

Schedule 2 – Call Off Employer Contract Data and Terms



MF1 (Rev 6) Call off Contract

Anglian-Midlands MEICA Framework - 9U3H-XU7DNK

A contract between

The Environment Agency

and ECS Engineering Services Limited

for: Lydney Docks Flood Door Repair

Contract Ref: project_28936

FORM OF AGREEMENT

This Agreement is made the **22nd day of May 2020** between:

(1) ENVIRONMENT AGENCY of [REDACTED] (the "Purchaser") of the one part;
and

(2) [REDACTED]
[REDACTED] (the "Contractor") of the other part.

Recitals:

(A) The Purchaser wishes to have certain Works executed by the Contractor, briefly described as:

Replacement of the existing borehole pumps at the following sites (Merrington, Pim Hill, Smethcote, Shawell Cottage and Preston Gubbals) in accordance with the specification SGS Phase 3 Pump Replacement
and has appointed the Purchaser's [REDACTED] as the Engineer for the purposes thereof (the "Engineer").

(B) The Purchaser has agreed to engage the Contractor for the design, manufacture, delivery to Site, installation, testing and completion of the Works and the remedying of defects in the Works in accordance with the Contract, under the direction of the Engineer, in the sum of £ [REDACTED] (the "Contract Price").

It is agreed as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions.
2. The following documents and their annexes which have been bound in herewith shall be deemed to form and be read and construed as part of the Contract:
 - (a) this Agreement;
 - (b) the General Conditions and Appendix;
 - (c) the Special Conditions;
 - (d) the Specification and the drawing (if any) annexed to, or referred to in, the Contract;
 - (e) the Schedules;
 - (f) the Letter of Acceptance; and
 - (g) the Tender or Contractor's submission.
3. In consideration of the payments to be made by the Purchaser to the Contractor in accordance with the Contract, the Contractor agrees to design, manufacture, deliver to Site, install, test and complete the Works and to remedy defects in the Works in conformity in all respects with the provisions of the Contract.
4. The Purchaser shall pay the Contractor, in consideration of the execution and completion of the Works and the remedying of defects in the Works, the Contract Price or such other sum as may become payable under

the provisions of the Contract together with the Value Added Tax properly chargeable on such sums, at the times and in the manner prescribed by the Contract.

5. If any question, dispute or difference shall arise between the Purchaser and the Contractor in relation to the Contract or in any way related to the Works which cannot be settled amicably it shall be referenced to arbitration in accordance with Clause 52 (Disputes) of the General Conditions.

IN WITNESS whereof the parties have executed and delivered this Agreement as a deed on the date above written

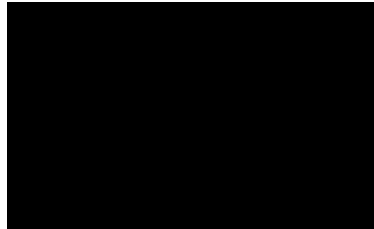
Signed for and on behalf of the

Authorised Signatory:

Name:

Position:

Date:



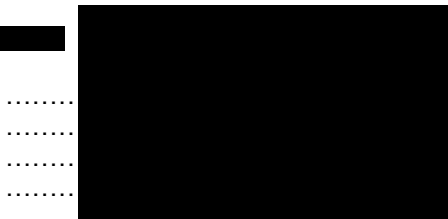
Signed for and on behalf of _____

Authorised Signatory:

Name:

Position:

Date:



The Terms and Conditions comprise the:

Model Form MF/1 (Rev 6) General Conditions of Contract (2014 Edition) including:

- Tender
- Form of Taking-Over Certificate
- Form of Sub-Contract

amended as set out in:

- the Appendix to the General Conditions of Contract attached hereto;
- the Amendments and Additions to the General Conditions of Contract contained in Schedule 2 of the Deed of Agreement concerning the Anglian-Midlands MEICA Framework; and
- the Special Conditions of Contract attached hereto.

General Conditions of Contract**Appendix**

Where Clause numbers are specified here they refer to the General Conditions of Contract unless otherwise indicated.

Clause 1 - Definitions

Sub-Clause 1.1m

The

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Sub-Clause 1.1s

The Nominator is from the following institution:
The President of the Institution of Electrical Engineers or the President of the Institution of Mechanical Engineers as determined by the Purchaser

Sub Clause 1.1v

Performance Tests

The Performance Tests are to be detailed in the Specification or set out below (as may be further defined in the Specification) or otherwise agreed between the parties.

Name of Performance Test	Performance requirements
SAT	To meet the pump duties stated per site in the pump specification.

Sub-Clause 1.1cc

The Works are not divided into Sections

Sub-Clause 1.1dd

Time for Completion
The Time for Completion of the Works means by the 30th September 2020

Sub-Clause 2.1	<p>Engineer's duties</p> <p>The Engineer is required to obtain the Purchaser's prior specific approval before exercising the following duties:</p> <p>.....</p> <p>.....</p> <p>.....</p>
Sub-Clause 4.1	Precedence of documents
Sub-Clause 10.1	<p>The order of precedence of the documents forming the Contract is as follows:</p> <p>(a) this Agreement;</p> <p>(b) the Letter of Acceptance;</p> <p>(c) the Appendix;</p> <p>(d) the Special Conditions;</p> <p>(e) the General Conditions;</p> <p>(f) the Specification;</p> <p>(g) the drawing annexed to, or referred to in, the Contract</p> <p>(h) the Schedules;</p> <p>(i) the Tender or Contractor's submission</p>
Sub-Clause 5.5	<p>Prime Cost items</p> <p>Percentage to be added - (Not applicable) N/A or 0%</p>
Sub-Clause 6.2	<p>Labour, materials and transport</p> <p>Sub-clause 6.2 of the General Conditions shall not apply</p>
Sub-Clause 8.1	<p>Provision of bond or guarantee</p> <p>Not required</p>
Sub-Clause 10	<p>Notices</p> <div style="background-color: black; height: 60px; width: 100%;"></div> <p>Engineer's contact details:</p> <p>Address: _____</p> <p>E-mail address: _____</p> <div style="background-color: black; height: 60px; width: 100%;"></div>
Sub-Clause 11.5	The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract
Sub-Clause 11.6	The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract
Sub-Clause 11.7	<p>Power, etc. for tests on Site</p> <p>The following items will not be provided by the Purchaser:</p> <p>.....</p> <p>.....</p> <p>Use of the following items will be charged to the Contractor:</p> <p>.....</p> <p>.....</p>
Sub-Clause 14.2	<p>Form of Programme</p> <p>The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract</p>

Sub-Clause 18.2

Site Services

The rates for Site Services provided by the Purchaser:

.....

Sub-Clause 34.1

Delay in Completion

Percentage of Contract Value to be paid or deducted for each week of delay to completion of the whole of the Works%

[Where the Works are divided into Sections, the percentages of the Contract Value to be paid or deducted for each week of delay for each Section are:

Name of Section	Percentage of Contract Value to be paid or deducted

]

Maximum Percentage of Contract Value which payments or deductions shall not exceed%

Sub-Clause 34.2

Prolonged delay

Maximum loss recoverable by the Purchaser

£xxx (.....)

Sub-Clause 35.8

Consequences of failure to pass performance tests

The Time for completion of Performance Tests is set out in the Specification or set out below (as may be defined in the Specification)

Name of Performance Test	Time for Completion of Performance Test (days after taking over)

(a) The liquidated damages for failure to pass Performance Tests are set out in the Specification or set out below (as may be further defined in the Specification)

Name of Performance Test	Acceptable limit and liquidated damages

If no details are inserted into the Specification or table, the damages shall be treated wherever they cause delay to the Programme as delays to Completion and the details for such delays are set out in the Sub-Clause 34.1 within this Appendix to the General Conditions of Contract

Sub-Clause 36.1

The Defects Liability Period shall be 12 Months after taking-over.

Sub-Clause 36.3

Notice of defects

The Defects Liability Period in respect of any repair or replacement shall not extend beyond 12 months from the date of taking-over under clause 29 (Taking-over)

Sub-Clause 39.1

Payments by instalments

(where payment is to be made by way of milestones)

The Contractor is entitled to the following milestone payments on achieving the corresponding milestone deliverables:

Milestone deliverable	Milestone payment

(where payment is to be made by way of monthly valuations)

The Contractor is entitled to monthly payments in respect of:

- (a) The value of work executed on Site;
- (b) [the value of Plant in the course of manufacture, and]
- (c) [....% of the value of Plant delivered]

[Less

- (d) retention of%.

The Contractor shall be entitled to the release of retention as follows:

- (e) half of the amount retained within 30 days after presentation of the Taking-over Certificate, and
- (f) the balance of the amount retained:
 - (i) within 30 days after presentation of the final certificate of payment, or
 - (ii) forthwith if the Contractor has provided to the Purchaser a guarantee in accordance with Form 5: Defects Liability Demand Guarantee.

Where Sections are applicable, if any Sections of the Works is taken over separately under clause 29 (Taking-over) the release of retention on or after taking-over shall be made in respect of the Section taken over and reference to the retention shall mean such part of the retention as shall, in the absence of agreement, be apportioned to such Section by the Engineer.]

Sub Clause 39.2

Time for application

- (a) Time for applications for interim certificates of payment

Applications for interim payment certificates shall be made on or after the date that the relevant milestone deliverable has been achieved

If the whole or any part of the Works have been suspended pursuant to sub-clause 25.1 (Suspension of work, delivery or installation), applications for interim payment certificates shall be made on or after the last Friday of each month in relation to the Works affected by the suspension until the suspension is lifted, the suspended Works are omitted or the Contract is terminated.

(where payment is to be made by way of monthly valuations)

Applications for interim payment certificates shall be made on or after the last Friday of each month

Sub Clause 39.3

Form of application

- (d) Document to accompany applications for a certificate of payment

(where payment is to be made by way of monthly valuations)

- (i) Evidence required of the value of work done on the Site:
"Each application shall be supported by separate sheets setting forth in detail the order of the Schedules of Rates the Contract Price particulars of the Works executed on the Site and of the Plant delivered to the Site pursuant to the Contract since the period covered by the last preceding certificate (if any)"

.....

- (ii) Evidence required of the value of work done for Plant in the course of manufacture:

.....

- (iii) Evidence required for Plant delivered

.....

(where payment is to be made by way of milestones)

Milestone deliverable	Evidence required to demonstrate milestone deliverable has been achieved

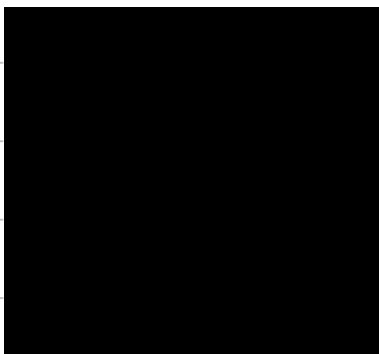
Sub-Clause 39.5	Final date for payment The Final Date is 30 days after the Due Date
Sub-Clause 40.4	Delayed Payment The rate of interest on overdue payment shall be 2% per annum above the Bank of England base rate in force from time to time during the period of delay
Sub-Clause 40.6	Advance Payment Advance Payments does not apply
Sub-Clause 40.7	Currencies of Payment The Contract Price (including any adjustments) shall be paid in the following currencies: English Pound Sterling
Sub-Clause 40.8	Taxes The Purchaser is responsible for the following taxes: Unless otherwise stated in the Contract the Contract Price is deemed to exclude Value Added Tax. To the extent that Value Added Tax is properly chargeable on the supply to the Purchaser of any goods or services provided by the Contractor under the Contract, the Purchaser shall pay such Value Added Tax as an addition to payments otherwise due to the Contractor under the Contract
Sub-Clause 41.2	Allowance for profit on claims Percentage to be added – nil %
Sub-Clause 44.3	Limitation of contractor's liability Limit of Liability - £5,000,000 (five million pounds)
Sub-Clause 47.4	Third party insurance The details of this Sub-Clause are set out in the Amendments and Additions to the General Conditions of Contract
Sub-Clause 52.1	Arbitration (c) The arbitration rules are Rules of Arbitration of the International Chamber of Commerce (2012) (d) The seat of the arbitration is London, England (where Special Condition 2: Adjudication applies)
Sub-Clause 52.4	Adjudication (c) The adjudication rules are: As set out in Construction Industry Council Model Adjudication Procedure: Fourth Edition
Sub-Clause 53.1	Applicable law The substantive law of the contract is the law of England

Specification Lydney Docks

Anglian-Midlands MEICA Framework

412_13_SD02

Project / contract Information

Project name	Lydney Docks Flood Door Repair
Project SOP reference	
Contract reference	
Date	
Version number	
Author	

Revision history

Revision date	Summary of changes	Version number
26/02/20	First issue	1
27/02/20	Second issue	2

The Works are to be delivered in accordance with the current version of the Anglian-Midlands MEICA Framework Deed of Agreement (**9U3H-XU7DNK**). This Specification should be read in conjunction with the version of the Anglian-Midlands MEICA Framework Deed of Agreement current at the Contract Date. In the event of conflict, this Specification shall prevail.

customer service line
03708 506 506
www.environment-agency.gov.uk

incident hotline
0800 80 70 60

floodline
0845 988 1188

Details of the Works

Details of the Works are:

1. Description of the work:

1.1 Objective

a) Urgent repair the inner flood gates at Lydney Docks- reduce excess travel between hinges posts and gate.

1.2 Outcome Specification

a) Ensure sustainable repair of the inner flood gates to enable them to operate as required. The Contractor shall be responsible for ensuring the design is acceptable to the MEICA Engineer, ensuring that the design and operational parameters meet with the standards specification 369_13. Where there are deviations from this standard, written approval must be sought from the designated MEICA Engineer prior to any non compliances with the standards occurring, no costs that arise for rectifying non compliances will be accepted;

Designated MEICA Engineer; [REDACTED]

Detailed Scope;

- Provide Principal Contractor role- All duties defined under Principal Contractor CDM2015 must be included.
- Check on site for presence of hazardous materials – lead paint on existing structure
- Site facilities including Welfare and security 24hr for duration of works.
- Remove existing and Install supplied new timber heel posts including new heel post top hats and straps and fixings.
- Include for crange and diving team- approval for diving activities is required from the Environment Agency's Dive Safe Co-ordinator and a Dive safe form will be required.

1.3 The Works specifically excludes the following:

a) Timber is excluded and will be to be free issued to the successful contractor.

2. Drawings, site information or reports already available:

- a) Drawings- 02 O&M Vol 1 Mech As Built - Gate number 1 flood gates. File name: A_02 O&M Vol 1 Mech As Built
- b) Lydney Gates PCI. File name: B_Lydney Gates PCI -V2
- c) EA Timber purchasing policy to be followed. File name: C_Timber policy 591_06
- d) SHEW Code of practice to be fully implemented. File name: D_SHEW CoP

3. Specifications of standards to be used:

a) The works are to be delivered in accordance with the current version of the Anglian-Midlands MEICA Framework Deed of Agreement (**9U3H-XU7DNK**), including Schedule 1 (Framework Specification) and its Annexes;

b) MEICA standard specification: Operational instruction 369_13 (Issued 06/06/2013) and its Associated supplementary documents;

4. Constraints on how the Contractor delivers the Works:

- Scheduled Ancient Monument

The Site is a Scheduled Ancient Monument and requires English heritage approval which has been obtained for the works. Any damages to areas within the boundary designated as forming part of the Schedule Ancient Monument will be subject to English Heritage assessment and remediation works. All works on site need to be communicated with the Designated MEICA Engineer Raj Mathoon to ensure compliance with and English Heritage requirements.

- Use of the Site

The Site will not be used for storage of equipment, any equipment stored during this contract period will be stored at the risk of the supplier. Unless the equipment has been installed and commissioned in the as built state.

The Site is an operational Harbour and requires any restrictions to be agreed with the Harbour Master.

- Access to the Site

Access to Site will during normal working hours 8:00-17:00

- Parking

Within the Sites compounds only

- Use of cranes

Cranes may only be used under the specific guidance of the Principal Contractor

- Restrictions on the use of hazardous materials.

Waste procedures followed with the submission of all Duty of Care consignment notes.

- Interfaces between the works and existing assets.

The Site is an operational Harbour and requires close liaison with the Harbour Master and the Environment Agency. An initial start-up meeting will set out the programme of work and associated contact details. The Contractor will be responsible for ensuring other operational equipment is functionally isolated and fully involves the Harbour Master.

- Tides.

The Site is within a tidal area and Works will have to be co-ordinated at low tides. This can be discussed with the Client Engineer.

5. Requirements of the programme:

- a) All Works to be installed and Site Acceptance Tested by the 10th April 2020.
- b) Consultation has been completed with English Heritage the site is a protected Schedule Ancient Monument.
- c) Construction Phase Plan to be submitted to the Client and Principal Designer 7 days prior to the proposed site start.
- d) The Contractor shall provide a detailed project plan in Microsoft Project / Microsoft Excel / pdf format meeting all requirements of clause 14.1 of MF/1 (rev 6).
 - a. The Programme shall cover all the activities to be undertaken by the Contractor and other members of the project team, and is to include:
 - b. all major milestones from commencement to the end of the Works;
 - c. appropriate review and consultation periods for drafts, scoping reports, statutory consultation etc;
 - d. The following consultation periods are to be incorporated into the programme, with adequate allowance for review and revision of documents by the project team where appropriate:
 - e. Contractor internal review (as per your quality review procedures) and Purchaser review of all outputs before circulation to the wider project team to ensure high quality of all output;
 - f. Sufficient allowance for internal and external consultation. Statutory consultation periods at scoping & draft stages;
 - g. Purchaser approvals as required to include for Reservoirs Act, impoundment licence and working in watercourse approvals (if required); and
 - h. Submission for approval and time allowance for the Purchaser's approval process.

6. Services and other things provided by the Purchaser:

- a) There are no service to be provided by the Purchaser.