



**Environment
Agency**

Conditions of Contract Services

Document Version: October 2019

Incident Management Drones



1. DEFINITIONS

1.1. In the Contract, unless the context otherwise requires the following words and expressions shall have the following meanings assigned to them.

1.1.1. Agency

The Environment Agency, its successors and assigns.

1.1.2. Agency Property

All property issued or made available for use by the Agency to the Contractor in connection with the Contract.

1.1.3. The Appendix

The Appendix to these Conditions.

1.1.4. The Contract

These Conditions including the Appendix, any Special Conditions, Specification, Pricing Schedule, Contractor's tender, acceptance letter and any relevant documents agreeing modifications exchanged before the Contract is awarded, and any subsequent amendments or variations agreed in writing.

1.1.5. The Contractor

The person, firm company or body who undertakes to supply the Services to the Agency as defined in the Contract.

1.1.6. Contract Period

The time period stated in the Appendix or otherwise provided in the Contract, for the performance of the Services.

1.1.7. Contractor Personnel

means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor engaged in the performance of its obligations under this Contract

1.1.8. Contract Price

The price exclusive of VAT set out in the Contract for which the Contractor has agreed to supply the services.

1.1.9. Contract Supervisor

Any duly authorised representative of the Agency notified in writing to the Contractor for all purposes connected with the Contract. Any Notice or other written instruction given by or made to the Contract Supervisor, shall be taken as given by or made to the Agency.

1.1.10. Contracting Authority

means any contracting authorities (other than the Environment Agency) as defined in regulation 2 of the Public Contract Regulations 2015 (SI 2015/102) (as amended).

1.1.11. Data Protection Legislation

means: (i) the General Data Protection Regulation (Regulation (EU) 2016/679) or GDPR, the Law Enforcement Directive (Directive (EU) 2016/680) ("LED") and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 1998 ("DPA 1998") and/or the Data Protection Act 2018 ("DPA 2018") to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy

1.1.12.Data Protection Schedule

The Schedule attached to this Contract describing how the Parties will comply with the Data Protection Legislation.

1.1.13. Defra Group

the Department for Environment, Food and Rural Affairs, and to its associated bodies including any agencies and non-departmental public bodies and others (the Defra Group). A full list of the Defra Group can be found at:

<https://www.gov.uk/government/organisations#department-for-environment-food-rural-affairs>

1.1.13.Intellectual Property Rights

All Intellectual Property Rights including without limitation, patents, patent applications, design rights, registered designs, utility models, trade and service marks and applications for same, copyright know-how, rights in semi-conductor chip topography, and in each case whether protectable at law or not, and if protectable, whether an application has been made for such protection or not, and all similar industrial, commercial, monopoly or other intellectual property rights whether present or future, vested or contingent wherever protected.

1.1.14.Law

means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply

1.1.15.Notice

Any written instruction or notice given to the Contractor by the Contract Supervisor, delivered by:

- i. fax, or hand delivery to the Contractor's registered office or other address notified for the purposes of the Contract and deemed to have been served at the date and time of delivery;

First class post to the Contractor's registered office. Such Notices are deemed to have been served 48 hours after posting.

1.1.16.Results

All things produced in performing the Services including maps, plans, photographs, drawings, tapes, statistical data, experimental results, field data, analysis of results,

published and unpublished results and reports, inventions, computer programmes and user documentation.

1.1.17.The Resulting Rights

All Intellectual Property Rights in the Results that are originated, conceived, written or made by the Contractor, whether alone or with others in the performance of the Services or otherwise resulting from the Contract.

1.1.18.Permission

Express permission given in writing before the act being permitted.

1.1.19.Services

All Services detailed in the Specification including any additions or substitutions as may be requested by the Contract Supervisor.

1.1.20.Regulations

Means the Public Contract Regulations 2015 (SI 2015/102) as amended.

1.2. Except as set out above and in the Data Protection Schedule, the Contract shall be interpreted in accordance with the Interpretation Act 1988.

1.3. All headings in these Conditions are for ease of reference only, and shall not affect the construction of the Contract.

1.4. Any reference in these Conditions to a statutory provision will include all subsequent modifications.

1.5. All undefined words and expressions are to be given their normal English meaning within the context of this Contract. Any dispute as to the interpretation of such undefined words and expressions shall be settled by reference to the definition in the Shorter Oxford English Dictionary.

2. PRECEDENCE

To the extent that the following documents form the Contract, in the case of conflict of content, they shall have the following order of precedence:

- Conditions of Contract including Appendix, Data Protection Schedule and any Special Conditions;
- Specification;
- Pricing Schedule;
- Railscape T/A RUAS Proposal
- Drawings, maps or other diagrams.

3. CONTRACT SUPERVISOR

The Contractor shall strictly comply with any instruction given by the Contract Supervisor concerning or about the Contract provided such instructions are

reasonable and consistent with the nature, scope and value of the Contract. All such instructions shall be in writing. The Contractor is not obliged to comply with any verbal instruction from the Contract Supervisor that is not confirmed in writing within 7 working days.

4. THE SERVICES

4.1. The Contractor 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.

4.2. The Contractor 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 Contractor 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.

4.3 If the Agency so requires, the Contractor shall provide the Services to organisations in the Defra Group on the same terms as the Contract, save that clauses 4.3 and 4.4 shall be omitted.

4.4 For the avoidance of doubt, any agreement entered into between the Contractor and an organisation in the Defra Group under clause 4.3 above shall expire no later than the expiry of the Contract Period.

5. ASSIGNMENT

5.1. The Contractor shall not assign, transfer or sub-contract the Contract, or any part of it, without the Permission of the Contract Supervisor.

5.2. Any assignment, transfer or sub-contract entered into, shall not relieve the Contractor of any of his obligations or duties under the Contract.

5.3. Nothing in this Contract confers or purports to confer on any third party any benefit or any right to enforce any term of the Contract.

6. CONTRACT PERIOD

The Contractor shall perform the Services within the time stated in the Appendix, subject to any changes arising from Condition 10 (Variations,) and/or Condition 11 (Extensions of time.).

7. PROPERTY

7.1. All property issued by the Agency to the Contractor in connection with the Contract shall remain the property of the Agency, and shall be used in the execution of the Contract, and for no other purpose whatsoever without the prior approval of the Contract Supervisor.

7.2. The Contractor shall keep all Agency Property in safe custody and good condition, set aside and clearly marked as the property of the Agency.

7.3. On expiry or earlier termination of the Contract the Contractor shall, if so required, either surrender such property to the Agency or otherwise dispose of it as instructed by the Contract Supervisor.

8. MATERIALS

8.1. The Contractor shall be responsible for establishing his own sources of supply for goods and materials and will be responsible for ensuring the reasonable and proper conduct by his suppliers and staff whilst on the Agency's premises.

8.2. The Contractor shall not place, or cause to be placed, any orders with suppliers or otherwise incur liabilities in the name of the Agency or any representative of the Agency.

9. SECURITY

9.1. The Contractor shall be responsible for the security of all goods and equipment belonging to the Agency and used by the Contractor in the provision of the Services, belonging to the Contractor, or Contractors staff, or sub-contractors whilst on Agency premises.

9.2. This Condition shall not prejudice the Agency's rights under Condition 15.

10. VARIATIONS

10.1. The Contract Supervisor may vary the Contract by adding to, deleting or otherwise modifying the Services to be supplied, by written order to the Contractor provided such variations are reasonable and consistent with the nature, scope and value of the Contract.

10.2. The value of any such variation, other than any variation arising out of Condition 10.3, 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 Contractor.

10.3. Where a variation is the result of some default or breach of the Contract by the Contractor or some other cause for which he is solely responsible, any additional cost attributable to the variation shall be borne by the Contractor.

10.4. The Contractor 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.

10.5. 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 Agency may vary the Contract to comply with a change in English Law. Such a change will be effected by the Contract Supervisor notifying the Contractor in writing.

10.6. The Agency may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

10.6.1. any Contracting Authority; or

10.6.2. 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 Agency; or

10.6.3. any private sector body which substantially performs the functions of the Agency, provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

10.7. Any change in the legal status of the Agency 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 Agency.

11. EXTENSIONS OF TIME

11.1. Should the performance of the Contract be directly delayed by any cause beyond the reasonable control of the Contractor, and provided that the Contractor 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:

11.1.1. in the case of any delay of which the Agency is not the cause, may grant the Contractor 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.

11.1.2. in the case of any delay of which the Agency is the cause, shall grant the Contractor a reasonable extension of time to take account of the delay.

11.2. No extension of time shall be granted where in the opinion of the Agency the Contractor has failed to use reasonable endeavours to avoid or reduce the cause and/or effects of the delay.

11.3. Any extension of time granted under this Condition shall not affect the Agency's rights to terminate or determine the Contract under Conditions 13 and 14.

12. DEFAULT

12.1. The Contractor shall be in default if he:

12.1.1. fails to perform the Contract with due skill, care, diligence and timeliness;

12.1.2. refuses or neglects to comply with any reasonable written instruction given by the Contract Supervisor;

12.1.3. is in breach of the Contract.

12.2. Where in the opinion of the Contract Supervisor, the Contractor is in default, the Contract Supervisor may serve a Notice giving at least five working days in which to remedy the default.

12.3. If the Contractor 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 Contractor or deducted from any monies owing to him.

13. TERMINATION

13.1. The Agency may immediately, without prejudice to any other rights and remedies under the Contract, terminate all or any part of the Contract by Notice in writing to the Contractor, Receiver, Liquidator or to any other person in whom the Contract may become vested, if the Contractor:

13.1.1. fails in the opinion of the Contract Supervisor to comply with (or take reasonable steps to comply with) a Notice under Condition 12.2.

13.1.2. becomes bankrupt or insolvent, or has a receiving order made against him, or makes an arrangement with his creditors or (being a corporation) commences to be wound up, not being a voluntary winding up for the purpose of

reconstruction or amalgamation, or has a receiver, administrator, or administrative receiver appointed by a Court.

'Termination under the Regulations'

13.2. The Agency may terminate the Contract on written Notice to the Contractor if:

13.2.1. the contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;

13.2.2. the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract; or

13.2.3. The Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

14. DETERMINATION

14.1. Without prejudice to any other rights or remedies under the Contract, the Agency reserves the right to determine the Contract at any time by giving not less than one month's Notice, (or such other time period as may be appropriate).

14.2. The Agency shall pay the Contractor such amounts as may be necessary to cover his reasonable costs and outstanding and unavoidable commitments necessarily and solely incurred in properly performing the Contract prior to determination.

14.3. The Agency will not pay for any costs or commitments that the Contractor is able to mitigate and shall only pay those costs that the Agency has validated to its satisfaction. The Agency's total liability under this Condition shall not in any circumstances exceed the Contract Price that would have been payable for the Services if the Contract had not been determined.

15. INDEMNITY

15.1. Without prejudice to the Agency's remedies for breach of Contract, the Contractor shall fully indemnify the Agency and its staff against any legally enforceable and reasonably mitigated liability, loss, costs, expenses, claims or proceedings in respect of:

15.1.1. death or injury to any person;

15.1.2. loss or damage to any property excluding indirect and consequential loss;

15.1.3. infringement of third party Intellectual Property Rights which might arise as a direct consequence of the actions or negligence of the Contractor, his staff or agents in the execution of the Contract.

15.2. This Condition shall not apply where the damage, injury or death is a direct result of the actions, or negligence of the Agency or its staff.

16. LIMIT OF CONTRACTOR'S LIABILITY

16.1. The limit of the Contractor's liability for each and every claim by the Agency, other than for death or personal injury, whether by way of indemnity or by reason of breach of contract, or statutory duty, or by reason of any tort shall be:

16.1.1. the sum stated in the Appendix

16.1.2. if no sum is stated, the Contract Price or five million pounds whichever is the greater.

17. INSURANCE

17.1. The Contractor shall insure and maintain insurance against liabilities under Condition 15 (Indemnity) in the manner and to the values listed in the Appendix to these Conditions. If no sum is stated, the value insured shall be £5M (five million pounds.)

17.2. If specifically required by the Agency, nominated insurances shall be in the joint names of the Contractor and the Agency.

17.3. The Contractor shall, upon request, produce to the Contract Supervisor documentary evidence that the insurances required are fully paid up and valid for the duration of the Contract.

18. PREVENTION OF FRAUD AND CORRUPTION

18.1. The Contractor shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or for showing or refraining from showing favour or disfavour to any person in relation to the Contract.

18.2. The Contractor shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Contractor's staff and the Contractor (including its shareholders, members and directors) in connection with the Contract and shall notify the Agency immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3. If the Contractor or the Contractor's staff engages in conduct prohibited by this clause 18 or commits fraud in relation to the Contract or any other contract with the Crown (including the Agency) the Agency may:

18.3.1. terminate the Contract and recover from the Contractor the amount of any loss suffered by the Agency resulting from the termination, including the cost reasonably incurred by the Agency of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Agency throughout the remainder of the Contract; or

18.3.2. recover in full from the Contractor any other loss sustained by the Agency in consequence of any breach of this clause.

18.4. The Contractor shall not, directly or indirectly through intermediaries commit any offence under the Bribery Act 2010 (as amended), in any of its dealings with the Agency.

19. MONITORING AND AUDIT

19.1. The Contract Supervisor may inspect and examine the Services being carried out on the Agency's premises, or elsewhere at any reasonable time. Where the Services are being performed on other than the Agency's premises, reasonable notice to inspect shall be given to the Contractor. The Contractor shall give all such facilities as the Contract Supervisor may reasonably require for such inspection and examination.

20. CONTRACT PRICE

20.1. The Contract Price will be paid by the Agency to the Contractor as amended by any Variations ordered under Condition 10 (Variations).

20.2. In addition to the Contract Price, the Agency will pay to the Contractor such Value Added Tax (if any) as may properly be chargeable at rates ruling at the time of invoice.

20.3. Subject to Schedule 2 and Condition 10 (Variations), the Price shall apply for the Initial Contract Period and until the end date of any extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

20.4 After the Initial Contract Period (2 years) the Contractor can propose a Consumer Price Index (CPI) increase to the rates described in Schedule 2. The proposed increase for the next period must be submitted in writing by the Contractor to the Agency, 30 days in advance of the new period and must be accepted by the Agency at their discretion, and in advance of such rates taking effect.

21. INVOICING AND PAYMENT

21.1. Invoices shall only be submitted for work already satisfactorily completed, and accompanied by such information as the Contract Supervisor may reasonably require to verify the Contractor's entitlement to payment. Such invoices will be paid in 30 days from receipt by the Agency.

21.2. If any sum is payable under the Contract by the Contractor to the Agency, whether by deduction from the Contract or otherwise, it will be deducted from the next available invoice.

21.3. If the Contractor enters into a sub-contract with a supplier for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in the sub-contract which requires payment to be made of all sums due from it to the sub-contractor within 30 days from the receipt of a valid invoice.

22. INTELLECTUAL PROPERTY RIGHTS

22.1. All Prior Rights used in connection with the Services shall remain the property of the party introducing them. Details of each party's Prior Rights are set out in the Prior Right Schedule to this contract.

22.2. All Results shall be the property of the Agency.

22.3. The Resulting Rights in any Results, and any interim results shall, from the time they arise, be the property of the Agency and the Agency shall be free, should it so wish, to apply at its own expense for patent or other protection in respect of the Results or any interim results. The Agency's intention to apply for such patent or other protection shall be notified to the Contractor. Such applications for patents or other registered intellectual property rights shall be filed in the name of the Agency.

Unless otherwise agreed in writing between the Contractor and the Agency, the Contractor hereby:

22.3.1. assigns to the Agency all Resulting Rights

22.3.2. grants the Agency a non-exclusive, non-transferable (save for the purposes of sub-licensing, reorganisation or transfer to a successor body, for the purposes of all the successor body's normal business use), irrevocable, royalty free perpetual licence to the Agency in respect of all the Contractor's Prior Rights necessary in order for the Agency to use or exploit the Resulting Rights.

22.4. The Contractor undertakes to the Agency not to use, exploit or deal with any of the Agency's Prior Rights, other than in the performance of the Contract unless the Contractor has first obtained a written licence from the Agency, in specific terms to do so.

22.5. The Agency undertakes to the Contractor not to use or exploit the Contractor's Prior Rights, save as provided in Condition 22.3.2.

22.6. The Contractor warrants to the Agency that the performance of the Services, the Contractor's Prior Rights and the Results shall not in any way infringe any intellectual property rights of any third party.

22.7. If the Contractor is prevented from carrying out his obligations under the Contract due to any infringement or alleged infringement of any Intellectual Property Rights, the Agency may without prejudice to any other rights and remedies under the Contract, exercise the powers and remedies available to it under Conditions 13 and 14, Termination and Determination respectively.

22.8. The Contractor shall not be liable if such infringement arises from the use of any design, technique or method of working provided by or specified by the Agency.

22.9. The Contractor waives in favour of the Agency its rights to object to derogatory treatment of the Results of the Work and the Contractor also agrees that he will not assert or seek to enforce against the Agency and/or any other person, firm or company any of its moral rights as defined in the Copyright Designs and Patents Act 1988 (as amended) without the prior agreement of the Agency.

22.10. The Contractor shall not be liable for any consequential losses, damage or injuries arising from third party misuse of the Results, of which the Contractor is not aware.

23. WARRANTY

The Contractor warrants that the Services supplied by him will be discharged with reasonable skill, care and diligence.

24. STATUTORY REQUIREMENTS

The Contractor shall fully comply with all relevant statutory requirements in the performance of the Contract, including, but not limited to the giving of all necessary notices and the paying of all fees.

25. ENVIRONMENT, SUSTAINABILITY AND DIVERSITY

25.1. The Contractor 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 Agency on demand.

25.2. The Agency is committed to ensuring that workers employed within its supply chains are treated fairly, humanely and equitably. The Agency expects the Contractor 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 Contractor ensures that it and its sub-contractors and its supply chain:

25.2.1. comply with the provisions of the Modern Slavery Act 2015;

25.2.2. pay staff fair wages (and pays its staff in the UK not less than the Foundation Living Wage Rate); and

25.2.3. 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.

25.3. The Contractor should support the Agency to achieve its Public Sector Equality Duty by complying with the Agency's policies (as amended from time to time) on Equality, Diversity and Inclusion (EDI). This includes ensuring that the Contractor (and their sub-contractors) in the delivery of its obligations under this Contract:

25.3.1. eliminates discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

25.3.2. advances equality of opportunity between people who share a protected characteristic and those who do not; and

25.3.3. fosters good relations between people who share a protected characteristic and those who do not.

25. PUBLICITY

The Contractor shall not advertise or publicly announce that he is supplying Services or undertaking work for the Agency without the Permission of the Contract Supervisor.

26. LAW

This Contract shall be governed and construed in accordance with the Law, and subject to the jurisdiction of the courts of England.

27. WAIVER

27.1. No delay, neglect or forbearance by the Agency in enforcing any provision of the Contract shall be deemed to be a waiver, or in any other way prejudice the rights of the Agency under the Contract.

27.2. No waiver by the Agency shall be effective unless made in writing.

27.3. No waiver by the Agency of a breach of the Contract shall constitute a waiver of any subsequent breach.

28. ENFORCEABILITY AND SURVIVORSHIP

28.1. If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid or legally unenforceable, that part will be severed from the remainder of the Contract which will continue to be valid and enforceable to the fullest extent permitted by law.

28.2. The following clauses shall survive termination of the Contract, howsoever caused: 13, 14, 15, 22, 23, 24, 27, 29, 30, 31, 32 and 33.

29. DISPUTE RESOLUTION

29.1. 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 Agency and the Contractor.

29.2. 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).

29.3. 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.

29.4. 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.

29.5. 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.

29.6. 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.

29.7. Any of the time limits in Conditions 30 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.

30. GENERAL

30.1. Neither party to the Contract will be liable to the other for any delay in performing or failing to perform its obligations (other than a payment obligation) under the Contract because of any cause outside its reasonable control. Such delay or failure will not constitute a breach of the Contract and the time for performance of the affected obligation will be extended by a reasonable period.

30.2. The Contract contains the whole agreement between the parties and supersedes all previous communications, representations and arrangements, written or oral. It is accepted that the Contract has not been entered into on the basis of any representations that are not expressly contained in the Contract.

31. FREEDOM OF INFORMATION ACT

31.1. The Agency 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').

31.2. The Contractor agrees that:

31.2.1. All information submitted to the Agency may need to be disclosed by the Agency in response to a request under the Act or the Regulations; and

31.2.2. The Agency 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.

31.3. If the Contractor considers that any of the information included in its tender, or that it has submitted to the Agency 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 Contractor acknowledges that if it has indicated that information is commercially sensitive, such information may still be required to be disclosed by the Agency under the Act or the Regulations. The receipt of any material marked 'confidential' or equivalent by the Agency shall not be deemed to infer that the Agency agrees any duty of confidentiality by virtue of that marking.

32. DATA PROTECTION

32.1. In the event that the Contract requires data to be processed within the meaning of the Data Protection Legislation the Data Protection Schedule shall be completed by the Parties and provisions and definitions therein shall apply and bind the Parties as part of this Contract.

33. SPECIAL CONDITIONS

These Special Conditions are to be read in conjunction with the General Conditions and govern the provision of services by a Contractor to the Agency.

1. SERVICE LEVELS

- 1.1 During the Contract Period, the Contractor shall provide the Services to meet or exceed the Service Levels described in the Requirements.
- 1.2 If the Contractor fails, or believes that it will fail one or more Service Levels the Contractor shall notify the Agency and immediately take all remedial action that is necessary to:
 - 1.2.1 rectify the Service Level failure; or
 - 1.2.2 prevent the Service Level failure from taking place;and prevent such failure from recurring in the future.
- 1.3 For the avoidance of doubt the Contractor shall not be deemed to have failed a Service Level where such failure is solely due to the Agency failing to fulfil the Agency's Obligations in respect of the Services.

2. SERVICE CREDITS

- 2.1 Where Service Credits are specified in the Contract as being applicable to the Service Level failure, the Contractor shall automatically credit the Agency with Service Credits. Service Credits shall be shown as a deduction from the amount due from the Agency to the Contractor in the next invoice then due to be issued under this Agreement. If no invoice is due to be issued then the Contractor shall issue a credit note against the previous invoice and the amount for the Service Credits shall be repayable by the Contractor as a debt within 10 Working Days of issue.
- 2.2 Where Service Credits are provided such Service Credits shall be without prejudice to any other rights remedies available to the Agency.

3. PERFORMANCE MONITORING

- 3.1 The Agency may monitor the performance of the Services by the Contractor.
- 3.2 The Contractor shall co-operate, and shall procure that any Sub-contractors co-operate, with the Agency in carrying out the monitoring referred to in clause 3.1 at no additional charge to the Agency.

4. NEW RELEASES

- 4.1 The Agency shall be entitled to Test all new releases whether new version, releases, maintenance releases or otherwise, prior to and in respect of implementation of the same.
- 4.2 No such release shall be implemented in a live environment until such Tests have been successfully concluded.

5. REPORTS AND DOCUMENTATION

- 5.1 Further to the obligation to provide the Documentation, the Contractor shall provide the Agency monthly reports in respect of the performance of the Service. Such reports to include:
 - 5.1.1 Performance against each individual Service Level;
 - 5.1.2 Number of Issues identified (whether notified by the Agency or identified by the Contractor) together with the Issue classification where specified in the Contract Order;
 - 5.1.3 Number of Issues resolved;
 - 5.1.4 Number of Issues not resolved at month end;
 - 5.1.5 Any further information identified in the Contract Order
- 5.2 Furthermore the Contractor shall create and maintain a log of all Issues raised together with the technical details of how such Issues were resolved. Such log shall be provided to the Agency upon request and in any event upon termination.

6. BUSINESS CONTINUITY AND DISASTER RECOVERY PLANS

- 6.1 The Contractor, as part of the Service, shall ensure it creates, maintains and complies with such business continuity and disaster recovery plans as required by the Contract Order, or otherwise as the Agency may require from time to time.

7. SPECIAL WARRANTIES

- 7.1 The Contractor warrants and represents for the duration of the Term that:
- 7.1.1 the Services shall be performed in accordance with the Service Levels;
 - 7.1.2 in performing its obligations under this Agreement, all Software used by or on behalf of the Contractor will:
 - (a) be currently supported versions of that Software; and
 - (b) perform in all material respects in accordance with its specification

8. SPECIAL TERMINATION RIGHTS

- 8.1 **Notwithstanding any other rights of termination set out in this Contract, the Agency may terminate this Agreement by giving written notice of termination to the Contractor if:**
- 8.1.1 The Contractor is materially failing the Service Levels. For the purpose of this provision material shall mean that the failure is materially affecting the Agency's ability to use the service being supported and maintained by the Contractor; or
 - 8.1.2 The Contractor fails 2 or more Service Levels in 3 consecutive months.

9. EXIT MANAGEMENT

- 9.1 In the event of termination for whatsoever reason, the Contractor shall do all things reasonably requested by the Agency to ensure a smooth transfer of the Services either to the Agency or a Replacement Contractor. Such actions shall include as a minimum:
- 9.1.1 Providing all such relevant information on the Service as may be requested within a reasonable period;
 - 9.1.2 Providing such knowledge transfer and in such manner as the Agency may reasonably request.

Appendix to Conditions Services

Ref: [REDACTED]

Title: Incident Management Drones

Condition

1 Contract Supervisor

3

Contact Supervisor – [REDACTED]

Address: [REDACTED]

2 Contractor

[REDACTED]

Contractor contact – [REDACTED]

Address: [REDACTED]
[REDACTED]

3 Completion

6

Contract Start Date «01.04.2021»

Initial Term Contract End Date «31.03.2024»

Maximum Contract End Date (Including extensions) «31.03.2026»

The option to extend the Contract beyond the Initial Term Contract End Date for an additional two twelve month periods, is described within the Contract.

The Agency will determine if an extension is to be utilised by assessing the performance of the Supplier in the previous Contract Period, the ongoing value for money offered by the Contract, the Environment Agency business requirements and availability of budget from within the Agency.

The Agency will notify the Supplier in writing of their intention to extend the Contract within these parameters, 40 days prior to the end of the previous Contract Period.

The Supplier must respond to this notification in writing to confirm acceptance of the Contract extension within 7 days of receiving the notice.

4 Delivery

11

Address:-

Insert delivery address if different to above

5 Insurance 17

Professional Indemnity Min. Cover £1 million

Third Party Minimum Cover £1 million

Public Liability Min. Cover £1 million

6 Limit on Liability 16

Limit on Contractors Liability £5 million

SCHEDULE 1 - SPECIFICATION

Requirements

The Contractor is required to:

1. Be able to respond 24 hours a day, 7 days a week, 365 days per year including Bank Holidays.
2. Attend any site in mainland England (including locations where EA regulatory responsibility falls just across borders with Wales and Scotland). Operators may be required to visit sites outside of mainland England and will be given reasonable additional time in order to achieve this. The operator/s must arrive to fulfil each of the following level of call outs:
 - a. Level 1 call out: arrive on site with the appropriate paperwork and be ready to deploy their UAV/s with 6 hours of notification by the Environment Agency (this may be extended depending on time of day). To provide still images, videos and live streaming, plus any additional extras required. The Environment Agency requires 2 operators for this level of call out.
 - b. Level 2 call out: arrive on site with the appropriate paperwork and be ready to deploy their UAV/s with 24 hours of notification by the Environment Agency (this may be extended depending on time of day). To provide still images, videos and live streaming, plus any additional extras required. The Environment Agency requires 2 operators for this level of call out.
 - c. Level 3a call out: arrive on site with the appropriate paperwork and be ready to deploy their UAV/s with 3 days notification by the Environment Agency (this may be extended depending on time of day). To provide still images, videos and live streaming, plus any additional extras required. The Environment Agency requires 1 operator for this level of call out.
 - d. Level 3b call out: arrive on site with the appropriate paperwork and be ready to deploy their UAV/s with 3 days notification by the Environment Agency (this may be extended depending on time of day). To provide

still images and videos **(but no live streaming)** plus any additional extras required. The Environment Agency requires 1 operator for this level of call out.

(Note, callout fees are to cover the callout only. Upon arrival to site, the first 'Day Rate' begins. Subsequent day rates for all level call outs will be charged from the time of arrival on site)

3. Ensure that an operator is available for the duration of the call out (at any Level) or until they are stood down by the Environment Agency. The supplier must ensure that there are no gaps in their service and will allocate operators to a call out as appropriate and in compliance with the current laws and legislations around working and resting hours.
4. Provide the service to more than one simultaneous location. These locations may be spread geographically in England (including locations where EA regulatory responsibility falls just across borders with Wales and Scotland). The supplier must be able to provide 3 teams to 3 separate locations simultaneously, with the first and second teams available to be on site within 6 hours as stipulated above (Level 1 call out) and the further third team available on site within 24 hours' notice (Level 2 call out).
5. Provide secure recorded footage/images and a live streaming capability from a UAV that can be viewed on site and remotely.
 - a. As the incident imagery is Environment Agency owned data, the data must be encrypted during transmission, either by encrypting the original dataset or communication via encrypted channel live streaming, which must be over HTTPS and TLS1.2.
 - b. Individual still images (geo-referenced .JPEGs) must be transmitted (via e.g. 3G/4G or sat phone) from the field in near-real time to the Contractor's server, where they can be easily accessed by Environment Agency staff 24 hours a day 7 days a week. Geo-referenced still imagery is to be uploaded into the Environment Agency's Incident Imagery Dashboard (ArcGIS Online) by midnight on the same day of callout.
 - c. Live streaming is to be held on the Contractor's server and accessible by the Environment Agency via web browser ((IE 11 minimum) (it is

essential that no plugins, apps or downloads are required to view the live data and this should be demonstrated in the tender)).

- d. Live streaming is to be continuously recorded. A playback functionality is required of the live footage, to enable replay without losing live feed. Recorded video is to be uploaded to the supplier's server on the day of capture and be accessible on the day of capture to Environment Agency Staff 24/7. The recorded video should be available to download if required, in sections and its entirety, as .MP4 files.
6. Provide images / footage without any watermarks / logos.
7. The Environment Agency will hold all Intellectual Property Rights on any imagery/ data produced as a result of this Contract. The data/imagery will belong to the Environment Agency and be subject to our terms and conditions including Open Data.
8. The Contractor must demonstrate compliance with CAA regulations for operating small UAV and must:
 - a. Hold a valid CAA issued PfCO (permission for commercial operations) and then the successor equivalent CAA issued EU UAS Regulation Package operational authorisation, which is due to become applicable within the UK on Thursday 31st December 2020. Based on current CAA guidance (CAP1789 3rd edition, June 2020), the expectation is post 31st December 2020, the required operational authorisation is to be in the 'Specific' category. The Contractor will be required to maintain valid CAA operational authorisations for the duration of the contract.
 - b. Have CAA approved operating procedures, including any particular operating safety cases.
 - c. Hold valid Insurance as required by the CAA.
 - d. Ensure that your procedures remain in line with current CAA regulations throughout the duration of the contract.
9. Ensure that processing of footage complies with A62 of Data Protection 2018.
10. The Contractor must provide a monthly breakdown of costs, time operated and assurance information including whether the operator met the required call out time

11. The Contractor must provide a Contract Manager/ single point of contact for all communications with the Environment Agency.

Optional Requirements to be provided by the Contractor to be utilised by the EA on a site by site basis, if required

-
- Ability to have cameras on poles
 - Ability to provide additional processing, for example, Point Cloud data, Mosaicked orthophoto, 3D surface model, Volumetric estimations
 - Multispectral imagery including near infra-red

Future Innovation

-
- Ability to provide alternative sensors on drones (e.g. thermal, LIDAR)
 - Ability to show where the drone is flying and taking the video, e.g. left to right over x spot
 - Ability for Georeferencing of video to enable their use in ArcGIS

The critical performance requirements are outlined in the requirements section of this document. The supplier must be able to provide these requirements, or they may be subject to service credits outlined below.

Service Credits

If the supplier is unable to provide the response outlined in the requirements, then the Environment Agency reserves the right to use the service credits outlined below;

Credit level 1 – failure to provide level 1 and level 2 requirements, could result in the standing charge for that month being credited back to the Agency.

Credit level 2 – failure to provide level 3 requirements, could result in 50% of the standing charge for that month being credited back to the Agency.

SCHEDULE 2 - PRICING

Schedule

All prices are quoted in pounds sterling, exclusive of VAT.
All prices are to remain fixed for the first two years of the contract.
After which a Consumer Price Index (CPI) increase can be applied on a yearly basis.

I/ We Railscape Ltd Trading as RUAS, offer to supply under this contract, the services as described in the specification and throughout the tender document, in accordance with the Environment Agency Terms and Conditions of Contract, for the following sums;

Activity	Specifics	Total
(please list the activities required to meet this commission and insert new lines as required)	(please outline what is included in this cost)	(£)
Standing charge per month		£
Level 1 call out: Arrive to site with all necessary equipment within 6 hours.(as defined in the requirements document).		
Level 2 call out: Arrive to site with all necessary equipment within 24 hours (as defined in the requirements document).		
Level 3a: Planned Work (with 3 days notice as defined in the requirements document)		
Level 3b: Planned Work (with 3 days notice as defined in the requirements document)		
Day charge when mobilised on a call out to site for level one and level two		
Cancellation charge for Level 1 response		
Cancellation charge for Level 2 response		

Activity	Specifics	Total
<i>(please list the activities required to meet this commission and insert new lines as required)</i>	<i>(please outline what is included in this cost)</i>	(£)
Optional extras:		
Cameras on poles		
*Additional Processing including Mosaicked orthophoto, 3D surface model, Volumetric estimations		

Clarifications on the Pricing Schedule submitted by Railscape T/A RUAS

1. [REDACTED]

[REDACTED] prices contained in the Pricing Schedule above are fixed for the first two years of the Contract. After the first 2 years the Contractor can propose a Consumer Price Index (CPI) increase to the rates described in Schedule 2. The proposed increase for the next period must be submitted in writing by the Contractor to the Agency, 30 days in advance of the new period and must be accepted by the Agency at their discretion, and in advance of such rates taking effect.

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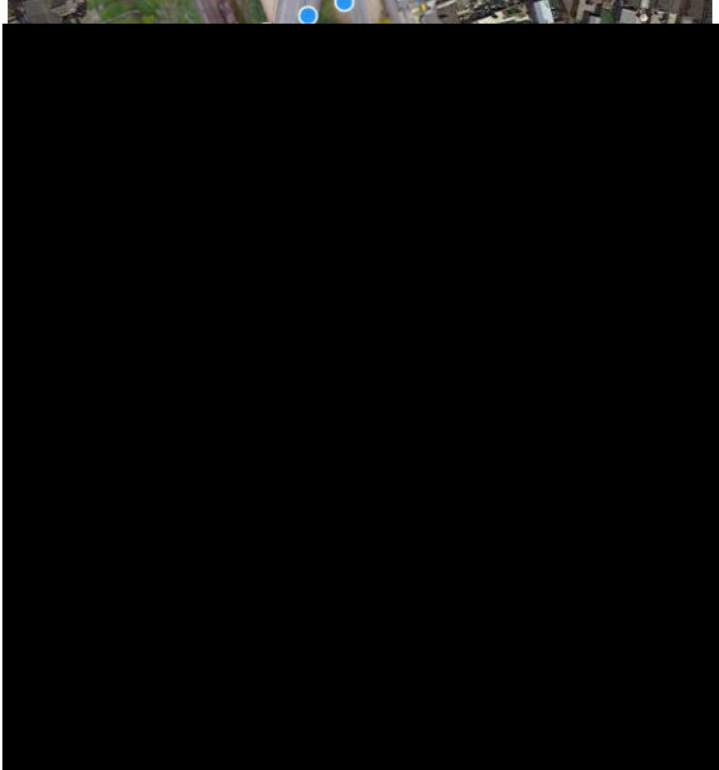
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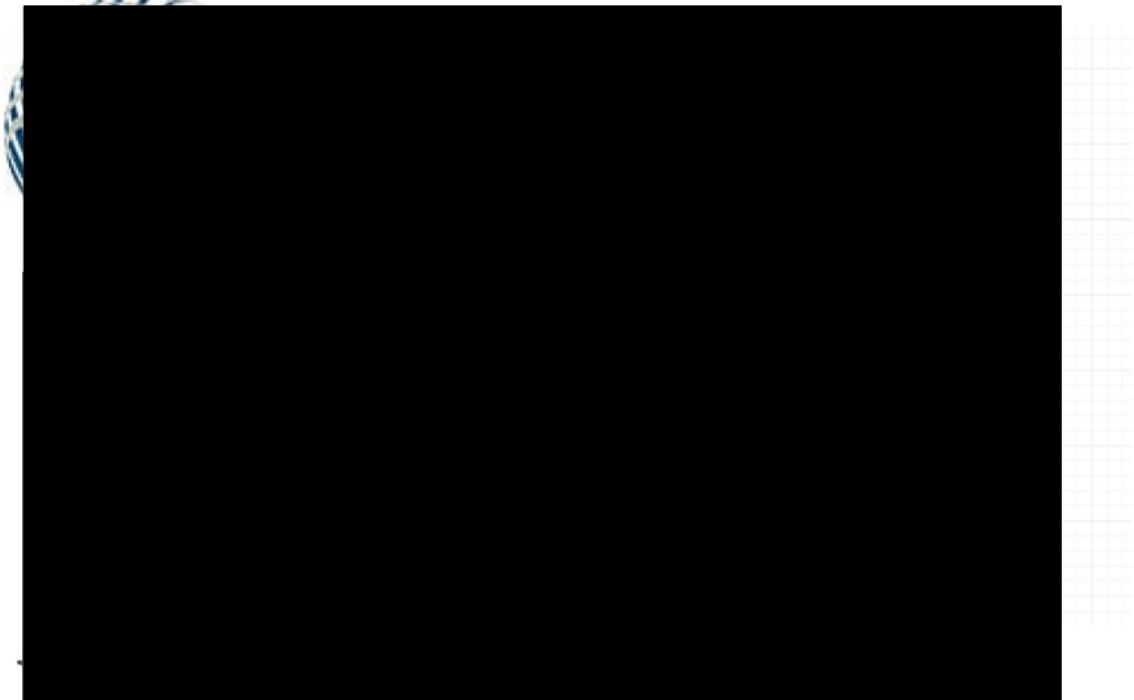
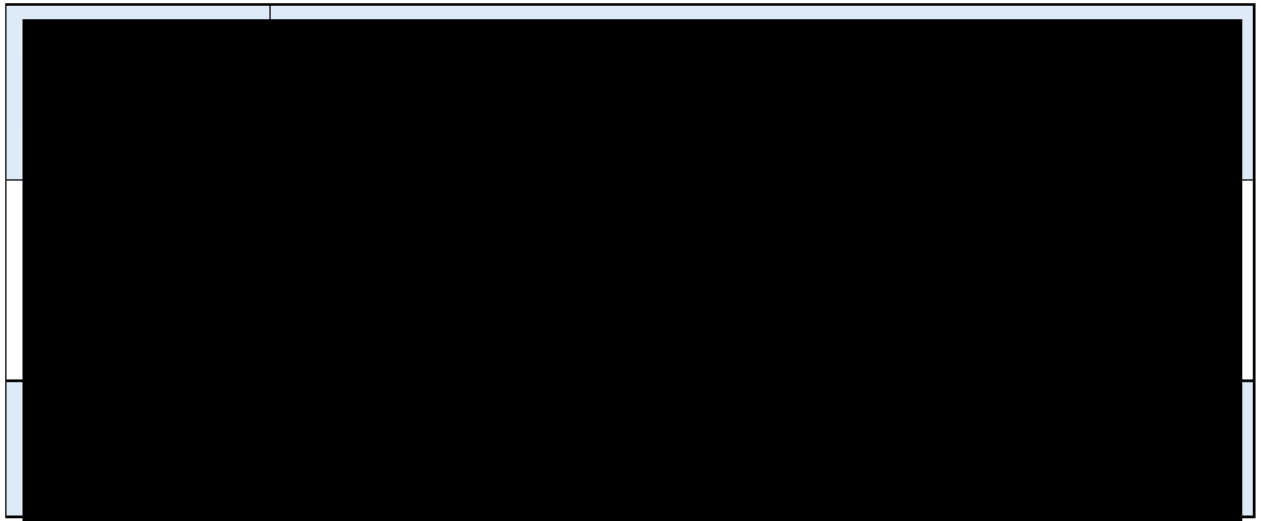
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Section 5.3: Form of Offer

Contract ID: 29990

Contract Title: Incident Management Drones

The essence of selective tendering is that the Environment Agency shall receive bona fide competitive tenders from all persons tendering. In recognition of this principle:-

I/We certify that this is a bona fide tender, intended to be competitive and that I/we have not fixed or adjusted the amount of the tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/we have not done and undertake that I/we will not do at any time of the following acts:-

- communicating to a person other than Defra group Commercial the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- entering into any agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any tender to be submitted;
- offering or agreeing to pay or give or paying any sum of money, inducement 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 for the Services any act or omission.

I/We hereby certify that I/we have not, and will not in future, canvassed or solicited any Member, Officer or employee of Defra in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

Having examined the Tender Document and being fully satisfied as to my/our abilities and experience in all respects to satisfy the requirements of the Tender Document, I/we hereby offer to provide upon the terms and conditions of the Contract, the Goods and/or Services therein specified at the rate shown in the Pricing Schedule of the Tender.

This Tender, together with Environment Agency's written acceptance thereof, will form a binding agreement between us.

Signature of Contractor:

(Where a Limited Company for and on behalf of): Railscape Ltd, Trading as RUAS

Dated this 19th January 2021

SCHEDULE 3 - CHANGE CONTROL

Contract Change Note	
CCN Number	
Contract Reference Number and Title	
Variation Title	
Number of Pages	

WHEREAS the Contractor and the Authority entered into a Contract for the supply of [project name] dated [dd/mm/yyyy] (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this Change Control Notice:

Contract Change Details		
Change Requestor/Originator	[x]	
Summary of Change	[x]	
Reason for Change	[x]	
Revised Contract Value	Original contract value	[£x]
	Previous contract change values	[£x]
	Contract Change Note [x] value	[£x]
	New revised contract value	[£x]
Revised Payment Schedule	[x]	
Revised Specification	[x]	
Revised Contract Period	[x]	
Change in Contract Manager	[x]	
Other Changes	[x]	

2. Save as amended all other terms of the Original Contract shall remain effective.
3. This CCN takes effect from the date on which both Parties communicate acceptance of its terms via Bravo.

SCHEDULE 4 – DATA PROTECTION SCHEDULE

Definitions – the definitions in this Schedule and the Contract shall apply:

Annex 1: the Schedule of Processing, Personal Data and Data Subjects attached to this Data Protection Schedule.

Annex 2: Joint Controller Agreement (where required).

Party: a Party to this Contract.

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer: takes the meaning given in the GDPR.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

Data Subject Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

Joint Controllers: where two or more Controllers jointly determine the purposes and means of processing. **Protective Measures:** appropriate technical and organisational measures which may include: the use of pseudonyms and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Annex 1 (Security).

Sub-processor: any third Party appointed to process Personal Data on behalf of the Processor related to this Contract.

1. DATA PROTECTION

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Agency is the Controller and the Contractor is the Processor unless otherwise specified in Annex 1. The only processing that the Processor is authorised to do is listed in Annex 1 by the Controller and may not be determined by the Processor.
- 1.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 1.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- (a) process that Personal Data only in accordance with Annex 1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Contractor Personnel do not process Personal Data except in accordance with this Contract (and in particular Annex 1);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

1.5 Subject to clause 1.6, the Processor shall notify the Controller immediately if it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

1.6 The Processor's obligation to notify under clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.

- 1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 1.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 1.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
- (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;

- (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Schedule such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 1.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 1.15 Where the Parties include two or more Joint Controllers as identified in Annex 1 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Annex 2 in replacement of Clauses 1.1-1.14 for the Personal Data under Joint Control.

Annex 1 - Schedule of Processing, Personal Data and Data Subjects Processing, Personal Data and Data Subjects

This Schedule shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are:
Anna Burns, Data Protection Officer

[REDACTED]

2. The contact details of the Processor's Data Protection Officer are:

[REDACTED]

3. The Processor shall comply with any further written instructions with respect to processing by the Controller.

4. Any such further instructions shall be incorporated into this Annex 1.

Description	Details				
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Agency is the Controller and the Contractor is the Processor in accordance with Clause 1.1.				
Subject matter of the processing	In order to have the most up to date information during incidents, the EA requires a contract that enables video footage and still images to be captured by drones. In the process of capturing footage and images, personal data may also be collected, however the purpose of the contract is not to collect personal data.				
Duration of the processing	Video footage and images captured through this contract must be kept on the processor's servers, accessible to the controller, for up to 6 months after the duration of the 3-year contract, from the 1 st April 2021 until the 31 st March 2024, or until 31 st March 2026 if the contract is extended by 2 years.				
Nature and purposes of the processing	<table> <tr> <th>Nature of the processing</th><th>Purpose of the processing</th></tr> <tr> <td>Collection & Recording: Still images and live video footage will be collected by drones in order to fulfil this contract. In the process of</td><td>Legal obligation: Collection and recording of images and video footage may be needed to fulfil the Environment Agency's</td></tr> </table>	Nature of the processing	Purpose of the processing	Collection & Recording: Still images and live video footage will be collected by drones in order to fulfil this contract. In the process of	Legal obligation: Collection and recording of images and video footage may be needed to fulfil the Environment Agency's
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Collection & Recording: Still images and live video footage will be collected by drones in order to fulfil this contract. In the process of	Legal obligation: Collection and recording of images and video footage may be needed to fulfil the Environment Agency's				

	gathering this information, personal data may be collected and recorded in the process, although this is not the aim of the activity.	obligation as a Category 1 responder. Public task: The processing may be required in order to perform a task in the public interest, such as ensuring flood defences are correctly positioned to protect homes.
	Alteration: Video footage or images collected as part of this contract that contain personal data may be edited by the processor, e.g. a video might be given a new file name to make it easier to locate once stored.	Legal obligation: The processing may be needed to fulfil the Environment Agency's obligation as a Category 1 responder. Public task: The processing may be required in order to perform a task in the public interest.
	Consultation: Video footage or images collected as part of this contract may be viewed by the processor, e.g. by the drone operator when controlling the drone.	Legal obligation: The processing may be needed to fulfil the Environment Agency's obligation as a Category 1 responder. Public task: The processing may be required in order to perform a task in the public interest.
	Storing: Images and video footage collected by drones as part of this contract will be stored on the processor's server so that they can be accessed by the controller. This means that personal data may be stored in the process.	Legal obligation: The storing of data may be needed to fulfil the Environment Agency's obligation as a Category 1 responder, or for law enforcement purposes. Public task: The processing may be required in order to perform a task in the public interest.
	Disclosure by transmission / dissemination: <ul style="list-style-type: none"> Live video footage collected by drones 	Legal obligation: Disclosure may be needed for law enforcement purposes, or to fulfil the Environment Agency's obligation as a Category 1 responder.

	<p>will be transmitted in near real-time to the processor's server, with the required encryption in place.</p> <ul style="list-style-type: none"> • Once on the processor's server, live footage will be available so that the controller can view this in near real-time. • Geo-referenced still images will be uploaded into the Environment Agency's Incident Imagery Dashboard (ArcGIS Online) by midnight of the same day of the callout. • Video footage and images recorded throughout the duration of the contract will be available on the processor's server to be viewed/downloaded by the controller at any time. <p>In carrying out the above activities, personal data may be processed.</p>	<p>Public task: The processing may be required in order to perform a task in the public interest.</p>
	<p>Erasure: 6 months after the end of this contract, images and video footage must be destroyed by the processor.</p>	<p>Legal obligation: This processing will be needed to ensure we are GDPR compliant, by not keeping data for longer than is required.</p>
<p>The processor is required to log records, as the footage may contain personal data. The logs will need to include records of a) collection; b) alteration; c) consultation; d) disclosure (including transfers); e) combination; f) erasure.</p>		

Type of Personal Data being Processed	<ul style="list-style-type: none"> • An identifiable person and/or their activities • A vehicle registration • An obvious location • Any metadata (for example a national grid reference)
Categories of Data Subject	<ul style="list-style-type: none"> • Staff • Customers/clients • Suppliers • Members of the public.
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Video footage and images captured through this contract must be kept on the supplier's servers for up to 6 months after the contract end date, to allow time for the controller to download and check all of the data. Once the controller has finished downloading and checking the data, they will confirm with the processor that destruction of the data can go ahead. Once this confirmation has been received, the processor must then confirm with the controller that they have destroyed all of the data collected through this contract.

Annex 2

Travel and Subsistence Policy

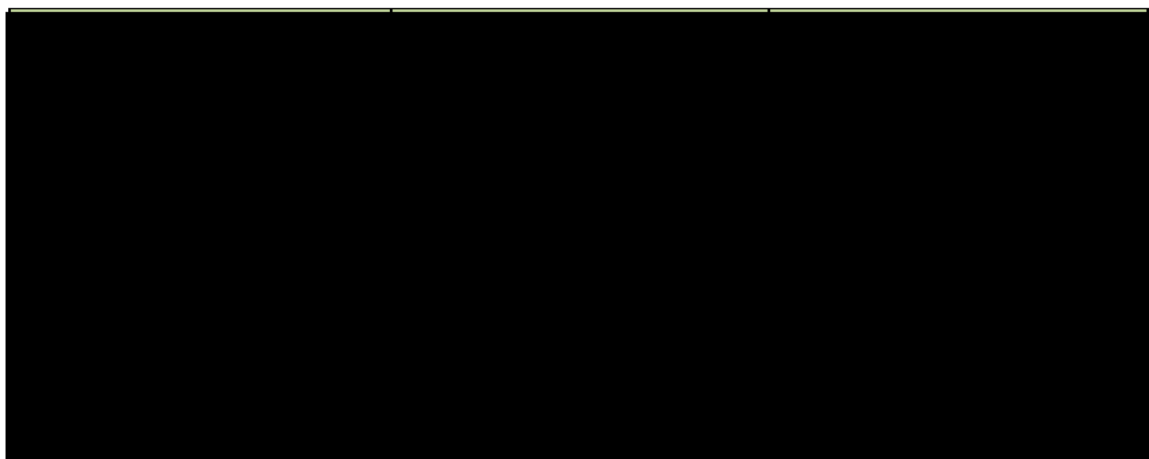
Travel and Subsistence

All Travel and Subsistence should be in line with the Environment Agency's Travel and Subsistence Policy. Claims should always be supported by valid receipts for audit purposes and must not exceed any of the stated rates below***. Should the stated rate be exceeded, the Environment Agency reserve the right to reimburse only up to the stated rate.

Rail Travel

All Journeys – Standard class rail unless a clear business case demonstrating value for money can be presented. This includes international rail journeys by Eurostar and other international and overseas rail operators.

Mileage Allowance



*NB the 'no public transport rate' for car and van travel can only be claimed where the use of a private vehicle for the journey is essential e.g. on grounds of disability or where there is no practical public transport alternative. If the use of the vehicle is not essential the 'public transport rate' should be claimed.

** Under HMRC rules this expense is taxable.

UK Subsistence



***Note, subsistence/ overnight rates should be used as a guide and will be reviewed on a site by site basis to allow for the specific circumstances of the response required.