

Anglian Regional Coastal Monitoring Programme

Provision of: Anglian Coastal Monitoring Programme (ACMP) – Topographic Services 2023-2027

Appendix 3 – Conditions of Contract

January 2023

Contract (Service) Title	Anglian Coastal Monitoring Programme (ACMP) – Topographic Services 2023-2027
Contract Number	C15713

The conditions of contract to be used for the Service to be procured are:

NEC4 Term Service Contract June 2017.

The documents listed below form part of this agreement:

Bidder Pack – Part One Core Requirements (C5239) dated 15/11/2022

Bidder Pack – Procurement Specific Requirements (C5239) dated 15/11/2022

Appendix 2

Specification

Appendix 3

Conditions of Contract, Contract Data Part 2, Execution of Contract

Appendix 5

Additional Terms and Conditions

Appendix 6

Pricing Schedule – Completed by the Consultant

Appendix 7

Survey National Specifications

Appendix 8

Shape Files and Documents Relating to the Topographic Profiles to be Surveyed.

Appendix 9

Safety, Health, Environment and Wellbeing (SHEW) Code of Practice.

NEC4 Professional Services Contract, June 2017

CONTRACT DATA

Part one – Data provided by the *Client*

1 GENERAL

- The conditions of contract are the core clauses and the clauses Options X2 and Z and the Client's Additional Terms and Conditions under Part Two of the NEC4 Professional Services Contract (June 2017).
- The *Client* is

Name: Environment Agency

Address: Environment Agency South West, Rivers House Twerton, Lower Bristol Road, Bath, BA2 9DD.

Address for electronic communications: The *Client Service Manager* is
[REDACTED]

Address:

Address for electronic communications:
- The *authority of the Client Service Manager* is all actions by the Client stated in this contract.
- The *Adjudicator* is to be appointed if required.
Name **To be appointed if required.**
- The *Services* are
Anglian Coastal Monitoring Programme (ACMP) – Topographic Services 2023-2027
- The Specification is in **Appendix 2 of the Bidder Pack.**

- The *language of this contract* is **English**.
- The *law of the contract* is the law of **England, subject to the jurisdiction of courts of England and Wales**.
- The *period for reply* is **two** weeks.
- The *period for retention of documents* is **six** years following Completion or earlier termination.
- The *Adjudicator nominating body* is **The Institution of Civil Engineers**.
- The *tribunal* is **arbitration**.
- The following matters will be included in the Risk Register:

To be agreed at Contract Start-up meeting

2 THE PARTIES' MAIN RESPONSIBILITIES

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

Access to To be agreed for each individual Task

Access date Available within 10 working days of receipt of request

3 TIME

- The *starting date* **7th February 2023**.
- The *Consultant* submits revised programmes at intervals no longer than **5 weeks**.
- The *completion date* for the whole of the *services* is **to be 31st March 2027**.
- The *Consultant* is to submit a first programme for acceptance within **2 weeks** of the Contract Date.

4 QUALITY

- The quality policy statement and quality plan are provided within **1 week** of the Contract Date, **if not already provided by the Consultant**.
- The *defects date* is **fifty-two** weeks after Completion of the whole of the *services*.

5 PAYMENT

- The *assessment interval* is **1 calendar month**.
- The *currency of this contract* is **pound sterling (£)**.
- The *interest rate* is **two** % per annum (not less than 2) above the **base lending** rate of the **Bank of England**

8 INDEMNITY, INSURANCE AND LIABILITY

- The amounts of insurance and the periods for which the *Consultant* maintains insurance are

Event	Minimum Cover	Period following Completion of the whole of the services or earlier termination
Professional Indemnity Insurance failure of the <i>Consultant</i> to use the skill and care normally used by professionals providing service similar to the <i>service</i> .	£2,000,000 (two million pounds) in respect of each claim, without limit to the number of claims	6 years
Public Liability Insurance Death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i> .	£5,000,000 (five million pounds) in respect of each claim, without limit to the number of claims	12 months
Clients Liability Insurance 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 this contract	£5,000,000 (five million pounds) in respect of each claim, without limit to the number of claims	12 months

- The *Client* provides the following insurance
None
- The *Consultant's* total liability to the *Client* for all matters arising under or in connection with this contract, other than the excluded matters, is limited to: **the consultant's insurance cover**

OPTION X2: Changes in the law

- The *law of the project* is the law of England, subject to the jurisdiction of the English Courts.

OPTION Z

- The *additional conditions of contract* are: **clauses Z1 – Z15**

- Z1:Insurance

Z1.1 The *Consultant* promptly notifies the *Client* when changes to insurances are made.

Z1.2 The *Consultant's* insurance policies must include an "Indemnity to Principals" clause, thus safeguarding the Authority (the principal) against any future claims from a third party for which the *Consultant* has responsibility.

- Z2:Sub-contracting

Z2.1 Sub-contracting of any part of the service will not be permitted without the express permission of the *Client*.

- Z3:Rights of access

Z3.1 The *Consultant* provides right of access for the *Client's* Auditor and others authorised by the *Client* to inspect all documentation in connection with this contract.

Z3.2 The *Client* may at any reasonable time examine or test any part of the *services* or materials and equipment intended to be used for the *services* at any place where they may be. The *Consultant* shall give every facility necessary for such examination or test and shall assist where necessary, and shall comply with any reasonable requirement of the *Client* relating thereto. If a test or inspection carried out by the *Client* causes unnecessary delay, a compensation event may be raised by the *Consultant*.

Z3.3 The *Client* may inspect the *Consultant's* premises to observe the *Consultant's* procedures at any time. If an inspection carried out by the *Client* causes unnecessary delay, a compensation event may be raised by the *Consultant*.

- Z4:Assignment

Z4.1 The *Consultant* is prohibited from transferring or sub-letting or assigning directly or indirectly to any person or persons whatever, any portion of the Contract without the written acceptance of the *Client*

Z4.2 The *Client* shall not assign the Contract directly or indirectly to any person or persons whatever, any portion of the Contract without the written acceptance of the *Consultant*, such acceptance is not to be unreasonably withheld or delayed

- Z5:Bribery, corruption and collusion

Z5.1 The *Client* shall be entitled immediately to terminate the *Consultant's* obligation to provide the *services* and would be considered a substantial failure of the *Consultant* to comply with his obligations if:

Z5.1.1 The *Consultant* shall have offered or given or agreed to give to any person any gift or consideration of any kind as inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to this Contract or any other contract with the *Client*

Z5.1.2 the like acts shall have been done by any person employed by the *Consultant* or acting on its behalf (whether with or without the knowledge of the *Consultant*)

Z5.1.3 in relation to any contract with the *Client* the *Consultant* or person employed by him or acting on its behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or have given any fee or reward the receipt of which is an offence under the Local Government Act 1972 Section 117

Z5.1.4 the *Consultant* when tendering fixed or adjusted the amount of the tender under or in accordance with any agreement or arrangement with any other person or before the hours specified for the return of tenders

Z5.1.4.1 communicated to a person other than the *Client* the amount or the approximate amount of its tender (except where the disclosure in confidence of the approximate amount of its tender was essential to obtain insurance premium quotations required for the preparation of its tender)

Z5.1.4.2 entered into an agreement with any other person whereby that other person would refrain from tendering or as to the amount of any tender to be submitted

Z5.1.4.3 offered or paid or gave or agreed to give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender any act or thing of the sort described above.

- Z6:Gratuities

Z6.1 The *Consultant* shall not whether by itself or by any person employed by it to perform the *Services* solicit any gratuity or tip or any other form of money-taking or reward, collection or charge for any of the *Services* except where allowed for elsewhere in this Contract

- Z7:Rights and duties

Z7.1 Nothing in this Contract shall prejudice or fetter the proper exercise of any function by the *Client* or its officers

- Z8:Confidentiality

Z8.1 The *Consultant* shall not (and shall ensure that its sub-contractor's employees and agents do not) make use for its or their own purposes divulge disclose dispose of or part with possession custody or control of any documents material or other information (in whatever form) prepared supplied or obtained for or pursuant to this Contract.

Z8.2 Neither the *Consultant's* nor any person connected with it shall speak to the press or other media about any matter arising from the performance of this Contract without the prior written permission of the *Client*.

- Z9:Data Protection

Z9.1 The *Consultant* shall comply with its obligations under any data protection legislation (including for the avoidance of doubt the General Data Protection Regulations 2018) from time to time in force in the UK (including where appropriate obtaining registration there under) and the Computer Misuse Act 1990 in so far as the performance of the *Service* and the other requirements of this Contract give rise to obligations under those Acts.

Z9.2 Neither party shall knowingly do anything, which places the other in breach of its obligations under the Data Protection Act 1984.

- Z10:Employment liability

Z10.1 The *Consultant* warrants to the *Client* that none of its employees nor the employees of any other party who have been involved in the provision of any of the *services* will become employees of the *Client* by reason of the provision of the *services* in the contract to the *Client* and the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 ('the Regulations'). The *Consultant* agrees to indemnify the *Client* in respect of any claims, costs, demands, liabilities that the *Client* incurs by reason of the application of the Regulations in relation to provision of the *services* by the *Consultant*, subject to the specified limit in Clause 8 of this Contract.

- Z11:Industrial Property and Ownership

Z11.1 The *Consultant* acknowledges that the *Client* is the owner of all documents and data prepared by the *Client*, *Clients Agent* or the *Consultant* in connection with the *services* and also all rights of industrial property of whatever instance in the data and material supplied by the *Client* or *Client's Agent* or produced by the *Consultant* under the contract.

Z11.2 The *Client* hereby licences the *Consultant* to use such data and material for the purposes of this *Service* only. Drawings and other copyright material supplied by the *Client*, or *Client's Agent* or produced by the *Consultant* shall not be further copied except as agreed by the *Client's Agent*.

Z11.3 On completion of the *services*, the *Client* shall become the owner of all project-specific documents, survey material, data, photographs, negatives etc. produced by the *Consultant* to undertake the service.

Z11.4 All pre-existing intellectual property rights belonging to the *Consultant* or any third party and used by the *Consultant* in connection with the performance of the *Services* ("Background IPR") shall belong to and remain vested in the *Consultant*. The *Consultant* hereby grants to the *Client* a royalty-free, non- transferable licence to use the Background IPR for the sole purpose of and to the extent necessary for exploiting the foreground intellectual property rights.

Z11.5 The *Consultant* shall have no liability in respect of any use of any intellectual property rights other than for the purposes for which they were prepared and shall have no liability in respect of any use by third parties

- Z12. Termination

Z.12.1The *Client* may terminate the *Consultant's* obligation to provide the *Services* at any stage specified in the Activity Schedule and the price for each completed work stage will be fixed as specified in the Activity Schedule.

- Z13. Payment of *Consultant* and sub-contractors

Z.13.1 The *Consultant* shall ensure that each invoice contains all appropriate references and a detailed breakdown of the work completed and that it is supported by any other documentation reasonably required by the *Client* to substantiate the invoice in a timely manner. Any undue delay on the part of the *Client* substantiating the invoice will not of itself be reason to consider the invoice invalid.

Z.13.2 Where the *Consultant* enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the *Consultant* to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice and that a provision is included in any such sub-contract in substantially the same terms as Z.13.1 above

- Z14. Weather

Weather related delays and any associated costs will be at the risk of the Supplier.

- Z15. Instructing the required Services

The Activity Schedule includes a number of individual tasks within each year of the *Services*. The *Client* shall instruct the *Consultant* at least one month in advance of each task's commencement date on the latest accepted *Programme* whether or not that task will be required. The *Client* reserves the right to instruct all, some or none of the tasks priced within the Activity Schedule.

Part Two – The Client’s Additional Terms and Conditions

The Services

- 1.1 The *Consultant* shall provide all staff, equipment, materials and any other requirements necessary for the performance of the Contract using reasonable skill, care and diligence, and to the reasonable satisfaction of the Contract Supervisor.
- 1.2 The *Consultant* shall only employ in the execution and superintendence of the Contract persons who are suitable and appropriately skilled and experienced. The Contract Supervisor shall be at liberty to object to and require the Consultant to remove any person employed in or about the Contract who is unsuitable, misconducts himself, is incompetent or negligent in the performance of his duties or persists in conduct which could endanger the health or safety of others. Such persons shall not be employed again on the Contract without the Permission of the Contract Supervisor.

Variations

- 2.1 The Contract Supervisor may vary the Contract by adding to, deleting or otherwise modifying the *Services* to be supplied, by written order to the *Consultant* provided such variations are reasonable and consistent with the nature, scope and value of the Contract.
- 2.2 The value of any such variation, other than any variation arising out of Condition 2.3, shall be determined by reference to the rates contained in the Pricing Schedule. Where the *Services* 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 *Consultant*.
- 2.3 Where a variation is the result of some default or breach of the Contract by the *Consultant* or some other cause for which he is solely responsible, any additional cost attributable to the variation shall be borne by the *Consultant*.
- 2.4 The Consultant may also propose a variation to the *Services* but no such variation shall take effect unless agreed and confirmed in writing by the Contract Supervisor.
- 2.5 No variation shall have the effect of invalidating the Contract, or placing the Contract at large, if that variation is reasonably consistent with the nature, scope and value of the Contract. The *Client* may vary the Contract to comply with a change in English Law. Such a change will be effected by the Contract Supervisor notifying the *Consultant* in writing.
- 2.6 The *Client* may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
 - 2.6.1 any Contracting Authority; or
 - 2.6.2 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 *Client*; or
 - 2.6.3 any private sector body which substantially performs the functions of the *Client*, provided that any such assignment, novation or other disposal shall not increase the burden of the *Consultant's* obligations under the Contract.
- 2.7 Any change in the legal status of the *Client* 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 *Client*.

Extensions of Time

- 3.1 Should the performance of the Contract be directly delayed by any cause beyond the reasonable control of the *Consultant*, and provided that the *Consultant* 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:
 - 3.1.1. in the case of any delay of which the *Client* is not the cause, may grant the *Consultant* 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.
 - 3.1.2. in the case of any delay of which the *Client* is the cause, shall grant the *Consultant* a reasonable extension of time to take account of the delay.
- 3.2. No extension of time shall be granted where in the opinion of the *Client* the *Consultant* has failed to use reasonable endeavours to avoid or reduce the cause and/or effects of the delay.
- 3.3. Any extension of time granted under this Condition shall not affect the *Client's* rights to terminate the Contract under Condition Z12.

Default

- 4.1 The *Consultant* shall be in default if he:
 - 4.1.1. fails to perform the Contract with due skill, care, diligence and timeliness;
 - 4.1.2. refuses or neglects to comply with any reasonable written instruction given by the Contract Supervisor;
 - 4.1.3. is in breach of the Contract.
- 4.2. Where in the opinion of the Contract Supervisor, the *Consultant* is in default, the Contract Supervisor may serve a Notice giving at least five working days in which to remedy the default.
- 4.3. If the *Consultant* fails to comply with such a Notice the Contract Supervisor may, without prejudice to any other rights or remedies under the Contract, take over for as such a period as is necessary the performance of the relevant part of the Contract and make other arrangements for its completion. Any extra costs arising from this action, will be paid by the *Consultant* or deducted from any monies owing to him.

Monitoring and Audit

- 5.1 The Contract Supervisor may inspect and examine the *Services* being carried out on the *Client's* premises, or elsewhere at any reasonable time. Where the *Services* are being performed on other than the *Client's* premises, reasonable notice to inspect shall

be given to the *Consultant*. The *Consultant* shall give all such facilities as the Contract Supervisor may reasonably require for such inspection and examination.

Environment, Sustainability and Diversity

- 6.1 The *Consultant* 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 *Client* on demand.
- 6.2. The *Client* is committed to ensuring that workers employed within its supply chains are treated fairly, humanely and equitably. The *Client* expects the *Consultant* 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 *Consultant* ensures that it and its sub-contractors and its supply chain:
 - 6.2.1. comply with the provisions of the Modern Slavery Act 2015;
 - 6.2.2. pay staff fair wages (and pays its staff in the UK not less than the Foundation Living Wage Rate); and
 - 6.2.3. 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.
- 6.3. The *Consultant* should support the *Client* to achieve its Public Sector Equality Duty by complying with the *Client's* policies (as amended from time to time) on Equality, Diversity and Inclusion (EDI). This includes ensuring that the *Consultant* (and their sub-contractors) in the delivery of its obligations under this Contract:
 - 6.3.1. eliminates discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - 6.3.2. .advances equality of opportunity between people who share a protected characteristic and those who do not; and
 - 6.3.3. fosters good relations between people who share a protected characteristic and those who do not.

Waiver

- 7.1 No delay, neglect or forbearance by the *Client* in enforcing any provision of the Contract shall be deemed to be a waiver, or in any other way prejudice the rights of the *Client* under the Contract.
- 7.2. No waiver by the *Client* shall be effective unless made in writing.
- 7.3. No waiver by the *Client* of a breach of the Contract shall constitute a waiver of any subsequent breach.

Dispute Resolution

- 8.1 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 *Client* and the *Consultant*.
- 8.2. 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).
- 8.3. 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.
- 8.4. 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.
- 8.5. 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.
- 8.6. 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.
- 8.7. Any of the time limits 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.

Freedom of Information Act

- 9.1 The *Client* 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').
- 9.2. The *Consultant* agrees that:
 - 9.2.1. All information submitted to the *Client* may need to be disclosed by the *Client* in response to a request under the Act or the Regulations; and
 - 9.2.2. The *Client* 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.
- 9.3. If the *Consultant* considers that any of the information included in its tender, or that it has submitted to the *Client* 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 *Consultant* acknowledges that if it has indicated that information is commercially sensitive, such information may still be required to be disclosed by the

Client under the Act or the Regulations. The receipt of any material marked 'confidential' or equivalent by the *Client* shall not be deemed to infer that the *Client* agrees any duty of confidentiality by virtue of that marking.

Exit Plan

GENERAL

- 10.1 The *Consultant* is required to ensure the orderly transition of the *Services* from the *Consultant* to the *Client* and/or a replacement *Consultant* in the event of termination (including partial termination) or the expiry of this Contract. This Exit Plan sets out the principles of the exit and service transfer arrangements that are intended to achieve such orderly transition and which shall form the basis of the Exit Plan. For the avoidance of doubt, the *Consultant* shall be responsible for the overall management of the exit and service transfer arrangements.
- 10.2 The provision of this Exit Plan shall apply both to the termination or expiry of the Contract as a whole (however arising) and also to each and every partial termination (if any), save as expressly stated otherwise in this Exit Plan.

CONTRACT EXIT PLAN

- 11.1 Each party will appoint an Exit Manager and provide written notification of such appointment to the other party within one (1) month of the Contract Start Date. The *Consultant's* Exit Manager will be responsible for ensuring that the *Consultant*, its Staff and any subcontractors will comply with this Exit Plan. The *Consultant* will ensure that its Exit Manager has the requisite authority to arrange and procure any resources for the *Consultant* as are reasonably necessary to enable the *Consultant* to comply with the requirements set out in this Exit Plan. The parties' Exit Managers will liaise with one another in the relation to all issues relevant to the termination of this Contract and all matters connected with this Exit Plan and each party's compliance with it.
- 11.2 The *Consultant* will, no more than one (1) month after the Contract Start Date, deliver to the *Client* a Contract Exit Plan which sets out the *Consultant's* proposed methodology for achieving an orderly transition of *Services* from the *Consultant* to the *Client* and/or its Replacement *Consultant* on the expiry or termination of this Contract and which complies with the requirements set out in this Exit Plan. Within 30 days after the submission of the Contract Exit Plan, the parties will use their respective reasonable endeavours to agree the contents of the Contract Exit Plan. If the parties are unable to agree the contents of the Contract Exit Plan then such dispute shall be resolved in accordance with clause 8 (Dispute Resolution).
- 11.3 **The Contract Exit Plan will contain, as a minimum:**
- 11.3.1 the management structure to be employed during both transfer and cessation of the *Services*; and
- 11.3.2 a detailed description of the transfer and cessation processes, including timetable, documentation, data transfer, systems migration, security and any other details of how the *Consultant* will ensure that the *Service* will be transferred effectively, efficiently and in an orderly manner that will enable the *Client* and the Replacement *Consultant* to continue with the *Service* from the Transfer Date in a manner and form that is mutually agreed.
- 11.4 The *Consultant* will review and (if appropriate) update the Contract Exit Plan in the first month of each Contract Year (commencing with the Second Contract Year) to reflect any changes to the *Services*. Following such update the *Consultant* will submit the revised Contract Exit Plan to the *Client* for review. Within thirty (30) days following the submission

of the revised Contract Exit Plan, the parties shall meet and use reasonable endeavours to agree the contents of the revised Contract Exit Plan, based on the principles set out in this Exit Plan and the changes that have occurred in the *Services* since the Contract Exit Plan was last agreed. If the parties are unable to agree the contents of the revised Contract Exit Plan within that thirty (30) day period, such dispute shall be resolved in accordance with procedure set out at clause 8 (Dispute Resolution).

- 11.5 Within thirty (30) days after the service of a notice of termination by either party and no less than six (6) months prior to the Expiry Date, the *Consultant* shall submit for the *Client's* approval the Contract Exit Plan in a final form that can be implemented immediately.
- 11.6 The parties will meet and use their respective reasonable endeavours to agree the contents of the final Contract Exit Plan. If the parties are unable to agree the contents of the Contract Exit Plan within thirty (30) days following its delivery to the *Client* then such dispute shall be resolved in accordance with procedure set out at clause 8 (Dispute Resolution). Until the agreement of the final Contract Exit Plan, the *Consultant* shall continue to provide the *Services* in accordance with the Contract.

CO-OPERATION AND ASSISTANCE

- 12.1 Subject to clause 12.6 below, during the termination assistance period the *Consultant* shall provide the *Client* and/or replacement contractor reasonable co-operation in connection with the transfer of responsibility for the *Services* and so as to assist the *Client* to resume the operation of *Services*.
- 12.2 For the purpose of this paragraph 3, the meaning of the term 'reasonable co-operation' shall include:
- liaising with the *Client* and/or a replacement contractor, and providing reasonable assistance and advice concerning the *Services* and the transfer of the responsibility for their performance to the *Client* or to such replacement contractor;
 - If required the *Consultant* will afford access for any replacement contractor at reasonable times and on reasonable advance written notice to the premises where any *Services* are performed or provided only to the extent relevant and necessary for the purposes of taking over the *Services*.
- 12.3 During the termination assistance period the *Consultant* shall provide to the *Client* or, if requested by the *Client*, any replacement contractor:
- a. in accordance with clause E of the Contract, all information the *Consultant* has in its possession or control or is able to produce relating to the *Services* that is reasonably necessary to enable the *Client* or a replacement contractor to take over the provision of the *Services*. Such information shall include details of all licences for software used in the provision of *Services* including the software licence agreements;
 - b. up-to-date copies of all Client Data;
 - c. any reasonable assistance, expertise and advice requested by the *Client* in connection with any proposed or envisaged transfer of *Services* or to facilitate the transfer of *Services* to the *Client* or a replacement contractor; and
 - d. all reasonable assistance in connection with its preparation of any request for proposal or other similar to some or all of the *Services*,
- 12.4 The *Consultant* shall be entitled to charge for the additional services provided under paragraph 12.3 (c) and (d) on a time and materials basis by prior written variation of the Contract Price agreed with the *Client*. However, the *Consultant* shall comply with

paragraph 12.3 (a) and (b) at no additional charge to the *Client*.

- 12.5 For avoidance of doubt the *Consultant* will, unless otherwise agreed in writing between the parties, continue to provide the *Service* under this Contract throughout the termination assistance period at no detriment to the service levels.
- 12.6 Without prejudice to the *Consultant's* obligations under paragraph 12.1, in consideration of the continued payment by the *Client* of the charges in accordance with the relevant provisions of the Contract, the *Consultant* shall continue to provide such *Services* as the *Client* shall request from time to time following termination of this Contract, for as long as it is reasonably requested to do so by the *Client* and for period not exceeding the termination assistance period (unless otherwise agreed by the parties).
- 12.7 The *Consultant* shall not be held liable or responsible for any damage, loss or defect arising as a direct result of any act or omission by the *Client* or any replacement contractor appointed by the *Client* in the provision of this *Service*.
- 12.8 The *Consultant* shall be under no obligation to retain those staff engaged to provide the *Services* beyond the termination assistance period save where the *Client* has requested such assistance pursuant to paragraph 12.5.

TERMINATION OBLIGATIONS

- 13.1 The *Consultant* shall comply with all of its obligations contained within the Contract Exit Plan.
- 13.2 The *Consultant* will use all reasonable endeavours to ensure that the transfer of Client Data will not disrupt or inconvenience the *Client*.
- 13.3 Upon the Contract End Date or the Termination Date (or earlier if this does not adversely affect the *Consultant's* performance of the *Services* and its compliance with the other provisions of this Exit Plan);
 - a. the *Consultant* will erase from any computers, storage devices and storage media (including removal from any hard disk) all Client Data not required to be retained by the *Consultant* for statutory compliance purposes, and confirm in writing that such destruction has taken place;
 - b. the *Consultant* will deliver to the *Client* all materials created by the *Consultant* under this Contract including the Intellectual Property Rights in which are owned by the *Client*;
 - c. after having carried out the procedure set out in paragraph 13.3(b) above, the *Consultant* will erase from any computers, storage devices and storage media (including removal from any hard disk) that are to be retained by the *Consultant* after termination or expiry, any software containing the Intellectual Property Rights owned by the *Client*;
 - d. each party will return to the other party all Confidential Information of the other party and will certify that it does not retain the other party's Confidential Information save to the extent (and for a limited period) that such information needs to be retained by the party in question for the purposes of providing or receiving any *Services*.

Indexation

- 14.1 Any amounts or sums in this Contract which are expressed to be “subject to Indexation” shall be adjusted in accordance with the provisions of this Clause 14 to reflect the effects of inflation.
- 14.2 Where Indexation applies, the relevant adjustment shall be: (a) applied on the 01/02/2024 and on the 1 February in each subsequent year (each such date an “adjustment date”); and (b) determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index for the *Services* published for the 12 months ended on the 1 February immediately preceding the relevant adjustment date.
- 14.3 Except as set out in this Clause 14, neither the Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the *Consultant* or subcontractors of the performance of their obligations.

Part Two – Data Provided by the Consultant

1 General

The *Consultant* is

Name	Premier Surveys Limited
Address for communications	9-11 Lowater Street, Carlton, Nottingham, NG4 1JJ.
Address for electronic communications	

The key persons are

Name (1)	
Job	
Responsibilities	

Name (2)	
Job	
Responsibilities	

Name (3)	
Job	
Responsibilities	

Name (4)	
Job	
Responsibilities	

The following matters will be included in the Risk Register

As detailed in the *Consultant's* tender submission of 19/12/2022.

2 The *Consultant's* main responsibilities

If the *Consultant* is to provide Scope

The Scope provided by the *Consultant* is in

As detailed in the *Consultant's* tender submission and Appendix 2 of the *Client's* Bidder Pack.

3 Time

If a programme is to be identified in the Contract Data

The programme identified in the Contract Data is

As detailed in Appendix 2 of the *Client's* Bidder Pack.

5 Payment

The *task schedule* is

As detailed in Appendix 2 of the *Client's* Bidder Pack.

The tendered total of the Prices is

As detailed in the *Consultant's* Pricing Schedule (Appendix 6), submitted on 19/12/2022. The fixed cost of the core surveys will be £639,000 excluding VAT. The fixed cost for any additional surveys will also be as detailed in the *Consultant's* Pricing Schedule. All prices will remain firm until 1 February 2024. Thereafter, any change in price will be in accordance with the Consumer Price Index and will be applied on 1 February of each subsequent year.

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1)	<div><div></div></div>
Address for communications	<div>9-11 Lowater Street, Carlton, Nottingham, NG4 1JJ.</div>
Address for electronic communications	<div><div></div></div>
Name (2)	<div></div>
Address for communications	<div></div>
Address for electronic communications	<div></div>

Data for the Short Schedule of Cost Components

The *people rates* are

Category of Person	Unit	rate
<div><div></div></div>	<div><div></div></div>	<div><div></div></div>
<div><div></div></div>	<div><div></div></div>	<div><div></div></div>

Contract Execution

This agreement is made on _____ between the Environment Agency (the *Client*)
and **Premier Surveys Limited** (the *Consultant*)

Consultant Execution

The *Consultant* offers to provide *the Service* in accordance with these *conditions of contract* for an amount to be determined in accordance with these *conditions of contract*.

Signed under hand by _____ For and on behalf of Premier Surveys Limited

Signature Position Date

Client Execution

The *Client* accepts the *Consultant's Offer* to provide *the Service*

Signed under hand by _____ For and on behalf of the Environment Agency

Signature Category Lead – Evidence, Defra Group Commercial Position Date