\*best format is through desktop app not browser - please save a copy before personalising\*



# Term Service Contract

## OPTION A: PRICED CONTRACT WITH ACTIVITY SCHEDULE

# **Contract Data Forms**

June 2017 (with amendments January 2023)

### **Contract Execution**

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

Terms in this agreement have the meanings given to them in the contract between the Environment Agency and Stonbury for schedule of works (the *works*).

The *Contractor* offers to Provide the Works in accordance with these conditions of contract for an amount to be determined in accordance with these conditions of contract.

The *Contractor* was appointed to Asset Operation, Maintenance, Response framework and executed the framework agreement.

Executed under hand .....

by

The Environment Agency (Client)

Stonbury (Contractor)

Signed on behalf of the Contractor	
Name	
Position	
Signature	
Date	
The Client accepts the Contractor's Offer t	to Provide the Works
Signed on behalf of the Client	
Name	
Position	
Signature	
Date	

# **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 Term Service Contract June 2017 (with amendments January 2023) Main Options А Option for resolving and avoiding disputes W2 Secondary Options X2 - Changes in law X11- Termination by the Client X17 – Low Service Damages X18 - Limitation of Liability X23 - Extending the Service Period X24 - The Accounting Periods Y(UK)1 Project Bank Account Y(UK)2 - The Housing Grants, Construction and Regeneration Act 1996 Y(UK)3 The Contracts (Rights of Third Parties) Act 1999 Z Additional Client Clauses The service is The operation of works regarding the Asset Recovery and Maintenance of assets in Cumbria and Lancashire catchment as defined in the Scope. The Client is **Environment Agency** Name Address for communications Horizon House **Deanery Road** Bristol BS1 5AH Address for electronic communication The Framework Manager is

Name	ТВС
Address for communications	ТВС
Address for electronic communication	
The Affected Property is	
The Anecleur Toperty is	
The Scope is in	
The shared services which	
may be carried out outside the Service Areas are	
The language of the contract is	English
The law of the contract is the law of	the law of England and Wales, subject to the
	jurisdiction of the courts of England and Wales
The period for reply is	2 weeks except that
The following matters will be included in the	Early Warning Register
2. Delays due to access to sites	ect – measures different to surveys outside the control of the contractor
<ol><li>Permitting – we assume EA w</li></ol>	me EA will manage this where required vill arrange all permits required
5. Flooding of the Works Area	

Early warning meetings are to be held at intervals no longer than 4 weeks

2 The Contractor's main responsibilities

3 Time			
	The starting date is		ТВС
	The service period is		6 months
	The <i>Contractor</i> submits revised plar than	ns at intervals no longer	4 weeks
	The period within which the <i>Contrac</i> Order programme for acceptance is		4 weeks
If no plan is identified in part two of the Contract Data	The period after the Contract Date w <i>Contractor</i> is to submit a first plan for		2 weeks
4 Quality management			
	The period after the Contract Date w <i>Contractor</i> is to submit a quality poli- quality plan is		2 weeks
5 Payment			
If the period in which payments are made is not three weeks and Y(UK)2 is not used 6 Compensation event	The currency of the contract is the The assessment interval is The interest rate is Base The period within which is payments is		

If Option A is used The value engineering percentage is 

inless another percentage

is stated here, in which case it is

%

If there are additional compensation events These are additional compensation events

## 8 Liabilities and insurance

8 Liabilities and insurance					
If there are additional <i>Client's</i> liabilities These are additional <i>Client's</i> liabilities					
	(1) Not used				
	(2) Not used				
	(3) Not used				
	(except Plant and Mat	of cover for insurance against loss of or damage to property erials and Equipment) and liability for bodily injury to or death of a			
		person (not an employee of the <i>Contractor</i> ) arising from or in connection with the Contractor Providing the Service for any one event is			
		of cover for insurance against death of or bodily injury to ntractor arising out of and in the course o <u>f their employment in</u>			
		ontract for any one event is amount required by law if that is greater			
If the <i>Client</i> is to provide Plant and Materials		t loss of or damage to Plant and Materials and Equipment is to t and Materials provided by the <i>Client</i> for an amount of			
		Nil			
	The Contractor provides thes	e additional insurances			
	(1) Insurance against	Contractors All Risk Insurance			
	Minimum amount of cover is	value of this contract			
	The deductibles are	The excess up to a maxim			
	(2) Insurance against	Professional Indemnity			
	Minimum amount of cover is				
	The deductibles are	The excess up to a maximum and the second seco			
	(3) Insurance against				
	Minimum amount of cover is				
	The deductibles are				

9 Resolving and avoiding disputes					
	The tribunal is	Litigation in the court	S		
If the tribunal is arbitration	The arbitration procedure i	s TBC			
	The place where arbitration s to be held is	ТВС			
	The person or organisation whagree a choice or if the <i>arbitra</i> arbitrator is				
	Simon Robinson				
	The Senior Representatives o Name (1)	f the Client are			
	Address for commu	unications			
	Address for electron	nic communications			
	Name (2)				
	Address for comm	unications			
	Address for electro	onic communications			
	The Adjudicator is				
	Name		To be confirmed		
	Address for comm	unications	To be confirmed		
	Address for electro	onic communications	To be confirmed		
	The Adjudicator nomina	ating body is	Institution of Civil Engineers		

#### X17: Low service damages

If Option X17 is used

Service Credits will be used to maintain service delivery through the contract, based on the Key Performance Indicators set out below (monitored and recorded on a quarterly basis).

The Service Credits approach is set out below:

- Contractors are required to score **at least 80%** per quarter. If they achieve a score below this, they are required to submit a Performance Improvement Plan to the Service Manager to set out how they will improve their performance to the required levels.
- If a Contractor **scores below 70%**, service credits would apply on a sliding scale basis as seen below (the below numbers have been used as an example and will be calculated based on a quarterly price from the returned pricing schedule):

KPI Score	Percentage retained	Amount retained per quarter (based on £4,134 weekly fee; £53,742/ quarter)	Equivalent amount retained per week
66-70	30		
61-65	40		
51-60	50		
45-50	75		
Below 45	100		

- If in the following quarter the Contractor then scores above 80, any retained credits from the previous quarter would be repaid (this relates to the previous quarter only and not any previous quarters).
- Alternatively, if in the following quarter the Contractor scores between 70 and 80, half of the retained credits from the previous quarter only would be repaid. The other half of the retained credits are permanently lost.
- OR if the Contractor does not reach a score of 80 in the following quarter, all previous retained credits are permanently lost.

Examples are shown in the following table:

	SUPPLIER KPI SCORE FOR QUARTER					
EXAMPLE: OUTCOMES BASED ON KPI's	Quarter 1	Q2	Q3	Q4	Q5	ACTION TAKEN
Contractor KPI score above 80	82					No action taken
A score of <b>less than 80</b> in any quarter requires the Contractor to provide an Improvement Plan		76				Contractor must provide an Improvement Plan
A score of <b>less than 70</b> in any quarter results in service credits applying: every percentage below 70 results in the same reduction in % payments of the quarterly			66			EA retains 30% of the management fee from the quarterly invoiced totals
invoice amount (to a capped maximum reduction of 100% of management fee)						Contractor must provide an Improvement Plan
If following a Service Credit quarter, the Contractor KPI score <b>exceeds 80 in the</b> <b>following quarter</b> , any retained service credits from the previous quarter would be repaid				81		Service Credits from previous quarter (30% of management fee) are paid (along with regular quarterly payment).
OR If following a Service Credit quarter, in the next quarter the Contractor KPI score <b>achieves a score of 70 but fails to achieve a</b> <b>score of 80,</b> half of the service credits retained in the previous quarter are paid; half are permanently lost.				72		Half of the previously retained 30% is repaid (15%) along with regular quarterly payment), (15% of previous quarters management fee) is permanently retained.
The Contractor is required to provide an Improvement Plan						Contractor must provide an Improvement Plan
OR If following a Service Credit quarter, in the next quarter the Contractor KPI score <b>again</b> <b>fails to achieve a score of 70,</b> the same % is deducted from the quarterly invoice amount (to a capped maximum reduction				50		EA retains 75% of management fee from the quarterly invoiced totals AND the previously retained 30% of management fee is permanently retained.
of 100%)						Contractor must provide an Improvement Plan

If following two Service Credit quarters, the Contractor KPI score <b>exceeds 80 in the</b> <b>following quarter</b> , any retained service credits from the <b>previous quarter only</b> would be repaid	81	Service Credits from previous quarter (100% of management fee) are paid, along with regular quarterly payment. Note that any previously retained Service Credits are not repaid.
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## X18: Limitation of liability

If Option X18 is used	The Contractor's liability to the Client for indirect or consequential loss is limited to			
	For any one event, the <i>Contractor's</i> liability to the <i>Client</i> for loss of or damage to the <i>Client's</i> property is limited to			
	The Contractor's liability for Defects due to its design of an item of Equipment is limited to			
	The Contractor's total liability to the Client for all matters arising under or in connection with the contract, other than excluded matters, is limited to			
	The <i>end of liability date</i> is 6 years after the end of the Service Period			
X 23				
If Option X23 is used	The maximum service period is 8 months after the starting date			
	The <i>periods</i> for extension are			
Order	Period for extension (months) notice date			
First	2 months 13 <sup>th</sup> January 2025			
Second				
Third				
Fourth				

If there are criteria for extension

The criteria for extension are

(1)	Additional maintenance outside the original timeframe.		
(2)			
(3)			

## X24: The accounting periods

If Option X24 is
used and Option C
is not used

The accounting periods are

1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2025

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

If Y(UK)2 is used and the date on which a payment is due is not fourteen weeks after the end of the <i>accounting</i> <i>period</i> or Service Period	The period is	3	weeks	
If 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 pay	/ment is 21		days after the date on which payment becomes due

#### Z: Additional conditions of contract

If Option Z is used

The additional conditions of contract are

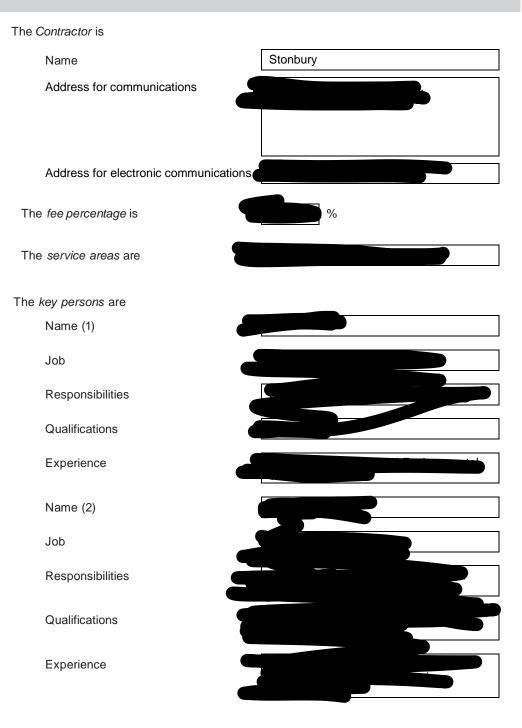
### Z Clauses

Clause No.	Clause
Z1	Z1 Environment Agency as regulatory authority
	Z1.1 The Environment Agency's role as a regulatory authority and as Client under the contract is
	separate and distinct. Actions taken in one capacity are deemed not to be taken in the other.
	Z1.2 Where statutory consents must be obtained from the Environment Agency in its capacity as a
	regulatory authority, the Contractor is responsible for obtaining these and paying fees. The Client's
	acceptance of a tender and the Client's instruction or variation of the works does not constitute
	statutory approval or consent.
	Z1.3 An action by the Environment Agency as regulatory authority is the action of Other.
Z2	Z2 Framework Agreement
	Z2.1 The Contractor shall ensure at all times during this contract it complies with all the obligations
	and conditions of the Asset Operations Operation, Maintenance, Response Framework Agreement
	made with the Client.
Z3	Z3 Data Protection
	Z3.1 The requirements of the Data Protection Schedule shall be incorporated into this contract
Z4	Z4 Liabilities and insurance
<b>-</b> T	Z4.1 Civil data protection claims and regulatory fines for breaches of Data Protection Legislation are
	excluded from any limit of liability stated.
Z5	Z5 Risks and insurance
25	Z5.1 Replace clause 84.1 with the following
	Insurance certificates are to be submitted to the <i>Service Manager</i> on an annual basis.
Z6	Z6 Resolving Disputes
20	Z6.1 Delete clause W2.1
Z31	
231	Z31 Price Adjustment for Inflation TSC
	The Client recognises the ongoing pricing uncertainty with regards to inflation. The Client will
	mitigate this uncertainty through this clause.
	Z31.1 Defined terms:
	a) The index is Office for National Statistics (ONS) CPI (UK, 2015=100).
	b) The Base Date Index (B) is the latest available index published by ONS prior to the Contract Date.
	c) The Latest Index (L) is the latest available index published by ONS before the date of
	assessment of an amount due.
	d) The Price Adjustment Factor (PAF) at each date of assessment of an amount due is
	0.9((L-B)/B).
	Z31.2 Application rules.
	The provisions of this clause [Z31] shall apply provided that:
	a) The Price for Service Provided to Date is less than or equal to the total of the Prices
	and
	b) Inflation remains positive ie L is greater than B.
	Z31.3 Price Adjustment Factor.
	If an index is changed after it has been used in calculating a PAF, the calculation is not changed. The
	PAF calculated at the last assessment date before the Completion Date for the whole of the works is used for calculating an amount for price adjustment after that date.
	Z31.4 Price adjustment Options A and B. Each amount due includes an amount for price adjustment which is the sum of
	The change in the Price for Service Provided to Date since the last assessment of the amount due multiplied by
	the PAF and
	The amount for price adjustment included in the previous amount due

### PART TWO – DATA PROVIDED BY THE CONTRACTOR

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

#### 1 General



The following matters will be included in the Early Warning Register

	<ol> <li>Surveys information not correct – measures</li> <li>Delays due to access to sites outside the co</li> <li>Landowner Liaison – we assume EA will man</li> <li>Permitting – we assume EA will arrange all p</li> <li>Flooding of the Works Area</li> </ol>	ntrol of the contractor nage this where required
2 The Contractor's ma	in responsibilities	
f the <i>Contractor</i> is to provide S	Scope for its plan The Scope provided by the <i>Contractor</i> for its plan is in	
3 Time		
f a plan is to be identified in th	e Contract Data The plan identified in the Contract Data is	
5 Payment		
If Option A, C or E is used	The price list is	
If Option A or C is used	The tendered total of the Prices is	£251,317.98
9 Resolving and avoid		
	The Senior Representatives of the Contractor are	
	Name(1) Address for communications	
	Address for electronic communications	
	Name(2)	
	Address for communications	

X10: Information modelling

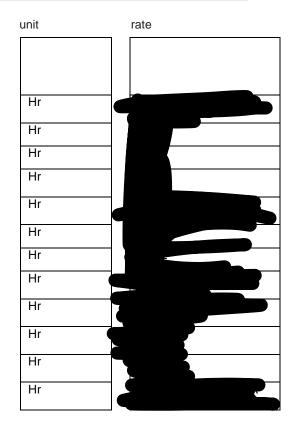
If Option X10 is used

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

#### Data for the Short Schedule of Cost Components (used only with Option A The people rates are

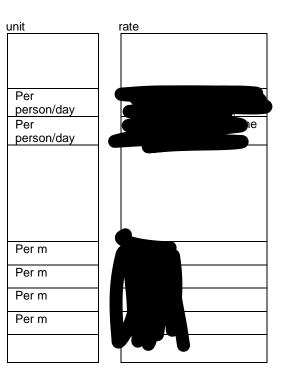
category of person

As defined in the CLA Stonbury Schedule of Work 2024-25 and the Framework Deed of Agreement
Tree Surgeon
Herbicide Operatives
Aerial Treework Operative
Winch/Chipper Operatives
Streetworks Operatives
Machine Operator/Driver
General Labourer
Tree Surveyor
Qualified Arboculturist
Chainsaw Operatives (bankside work)
Chainsaw Operatives (in channel work)
Slinger/Signaller



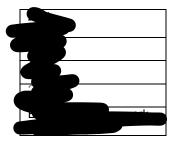
The work activities rates are

Description
Wrack Removal
(rates to include all costs except
waste removal off site. Please
state any assumptions made)
By hand
By machine
Maintenance Checks:
OB_WM1
(Please state any assumptions
made. Definitions of OB_WM1
and OB_WM1_TB2 can be found
in FCRM Asset Maintenance
Standards).
Channel Length <500m
Channel length 501-1000m
Channel Length 1001to 10000m
Channel Length 10000m+
Maintenance Checks: OB_WM1_TB2



Channel Length <500m
Channel length 501-1000m
Channel Length 1001to 10000m
Channel Length 10000m+
Annual Tree PSRA for
Environment Agency sites

Per m
Per m
Per m
Per m
No



The published list of Equipment is the edition current at the Contract Date of the list published by

state plus or minus)

The percentage for adjustment for Equipment in the published list is The rates for other Equipment are

he rates for other Equipment are
quipment
Chippers (up to 6")
Tippers
Stump Grinders
Tree snips
Mobile Elevated Work Platforms
Excavators (3 tonne)
Excavators (8 tonne)
Excavators (15 tonne)
Tracked Dumper (12 tonne)
Wheeled Dumper (9 tonne)
Tractors (including winch)
Mulching unit
Winches
Flat Bed
Crane (70 tonne)
HIAB

unit rate Day Each/day Each/Hour



The rates for Defined Cost of manufacture and fabrication outside the Service Areas by the *Contractor* are

Description unit rate