

Conditions of Contract - Goods

Ref: 30936

Title: River Ouse, Flood Alleviation Scheme – Supply of Raw Aggregate

1. Definitions.....	
2. Precedence.....	
3. Contract Supervisor.....	
4. Goods.....	
5. Assignment.....	
6. Contract Period.....	
7. Materials.....	
8. Security.....	
9. Variations.....	
10. Extensions of Time.....	
11. Property and Risk.....	
12. Rejection of Goods.....	
13. Default.....	
14. Termination.....	
15. Determination.....	
16. Indemnity.....	
17. Limitation on Contractor's Liability.....	
18. Insurance.....	
19. Prevention of Fraud or Corruption.....	
20. Contract Price.....	
21. Invoicing & Payment.....	
22. Intellectual Property Rights.....	
23. Warranty.....	
24. Guarantees.....	
25. Statutory Requirements.....	
26. Environment, Sustainability and Diversity.....	
27. Publicity.....	
28. Law.....	
29. Waiver.....	
30. Enforceability and Survivorship.....	
31. Dispute Resolution.....	
32. General.....	
33. Freedom of Information Act.....	
34. Data Protection.....	

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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 The Agency
The Environment Agency, its successors and assigns.
- 1.1.2 The Appendix
The Appendix to these Conditions.
- 1.1.3 The Contract
These Conditions including the Appendix, any Special Conditions, the 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.
- 1.1.4 The Contractor
The person, firm company or body who undertakes to supply the Goods to the Agency.
- 1.1.5 Contract
The time period stated in the Appendix or otherwise Period provided in the Contract, for the delivery of the Goods.
- 1.1.6 Contract Price
The price exclusive of VAT set out in the Contract for which the Contractor has agreed to supply the Goods.
- 1.1.7 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 communication given by or made to the Contract Supervisor, shall be taken as given by or made to the Agency.
- 1.1.8 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).
- 1.1.9 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.
- 1.1.10 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.

1.1.11

Data Protection Schedule

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

1.1.12

Goods

All Goods detailed in the Specification including any additions or substitutions as may be requested by the Contract Supervisor Where the Contract is for the provision of Goods *and* Services, the words "the Goods" shall mean, where the context allows, to include the Services the Contractor has agreed to provide.

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

1.1.16 Permission
Express permission given in writing before the act being permitted.

1.1.17 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 Section 10 Special Conditions;
- Specification; Annex 1.
- Pricing Schedule; Annex 2.
- Drawings, maps or other diagrams.

If these Conditions are used in the production of an order under pre-existing arrangements, then the Conditions of Contract of the pre-existing arrangements shall prevail.

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. GOODS

The Contractor shall provide all staff, equipment, materials and any other requirements necessary for the performance of the Contract to the standard in the Specification, within the time period specified in the Section 9 of this document, using reasonable skill, care and diligence, and to the reasonable satisfaction 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 deliver the Goods within the time stated in the Section 9 of this document, subject to any changes arising from Condition 9 (Variations), and/or Condition 10 (Extensions of time).

7. MATERIALS

- 7.1 The Contractor shall be responsible for establishing his own sources of supply for any goods and materials needed in connection with the performance of the Contract.
- 7.2 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.

8. SECURITY

- 8.1 The Contractor shall be responsible for the security of all goods and equipment belonging to the Agency and used by the Contractor in the supply of the Goods, or belonging to the Contractor, or the Contractor's staff, or sub-contractors whilst on Agency premises.
- 8.2 This Condition shall not prejudice the Agency's rights under Condition 16.

9. VARIATIONS

- 9.1 The Contract Supervisor may vary the Contract by adding to, deleting or otherwise modifying the Goods 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.
- 9.2 The value of any such variation, other than any variation arising out of Condition 9.3, shall be determined by reference to the rates contained in the Pricing Schedule. Where the Goods 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.
- 9.3 Where a variation is the result of some default or breach of the Contract by the Contractor or for some other cause for which he is solely responsible, any additional cost attributable to the variation shall be borne by the Contractor.

- 9.4 The Contractor may also propose a variation to the Goods to be supplied but no such variation shall take effect unless agreed and confirmed in writing by the Contract Supervisor.
- 9.5 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.
- 9.6 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.
- 9.7 The Agency may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- 9.7.1 any Contracting Authority; or
- 9.7.2 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
- 9.7.3 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.
- 9.8 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.

10. EXTENSIONS OF TIME

- 10.1 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:
- 10.1.1 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.

- 10.1.2 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.
- 10.1.3 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.
- 10.1.4 Any extension of time granted under this Condition shall not affect the Agency's rights to terminate or determine the Contract under Conditions 12 and 13.

11. PROPERTY AND RISK

The property and risk in the Goods shall pass to the Agency when the Goods have been delivered to the Agency's nominated address or addresses as stated in the Appendix and unloaded

12. REJECTION OF GOODS

- 12.1 Without prejudice to the operation of Condition 12.5 the Goods shall be inspected on behalf of the Agency within a reasonable period of time after delivery and may be rejected if the Goods:
 - 12.1.1 are found to be defective, inferior in quality to or differing in form or material from the requirements of the Contract, or
 - 12.1.2 do not comply with any term (express or implied) of the Contract.
- 12.2 Without prejudice to the operation of Condition 12.5, the Agency shall notify the Contractor of the discovery of any defect within fourteen days and shall give the Contractor all reasonable opportunities to investigate such defect.
- 12.3 The whole of any consignment may be rejected if a reasonable random sample of the Goods taken from the consignment is found not to conform in every respect with the requirements of the Contract.
- 12.4 Goods so rejected after delivery shall be removed by the Contractor within 14 days of receipt of the Agency's notification of rejection. If the Contractor fails to remove the rejected Goods within this time period, the Agency may return the rejected Goods at the Contractors risk and expense.
- 12.5 The Agency's right of rejection shall continue irrespective of whether the Agency has accepted the Goods. In particular, taking delivery, inspection, use or payment for the Goods, or part of them shall not constitute acceptance, waiver or approval and shall be without prejudice to any right or remedy the Agency may have against the Contractor.

13. DEFAULT

- 13.1 The Contractor shall be in default if he:
 - 13.1.1 fails to perform the Contract with due skill, care diligence and timeliness;
 - 13.1.2 refuses or neglects to comply with any reasonable written instruction given by the Contract Supervisor;
 - 13.1.3 is in breach of the Contract.
- 13.2 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.
- 13.3 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, purchase other goods of the same or equivalent description. Any extra costs arising from this action, will be paid by the Contractor or deducted from any monies owing to him.

14. TERMINATION

- 14.1 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:
 - 14.1.1 fails in the opinion of the Contract Supervisor to comply with (or take reasonable steps to comply with) a Notice under Condition 13.2.
 - 14.1.2 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.
- 14.2 Termination under the Regulations'
- 14.3 The Agency may terminate the Contract on written Notice to the Contractor if:
 - (a) the contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;

- (b) 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
- (c) 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.

15. DETERMINATION

- 15.1 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).
- 15.2 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.
- 15.3 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.

16. INDEMNITY

- 16.1 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:
 - 16.1.1 death or injury to any person;
 - 16.1.2 loss or damage to any property excluding indirect and consequential loss;
 - 16.1.3 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.
- 16.2 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.

17. LIMIT OF CONTRACTOR'S LIABILITY

- 17.1 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:

- 17.1.1 the sum stated in the Appendix 9
- 17.1.2 if no sum is stated, the Contract Price or five million pounds whichever is the greater.

18.INSURANCE

- 18.1 The Contractor shall insure and maintain insurance against liabilities under Condition 16 (Indemnity) in the manner and to the values listed in the Section 9 of this document.
- 18.2 If specifically required by the Agency, nominated insurances shall be in the joint names of the Contractor and the Agency.
- 18.3 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.

19. PREVENTION OF FRAUD AND CORRUPTION

- 19.1 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.
- 19.2 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.
- 19.3 If the Contractor or the Contractor's staff engages in conduct prohibited by this clause 19 or commits fraud in relation to the Contract or any other contract with the Crown (including the Agency) the Agency may:
 - 19.3.1 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

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

19.4 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.

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 9 (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 those Goods already delivered 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 The Contractor warrants to the Agency that the Goods, shall not in any way infringe any Intellectual Property Rights belonging to any third party and shall fully indemnify the Agency against all actions, claims, costs, charges, expenses and liabilities of whatsoever nature arising from or incurred by reason of any infringement, or alleged infringement.

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

22.3 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 14 and 15.

23. WARRANTY

The Contractor warrants that the Goods supplied by him are of a satisfactory quality and are supplied with reasonable skill, care and diligence and fit for the Agency's intended purpose so far as this has been communicated to him, or which he would reasonably be expected to know.

24. GUARANTEES

The Contractor shall promptly remedy all defects in the Goods arising from faulty design, materials or workmanship and, without prejudice to the Agency's statutory rights, either repair or replace the Goods (as the Agency shall elect) at no cost to the Agency, for a period of 12 months from putting the Goods into intended service, or 18 months from delivery, whichever is the less, or as otherwise agreed in writing.

25. 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.

26. ENVIRONMENT, SUSTAINABILITY AND DIVERSITY

26.1 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.

26.2 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:

26.2.1 comply with the provisions of the Modern Slavery Act 2015;

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

26.2.3 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.

26.3 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:

- 26.3.1 eliminates discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- 26.3.2 advances equality of opportunity between people who share a protected characteristic and those who do not; and
- 26.3.3 fosters good relations between people who share a protected characteristic and those who do not.

27. PUBLICITY

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

28. LAW

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

29. WAIVER

- 29.1 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.
- 29.2 No waiver by the Agency shall be effective unless made in writing.
- 29.3 No waiver by the Agency of a breach of the Contract shall constitute a waiver of any subsequent breach.

30. ENFORCEABILITY AND SURVIVORSHIP

- 30.1 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
- 30.2 The following clauses shall survive termination of the Contract, howsoever caused: 14, 15, 16, 22, 23, 25, 28, 30, 31, 32, 33 and 34.

31. DISPUTE RESOLUTION

- 31.1 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.

- 31.2 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).
- 31.3 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.
- 31.4 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.
- 31.5 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.
- 31.6 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.
- 31.7 Any of the time limits in Condition 31 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.

32. GENERAL

- 32.1 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.
- 32.2 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.

33. FREEDOM OF INFORMATION ACT

- 33.1 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').

- 33.2 The Contractor agrees that:
- 33.2.1 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
 - 33.2.2 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.
- 33.3 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 stated to be or 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.

34. DATA PROTECTION

- 34.1 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

Section 9 Appendix to Conditions Goods

Ref: 30936

Title: River Ouse, Flood Alleviation Scheme – Supply of Raw Aggregate

Condition

1 **Contract Supervisor**

[REDACTED]

Project Manager

Address:-

Environment Agency Field Operations

Environment Agency

Seaford Depot

Marine Parade

Seaford

East Sussex

BN25 2QR

2 **Contractor**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3 **Completion**

Contract Start Date

[REDACTED]

Contract End Date

[REDACTED]

4. Optional 12 Month Contract Extension Period

Contract Start Date



Contract End Date



5. Delivery

Address:-

Piddinghoe sailing club (BN99AX) - TQ4377402740

Southeast Depot – (BN73HX) - TQ4284305366

Beddingham PS (BN86JY) - TQ4441808064

Southerham Bridge (BN72BS) - TQ4248809283

6 Insurance

Professional Indemnity Min. Cover N/A

Third Party Minimum Cover N/A

Public Liability Min. Cover £5 million

7 Limit on Liability

Limit on Contractors Liability £5 million

Section 10 Appendix to Conditions Goods

Ref: 30936

Title: River Ouse, Flood Alleviation Scheme – Supply of Raw Aggregate

Additional Terms and Conditions

The service will be performed in accordance to regulations governing;

1. Promoting the best practical environmental options for delivering fuel.
2. Complying with the provisions of the Agency's policies on 'sustainable' procurement.
3. Waste transfer notes completed to cover the transfer of waste in accordance with the 'Duty of Care' Waste Regulations.
4. Packaging Instructions:
 - a. The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged. The Supplier must take back any primary packaging where it is possible to do so. Packaging must have recycled content and be 100% re-usable and 100% recyclable and support the Government's commitment to eliminate single use plastic'.
 - b. The Supplier must ensure the reduction of single use consumable items (including packaging), and avoidance of single use plastic in line with Government Commitments'

Annex 1 – Pricing Schedule

PRICING SCHEDULE

W.E.F. 01 MAY2021

PROJECT REF: 30936

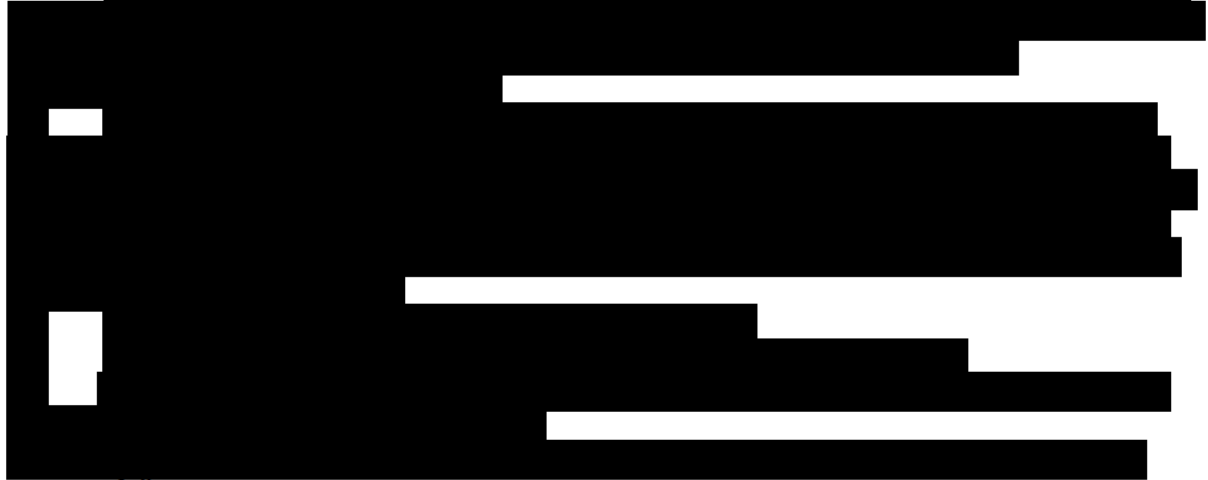
PROJECT TITLE: Raw Aggregate Supply and Delivery; Southease Flood Alleviation Scheme. Tidal River Ouse North of Newhaven to the A27, East Sussex

PRICING - GENERAL

1. Pricing Schedule (version 1-05/21)

PRICING - GENERAL

1.1



as follows:

Table 1 – Pricing
3 Year Contract fixed term

Item No	Start Date	Completion Date	Order Quantities of raw aggregate per unit Tonne	Standard delivery lead-time *2-3 days during normal working hours Total Price £s (ex VAT)	Urgent delivery lead-time within 2 days Total Price £s (ex VAT)	Urgent delivery within 1 working day – during normal working hours Total Price £s (ex VAT)
1	2021-05-01	2021-05-01	1000	1000	1000	1000
2	2021-05-01	2021-05-01	1000	1000	1000	1000
3	2021-05-01	2021-05-01	1000	1000	1000	1000
4	2021-05-01	2021-05-01	1000	1000	1000	1000

Table 2 – Pricing
12 month, optional contract extension period

Item No	Start Date	Completion Date	Order Quantities of raw aggregate per unit Tonne	Standard delivery lead-time *2-3 days during normal working hours		
				Total Price £s (ex £		
1						
2						
3						
4						

Annex 2 – Product Specification Document

2. Product Specification (version 1-05/21)

Supply of Raw Aggregate for the Southease Flood Alleviation Scheme (Tidal Ouse North of Newhaven to the A27)

Project Ref: 30936

1. Background

The Environment Agency requires natural stone aggregate for embankment repairs to the tidal River Ouse embankments in East Sussex between Newhaven and the A27 (near Lewes). The banks of the tidal River Ouse were raised in the fifties and the exposed face was protected from scour at high tide by a revetment known as pole wharfing. The revetment (a semi-soft form of engineering) consists of chestnut stakes (driven to a 700mm minimum) and woven chestnut poles retaining limestone cobbles. A 10 year maintenance programme of embankment repairs conducted by Operations Delivery (our in house work force) began in 2014 and involves replacing damaged or missing pole wharfing. Where significant erosion has occurred gabion baskets or clay blisters will be used.



Figure 1: Completed pole-wharfing repair to tidal River Ouse embankment using Kentish Ragstone.



Figure 2: Kentish Ragstone used in previous embankment repairs on the tidal River Ouse.

This product specification requires the supply and delivery to site of up to 2,000 tonnes of aggregate annually. All aggregate supplied under the Contract must be suitable for the intended purpose (as a tidal riverbank revetment or gabion stone) and meet the specification detailed below. The average annual quantity of aggregate is likely to be around 2,000 tonnes, however this figure could vary from year to year as the work is dependent on the condition of the embankments, suitable ground conditions and financial budget. Work is typically restricted to between April and September to coincide with the favourable ground conditions (although emergency repairs may be required outside of this period). The Environment Agency therefore cannot provide a guarantee on the level of business that will be placed under this Contract.

2. Geographical Coverage

The aggregate is to be supplied and delivered to any of four sites covering the geographical area between Lewes and Newhaven in East Sussex. Please refer to delivery addresses below:

- Piddinghoe sailing club (BN99AX) - TQ4377402740
- Southease Depot – (BN73HX) - TQ4284305366
- Beddingham PS (BN86JY) - TQ4441808064
- Southerham Bridge (BN72BS) - TQ4248809283

Access routes to the four delivery sites will require haulage Lorries to travel on compacted aggregate/earth tracks. The Contractor will be responsible for ensuring that delivery vehicles are suitable for the specified delivery locations. An Environment Agency banksman will supervise delivery (managing safe entrance and exit from the construction site).

3. Contract Management

- The overall management and co-ordination of the Contract will be undertaken by the Environment Agency's Project Team, comprising Flood and Coastal Risk Management, Field Services and Procurement.
- The Contractor will be required to nominate a Contract Manager who will be responsible for the overall management of the Contract and act as a single point of contact for Contract communications.

4. Material Specification

- The aggregate supplied for the Contract will need to match with the existing natural stone aggregate already in place along the tidal River Ouse embankments which is Kentish Ragstone, a sandy limestone aggregate. All material supplied under the Contract must be suitable for the intended purpose (as a tidal riverbank revetment or gabion stone).
- The aggregate supplied must meet the full specification requirements of this contract for the full duration of the specified contract term.
- The material shall be hard quarried rock, extremely durable, frost proof and non-degradable and meet the specification in Table 1 below.

Property	Value
<i>Aggregate size (mm)</i>	<i>100 - 200</i>
<i>Colour</i>	<i>Medium Grey on BRE Colour Chart, Grey on Munsell Rock Colour chart, or equivalent</i>
<i>Compressive Strength</i>	<i>Strong – Very Strong (50MPa-250MPa)</i>
<i>Durability</i>	<i>Resistance to weathering and low frost susceptibility</i>

Table 1 - Aggregate Specification

The Contractor will ensure that the quarry from which the material is sourced has the appropriate planning permission (issued by the relevant Minerals Planning Authority), with appropriate Environmental Statement/Environmental Impact Assessment in place.

5. Testing

- All materials supplied will be thoroughly checked by the Contractor prior to delivery to site. Should any loads of material delivered be found to be non-compliant with the standard or grade specified by the Environment Agency reserves the right to reject the delivery at no cost to the Environment Agency.

6. Sustainability

The Environment Agency requires products that:

- Achieves value for money taking into account whole life costs
- Generates benefits to us, society and the economy
- Minimises damage to the environment
- The ability to deliver environmental benefits through the Contract is a high priority. The Contractor will help support the Environment Agency's corporate plan target of achieving carbon net zero by 2030, by targeting and realising benefits from reductions emissions from road haulage in particular road haulage.

7. Transport

The Contractor's delivery drivers must be competent, conscientious, safe and hold the appropriate vehicle driving licence. All drivers must not exceed their permitted daily working hours. If transport is to be sub-contracted out please refer to the Sub-Contracted Transport section below.

- Vehicle testing records should be available on request by the Environment Agency throughout the duration of the Contract.
- The Contractor is to take into account the following site delivery constraints, for which articulated 40 tonne lorries (or similar) are not suitable:
 - Weak bridge
 - Limited turning

8. Sub-Contracted Transport

- The Environment Agency may permit the Contractor to subcontract the provision of aggregate transport/haulage. However, it must not affect the Contractor's ability to fulfil its obligations under the Contract.

9. Material Provided by Sub-Contractor

- Responsibility for the provision of material and the proper execution of the Environment Agency's requirements will remain with the Contractor under these supply arrangements. All material provided by sub-contractors on behalf of the Contractor will be deemed as having been carried out by the Contractor. Therefore the Contractor will remain responsible for ensuring the quality of the material and that all requirements of this specification are met in full.
- Should the sub-contractor be found to be non-compliant with legislation such as waste or health and safety, or be involved in any other illegal activity, the Contractor will be required to discontinue use of that sub-contractor to provide any goods/services under

the Contract. Approval must be sought from the Environment Agency's Con Lead prior to the Contractor's use of any alternative sub-contractor.

10. Delivery

- The Contractor must give a minimum of 1 working day's notice to the site representative of expected delivery stating delivery date and time (standard office hours are 8am to 4pm). Delivery must be within a stated window slot and the site representative must be informed of any delivery delays. Working hours are therefore between 8am to 4pm.
- Should a delivery date and time agreed by the Contractor not be achieved, the Environment Agency reserves the right to claim damages in the form of plant and labour downtime resulting in the delay of delivery.

11. Records

The Contractor will be required to keep the following records of the Contract and be able to produce the documentation upon request by the Environment Agency:

- Quantity and origin of material supplied
- Date of material supplied
- Method of transport and number of deliveries

12. Health and Safety

The Contractor is responsible for the Health and Safety of their personnel and sub-contractors whilst on the public highway. When delivery vehicles enter an Environment Agency construction site the Environment Agency is responsible for organising safe passage into and out of the site (an Environment Agency banksman will supervise delivery). When in position the Contractor is responsible for ensuring the safe unloading of material. The Contractor must have in place appropriate Health and Safety policies, procedures and risk assessments at all times during the Contract duration.

All delivery drivers used on this contract must carry and be competent in using a spill kit.

13. Environmental Performance

The Contractor shall ensure that the Services are performed in a manner which is at all times consistent with the Agency's Environmental policy particularly with regard, but not limited, to:

- Achieving continuous improvement in the environmental performance;
- Promoting the best practical environmental options for delivering fuel;

The Contractor whilst on any Environment Agency site will follow the Environment Agency's process to report environmental incidents and near misses (e.g. spillages of fuel or chemicals).

<https://www.gov.uk/report-an-environmental-incident>

The Contractor's sites and activities must be fully compliant with all relevant environmental legislation. Any breaches of legislation must be reported to the Environment Agency Contract Lead within 48 hours.