

This document is executed as a deed and is delivered and takes effect at the date written at the beginning of it



Framework: Client Support Framework
Supplier: Mott Macdonald Limited
Company Number: 01243967

Geographical Area: National
Project Name: Kendal FRMS - Phase 3
Project Number: ENV0000489C

Contract Type: Professional Service Contract
Option: ██████████

Contract Number: 29204

Revision	Status	Originator	Reviewer	Date

**PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework
CONTRACT DATA**

Project Name Kendal FRMS - Phase 3

Project Number ENV0000489C

This contract is made on 03 August 2020
between the *Client* and the *Consultant*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 02nd day of July 2019 between the *Client* and the *Consultant* in relation to the Client Support Framework. The entire Agreement and the following schedules are incorporated into this contract by reference
- Schedules 1 through to 14 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference
Scope

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	<input type="checkbox"/>	Option for resolving and avoiding disputes	<input type="checkbox"/>
	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

Secondary Options

- X2: Changes in the law
- X9: Transfer of rights
- X10: Information modelling
- X11: Termination by the *Client*
- 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 Provision of Construction Engineer services for construction of flood storage reservoirs

The *Client* is Environment Agency

Address for communications
Horizon House
Deanery Road
Bristol
BS1 5AH

Address for electronic communications enquires@environment-agency.gov.uk

The *Service Manager* is

Address for communications
Environment Agency - PCM
Richard Fairclough House
Knutsford Road
Warrington
WA4 1HT

Address for electronic communications

The *Scope* is in

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 12 years following Completion or earlier termination

The following matters will be included in the Early Warning Register

Not used
 Not used
 Not used
 Not used

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
condition to be met *key date*
 'none set' 'none set'
 'none set' 'none set'
 'none set' 'none set'

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 17 August 2020

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

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 6.

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

The *exchange rates* are those published in on

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 SERVICE OR TERMINATION
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The *Consultant's* failure to use the skill and care normally used by professionals providing services similar to the service [REDACTED] in respect of each claim, without limit to the number of claims

Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the *Consultant*) arising from or in connection with the *Consultant* Providing the Service Which ever is the greater of [REDACTED] or the amount required by law in respect of each claim, without limit to the number of claims

Death of or bodily injury to employees of the *Consultant* arising out of and in the course of their employment in connection with the contract Which ever is the greater of [REDACTED] 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 *Consultant's* total liability to the *Client* for all matters arising under or in connection with the contract, other than the excluded matters is limited to [REDACTED]

Resolving and avoiding disputes

The *tribunal* is litigation in the courts

The *Adjudicator* is 'to be confirmed'

Address for communications 'to be confirmed'

Address for electronic communications ['to be confirmed'](#)

The *Adjudicator nominating body* 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 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
- Was incurred as a result of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

Z5 Secondments

When appointing *Consultants* on a secondment basis only:

Add clause 19

19.1 The *Client* will from starting date to Completion Date indemnify the *Consultant* against any and all liabilities, proceedings, costs, losses, claims and demands whatsoever arising directly or indirectly out of the activities of the *Consultant* in providing the services save where such claims, in the reasonable opinion of the *Client*, arise from or are contributed to by:

19.1.1 Misrepresentation or negligence by or on behalf of the *Consultant*;

or

19.1.2 The *Consultant* has acted contrary to the *Service Manager's* reasonable instructions or wholly outside the scope of the *Consultant's* duties as defined by the *Service Manager*.

Z6 The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 6.

Z7 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* under this contract or a previous contract will neither be an allowable cost under this contract or any subsequent contract, nor will it be a Compensation event under this contract or any subsequent contract under this project or programme.

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.

Z10 Change in Control

The *Consultant* shall notify the *Client* as soon as reasonably practicable, in writing, of any agreement, proposal or negotiations which will or may result in a *Consultant* Change in Control and shall give further notice to the *Client* when any Change in Control has occurred. The *Client* may terminate this contract with immediate effect by notice in writing and without compensation to the *Consultant* within six (6) months of being notified that a Change of Control has occurred, or, where no notification has been made, the date that the *Client* becomes aware of the Change of Control, but shall not be permitted to terminate where the *Client's* prior written acceptance was granted prior to the Change in Control. A Change of Control is defined as per the Deed of Agreement, Z14.4.

Z11 Rate Increase Provision

Contracts with a duration of less than two years, which are extended over this duration by the *Service Manager* due to *Client* Scope increases, may apply a rate review as follows. The *Consultant* will charge the *Client* the contract staff rates for a minimum of two full years, and at the next annual rate review where a new staff rate list is accepted (as stated in Schedule 6), the new staff rate will apply to the contract as per Schedule 6. No Compensation Event is permitted for this different contract staff rate.

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.

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 X10: Information modelling

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

2

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	<i>beneficiary</i>
	Not used

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 and company number Mott Macdonald Limited

Address for communications Mott Macdonald House
8-10 Sydenham Road
Croydon
Surrey
CR0 2EE

Address for electronic communications [Redacted]

The fee percentage is [Redacted] [Redacted]

The key persons are

Name (1) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

The key persons are

Name (2) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

The key persons are

Name (3)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (4)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (5)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (6)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (7)
Job
Responsibilities
Qualifications

Experience

The following matters will be included in the Early Warning Register
n/a

3 Time

The programme identified in the Contract Data is
n/a

Resolving and avoiding disputes

The *Senior Representatives of the Consultant* are

Name (1) [REDACTED]
Address for communications
Mott MacDonald
22 Station Road
Cambridge
CB1 2JD

Address for electronic communications
[REDACTED]

Name (2) [REDACTED]
Address for communications
Mott MacDonald
Sovereign House
Vastern Road
Reading
RG1 8BT

Address for electronic communications
[REDACTED]

X10: Information Modelling

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

Contract Execution

Client execution

Signed by

for and on behalf of the Environment Agency



Signature

Role

Consultant execution

Signed By



for and on behalf of

Mott Macdonald Limited



Signature

19-Aug-20

Role

