



Framework:

Supplier:

Company Number:

Geographical Area:

Project Name:

Project Number:

Contract Type:

Option:

Contract Number:

Stage:

Marine & Coastal Framework

South East

The Esplanade Cliff Erosion Risk Management, Telscombe –

Contractor ESE

ENV0003546C

Professional Service Contract

Option E

33251

All_Work_Types

Revision	Status		Originator		Reviewer		Date

PROFESSIONAL SERVICE CONTRACT under the Marine and Coastal Framework

Project Name	The Esplanade Cliff Erosion Risk Management, Telscombe – Contractor ESE
---------------------	---

Project Number ENV0003546C

This contract is made on 31 August 2021
between the *Client* and the *Consultant*

This Contract is made pursuant to the Framework Agreement (the "Agreement") dated 16th day of May 2019 between the *Client* and the *Consultant* in relation to the NGS Mapping and Modelling Support Framework. The entire Agreement and the following schedules are incorporated into this Contract by reference

- Schedules 1 to 22 inclusive
- The following documents are incorporated into this contract by reference
33251 - Telscombe Cliffs ESE Scope v0.5

Part One - Data provided by the *Client*
Statements given in
all Contracts

1 General

The *conditions of contract* are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Professional Service Contract June 2017.

Main Option	Option E	Option for resolving and avoiding disputes	W2
-------------	----------	--	----

Secondary Options

X2: Changes in the law

X9: Transfer of rights

X10: Information modelling

X11: Termination by the *Client*

X18: Limitation of Liability

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

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

Z: Additional conditions of contract

The service is *To provide early supplier engagement (ESE) consultancy advice as Consultant at the project's early stages, to inform both the Strategic Outline Business Case (SOC) and the Outline Business Case (OBC). The ESE Consultant will work with members of*

The *Client* is *Environment Agency*

Address for communications *Horizon House
Deanery Road
Bristol
BS1 5AH*

Address for electronic communications malgorzata.miler@environment-agency.gov.uk

The *Service Manager* is Gosia Miler

Address for communications

*Environment Agency
Guildbourne House
Chatsworth Road
Worthing
West Sussex
BN11 1LD*

Address for electronic communications malgorzata.miler@environment-agency.gov.uk

The Scope is in
33251 - Telscombe Cliffs ESE Scope v0.5

The *language of the contract* is English

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

The period for reply is 2 weeks

The *period for retention* is 6 years following Completion or earlier termination

The following matters will be included in the Early Warning Register

Early warning meetings are to be held at intervals no longer than 2 weeks

2 The *Consultant's* main responsibilities

The *key dates* and *conditions* to be met are
conditions to be met
key date
'none set'
'none set'
'none set'

The *Consultant* prepares forecasts of the total *expenses* at intervals no longer than 4 weeks

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 31 August 2021

The *Client* provides access to the following persons, places and things
access
ASite
SharePoint
Fast Draft
access date
06 September 2021
06 September 2021
06 September 2021

The *Consultant* submits revised programmes at intervals no longer than 4 weeks

The *completion date* for the whole of the *service* is 31 March 2023

The period after the Contract Date within which the *Consultant* is to submit a first programme for acceptance is 4 weeks

4 Quality management

The period after the Contract Date within which the *Consultant* is to submit a quality policy statement and quality plan is 4 weeks

The period between Completion of the whole of the *service* and the *defects date* is 26 weeks

5 Payment

The *currency of the contract* is the £ sterling

The *assessment interval* is Monthly

The *expenses* stated by the *Client* are as stated in Schedule 9

The *interest rate* is 2.00% per annum (not less than 2) above the
Base rate of the Bank of England

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

6 Compensation events

These are additional compensation events

1. 'not used'

2. 'not used'
3. 'not used'
4. 'not used'
5. 'not used'

8 Liabilities and insurance

These are additional *Client's* liabilities

1. 'not used'
2. 'not used'
3. 'not used'

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

EVENT	MINIMUM AMOUNT OF	PERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE <i>SERVICE</i> OR TERMINATION
The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i>	£ 5 Million in respect of each claim, without limit to the number of claims	12 Years
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) from or in connection with the <i>Consultant</i> Providing the Service	£ 5 Million in respect of each claim, without limit to the number of claims	12 Months
Death of or bodily injury to the employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	For the period required by law
The <i>Consultant's</i> total liability to the <i>Client</i> for all matters arising under or in connection with the contract, other than the excluded matters limited to	£ 5 Million	

Resolving and avoiding disputes

The <i>tribunal</i> is	Litigation in the courts
The <i>Adjudicator</i> is	'to be confirmed'
Address for communications	'to be confirmed'
Address for electronic communications	'to be confirmed'
The <i>Adjudicator nominating body</i> is	The Institution of Civil Engineers

Z Clauses

Z1 Disputes

Delete existing clause W2.1

Z2 Prevention

The text of clause 18 Prevention is deleted.
Delete the text of clause 60.1(12) and replaced by:
The *service* is are 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

Add the following in second bullet of 11.2 (18) add:

(including compensation events with the sub contractor, i.e. payment for work that should not have been undertaken).

Add the following additional bullets after 'and the cost of ' :

- Mistakes or delays caused by the *Consultant's* failure to follow standards in Scopes/quality plans.
- Reorganisation of the *Consultant's* project team.
- Additional costs or delays incurred due to *Consultant's* failure to comply with published and known guidance or document formats.
- Exceeding the Scope without prior instruction that leads to abortive cost
- Re-working of documents due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design errors.
- Production or preparation of self-promotional material.
- Excessive charges for project management time on a commission for secondments or full time appointments (greater than 5% of commission value)
- Any hours exceeding 8 per day unless with prior written agreement of the *Service Manager*
- Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with the *Service Manager*
- Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the *Service Manager*
- Costs associated with the attendance at additional meetings after programmed completion, if delay is due to *Consultant* performance.
- Costs associated with rectifications that are due to *Consultant* error or omission.
- Costs associated with the identification of opportunities to improve our processes and procedures for project delivery through the *Consultant's* involvement
- Was incurred due to a breach of safety requirements, or due additional work to comply with safety requirements
- Was incurred as a result of the *Client* issuing a Yellow or Red Card to prepare a Performance Improvement Plan
- Was incurred as a resulting of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

Z6 The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 9.

Z24 Requirement for Invoice

Add the following sentence to 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* approval of a fee note.

Delete existing clause 51.2 and replace with:

51.2 Each certified payment is made within one week after the paying Party receives an invoice from the other Party and

If a certified payment is late, 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

Secondary Options

OPTION X2: Changes in the law

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

OPTION X18: Limitation of Liability

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

£1,000,000.00

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects date* is limited to

£5,000,000.00

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

Y(UK2): The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 days after the date on which payment becomes due

Y(UK3): The Contracts (Rights of Third Parties Act) 1999

term beneficiary

term beneficiary

The provisions of
Y(UK)1

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	Van Oord
Address for communications	Bankside House Henfield Road Henfield West Sussex BN5 9XQ

Email address	gary.page@mackley.co.uk
---------------	--

The subcontract <i>fee percentage</i> is	Option E	12.50%
--	----------	--------

The *key persons* are

Name (1)	Gary Page
Job	ESE Lead
Responsibilities	Mackley staff allocation, technical advice, budget, programmes
Qualifications	See Attached CV
Experience	See Attached CV

The *key persons* are

Name (2)	Tony Camilleri
Job	ESE Consultant
Responsibilities	Technical advice, budget, programmes & ESE reports
Qualifications	See Attached CV
Experience	See Attached CV

The *key persons* are

Name (3)	Andy Martin
Job	ESE Advisor
Responsibilities	Carbon & sustainable engineering
Qualifications	See Attached CV
Experience	See Attached CV

The *key persons* are

Name (4)	
Job	
Responsibilities	
Qualifications	See Attached CV
Experience	See Attached CV

The *key persons* are

Name (5)	
Job	
Responsibilities	
Qualifications	
Experience	

The *key persons* are

Name (6)	
Job	
Responsibilities	
Qualifications	
Experience	

The following matters will be included in the Early Warning Register
Change to scope
Change to the number of additional options to price
Number of site visits

5 Payment

The *activity schedule* is

The tendered total of the Prices is
£60,700.30

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1) Paul Hesk
Address for communications
Bankside House
Henfield Road
Small Dole
West Sussex
BN5 9XQ

Address for electronic communications
paul.hesk@vanoord.com

Name (2) Gary Page
Address for communications
Bankside House
Henfield Road
Small Dole
West Sussex
BN5 9XQ

Address for electronic communications
gary.page@mackley.co.uk

Contract Execution

Client execution

Signed Underhand by **[PRINT NAME]**

for and on behalf of the Environment Agency

Signature

Date

Role

Consultant execution

Signed Underhand by **[PRINT NAME]**

for and on behalf of

Signature

Date

Role