	<input type="text"/>	%
<input type="text"/>	<input type="text"/>	%

## Data for the Short Schedule of Cost Components (used only with Option A)

The *people rates* are

category of person

unit

rate

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

## **Specification for Expression of Interest: Achieving Excellence in Health & Safety Procurement Services, Health and Safety Task and Finish Group Support**

EA is an executive non-departmental public body, sponsored by the [Department for Environment, Food & Rural Affairs](#). We work to create better places for people and wildlife, and support sustainable development.

To support the work of the Environment Agency's internal HSW service (and services the EA accesses through other existing contracts (for example HSW related training), we want to create a contract with small number of providers of HSW specialist services to provide additional capacity, resource and competent advice.

### **1. Background**

We were established in 1996 to protect and improve the environment. We have around 10,600 employees. Our head office is in Bristol. We have offices across England, divided into 14 areas listed below. Within England we're responsible for:

- regulating major industry and waste
- treatment of contaminated land
- water quality and resources
- fisheries
- inland river, estuary and harbour navigations
- conservation and ecology

We are also responsible for managing the risk of flooding from main rivers, reservoirs, estuaries and the sea.

Our priorities are to:

- work with businesses and other organisations to manage the use of resources
- increase the resilience of people, property and businesses to the risks of flooding and coastal erosion



- protect and improving water, land and biodiversity
- improve the way we work as a regulator to protect people and the environment and support sustainable growth

Read more about [Environment Agency: EA2025 creating a better place](#)

## 2. The Achieving Excellence in Health and Safety Task & Finish Groups Activity Programme

The H&S Assurance programme currently has 20 Activities under review. These originate from 3 sources post the Shepperton reviews: Red actions reviewed and issued by the “Dragons Den”; local Red cards for niche activities and BAU risks identified through national and local assurance processes. All these have been triaged by the R1/ AEH&S Steering Group as High or very High risk. The 5 triage factors were to activity having suitable and sufficient documentation in place for: risk assessment;

The current programme can be summarised as:

20 projects managed by 4 consultant PM’s and Prog mgr. With EA leaders

- 2 T&F’s already completed
- Several have delivered phased re-start of paused activities already
- 2 planned to close through the deep dive review Oct’22
- 3 Continuing to closure by Mar’23
- AA Into next year 2023/24
- Defining new working groups e.g. Competency defining needs and delivery options
- Cross Cutting working group/projects from HSW system planned for approval
- Potential additional risk-based T&F Projects awaiting approval and prioritisation

### b. Learning to date (Process/People/Interdependency)

There have been a range of findings in relation to the H&S assurance projects, so far the main ones are:

- Process and documentation problems (too many, too complex, different methods, unclear, inconsistent, not aligned, no ownership)
- People & Competency (no competency, training bespoke not accredited best practise, no refresher frequency, unclear roles & responsibilities, complex authorisations)
- Lack of risk based control measures (low/medium/high)

- Lack of equipment standards
- Unclear interdependencies between activities and task
- Undefined interdependencies with the HSW system processes and standards

In addition, there is a range of inconsistent approach between areas and different teams within areas

c. Re-start assurance

A major pressure on the business in areas is the ongoing inability to deliver activities that are currently stopped or paused due to Red Actions and or Red Cards locally. To facilitate a risk based and assured process for restarting projects and/or local exceptions a consistent process of check, review and approval is required. An initial exception checklist approved in Aug'21 was replaced by two restart checklist:

- Programme restart checklist – for T&F restarts
- Area restart checklist – for areas to restart paused work on a specific activity in specified areas

Our approach to restarting tasks

The AEH&S programme board approved the release of the two checklists to assure that not only is restarting activities paused for safety are assured against a range of 20+ checks in 5 categories. The area restart checklist provides local flexibility for and area in incidents to restart paused tasks locally as an exception where there is a clear business need, and it is safe to do so. This enables us to assure both business and programme scenarios:

Scenario one: restart of specific activities across all Areas

A mechanism to check and assure that a paused task can begin again in all Areas when improvements have been implemented. This will be signed off by the project lead and Health, Safety and Wellbeing business partner before being approved by programme Deputy Directors and ratified by the Achieving Excellence Board.

Scenario two: restart of specific activities if required urgently during incidents

If paused tasks have not been restarted across all Areas, specific tasks and location can be agreed (as with scenario two). A record of assurance will need to be signed off by the Area Duty Manager/Area director and National Duty Manager.

These scenario one checklists will be withdrawn once the programmes T&F projects for paused activities is completed. Scenario 2 may be retained as an HSW assurance document.

### 3. Objectives To be finalised

To support the work of the Environment Agency's Achieving Excellence in Health & Safety Programme, we want to create a call off contract with small number of providers of HSW specialist services to provide additional capacity, resource and competent advice to augment existing frameworks and services for delivering health and safety improvements at pace across a specific number of activities (see Annex 3 ) , as described in the background section above.

Examples of services we might require external support with through this contract include:

- Risk assessments, audits and inspections. Recent examples where external resource has been secured include; reviewing management at woodworking and engineering workshops,
  - Developing safe systems of work with combination of new documentation third party best practise and existing EA HSW system documents
  - Engaging third party experts or industry sector leads on standards and SSOW for equivalent asset maintenance activities
- Identifying training and competency to meet regulation codes of practise and sector best practise
- Provision of training and workshops where need is short-term/limited-run, requires specialist HSW knowledge or accreditation (for example NEBOSH or IOSH). This would include design and delivery of courses (intellectual property right....), face-to-face and online delivery, delivering EA designed courses, including joint delivery with colleagues from EA's HSW team (e.g. the internal HSW course for new line managers, currently delivered face-to-face and online), providing course evaluation information. (  
Provision of Construction Design Management (CDM) training, to include course development, design and delivery to CDM duty holders (face to face and online).
- Provision of logistics to run the training courses as required
- Providing HSW advisors to provide advice, input and review of specialist Health and Safety topics as part of task and finish groups or bespoke pieces of work.
- Internal guidance creating, review and advice
- Benchmarking / peer review with comparable/safety mature organisations. We may wish to evaluate our approach to a particular issue (for example HSW KPIs) with reference to approaches taken in other safety-mature organisations, whether from our own or other sectors. Providers would be asked to use their client base, to gather and enable comparative research (anonymously or named as relevant).

#### 4. Timetable

Subject to annual decisions to progress based on Programme priorities, it is anticipated that this contract will be in place for three months, with the option to extend for a further 12 months (?)

Price reviews during the period of the framework?

Deliverable or milestone	Approximate date
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#### Annex 3 Table of Task & Finish Activities and Foreseen Contractor Resilience Required

	Specific Areas	Foreseen Contractual Scope Need				
		A. Peer review on safe system of work	B. Review of training provision and competency assessment	C. Training development to relevant accredited standard(s)	D. Training Delivery support	E. Specialist / Expert Audit
Mechanical Lifting While Afloat	1. Pontoons					
	2. Unifloats					
Temporary Works	3. Basic as per BS	x	x	x	x	x
	4. Intermediate and Complex					
Heavy Timber Fabrication Workshops	5. Wood Workshop Reviews	x	x	x	x	x
CDM Role Assurance	6. (All)	x	x	x	x	x
Specialized Attachments	7. List- Hydraulic tree shear / grapple saw				x	x

	Specific Areas	Foreseen Contractual Scope Need				
		A. Peer review on safe system of work	B. Review of training provision and competency assessment	C. Training development to relevant accredited standard(s)	D. Training Delivery support	E. Specialist / Expert Audit
	8. Piling hammer (vibratory impact)					X
	9. Log Grab				X	X
	10. Post driver				X	X
	11. Post auger / borer				X	X
	12. Compactor / whacker plate				X	X
	13. Flails				X	X
	14. Percussion hammers (hydraulic breaker / pecker)				X	X
Plant transport	15. (All)	X	X	X	X	X
Confined Space Entry	16. (All)					X
Dry Docks	17. (All)	Completed				
Cableways	18. (All)			X	X	X
Eel & Fish Pass	19. (All)		X	X	X	X
Weir cleaning	20. (All)		X	X	X	X
Hydrogen Peroxide	21. (All)		X	X	X	X
Future of Risk Management (FORM)	22. (All)					X
Temporary Defense Barriers	23. (All)					X

	Specific Areas	Foreseen Contractual Scope Need				
		A. Peer review on safe system of work	B. Review of training provision and competency assessment	C. Training development to relevant accredited standard(s)	D. Training Delivery support	E. Specialist / Expert Audit
MEICA Field Team	24. (All)					
H&T Electrical	25. (All)					X
Tree Works	26. (All)	X	X	X	X	X
Hand Tools	27. (All)					X
WLB Maintenance Paperwork	28. (All)	X	X	X	X	X
In Channel Blockages	29. (All)					



