



Framework:

Supplier:

Company Number:

Geographical Area:

Project Name:

Project Number:

Contract Type:

Option:

Contract Number:

Client Support Framework

Turner & Townsend Cost Management Ltd

National

Allesley FRMS PFR Package ECC PM

ENV0001146C

Professional Service Contract

Option E

project\_32959

Revision	Status		Originator		Reviewer		Date

PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework
CONTRACT DATA

Project Name: Allesley FRMS PFR Package ECC PM
Project Number: ENV0001146C
This contract is made on 07 May 2021 between the Client and the Consultant
• This contract is made pursuant to the Framework Agreement (the "Agreement") dated 02nd day of July 2019 between the Client and the Consultant in relation to the Client Support Framework. The entire Agreement and the following schedules are incorporated into this contract by reference
• Schedules 1 through to 14 inclusive of the Framework schedules are relied upon within this contract.
• The following documents are incorporated into this contract by reference

Part One - Data provided by the Client
Statements given in all Contracts

1 General
The conditions of contract are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Professional Service Contract June 2017.

Main Option: Option E
Option for resolving and avoiding disputes: W2

- Secondary Options
- X2: Changes in the law
  - X9: Transfer of rights
  - X10: Information modelling
  - X11: Termination by the Client
  - X18: Limitation of liability
  - Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996
  - Y(UK)3: The Contracts (Rights of Third Parties) Act 1999
  - Z: Additional conditions of contract

The service is: Provide ECC PM services in support of the Allesley FRMS Property Flood Resilience Package.

The Client is: Environment Agency

Address for communications: [Redacted]

Address for electronic communications: [Redacted]

The Service Manager is: [Redacted]

Address for communications: [Redacted]

Address for electronic communications: [Redacted]

The Scope is in Allesley\_FRMS\_ECC\_PM\_Scope v1 dated 31 March 2021

The language of the contract is English

The law of the contract is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

The period for reply is 2 weeks

The period for retention is 6 years following Completion or earlier termination

The following matters will be included in the Early Warning Register

Early warning meetings are to be held at intervals no longer than2 weeks

2 The Consultant's main responsibilities

The key dates and conditions to be met are  
condition to be met  
'none set'  
'none set'  
'none set'

'none set'  
'none set'  
'none set'

key date

The Consultant prepares forecasts of the total Defined Cost plus Fee and expenses at intervals no longer than4 weeks

3 Time

The starting date is07 May 2021

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

The Consultant submits revised programmes at intervals no longer than4 weeks

The completion date for the whole of the service is31 March 2022

The period after the Contract Date within which the Consultant is to submit a first programme for acceptance is4 weeks

4 Quality management

The period after the Contract Date within which the Consultant is to submit a quality policy statement and quality plan is4 weeks

The period between Completion of the whole of the service and the defects date is26 weeks

5 Payment

The currency of the contract is the£ sterling

The assessment interval isMonthly

The expenses stated by the Client are as stated in Schedule 6.

The interest rate is2.00%per annum (not less than 2) above the  
Base rate of theBank of England

The locations for which the Consultant provides a charge for the cost of support people and office overhead areAll UK Offices

The exchange rates are those published in  
on

6 Compensation events

These are additional compensation events

- 1. Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time. between 1st April 2021 and 30th June 2021
- 2. 'not used'
- 3. 'not used'
- 4. 'not used'
- 5. 'not used'

8 Liabilities and insurance

These are additional Client's liabilities

- 1. 'not used'
- 2. 'not used'
- 3. 'not used'

The minimum amount of cover and the periods for which the Consultant maintains insurance are

EVENTMINIMUM AMOUNT OFPERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE SERVICE OR TERMINATION

The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i>	£5 million in respect of each claim, without limit to the number of claims	12 years
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i> ) <i>arising</i> from or in connection with the <i>Consultant</i> Providing the Service	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	12 months
Death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	For the period required by law
The <i>Consultant's</i> total liability to the <i>Client</i> for all matters arising under or in connection with the contract, other than the excluded matters is limited to		£1 million

Resolving and avoiding disputes

The <i>tribunal</i> is		litigation in the courts
The <i>Adjudicator</i> is		'to be confirmed'
Address for communications		'to be confirmed'
Address for electronic communications		<a href="#">'to be confirmed'</a>
The <i>Adjudicator nominating body</i> is		The Institution of Civil Engineers

Z Clauses

Z1 Disputes

Delete existing clause W2.1

Z2 Prevention

The text of clause 18 Prevention is deleted.  
Delete the text of clause 60.1(12) and replace with:  
The *service* is affected by any of the following events

- War, civil war, rebellion, revolution, insurrection, military or usurped power;
- Strikes, riots and civil commotion not confined to the employees of the *Consultant* and sub consultants,
- Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel,
- Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
- Natural disaster,
- Fire and explosion,
- Impact by aircraft or other aerial device or thing dropped from them.

Z3 Disallowed Costs

In second bullet of 11.2 (18) add:  
(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken).  
Add the following additional bullets after 'and the cost of ' :

- Mistakes or delays caused by the *Consultant*’s failure to follow standards in Scopes/quality plans.
- Reorganisation of the *Consultant's* project team.
- Additional costs or delays incurred due to *Consultant* ’s failure to comply with published and known guidance or document formats.
- Exceeding the Scope without prior instruction that leads to abortive cost
- Re-working of documents due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design errors.
- Production or preparation of self-promotional material.
- Excessive charges for project management time on a commission for secondments or full time appointments (greater than 5% of commission value)
- Any hours exceeding 8 per day unless with prior written agreement of the *Service Manager*
- Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with the *Service Manager*
- Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the *Service Manager*
- Costs associated with the attendance at additional meetings after programmed Completion, if delay is due to *Consultant* performance.
- Costs associated with rectifications that are due to *Consultant* error or omission.
- Costs associated with the identification of opportunities to improve our processes and procedures for project delivery through the *Consultant*’s involvement
- Was incurred due to a breach of safety requirements, or due additional work to comply with safety requirements
- Was incurred as a result of the *Client* issuing a Yellow or Red Card to prepare a Performance Improvement Plan
- Was incurred as a resulting of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

When appointing *Consultants* on a secondment basis only:

Add clause 19  
19.1 The *Client* will from starting date to Completion Date indemnify the *Consultant* against any and all liabilities, proceedings, costs, losses, claims and demands whatsoever arising directly or indirectly out of the activities of the *Consultant* in providing the services save where such claims, in the reasonable opinion of the *Client* , arise from or are contributed to by:

19.1.1 Misrepresentation or negligence by or on behalf of the *Consultant* ;  
or  
19.1.2 The *Consultant* has acted contrary to the *Service Manager’s* reasonable instructions or wholly outside the scope of the *Consultant’s* duties as defined by the *Service Manager* .

Z6 The Schedule of Cost Components

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

Z7 Linked contracts

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

**Z8 Requirement for Invoice**

Insert the following sentence at the end of clause 51.1:  
The Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week of the *Service Manager’s* certificate.  
Delete existing clause 51.2 and insert the following:

- 51.2 Each certified payment is made by the later of
- one week after the paying Party receives an invoice from the other Party and
  - three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period stated.

If a certified payment is late, or if a payment is late because the *Service Manager* has not issued a certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made

**Z9 Conflict of Interest**

The *Consultant* immediately notifies the *Client* of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the *Consultant* (including without limitation its reputation and standing) and/or the *Client* of which it is aware or which it anticipates may justify the *Client* taking action to protect its interests. Should the Parties be unable to remove the conflict of interest to the satisfaction of the *Client*, the *Client*, in its sole discretion, may terminate this Contract.

**Z10 Change in Control**

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

**Z11 Rate Increase Provision**

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

**Z12 Waiver**

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party by the Service Manager in writing in accordance with the Contract, and with express reference to Clause Z12. The failure of either party to insist upon strict performance of the Contract, or any failure or delay in exercising any right or remedy shall not constitute a waiver or dimunition of the obligations established by the Contract.

Secondary Options

OPTION X2: Changes in the law

The *law of the project* is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

OPTION X10: Information modelling

The period after the Contract Date within which the *Consultant* is to submit a first Information Execution Plan for acceptance is 2 weeks

OPTION X18: Limitation of liability

The *Consultant's* liability to the *Client* for indirect or consequential loss is limited to £1,000,000

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects date* is limited to £1,000,000.00

The *end of liability date* is 6 years after the Completion of the whole of the *service*

Y(UK2): The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 Days after the date on which payment becomes due

Y(UK3): The Contracts ( Rights of Third Parties Act) 1999

term beneficiary

Part Two - Data provided by the Consultant

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

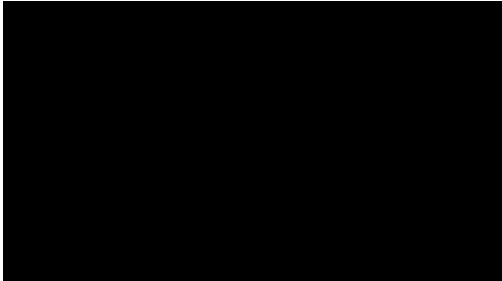
1 General

The Consultant is

Name and company number

Turner & Townsend Cost Management Ltd

Address for communications



Address for electronic communications

The fee percentage is

Option E	45.00%
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The key persons are

Name (1)	[Redacted]
Job	NEC ECSC Client Project Manager
Responsibilities	As per scope
Qualifications	As per CV
Experience	As per CV

The key persons are

Name (2)	[Redacted]
Job	[Redacted]
Responsibilities	CSF PSC Contract Management (FastDraft)
Qualifications	As per CV
Experience	As per CV

The key persons are

Name (3)	
Job	
Responsibilities	
Qualifications	
Experience	

The key persons are

Name (4)	
Job	
Responsibilities	
Qualifications	
Experience	

The key persons are

Name (5)	
Job	
Responsibilities	
Qualifications	
Experience	

The key persons are

Name (6)	
Job	
Responsibilities	
Qualifications	
Experience	

The key persons are

Name (7)	
Job	
Responsibilities	
Qualifications	

Experience

The following matters will be included in the Early Warning Register  
Availability of the named resource

3 Time

The programme identified in the Contract Data is  
As CD Part 1

Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1) [redacted]  
Address for communications  
[redacted]  
[redacted]  
[redacted]  
[redacted]  
[redacted]

Address for electronic communications  
[redacted]

Name (2) [redacted]  
Address for communications  
[redacted]  
[redacted]  
[redacted]  
Leeds  
[redacted]

Address for electronic communications  
[redacted]

X10: Information Modelling

The *information execution plan* identified in the Contract Data is  
N/A



Contract Execution

Client execution

Signed under hand by for and on behalf of the Environment Agency

Signature

Consultant execution

Consultant execution

Signed under hand by for and on behalf of Turner & Townsend Cost Management Ltd

Signature

# PSC scope template – ECC PM

## NEC4 professional services contract (PSC)

412\_13\_SD06

### Environment Agency NEC4 professional services contract (PSC) Scope

#### Project / contract information

Project name	Allesley FRMS Property Flood Resilience Package – ECC PM
Project SOP reference	ENV0001146C
Contract reference	project_32959
Date	31 <sup>st</sup> March 2021
Version number	1.0
Author	

#### Revision history

Revision date	Summary of changes	Version number
31/03/2021	First issue	1.0

This Scope should be read in conjunction with the version of the Minimum Technical Requirements current at the Contract Date. In the event of conflict, this Scope shall prevail. The *services* are to be compliant with the version of the Minimum Technical Requirements.

# 1 Objectives of the project (project outcomes)

## Objective

The aim of the Allesley FRMS is to deliver property flood resilience measures to 30+ properties in Allesley, Coventry.

This procurement exercise is to commission the *Consultant* to act as ECC PM for the project Scheduled Construction Delivery April 2021- March 2022.

## Outcome Specification

The overall objective of this commission is to; provide the ECC Project Manager and carry out contract administration of the NEC4 contract.

# 2 Project team

- 1 The design consultant is [REDACTED]
- 2 The Contractor is [REDACTED]
- 3 The *Supervisor* is n/a
- 4 The Contractor will be appointed using the NEC4 Engineering and Construction Contract Short
- 5 Principal Designer is [REDACTED]
- 6 BIM Information Manager [REDACTED] (EA Project Manager)

# 3 Consultant provides the services

Details of the *services* are:

The *Consultant* shall provide an ECC Project Manager to provide ad hoc support to officers from the Environment Agency Midlands FCERM directorate. The ECC Project Manager will provide guidance, advice and support to the Environment Agency in its execution of Client (NEC4) duties. The *Consultant* ECC PM must be accredited by the NEC in NEC4 ECC PM roles and be on the Environment Agency's register of approved ECC PMs.

The ECC PM will support the Environment Agency's Project Manager and Project Executive community by providing advice and guidance on NEC4 PSC, ECC and ECSC contracts let through both WEM and CDF frameworks. The *services* will include:

- Reviewing, commenting and amending Works Information, Scope, Contract Data part 1 and Site Information documents
- Reviewing and commenting on tender submissions from the EA CDF/WEM supply chain
- Reviewing, commenting on and preparing responses to supplier programme submissions made in accordance with the relevant clauses of the contract (e.g. cl.32.1, cl.31.2) on behalf of the *Client* or *Service Manager*

- Providing written advice and guidance on the proper execution of the *Client's* duties in respect of contractual compliance and good project management. E.g. ensuring the changes to representatives from the Parties are correctly reported, contractual time scales are being adhered to etc.
- Assisting the *Client/Service Manager* in managing change (instructing change and notifying, assessing and implementing Compensation Events)
- Drafting Contract Addendum as required
- Advice and guidance on maintaining a positive relationship with the supply chain while maintaining robust and transparent commercial challenge
- Provision of project management tools e.g. commercial tracker, programme tracker etc. as required
- Assisting with review of supplier applications for payment and preparation of payment certificates
- Assisting with Defect identification and management
- Responding to any queries relating to the application and execution of NEC4 contracts

Specifications of standards to be used

- a) The ECC *Project Manager* shall be sourced from the approved Environment Agency ECC PM list.
- b) Minimum 5 years of experience in NEC PM and *Client/Service Manager* roles

The *Consultant* will be based at the Environment Agency office in Aqua House, 20 Lionel Street, Birmingham B3 1AQ and work from the following offices as required:

- Riversmeet House, Northway Lane, Tewkesbury GL20 8JG
- Sentinel House, 9 Wellington Crescent, Fradley Park, Lichfield WS13 8RR
- Hafren House, Welshpool Road, Shelton, Shrewsbury SY3 8BB
- Various project sites across the midlands region

## 4 Definition of completion and defects

- 1 Completion is only achieved when all of the *services* have been provided and accepted by the *Client*. Population of the *Client's* latest version of the Project Cost Tool, is an absolute requirement of Completion.
- 2 A Defect is any *service* provided which is not in accordance with the Scope or the applicable law.

## 5 Constraints on how the consultant provides the services

- 1 The *Consultant* is not to delegate their duties or powers without prior written agreement from the *Client*.

## 6 Standards to be achieved

### 6.1 Health and safety

Health, safety and welfare is of paramount importance to the *Client* and one of the objectives for the contract is that the works should be undertaken in a manner that achieves highest possible standards. Health, safety and welfare provisions must be seen as integral parts of carrying out the works and not as stand-alone considerations. The *Consultant* will take reasonable steps, when considering documents supplied to him by the Contractor, that the **management arrangements** adopted by the Contractor for safety are suitable.

The contract requires the Contractor to produce a schedule of activities for which risk assessments and method statements must be prepared. The schedule and method

statements will meet the dual requirements of the Construction Design and Management Regulations and the requirements of sub-clause 31.2 of the contract.

The Contractor will be free to add to the schedule as the work progresses. Prior to the start of construction work, and again after any revisions prior to implementation of the revisions, the Contractor must forward the schedule to you, with the programme for acceptance.

The level of detail required will depend on the activity. As a minimum the Contractor must ensure that risk assessments and method statements are prepared and submitted for review in accordance with the Works Information covering:

- full, timing and sequence of construction including the use and design of temporary works, materials, plant and equipment proposed by the Contractor;
- Indication of activities that represent a higher than normal level of health and safety risk.

Some additional information may be required in respect of compliance with the environmental action plan and the minimisation of environmental impacts of the activities.

Method statements supplied in support of the works information are to be formatted for the benefit of those personnel undertaking the works, and contain language and detail appropriate for those individuals. They shall take account of experience, to ensure that account is taken of the matters identified above

In particular the *Consultant* will be required to:

- before the start of construction work, or thereafter in the case of a proposal for a revision, receive from the Contractor the schedule of risk assessments and method statements for acceptance;

Take reasonable steps to ensure that the persons carrying out risk assessment on behalf of the Contractor are competent for the type of risks, and have adequate resources including time, to properly consider, in an appropriate time, risks identified in the schedule.

Take reasonable steps, for ensuring the effectiveness of method statements as regards language, appropriate detail and quality of briefing arrangements for example by review at progress meetings of risk assessments and method statements to be employed for higher risk or unusual tasks in the coming period.

- Seek a more specialised opinion, about the content of a submission from the Principal Designer, *Client* project manager and/or ncpms safety advisor or safety, health and environment manager as appropriate.
- Ensure that the Contractor completes, updates and holds on behalf of the *Client*, the schedule of risk assessments and method statements.

## **6.2 Co-operation with the Principal Designer**

There will be a Principal Designer for this scheme. The Principal Designer duties will include for a review of any site based works and notifying the HSE of these, as well as a review of the design. The Principal Designer will comment and include for any work required following review. The *Consultant* shall ensure that any instructions from the Principal Designer are properly administered

## 6.3 Specifications or standards to be used

In advising and supporting the *Consultant* shall make full use of the *Client* ECC standard commercial and contract forms that have been developed for this purpose. Some examples are:

- Contract administration must always be done with reference to the contract including the Standard ECC Scope[*Client* document ref 1.01 Contract Data PFR v3]
- Project Manager's Instruction [*Client's* ECC standard commercial and contract forms]
- Contractor's Technical Query [*Client's* ECC standard commercial and contract forms]
- Weekly Site Record [*Client* document ref 413\_13\_SD14]
- Early Warning [*Client's* ECC standard commercial and contract forms]
- Compensation Event [*Client's* ECC standard commercial and contract forms]

## 7 Requirements of the programme

### 7.1 Programme

The *Consultant* shall provide a detailed project plan in Microsoft project format meeting all requirements of Cl.31 of the *conditions of contract*. The programme also includes alignment and submission of the BEP and Master Information Delivery Plan (MIDP) relevant to this commission.

A baseline plan shall be provided for the project start up meeting and this will be updated monthly for progress meetings with actual and forecast progress against the baseline.

The programme shall cover all the activities to be undertaken by the *Consultant* and other members of the project team. Include all major project milestones from commencement to the end of the reporting, consultation and approvals stage.

Include appropriate review and consultation periods for drafts, scoping reports, statutory consultation etc.

## 8 Services and other things provided by the *Client*

### 8.1 Contract to be administered

The *Client* will provide a bound copy of the contract to be administered to the *Consultant*. This will include the ECC Scope and Site Information.

### 8.2 Training to be provided by the *Client*

The *Client* will provide access to and training on their web based Project Collaboration Tool.

### 8.3 Data and information management and intellectual property rights

All of the data listed as being supplied to the *Consultant* as part of this study remains the Intellectual Property of the *Client*.

## **8.4 Data custodianship**

The data custodian for project deliverables from this commission will be the area PSO team.

## **8.5 Licensing information**

Licences for LiDAR Data, Ordnance Survey mapping, model, survey, hydrometric and historical data will be provided to the *Consultant* upon award of this commission.

## **8.6 Metadata**

The *Client* populates a metadata database called the Information Asset Register (IAR). It is a requirement that all information produced by modelling work is appropriately tagged with metadata. The *Client* project manager will supply an IAR spreadsheet (and any supplementary local metadata requirements if appropriate) where all relevant metadata can be recorded and handed over on project completion.

## **8.7 Data security**

All model and survey information will be provided to the *Consultant* in an encrypted format (using WinZip 128 bit encryption) according to *Client* data security policy. It is expected that once the commission is completed, all the original data sent to the *Consultant*, which is classed as commercially sensitive, is returned in an encrypted format using WinZip 128 bit encryption.

Project deliverables such as model files, survey data or anything of a personal nature such as questionnaires or address data must also be returned in an encrypted format using WinZip 128 bit encryption.

Further details regarding security measures will be discussed at the start-up meeting for this commission

## **8.8 Timesheets**

Timesheets as normally utilised by the *Consultant's* shall be submitted with fee notes unless otherwise agreed with the *Client's* project manager. Electronic submissions would be acceptable.

## **8.9 Payment procedure**

Payment is subject to the procedure agreed in or under the framework

## **8.10 Quality**

The quality management system complies with the requirements of ISO9001 and ISO14001.

Please detail any other requirements of the Quality Pan

## Appendices

### Appendix 1 BIM Protocol – Production and Delivery Table

All *Client* issued information referenced within the Information Delivery Plan requires verifying by the *Consultant* unless it is referenced elsewhere within the *Scope*.

[www.Pow.bim4.info](http://www.Pow.bim4.info)

You need google chrome for this link to work. Once the table is completed it should be printed for issue in the tender document, so that the correct baseline position can be seen by suppliers