

Our Ref: ENVRENW002129

Date: 9/12/22

Dear Sirs,

**Contract Ref: NWBW/W1GAP/SL**

**Contract Title: NW Bathing Waters ~ Wave 1 Plan Development (phase 1)**

You are invited to quote for the above in accordance with the enclosed documents.

Instructions on what information we require you to provide is in Section 4 of the following Request for Quotation document.

Your response should be returned to the following email address by 10:00 on 11<sup>th</sup> January 2022.

sarah.lester@environment-agency.gov.uk

Please confirm, by email, receipt of these documents and whether you intend to submit a quote.

If you have any queries, please do not hesitate to contact me.

Yours sincerely



**Sarah Lester**  
Project Manager

E-mail: sarah.lester@environment-agency.gov.uk  
Telephone: 07887 633619

The Environment Agency, Lutra House, Dodd Way, off Seedlee Road, Walton Summit, Preston,  
PR5 8BX

# **Request for Quotation**

Ref: ENVRENW002129

Title: NW Bathing Waters ~ Wave 1 Plan Development (phase 1)

## **Section 1**

### **Who is the Environment Agency?**

We are an Executive Non-departmental Public Body responsible to the Secretary of State for Environment, Food and Rural Affairs. Our principal aims are to protect and improve the environment, and to promote sustainable development.

Further information on our responsibilities, Corporate Plan and how we are structured can be found on our Website.

<https://www.gov.uk/government/organisations/environment-agency/about>

### **What do we spend our money on?**

We are a major procurer of goods and services within the UK, spending circa £600M per annum, our major spend areas are:

- Flood and Coastal Risk Management (design, construction and maintenance)
- ICT and Telecommunications
- Vehicles and Plant
- Environmental Consultancy and Monitoring
- Temporary Staff and Contractors
- Facilities Management, Energy and Utilities
- Flood Management and Water Related Services

### **What do we need from our suppliers?**

Suppliers are vital in supporting the delivery of our corporate plan. We aim to support the economy and society whilst delivering more environmental outcomes for every pound we spend. In many areas we are leading the way on environmental and technical developments. It is our role to ensure that suppliers clearly understand our corporate aims and objectives and know that we are committed to delivering the best value most sustainable solutions, taking into account the whole life cost of our procurement decisions. We promote diversity and equality and treat all of our suppliers fairly.

Our procurement strategy may be of interest to you as a potential supplier. It sets out our priorities and key commitments in a range of areas such as delivering our corporate plan, Government policy, supplier management and sustainable procurement:

<https://www.gov.uk/government/organisations/environment-agency/about/procurement#procurement-strategy>

### **Government changes and collaboration**

Since 1 April 2013, the Environment Agency is no longer responsible for delivering the environmental priorities of Wales. This is now the remit of Natural Resources Wales (NRW). Further information can be found here:

<http://naturalresources.wales/splash?orig=/>

By bidding for this requirement, you may also be approached by other members of the Defra network, NRW or other government departments that are specifically named in the tender document.

### **Further information**

For further information and to see our commitments to Diversity and Equality, please visit our website.

<https://www.gov.uk/government/organisations/environment-agency/about/procurement>

<https://www.gov.uk/government/organisations/environment-agency/about/equality-and-diversity>

Also, are you up to date on environmental legislation? See links below for further information.

Waste and Environmental Impact - <https://www.gov.uk/browse/business/waste-environment>

Environmental Regulations - <https://www.gov.uk/browse/business/waste-environment/environmental-regulations>

## **Section 2**

### **The Customer**

#### **Summary**

This project is overseen by Cumbria and Lancashire Environment Programme (EP) Team, with funding for this project provided from Water Environment Improvement Fund (WEIF).

The EP team leads the engagement, planning and development of projects and oversees the delivery, to achieve integrated environmental outcomes in line with the Environment Agency's business priorities.

#### **Contract Length**

It is anticipated that this contract will be awarded to one supplier for a period of 3 months end no later than **31/03/2023**. Prices will remain fixed for the duration of the contract award period. We may at our sole discretion extend this contract to include related or further work. Any extension shall be agreed in advance of any work commencing and may be subject to further competition. Any amendment to contract prices for the extensions are to be by negotiation.

The Environment Agency Conditions of Contract for Services (Appendix C) shall apply to this contract.

This contract shall be managed on behalf of the Agency by Sarah Lester, Project Manager, [sarah.lester@environment-agency.gov.uk](mailto:sarah.lester@environment-agency.gov.uk), Tel: 07887 633619

#### **Contact Details and Timeline**

Sarah Lester will be your contact for any questions linked to the content of the quote pack or the process. Please submit any questions by email and note that both the question and the response will be circulated to all tenderers.

[sarah.lester@environment-agency.gov.uk](mailto:sarah.lester@environment-agency.gov.uk)

Tel: 07887 633619

Key elements of the process have been reviewed. Anticipated dates for planned activities are below:

Activity	Due Date
Supplier responses for Request for Quote	10:00 on 11th January 2023
Evaluation of Request for Quote submissions	11 <sup>th</sup> January 2023
Award of contract	16 <sup>th</sup> January 2023
Project/Contract end date	31 <sup>st</sup> March 2023

It should be noted that these timescales and activities may be subject to change.

### **Section 3**

#### **Evaluation Criteria**

We will award this contract in line with the most economically advantageous tender (MEAT) as set out in the following award criteria:

- Price – 60%
- Quality – 40%

The following quality criteria are weighted in accordance with the importance and relevance attached to each one.

- Evidence of existing knowledge of and familiarity with networks of stakeholders across North West River Basin District (NWRBD) and able to determine relevant organisations with scope to deliver water quality improvements of direct benefit to designated coastal Bathing Waters (BW), including those currently outside Turning Tides Partnership (TT) current engagement
- Evidence of expertise and experience in stakeholder mapping and analyses, including suitable techniques to analyse and present stakeholder mapping in an easily understood format coherently across the NWRBD (including those currently outside TT current active stakeholder networks)
- Evidence of ability to work inclusively and collaboratively with a wide range of stakeholders. Engagement and networking skills are essential to the success of the project as the selected supplier will need to work effectively with multiple stakeholders with different agendas driving their engagement and involvement
- Evidence of ability to think creatively as to how TT can integrate practical actions more closely, increase understanding of BWs agenda and deliver benefits for BWs most effectively through varied routes across networks of relevant stakeholders NWRBD (including those currently outside TT current active stakeholder networks)
- Able to 'work with' (vs do it to / for) stakeholders, helping individuals within organisations to see how their agenda and organisation are integral with Bathing Water quality at coastal designations in the NWRBD
- Able to provide evidence of being adept in practical approaches with own ideas about how the water quality (Wave 1) activity plan narrative could be developed to become an updated, fully integrated action plan that reflects and is aligned with all relevant ongoing (and potential) activities, plans, investigations, research work and projects that are beneficial to maintain and improve BWs.
- Evidence of awareness of and access to expertise of potential local innovative finance mechanisms with associated benefits, including (but not limited to) green growth, blue carbon and climate change

The criteria listed above will be assessed on a 0 to 10 basis and will reflect the following judgements:

<b>Rating of Response</b> <b>The tenderer provides a response which in the opinion of the evaluators is:</b>	<b>Score</b>
<b>Excellent:</b> Addresses all of the requirements and provides a response with relevant supporting information which does not contain any weaknesses, giving the Agency complete confidence that the requirements will be met.	10
<b>Very Good:</b> Addresses all of the requirements and provides a response with relevant supporting information, which contains very minor weaknesses, giving the Agency high confidence that the requirements will be met.	8
<b>Good:</b> Addresses all of the requirements and provides a response with relevant supporting information, which contains minor weaknesses, giving the Agency reasonable confidence that the requirements will be met.	6
<b>Satisfactory:</b> Substantially addresses the requirements and provides a response with relevant supporting information which may contain moderate weaknesses, but gives the Agency some confidence that the requirements will be met.	4
<b>Weak:</b> Partially addresses the requirements, or provides supporting information that is of limited relevance or contains significant weaknesses, and therefore gives the Agency low confidence that the requirements will be met.	2
<b>Nil:</b> No response or provides a response that gives the Agency no confidence that the requirements will be met.	0

## **Section 4**

### **Information to be returned**

**Please note, the following information requested must be provided. Incomplete tender submissions may be discounted.**

Please complete and return the following information:

- completed Pricing Schedule (Appendix A);
- completed Prior Rights Schedule (Appendix B);
- confirmation that terms and conditions are accepted (Appendix C. Please note that the terms cannot be amended later).
- details of the personnel you are proposing to carry out the service
- details of proposed methodology
- details of how you measure your success in each of the deliverables.
- detail your recent experience of carrying out similar contracts

## **Section 5**

### **Specification**

#### **1. Background to the Requirement**

Bathing Water (BW) is a high profile work focus within Cumbria & Lancashire area - CLA has 21 of the 25 coastal designations in the North West River Basin District (NWRBD). BW Classifications in 2022 found that some BWs have deteriorated in classification and one BW failed to meet the BW Directive.

EA has a statutory duty for compliance with the European Bathing Water Directive (2006/7/EC) to achieve a minimum 'SUFFICIENT' classification of water quality at designated BWs.

The European Bathing Water Directive also complements other environmental policy, including the Water Framework Directive (2000/60/EC), under which BWs are one of the Protected Areas, & the Marine Strategy Framework Directive (2008/56/EC), which has in turn provided a push towards better understanding of pressures and impacts of human activities on the sea, their implications for marine biodiversity, habitats, and the ecosystems they sustain, a driving force which led to the adoption of the Single Use Plastics Directive, an important tool to implement the 2030 Biodiversity and Farm to Fork Strategies and a major contributor to achieving the Zero-Pollution ambition at sea. It is also closely linked to Strategies for Sustainable Chemicals and Smart and Sustainable Transport.

NW Bathing Waters project delivers for DEFRA 25 year plan 'Clean and plentiful water', 'Reducing the risks of harm from environmental hazards', 'Enhancing beauty, heritage and engagement with the natural environment' and 'Minimising waste' aspects.

TT links closely with many elements of the Government's Levelling Up policy missions, including education, health, well-being, pride in place and local leadership. Bathing Water designations straddle across many of the North West's deprived coastal communities. 8 are in deprived areas and an additional 7 border LAs with BWs/close-by.

The project will stimulate direct action that focuses on improving and safeguarding bathing water quality, aligning with the LIFE IP Natural Course project (LIFE14 IPE/UK/027) as this Project is particularly relevant to Natural Course task number C.5: Managing pollution from rural areas.

#### **Further information / other initiatives:**

Green Finance – Natural Capital has given an ability to assess the environment as economic assets. The Environment Agency is currently working with the Green Finance Institute to develop a series of models via the Natural Environment Investment Readiness Fund and the Flood Risk Innovation Fund. This will enable private investment into natural assets such as water quality, soil, carbon, biodiversity.

Government, Private and 3rd Sector organisations are signing up to Net Zero initiatives. Part of the road map to achieve net zero is to use nature-based solutions that reduce carbon emissions. Carbon codes allow the trading of carbon to be carried out and currently include the woodland code and peatland code. The blue carbon code and other codes such as hedgerow code and soil carbon code are currently developing.

The UK Government is setting clear and ambitious medium term Levelling Up Missions, which include; spreading opportunities and improve public services, especially in those places where they are weakest; restoring a sense of community, local pride and belonging, especially in those places where they have been lost, and; empowering local leaders and communities, especially in those places lacking local agency. TT links closely with many elements of this policy, including education, health, well-being, pride in place and local leadership.

#### **Work to date & future direction:**

TT has been focussed towards delivering compliance under EU Bathing Waters Directive through successful partnership work between EA, UU, local authorities and other relevant partners since 2012. TT partners can effect delivery together that partners are not positioned to bring about in isolation.

TT has been hugely successful in securing compliance with the BWs Directive. There is considerable momentum across the region towards a second phase of work in realising the benefits for people of their local, high quality natural coastal resource, whilst continuing to work hard to maintain compliance. Turning Tides partners are also highly motivated towards engaging with marine plastics agenda, with associated reputational profile.

TT aims to inspire and change perceptions and values of key decision makers, the media, politicians, the private sector and the wider community; collaboratively striving to raise the quality and use of North West BWs. TT has brought considerable improvements in the past

10 years to achieve Bathing Water (BW) compliance across the NWRBD coastline, however concerted practical effort is needed to maintain compliance and prevent deterioration.

The Board recognises that to reach the ambition for a Blue Flag Coast (requiring 'Excellent' BW classification) then future approaches need more focussed effort and sustainable resources from all partners, bringing practical projects of direct benefit to designated BWs. The Board agreed to adapt TT delivery approaches in recognition that adaptation is necessary to further water quality improvements.

Most TT partners have statutory roles in maintaining compliance & preventing deterioration. Progress to date bringing collaborative practical action of direct, measurable benefit to BW compliance has been somewhat limited.

## **2. Specific Objectives/Deliverables**

The text below has been included as an overview of the strategic aims of the project with some suggested outputs, but we are very keen to allow suppliers flexibility to use their expertise and knowledge to ensure the most innovative and effective method is used in completing this contract.

The strategic aim of the project is to:

Evaluate the current Wave 1 Activity Plan narrative in order to identify developments needed to create an updated, fully integrated Action Plan, which will reflect and is aligned with all relevant ongoing (and potential) activities, plans, investigations, research work and projects that are beneficial to maintain and improve Bathing Water quality at coastal designations in the NWRBD.

Where relevant, potential local innovative finance mechanisms with associated benefits will be identified, including (but not limited to) green growth, blue carbon and climate change agendas.

EA funding of this project in 2022/23 will enable future years' development work that will bring direct water quality benefits through practical project work. The project will identify gaps in the current TT Water Quality (Wave 1) **Activity Plan**, which will enable development of a coherent, embedded TT Water Quality (Wave 1) **Action Plan** by: re-evaluating TT engagement and linkages with relevant networks; identifying gaps in stakeholder engagement and the potential to deliver for BWs through other partnerships and organisations; seeking integration of BWs beneficial initiatives and projects with relevant initiatives, plans and projects; effect a broader scope of projects and initiatives of direct benefit to BW quality at coastal designations.

**Objective 1: Knowledge Transfer** Within the Environment Agency and with relevant stakeholders

**Objective 2: Expand the range of organisations in TT & BW work.** TT Appointment of suitable delivery organisation via open outreach, competitive tender.

**Objective 3: Stakeholder mapping & gap analysis:** Stakeholder analysis across the NWRBD to determine relevant organisations with scope to deliver water quality improvements of direct benefit to designated coastal Bathing Waters. The analysis will focus on stakeholders who have an interest in BW / TT but also stakeholders where existing links are not currently active / have not previously existed.

**Objective 4: Wave 1 (water quality) Action Plan gap analysis, development & opportunity mapping:** Through inclusive, collaborative involvement of stakeholders, identify how the water quality (Wave 1) activity plan narrative can be developed to create an updated, fully integrated action plan that reflects and is aligned with all relevant ongoing (and potential) activities, plans, investigations, research work and projects that are beneficial to maintain and improve Bathing Water quality at coastal designations in the NWRBD. Where relevant, identify

potential local innovative finance mechanisms with associated benefits, including (but not limited to) green growth, blue carbon and climate change agendas.

### **3. Timescales/Deadlines**

Stakeholder mapping – 31/02/23

Stakeholder gap analysis & development & opportunity mapping report – 16/02/23

Stakeholder Analysis – Jan 2023

Wave 1 Action Plan gap analysis, development & opportunity mapping report – 31/03/23

### **4. Skills of Personnel Required**

Excellent Communication skills (written and verbal)

Ability to work collaboratively

Innovative and creative

Able to interpret complex information in easily understandable formats

Able to identify and make relevant links that motivate organisations and individuals to engage

## **Section 6**

### **Contract Management**

This contract shall be managed on behalf of the Agency by Sarah Lester, Project Manager, sarah.lester@environment-agency.gov.uk, Telephone: 07887 633619.

This contract will be managed through monthly review meetings and review of the reports/recommendations as detailed in the outputs. Informal calls can be arranged with the Project Manager at any point throughout the contract.

We will raise purchase orders to cover the cost of the services and will issue to the awarded supplier following contract award.

We expect to be invoiced after each key deliverable has been completed to a standard approved by the Environment Agency.

Before the invoice is issued, a fee note must be emailed in advance to the contract manager for approval. All invoices must quote the purchase order number in order to be processed. A file copy invoice must be provided to the contract manager, on request. The timescale for payment of invoices will be up to 30 days after we have received a valid invoice.

## **Section 7**

### **Sustainability Considerations**

We are committed to continually improving our sustainability performance. The Environment Agency has set itself tough objectives as a clear commitment and contribution to sustainable development throughout England. The Agency recognises that this can only be achieved through commitment from all sectors of society and it is intent on raising awareness amongst industry and commerce.

Contractors must adopt a sound proactive environmental approach, designed to minimise harm to the environment.

Environmental criteria should be considered as part of your tender submission with credit given for innovation. Factors to be considered could include areas such as:

- Paper use: All documents and reports prepared by consultants and contractors are produced wherever possible on recycled paper containing at least 100% post consumer waste and printed double sided.



- Travel: use of public transport, reduce face to face meetings by using email and videoconferencing. Meetings to be held in locations to minimise travel and close to public transport links.
- Packaging: should be kept to a minimum. Re-use and disposal issues must be considered.
- Efficient Energy and Water Use.
- Disposal of Waste: Whilst on site the contractor is responsible for the disposal of their own waste and can only use client facilities with express permission from the on site facilities officer.
- Whilst on site, contractors should comply with the local environmental policy statement which will be made available to you in advance or on arrival.

### **Diversity and Equal Opportunities**

We are committed to promoting equality and diversity in all we do and valuing the diversity of our workforce, customers and communities. As a public body, we publish regular information about what our equality objectives are and how we're meeting them.

<https://www.gov.uk/government/organisations/environment-agency/about/equality-and-diversity>

### **Health and Safety**

Contractors will be responsible for making sure all required health and safety aspects including risk assessments are undertaken and required management measures are in place to protect worker exposure. This includes management of all partners, consortium members and subcontractors.

## **IEM2020:**

### **1.1 Sustainability Objectives**

As the Environment Agency, our overarching aim is to protect and improve the environment for people and wildlife. Over the last 10 years we have achieved significant reductions in our environmental impacts that occur through our everyday operations. This included a 40% reduction in our carbon emissions and a 37% reduction in the number of miles we travel. This year we have launched our new Internal Environmental Management strategy to take us through to 2020, building on these successes and widening our ambition.

#### **Supply chain**

Our 2020 approach will have a very strong emphasis on the indirect impacts of our supply chain.

Our supply chain accounts for over 70% of our total environmental impacts.

Working with our supply chain we want to be world class in the area of environmental management. The environmental impacts of our work and that delivered by and through our supply chain must be reduced; environmental risks must be effectively managed and opportunities for enhancements investigated.

As an organisation, our environmental management system (EMS) is accredited to ISO14001 and EMAS standards. Our procurement activities form part of this system; driving environmental performance improvements across the value chain.

## **Section 8**

### **Additional Information**

#### **Copyright and confidentiality**

Unless otherwise indicated, the copyright in all of the documentation belongs to the Environment Agency, and the documentation is to be returned to us with your tender. The contents of the documentation must be held in confidence by you and not disclosed to any third party other than is strictly necessary for the purposes of submitting your quote. You must also ensure that a similar obligation of confidentiality is placed upon any third party to whom you may need to disclose any of the documentation for the purposes of the tender.

#### **Accuracy of documentation**

You should check all documentation; should any part be found to be missing or unclear you should immediately contact us at the address given in the covering letter. No liability will be accepted by the Environment Agency for any omission or errors in the documentation which could have been identified by you.

#### **Amendments to documentation**

Prior to the date for return of tenders, we may clarify, amend or add to the documentation. A copy of each instruction will be issued to every Tenderer and shall form part of the documentation. No amendment shall be made to the documentation unless it is the subject of an instruction. The Tenderer shall promptly acknowledge receipt of such instructions.

#### **Alternative Offers**

Alternative offers may be considered if they constitute a fully priced alternative and are submitted in addition to a quotation complying with the requirements of the Invitation to Quote Documents. If, for any reason you wish to submit an alternative offer without a fully compliant tender please contact us in accordance with the details in the covering letter.

#### **Continuity of personnel**

The Contractor shall employ sufficient staff to ensure that the Services are provided at all times and in all respects to the Project Standard. It shall be the duty of the Contractor to ensure that a sufficient reserve of staff is available to ensure project delivery in the event of staff holidays, sickness or voluntary absence

The Environment Agency will be notified immediately of any changes to personnel associated with the project. The Contractor will ensure that every effort is made to replace outgoing staff with personnel of equal calibre and expertise. All new members of staff undertaking work for the Project will need to be agreed by the Environment Agency prior to commencement.

At all times, the Contractor shall only employ in the execution and superintendence of the Contract persons who are suitable and appropriately skilled and experienced.

#### **Intellectual property rights**

All results, including material and tools produced, developed or paid for under this contract shall be the property of the Environment Agency.

#### **References**

The Environment Agency may request recent and relevant references prior to the award of the project.

## **Contract award**

This Request for Quote is issued in good faith but we reserve the right not to award any or all of this work.

### **DATA PROTECTION ACT ADDENDUM TO SPECIFICATION** **Protection of personal data**

In order to comply with the Data Protection Act 1998 the Contractor must agree to the following:

- You must only process the personal data in strict accordance with instructions from the Environment Agency.
- You must ensure that all the personal data that we disclose to you or you collect on our behalf under this agreement are kept confidential.
- You must take reasonable steps to ensure the reliability of employees who have access to personal data.
- Only employees who may be required to assist in meeting the obligations under this agreement may have access to the personal data.
- Any disclosure of personal data must be made in confidence and extend only so far as that which is specifically necessary for the purposes of this agreement.
- You must ensure that there are appropriate security measures in place to safeguard against any unauthorised access or unlawful processing or accidental loss, destruction or damage or disclosure of the personal data.
- On termination of this agreement, for whatever reason, the personal data must be returned to us promptly and safely, together with all copies in your possession or control.

## APPENDIX A - PRICING SCHEDULE

ALL COSTS QUOTED MUST BE EXCLUSIVE OF VAT

All costs must be quoted on this schedule. Any costs not detailed will not be paid.

**Please remove the pricing schedules you do not require.**

### Staff Costs

Please detail the day rates of your proposed personnel in the table below.  
(Please also advise how many hours you constitute a working day)

#### Example 1

Name	Title/Grade	Day Rate	No of Days
<b>Total</b>		£	

#### Example 2

Please detail your task costs in the table below.

Cost Proposal (To be completed by Supplier)			
Tasks	Hourly Rate	No of Hours	Cost
Total Staff Costs			
Expenses (please detail type, i.e. travel etc)			
Discounts applied (please detail)			
Total Overall Cost			

### Other costs

Please state any other costs that will need to be taken into consideration.

DESCRIPTION	COST £
1. Other costs (please detail)	
2. Other costs (please detail)	
3. Other costs (please detail)	
<b>TOTAL</b>	

**Discounts, rebates and reductions**

Please detail below any discounts, rebates and other reductions you are prepared to offer and the basis of those incentives

<b><u>DESCRIPTION</u></b>	<b>AMOUNT £</b>
<b><u>TOTAL</u></b>	

**Total Overall Cost**

Please detail the total fixed cost for the project

<b><u>ITEM</u></b>	<b>TOTAL AMOUNT £</b>
<b><u>Staff Costs</u></b>	
<b><u>Other Costs</u></b>	
<b><u>Discounts/reductions</u></b>	
<b><u>TOTAL Overall Cost</u></b>	

The following limits will be applicable to all claims for travel and subsistence under this contract:

- a. Travel by rail: standard class should be used at all times
- b. Travel by car: 45 pence/mile

Hotel bookings should be made through the Environment Agency's corporate travel contract. Details of this contract are available from the Corporate Contracting Team.

When making reservations you should state that you are a contractor working on Environment Agency business.

Hotel charges must not exceed a maximum limit per night bed and breakfast (VAT included) of: £140 in London; £100 in Bristol; £90 in Warrington; £85 in Reading; £75 in Aberdeen, Birmingham, Belfast, Cardiff, Coventry, Edinburgh, Glasgow, Harlow, Leeds, Manchester, Middlesbrough, Newcastle, Oxford, Portsmouth, Sheffield and York; and £70 in all other destinations. Please note that these hotel ceiling rates are subject to change throughout the life of the contract.

Expenditure on dinner during an overnight stay must not exceed a maximum limit of £25, including a drink.

Receipts for all rail travel, hotel and food expenses will be required as proof of expenditure and will be reimbursed at cost. No profit or additional cost shall be applied by the contractor to such personal expenses.

## APPENDIX B - PRIOR RIGHTS SCHEDULE

Details of Prior Rights held by the Parties (To be updated as Rights are introduced during the period of the Contract)

Prior Rights owned or lawfully used by a Party, whether under licence or otherwise, which it introduces to the Project for the purposes of fulfilling its obligations under the Contract

Held by the Environment Agency

Name and description of Prior Rights	Extent of proposed use in the Project	Proprietary owner of the Prior Rights

Held by the Contractor

Name and description of Prior Rights	Extent of proposed use in the Project	Proprietary owner of the Prior Rights

### Explanation of Contractor's Prior Rights

All Intellectual Property Rights owned by or lawfully used by the Contractor, whether under licence or otherwise before the date of this Contract. It can also mean any invention and know how or other intellectual property (whether or not patentable) owned by one of the parties prior to the commencement of the Project, or devised or discovered by one of them only in the course of other projects during the Project period and not arising directly from the Project.

## APPENDIX C – ACCEPTANCE OF TERMS AND CONDITIONS

I/We accept in full the terms and conditions named in Section 2 and appended to this Request for Quote document.

Company Name \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Position \_\_\_\_\_

Date \_\_\_\_\_

## **Section 2**

### **Conditions of Contract - Services**

**Ref:** ENVRENW002129

**Title:** NW Bathing Waters ~ Wave 1 Plan Development (phase 1)

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## 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. 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;
- 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.

## **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.

## **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.

## **26. 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.

## **27. LAW**

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

## **28. WAIVER**

- 28.1. 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.
- 28.2. No waiver by the Agency shall be effective unless made in writing.
- 28.3. No waiver by the Agency of a breach of the Contract shall constitute a waiver of any subsequent breach.

## **29. ENFORCEABILITY AND SURVIVORSHIP**

- 29.1. 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.
- 29.2. The following clauses shall survive termination of the Contract, howsoever caused: 13, 14, 15, 22, 23, 24, 27, 29, 30, 31, 32 and 33.

## **30. DISPUTE RESOLUTION**

- 30.1. 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.
- 30.2. 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).

- 30.3. 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.
- 30.4. 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.
- 30.5. 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.
- 30.6. 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.
- 30.7. 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.

## **31. GENERAL**

- 31.1. 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.

- 31.2. 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.

## **32. FREEDOM OF INFORMATION ACT**

- 32.1. 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').
- 32.2. The Contractor agrees that:
- 32.2.1. 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
  - 32.2.2. 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.
- 32.3. 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.

### **33. DATA PROTECTION**

- 33.1. In the event that the Contract requires data to be processed within the 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.

## Appendix to Conditions (Services)

Ref: ENVRENW002129

Title: NW Bathing Waters ~ Wave 1 Plan Development (phase 1)

		Condition
<b>1</b>	<b>Contract Supervisor</b>	<b>3</b>
	Sarah Lester	
	Address:- Environment Agency, Lutra House, Dodd Way, off Seedlee Rd Preston PR5 8BX	
<b>2</b>	<b>Contractor</b>	
	TBC	
<b>3</b>	<b>Completion</b>	<b>6</b>
	Contract Start Date	16/01/2023
	Contract End Date	31/03/2023
<b>4</b>	<b>Delivery</b>	<b>11</b>
	Address:- <i>As above</i>	
<b>5</b>	<b>Insurance</b>	<b>17</b>
	Professional Indemnity Min. Cover	£5 million
	Third Party Minimum Cover	£5 million
	Public Liability Min. Cover	£5 million
<b>6</b>	<b>Limit on Liability</b>	<b>16</b>
	Limit on Contractors Liability	£5 million