

**CONTRACT FOR**  
**Change Detection Field Surveys BGZ06**

**REF: CD\_BGZ06**

**DATED: 04/04/2023**

**THIS CONTRACT** is dated

**BETWEEN**

- (1) **NATURAL ENGLAND** of 4th Floor, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX (the “**Authority**”); and
- (2) **APEM LDT** registered in England and Wales under number 2530851 whose registered office is Riverview 17 Embankment Business Park Heaton Mersey Stockport SK4 3GN (the “**Supplier**”)  
(each a “**Party**” and together the “**Parties**”).

**BACKGROUND**

- a) The Authority requires the services set out in Schedule 1.
- b) The Authority has awarded this contract for the services to the Supplier and the Supplier agrees to provide the services in accordance with the terms of the contract.

**AGREED TERMS**

**1 Definitions and Interpretation**

- 1.1 In the Contract, unless the context requires otherwise, the following terms shall have the meanings given to them below:

‘**Approval**’: the prior written consent of the Authority.

‘**Authority Website**’: [www.gov.uk/government/organisations/natural-england](http://www.gov.uk/government/organisations/natural-england)

‘**Contract Term**’: the period from the Commencement Date to the Expiry Date.

‘**Contracting Authority**’: an organisation defined as a contracting authority in Regulation 3 of the Public Contract Regulations 2006.

‘**Default**’: a breach by the Supplier or Staff of its obligations under the Contract or any other default, negligence or negligent statement in connection with the Contract.

‘**Dispute Resolution Procedure**’: the dispute resolution procedure set out in Clause 20.

‘**Force Majeure**’: any cause affecting the performance by a Party of its obligations under the Contract arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Supplier, its Staff or any other failure in the Supplier’s supply chain.

‘**Fraud**’: any offence under laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Authority or any other Contracting Authority.

‘**Good Industry Practice**’: standards, practices, methods and procedures conforming to the law and the degree of skill and care, diligence, prudence and foresight which

would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under similar circumstances.

**‘Goods’:** all products, documents, and materials developed by the Supplier or its agents, Sub-contractors, consultants, suppliers and Staff in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts).

**‘Intellectual Property Rights’:** any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites.

**‘IP Materials’:** all Intellectual Property Rights which are:

- (a) furnished to or made available to the Supplier by or on behalf of the Authority; or
- (b) created by the Supplier or Staff in the course of providing the Services or exclusively for the purpose of providing the Services.

**‘Price’:** the price for the Services set out in Schedule 2.

**‘Replacement Supplier’:** any third party supplier of services appointed by the Authority to replace the Supplier.

**‘Staff’:** all employees, staff, other workers, agents and consultants of the Supplier and of any Sub-contractors who are engaged in providing the Services from time to time.

**‘Sub-contract’:** any contract between the Supplier and a third party pursuant to which the Supplier agrees to source the provision of any of the Services from that third party.

**‘Sub-contractor’:** third parties which enter into a Sub-contract with the Supplier.

**‘Valid Invoice’:** an invoice containing the information set out in Clause 3.3.

**‘VAT’:** Value Added Tax.

**‘Working Day’:** Monday to Friday excluding any public holidays in England and Wales.

1.2 The interpretation and construction of the Contract is subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;

- (c) reference to any statutory provision, enactment, order, regulation or other similar instrument are construed as a reference to the statutory provision enactment, order regulation or instrument (including any instrument of the European Union) as amended, replaced, consolidated or re-enacted from time to time, and include any orders, regulations, codes of practice, instruments or other subordinate legislation made under it;
- (d) reference to any person includes natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (e) the headings are inserted for ease of reference only and do not affect the interpretation or construction of the Contract;
- (f) references to the Services include references to the Goods;
- (g) references to Clauses and Schedules are to clauses and schedules of the Contract; and
- (h) the Schedules form part of the Contract and have affect as if set out in full in the body of the Contract and any reference to the Contract includes the Schedules.

## 2 Contract and Contract Term

- 2.1 The Supplier shall provide the Authority with the services set out in Schedule 1 (the “**Services**”) in accordance with the terms and conditions of the Contract.
- 2.2 The Contract is effective on 04/04/2023 (the “**Commencement Date**”) and ends on 03/11/2023 (the “**Expiry Date**”) unless terminated early or extended in accordance with the Contract.

## 3 Price and Payment

- 3.1 In consideration of the Supplier providing the Services in accordance with the Contract, the Authority shall pay the Price to the Supplier.
- 3.2 The Authority shall:
  - (a) provide the Supplier with a purchase order number (“**PO Number**”); and
  - (b) pay all undisputed sums due to the Supplier within 30 days of receipt of a Valid Invoice.
- 1.1 3.3 A Valid Invoice shall:
- 1.2
- 1.3 contain the correct PO Number;
- 1.4
- 1.5 express the sum invoiced in sterling; and

1.6 include VAT at the prevailing rate as a separate sum or a statement that the Supplier is not registered for VAT.

1.7

(a) 3.4 The Supplier shall submit invoices *upon delivery of project milestones* to the Authority at the following addresses: [apinvoices-neg-u@gov.sscl.com](mailto:apinvoices-neg-u@gov.sscl.com) or

1.8

1.9 SSCL Finance, Room 211, Foss House, Kings Pool, 1-2 Peasholme Green, York, YO1 7PX.

1.10

1.11 3.5 The Supplier acknowledges that:

1.12

1.13 if the Supplier does not include VAT on an invoice or does not include VAT at the correct rate, the Authority will not be liable to pay the Supplier any additional VAT;

1.14

1.15 invoices which do not include the information set out in Clause 3.3 will be rejected.

1.16 3.6 Any late payment by the Authority of an undisputed Valid Invoice will be subject to interest at the rate of 3% above the base rate from time to time of Barclays Bank plc.

1.17

1.18 3.7 The Supplier shall not suspend provision of the Services if any payment is overdue.

1.19

1.20 3.8 The Supplier indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract.

#### **4 Extension of the Contract**

4.1 The Authority may, by written notice to the Supplier, extend the Contract for a further period up to 5 months or no later than 31<sup>st</sup> March 2024.

## **5 Warranties and Representations**

5.1 The Supplier warrants and represents for the Contract Term that:

- (a) it has full capacity and authority and all necessary consents and regulatory approvals to enter into the Contract and to provide the Services;
- (b) the Contract is executed by a duly authorised representative of the Supplier;
- (c) in entering the Contract it has not committed any Fraud;
- (d) as at the Commencement Date, all information contained in its tender or other offer made by the Supplier to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information false or misleading;
- (e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to provide the Services;
- (g) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar in relation to any of the Supplier's assets or revenue;
- (h) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary to provide the Services; and
- (i) Staff shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- (j) it will comply with its obligations under the Immigration, Asylum and Nationality Act 2006.

5.2 The Supplier warrants and represents that in the 3 years prior to the date of the Contract:

- (a) it has conducted all financial accounting and reporting activities in compliance with generally accepted accounting principles and has complied with relevant securities;
- (b) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as a going concern or its ability to provide the Services; and
- (c) it has complied with all relevant tax laws and regulations and no tax return submitted to a relevant tax authority has been found to be incorrect under any anti-abuse rules.

## **6 Service Standards**

- 6.1 The Supplier shall provide the Services or procure that they are provided with reasonable skill and care, in accordance with Good Industry Practice prevailing from time to time and with Staff who are appropriately trained and qualified.
- 6.2 If the Services do not meet the Specification, the Supplier shall at its own expense re-schedule and carry out the Services in accordance with the Specification within such reasonable time as may be specified by the Authority.
- 6.3 The Authority may by written notice to the Supplier reject any of the Goods which fail to conform to the approved sample or fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Authority of the Goods. If the Authority rejects any of the Goods it may (without prejudice to its other rights and remedies) either:
- (a) have the Goods promptly either repaired by the Supplier or replaced by the Supplier with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until the repair or replacement has occurred; or
  - (b) treat the Contract as discharged by the Supplier's breach and obtain a refund (if the Goods have already been paid for) from the Supplier in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Authority in obtaining replacements.
- 6.4 The Authority will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with Clause 6.3.
- 6.5 If the Authority issues a receipt note for delivery of the Goods it shall not constitute any acknowledgement of the condition, quantity or nature of those Goods or the Authority's acceptance of them.
- 6.6 The Supplier hereby guarantees the Goods against faulty materials or workmanship for such period as may be specified in the Specification or, if no period is so specified, for 3 years from the date of acceptance. If the Authority shall within such guarantee period or within 30 Working Days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies which the Authority may have) promptly remedy such defects (whether by repair or replacement as the Authority shall choose) free of charge.
- 6.7 Any Goods rejected or returned by the Authority pursuant to this Clause 6 shall be returned to the Supplier at the Supplier's risk and expense.

## **7 Termination**

- 7.1 The Authority may terminate the Contract at any time by giving 30 days written notice to the Supplier.
- 7.2 The Authority may terminate the Contract in whole or in part by notice to the Supplier with immediate effect and without compensation to the Supplier if:
- (a) being an individual, the Supplier is the subject of a bankruptcy order; has made a composition or arrangement with his creditors; dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983;

- (b) being a company, the Supplier goes into compulsory winding up, or passes a resolution for voluntary winding up, or suffers an administrator, administrative receiver or receiver and manager to be appointed or to take possession over the whole or any part of its assets, is dissolved; or has entered into a voluntary arrangement with its creditors under the Insolvency Act 1986, or has proposed or entered into any scheme of arrangement or composition with its creditors under section 425 of the Companies Act 1985; or has been dissolved;
- (c) being a partnership, limited liability partnership or unregistered company, the Supplier or an individual member of it goes into compulsory winding up; is dissolved; suffers an administrator or receiver or manager to be appointed over the whole or any part of its assets; or has entered into a composition or voluntary arrangement with its creditors;
- (d) the Supplier is in any case affected by any similar occurrence to any of the above in any jurisdiction;
- (e) subject to Clause 7.3, the Supplier commits a Default;
- (f) there is a change of control of the Supplier; or
- (g) the Supplier or Staff commits Fraud in relation to the Contract or any other contract with the Crown (including the Authority).

7.3 If the Supplier commits a Default which is capable of being remedied, the Authority may terminate the Contract pursuant to Clause 7.2(e) only if the Supplier has failed to remedy the Default within 20 Working Days of being notified of the Default by the Authority.

## **8 Consequences of Expiry or Termination**

8.1 If the Authority terminates the Contract under Clause 7.2:

- (a) and then makes other arrangements for the supply of the Services, the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Term; and
- (b) no further payments shall be payable by the Authority to the Supplier (for the Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under Clause 8.1(a).

8.2 On expiry or termination of the Contract the Supplier shall:

- (a) co-operate fully with the Authority to ensure an orderly migration of the Services to the Authority or, at the Authority's request, a Replacement Supplier; and
- (b) procure that all data and other material belonging to the Authority (and all media of any nature containing information and data belonging to the Authority or relating to the Services) shall be delivered promptly to the Authority.



8.3 Save as otherwise expressly provided in the Contract:

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Supplier under Clauses 3, 8 to 13, 17, 26 and 28.

## **9 Liability, Indemnity and Insurance**

9.1 Notwithstanding any other provision in the Contract, neither Party excludes or limits liability to the other Party for:

- (a) death or personal injury caused by its negligence;
- (b) Fraud or fraudulent misrepresentation; or
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or Parts I and II of the Supply of Goods and Services Act 1982.

9.2 The Supplier shall indemnify and keep indemnified the Authority against all claims, proceedings, demands, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which arise in tort (including negligence) default or breach of the Contract to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or Fraud of itself or of Staff or Sub-contractors save to the extent that the same is directly caused by the negligence, breach of the Contract or applicable law by the Authority.

9.3 The Supplier shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Supplier.

9.4 Subject to Clause 9.1:

- (a) neither Party is liable to the other for any:
  - (i) loss of profits, business, revenue or goodwill;
  - (ii) loss of savings (whether anticipated or otherwise); and/or
  - (iii) indirect or consequential loss or damage
- (b) each Party's total aggregate liability in respect of all claims, losses damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with the Contract, shall not exceed £1,000,000 (one million pounds) or 10x the value of the Contract whichever is the lower amount.

9.5 The Supplier shall, with effect from the Commencement Date and for such period as necessary to enable the Supplier to comply with its obligations under the Contract, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations

under the Contract, including employer's liability, death or personal injury, loss of or damage to property or any other loss, including financial loss arising from any advice given or omitted to be given by the Supplier. Such insurance shall be maintained for the Contract Term and for a minimum of 6 years following the end of the Contract.

- 9.6 The Supplier shall give the Authority, on request, copies of all insurance policies referred to in this Clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 9.7 If the Supplier fails to comply with Clauses 9.5 and 9.6 the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- 9.8 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.
- 9.9 The Supplier shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Supplier, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Supplier is an insured, a co-insured or additional insured person.

## **10 Confidentiality and Data Protection**

- 10.1 Subject to Clause 10.2, unless agreed otherwise in writing, the Supplier shall, and shall procure that Staff shall, keep confidential all matters relating to the Contract.
- 10.2 Clause 10.1 shall not apply to any disclosure of information:
  - (a) required by any applicable law;
  - (b) that is reasonably required by persons engaged by the Supplier in performing the Supplier's obligations under the Contract;
  - (c) where the Supplier can demonstrate that such information is already generally available and in the public domain other than as a result of a breach of Clause 10.1; or
  - (d) which is already lawfully in the Supplier's possession prior to its disclosure by the Authority.
- 10.3 The Supplier shall, and shall procure that Staff shall, comply with any notification requirements under the Data Protection Act 1998 ("**DPA**") and shall observe its obligations under the DPA which arise in connection with the Contract.
- 10.4 Notwithstanding the general obligations in Clause 10.3, where the Supplier is processing Personal Data as a Data Processor (as those terms are defined in the DPA) for the Authority, the Supplier shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to prevent unauthorised or unlawful processing of the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 of the DPA.
- 10.5 The Supplier shall:

- a) promptly notify the Authority of any breach of the security measures required to be put in place pursuant to Clause 10.4;
- b) not knowingly or negligently do or omit to do anything which places the Authority in breach of its obligations under the DPA; and
- c) provide the Authority with such information as it may reasonably require to satisfy itself that the Supplier is complying with its obligations under the DPA.

## **11 Freedom of Information**

- 11.1 The Supplier acknowledges that the Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (the “**Information Acts**”) and may be required to disclose certain information to third parties including information relating to this Contract pursuant to the Information Acts.
- 11.2 If the Authority receives a request for information relating to the Contract pursuant to either of the Information Acts, the Authority may disclose such information as necessary in order to comply with its duties under the Information Acts.

## **12 Intellectual Property Rights**

- 12.1 The IP Materials shall vest in the Authority and the Supplier shall not, and shall procure that Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for the Supplier to provide the Services.
- 12.2 The Supplier shall indemnify and keep indemnified the Authority and the Crown against all actions, claims, demands, losses, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur arising from any infringement or alleged infringement of any Intellectual Property Rights by the availability of the Services except to the extent that they have been caused by or contributed to by the Authority’s acts or omissions.

## **13 Prevention of Corruption and Fraud**

- 13.1 The Supplier shall act within the provisions of the Bribery Act 2010.
- 13.2 The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Supplier (including its shareholders, members and directors) in connection with the receipt of money from the Authority.
- 13.3 The Supplier shall notify the Authority immediately if it has reason to suspect that Fraud has occurred, is occurring or is likely to occur.

## **14 Discrimination**

- 14.1 The Supplier shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment.
- 14.2 The Supplier shall notify the Authority immediately in writing as soon as it becomes aware of any legal proceedings threatened or issued against it by Staff on the grounds of discrimination arising in connection with the Services.

## **15 Environmental and Ethical Policies**

- 15.1 The Supplier shall provide the Services in accordance with the Authority's policies on the environment, sustainable and ethical procurement and timber and wood derived products, details of which are available on the Authority Website.

## **16 Health and Safety**

- 16.1 Each Party will promptly notify the other Party of any health and safety hazards which may arise in connection with the Services.
- 16.2 While on the Authority's premises, the Supplier shall comply with the Authority's health and safety policies.
- 16.3 The Supplier shall notify the Authority immediately if any incident occurs in providing the Services on the Authority's premises which causes or may cause personal injury.
- 16.4 The Supplier shall comply with the requirements of the Health and Safety at Work etc Act 1976, and with any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Authority's premises when providing the Services.
- 16.5 The Supplier's health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) shall be made available to the Authority on request.

## **17 Monitoring and Audit**

- 17.1 The Authority may monitor the provision of the Services and the Supplier shall co-operate, and shall procure that Staff and any Sub-contractors co-operate, with the Authority in carrying out the monitoring at no additional charge to the Authority.
- 17.2 The Supplier shall keep and maintain until 6 years after the end of the Contract Term full and accurate records of the Contract including the Services supplied under it and all payments made by the Authority. The Supplier shall allow the Authority, the National Audit Office and the Comptroller and Auditor General reasonable access to those records and on such terms as they may request.
- 17.3 The Supplier agrees to provide, free of charge, whenever requested, copies of audit reports obtained by the Supplier in relation to the Services.

## **18 Transfer and Sub-Contracting**

- 18.1 The Supplier shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval.
- 18.2 If the Supplier enters into any Sub-contract in connection with the Contract it shall:
- (a) remain responsible to the Authority for the performance of its obligations under the Contract;
  - (b) be responsible for the acts and/or omissions of its Sub-contractors as though they are its own;
  - (c) impose obligations on its Sub-contractors in the same terms as those imposed on it pursuant to the Contract and shall procure that the Sub-Supplier complies with such terms;

- (d) pay its Sub-contractors' undisputed invoices within 30 days of receipt.
- 18.3 The Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
  - (a) any Contracting Authority or 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 Authority; or
  - (b) any private sector body which performs substantially any of the functions of the Authority.
- 18.4 Any change in the legal status of the Authority 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 Authority.

## **19 Variation**

- 19.1 Subject to the provisions of this Clause 19, the Authority may change the Specification provided that such change is not a material change to the Specification (a "**Variation**").
- 19.2 The Authority may request a Variation by notifying the Supplier with sufficient information to assess the extent of the Variation and consider whether any change to the Price is required in order to implement it. Variations agreed by the Parties shall be made in writing.
- 19.3 If the Supplier is unable to accept the Variation or where the Parties are unable to agree a change to the Price, the Authority may:
  - (a) allow the Supplier to fulfil its obligations under the Contract without the Variation; or
  - (b) refer the request to be dealt with under the Dispute Resolution Procedure.

## **20 Dispute Resolution**

- 20.1 The Parties shall attempt in good faith to resolve any dispute between them arising out of the Contract within 10 Working Days of either Party notifying the other of the dispute and such efforts shall include the escalation of the dispute to the Supplier's representative and the Authority's commercial director or equivalent.
- 20.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 20.3 If the dispute cannot be resolved by the Parties pursuant to Clause 20.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clauses 20.5 to 20.10.
- 20.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation and the Supplier and Staff shall comply fully with the requirements of the Contract at all times.
- 20.5 A neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the Parties or, if they are unable to agree a Mediator within 10 Working Days after a request by one Party or if the chosen Mediator is unable to act, either Party shall within

10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator.

- 20.6 The Parties shall, within 10 Working Days of the appointment of the Mediator, meet the Mediator to agree a programme for the disclosure of information and the structure to be adopted for negotiations. The Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure.
- 20.7 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- 20.8 If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- 20.9 Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.
- 20.10 If the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then the dispute may be referred to the Courts.
- 20.11 Subject to Clause 20.2, the Parties shall not institute court proceedings until the procedures set out in Clauses 20.1 and 20.5 to 20.10 have been completed.

## **21 Supplier's Status**

- 21.1 Nothing in the Contract shall be construed as constituting a partnership between the Parties or as constituting either Party as the agent for the other for any purposes except as specified by the terms of the Contract.
- 21.2 The Supplier shall not (and shall ensure that Staff shall not) say or do anything that might lead any person to believe that the Supplier is acting as the agent, partner or employee of the Authority.

## **22 Notices**

- 22.1 Notices shall be in writing and in English and shall be deemed given if signed by or on behalf of a duly authorised officer of the Party giving the notice and if left at, or sent by first class mail to the address of the receiving Party as specified in the Contract (or as amended from time to time by notice in writing to the other Party).

## **23 Entire Agreement**

- 23.1 The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations, arrangements and undertakings.

## **24 Third Party Rights**

- 24.1 No term of the Contract is intended to confer a benefit on, or be enforceable by, any person who is not a Party other than the Crown.

## **25 Waiver**

- 25.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- 25.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing.
- 25.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

## **26 Publicity**

- 26.1 The Supplier shall not without Approval:
- (a) make any press announcements or publicise the Contract or its contents in any way; or
  - (b) use the Authority's name or logo in any promotion or marketing or announcement.
- 26.2 The Authority may publish the Contract on the Authority Website or another website at its discretion.

## **27 Force Majeure**

- 27.1 Except to the extent that the Supplier has not complied with any business continuity plan agreed with the Authority, neither Party shall be liable for any failure to perform its obligations under the Contract if, and to the extent, that the failure is caused by act of God, war, riots, acts of terrorism, fire, flood, storm or earthquake and any disaster but excluding any industrial dispute relating to the Supplier, Staff or Sub-contractors.
- 27.2 If there is an event of Force Majeure, the affected Party shall use all reasonable endeavours to mitigate the effect of the event of Force Majeure on the performance of its obligations.

## **28 Governing Law and Jurisdiction**

- 28.1 The Contract shall be governed by and interpreted in accordance with English law and shall be subject to the jurisdiction of the Courts of England and Wales.
- 28.2 The submission to such jurisdiction shall not limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction and the taking of proceedings in any other court of competent jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

## **SCHEDULE 1**

### **SPECIFICATION OF SERVICES**

#### **2. REQUEST FOR QUOTATION**

##### **Change Detection Field Surveys**

##### ***Natural Capital and Ecosystem Assessment (NCEA): Project 1.6 Change Detection***

###### **(a) Conditions applying to the RFQ**

You should examine your response to the RFQ and related documents ensuring it is complete prior to submitting your completed quotation.

Your quotation must contain sufficient information to enable the Authority to evaluate it fairly and effectively. You should ensure that you have prepared your quotation fully and accurately and that prices quoted are arithmetically correct for the units stated.

The supplier by submitting a quotation is deemed to accept the terms and conditions in the RFQ. Failure to comply with the instructions set out in the RTQ may result in the supplier's exclusion from this procurement.

###### **(b) Acceptance of Quotations**

By issuing this RFQ the Authority does not bind itself to accept any quotation and reserves the right not to award a contract to any supplier who submits a quotation.

###### **(c) Clarifications**

The Authority reserves the right to discuss, confidentially, any aspect of your quotation with you prior to any award of Contract to clarify matters.

###### **(d) Amendments**

The Authority may amend the RFQ at any time prior to the deadline for receipt. If it amends the RFQ the Authority will notify you in writing and may extend the deadline for receipt in order to give you a reasonable time in which to take the amendment into account.

###### **(e) Conditions of Contract**

The terms and conditions attached will be included in any contract awarded as a result of this RFQ process. The Authority will not accept any material changes to these terms and conditions proposed by a supplier.

###### **(f) Specification**



The Authority is Natural England. The Authority's priorities are to secure a healthy natural environment; a sustainable, low-carbon economy; a thriving farming sector and a sustainable, healthy and secure food supply. Further information about the Authority can be found at: [Defra. Natural England MMO](#)

#### (A) The Living England and Change Detection Projects

Natural England leads on both the development of the Living England model (NCEA Project 1.1) and 25 YEP indicator D1 on habitat quantity, quality, and connectivity (which it is proposed will be the basis for the Environment Bill wider habitats target). The use of remote sensing satellite data to measure and monitor the location and change in habitats is a developing area of work. Developing its capacity to detect change is critical for assessing ecosystem extent over time and change in natural capital ecosystem assets.

Living England produces a map of broad habitat classifications for the whole of England based on up-to date satellite imagery and a collection of ancillary data layers including elevation (and derivatives such as slope, height above nearest drainage), proximity to various features (e.g., woodland, moorland, surface water, roads) and climatic variables. This is carried out by first splitting up England into 14 Biogeographic Zones, based on National Character Areas, which are distinctive areas each with unique environmental conditions. Recent satellite imagery is then identified for each biogeographic zone, which aims to use as cloud-free imagery as possible to create spring and autumn mosaics. A segmentation process is then applied to identify parcels of land with similar appearances in the imagery – forming a series of polygons using an object-based image analysis framework (OBIA). The polygons are then classified using a random forest, machine learning algorithm to identify the likely broad habitat present, informed by the field collected habitat records, satellite imagery and the ancillary datasets. The resulting map is a habitat probability map showing the likely broad habitat class for each polygon, creating a national picture of our natural capital assets. Living England Phase IV was published under an Open Government Licence in 2022 and can be accessed here [Living England Habitat Map \(Phase 4\) | Natural England Open Data Geoportal \(arcgis.com\)](#).

The Change Detection project (NCEA Project 1.6) is scoping the ability to use the Living England habitat probability maps to assess national scale habitat change over time. Change Detection aims to identify areas of habitat change identified between two iterations of Living England with a temporal gap of 2 years and use field data to validate the change detection outputs and identify likely causes of habitat change.

Robust, high-quality field survey data is needed to validate the identification of regions of habitat change and causes of habitat change detected. Living England is aiming to produce an updated habitat probability map every two years in order to provide an up to date assessment of England's natural capital assets and monitor changes in these assets. Change Detection requires regular provision of field survey data from across the different habitat classes and biogeographic zones (BGZs) in order to identify recent areas of habitat change likely to have occurred within the twoyear period.

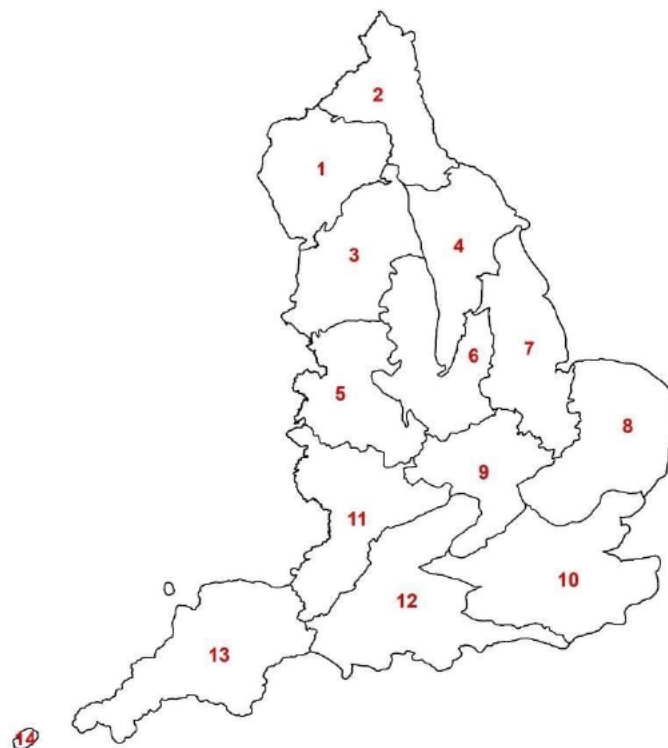


Figure 1: Living England Biographic Zones (BGZs) based on National Character Areas.

(ii) Requirement

(A) Change Detection Field Surveys – BGZ06

This specification covers habitat surveys to be undertaken in 2023 across all habitat classes in biogeographic zone (BGZ) 06 covering the Peak District and Nottinghamshire region to assess habitat change. This contract aims to collect 560 data points across BGZ06 aligned with the Living England segmentation in regions of change in the last 2-3 years. The target habitats cover all habitats classified within Living England.

- Total number of data points collected in year 2023 – 560

All data collected as part of these habitat surveys will belong to Natural England and may be used for current and future projects where habitat data are required.

Survey points should be collected in relation to the detailed habitats listed in Table 1.

Detailed Habitat	UKBAP Level	Broad Habitat
<b>Acid, Calcareous, Neutral Grassland</b>	Semi-natural Grasslands	Grassland
<b>Arable and Horticultural</b>	Broad	Cropland
<b>Bare Ground</b>	EO Resolution	<u>Bare Ground</u>
<b>Bare Sand</b>	EO Resolution	<u>Bare Ground</u>
<b>Bog</b>	Broad	Wetland

<b>Bracken</b>	EO Resolution	Grassland
<b>Broadleaved, Mixed and Yew Woodland</b>	Broad	Woodland
<b>Built-up Areas and Gardens</b>	Broad	Urban
<b>Coastal Saltmarsh</b>	Priority	Coastal
<b>Coastal Sand Dunes</b>	Priority	Coastal
<b>Coniferous Woodland</b>	Broad	Woodland
<b>Dwarf Shrub Heath</b>	Broad	Heath
<b>Fen, Marsh and Swamp</b>	Broad	Wetland
<b>Improved Grassland</b>	Broad	Grassland
<b>Scrub</b>	EO Resolution	Woodland
<b>Water</b>	EO Resolution	Freshwater

The supplier is expected to produce a proposal of the sites they will survey. This will be subject to approval from the Change Detection Project Leader.

The contractor should work alongside the Natural England Living England and Change Detection teams to confirm areas to target the surveys. Areas of likely change to target will be informed via identification from existing databases detailing areas of habitat creation, restoration and potential causes of change over a two-year period to align with using two iterations of Living England. Various datasets will be provided to aid identification of regions of change to target within BGZ06. The following habitat classes will be used to record the current habitat class at the time of the survey:

- Acid, Calcareous and Neutral Grasslands
- Arable and Horticultural
- Bare Ground
- Bare Sand
- Bog
- Bracken
- Broadleaved, Mixed and Yew Woodland
- Built-up Areas and Gardens
- Coastal Saltmarsh
- Coastal Sand Dunes
- Coniferous Woodland
- Dwarf Shrub Heath
- Fen, Marsh Swamp
- Improved Grassland
- Scrub

The contractor will be responsible for ensuring all permissions for land access are in place using the Living England provided standard letter prior to undertaking the surveys. The contractor will need to get permission from the landowner/occupier to carry out standalone LE surveys, even if it is on publicly accessible land. The contractor does **NOT** need to get permissions to carry out standalone LE surveys on NE-owned NNR.

- Land Registry and Rural Payments Agency data for the survey sample has been acquired by Natural England and will be made available to the

contractor at the start of the contract. The data will be in Excel (.csv) format.

- A data license will be required between the contractor and Natural England before this data can be released. Contractors will be expected to abide by the contract terms and conditions in relation to all data handling.
- Natural England cannot guarantee the accuracy of owner details from either Land Registry or Rural Payments Agency data. The data supplied may not include email addresses, phone numbers, or other contact details which the contractor will be expected to obtain during the process of negotiating access permissions.

The contractor is expected to Provide Natural England with a site-specific risk assessment, including requirements around coronavirus, before the survey - **YOU MUST SEND THIS TO THE LIVING ENGLAND ENQUIRIES MAILBOX PRIOR TO THE SURVEYS**

[REDACTED] The contract will provide assurance that:

- They will work within government guidance on working outdoors:  
<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/construction-and-other-outdoor-work>
- Coronavirus specific risk assessments have been carried out by the contractor.
- That landowners/occupiers of sites concerned are aware of the survey and agree to surveyors being on each site involved – surveys will not proceed without landowner/occupier agreement.
- Interaction with NE staff is not required unless assessed as essential to the survey work, and this is specifically covered by a risk assessment and wellbeing conversation for the involvement of NE staff (for National Nature Reserves (NNRs), this is set out in the NNR decision framework). Likely mobile reception should be considered when conducting risk assessments. Mobile service cannot be guaranteed; therefore, the contractor should consider alternative arrangements.

The contractor is expected to project manage and undertake field data collection on the agreed targeted sites using the Change Detection app. This should follow the methodology set out in the Change Detection Specification for Validation Data Collection document (to be provided).

Field surveyors should plan the site visits and habitat data collection carefully. Areas of likely change and thus areas to target include (but are not limited to) those affected by recent (2019 – 2023) burning – either from wildfires or managed burning, new plantations resulting in maturity levels indicative of a habitat change, and areas of felling or coppicing.

Field surveyors should add data points within the segments corresponding to their location and complete the information required on the app, including details of habitat percentage cover and habitat indicator species. Where possible, the surveyor should add as much detail as the app permits, including recording to the finest resolution of habitat class possible and have suitable ecological knowledge to do so.

The change detection data should include a range of habitat changes and causes for any changes e.g., natural/ managed where possible to identify. For each survey point, the type of management occurring within the segment should be recorded and include as much detail as possible.

All data collected will automatically be uploaded and tracked on the Living England/Change Detection dashboard, detailing where and when data points have been collected enabling continual assessment of the range of habitat change data points collected.

The habitat surveys may require annual repeat surveys to collect additional training data points to keep the model up to date and make improvements to identify future regions of change or regions of no change. The field maps app may be updated in the future with prior warning and training to be given if required.

The habitat surveys must be completed by the end of the contract completion date. Contractors must bid for the full contract.

The contractor is expected to project manage the delivery of the access permission, pre-survey risk assessments and field surveys, ensuring project milestones and timescales are achieved.

The contractor should ensure regular communication with the Natural England Change Detection team to update on progress and any issues which may arise. The Living England and Change Detection teams will be able to track data points collected through the Living England/Change Detection dashboard and will update on any changes to habitat types and/or areas with which to target where appropriate.

The data sets required to deliver the work will be provided by Natural England. A data licence will be required between the contractor and Natural England before this data can be released. Contractors will be expected to abide by the contract terms and conditions in relation to all data handling.

<b>Resource required</b>	<ul style="list-style-type: none"><li>• Land Registry and Rural Payments Agency data</li><li>• Living England Phase IV map from 2021 (<a href="#">Living England Habitat Map (Phase 4)   Natural England Open Data</a></li></ul> <hr/> <ul style="list-style-type: none"><li>• <a href="#">Geoportal (arcgis.com)</a>.</li><li>• Change Detection Specification for Validation Data Collection document.</li><li>• Change Detection Esri Field Maps application.</li><li>• Living England/ Change Detection Dashboard for monitoring collected points.</li><li>• Change Detection pilot data for BGZ06 between 2019 and 2021 to aid identification of habitat change classes and for validation.</li><li>• Spreadsheet of priority habitat change to target and datasets to source target areas</li></ul>
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<b>Skills required</b>	<ul style="list-style-type: none"> <li>• Good species ID skills to undertake the proposed project equivalent to approximately FISC/BSBI level 4 or similar levels of experience</li> </ul>
<b>Outputs</b>	<ul style="list-style-type: none"> <li>• The contractor will provide a short report about the habitat surveys (side of A4) noting any issues that were encountered during the survey e.g., alignment with segments, identifying areas of change and causes, use of the app for data collection and any advice to help smooth the process next time. Any reasons why data points could not be collected should also be included in the report.</li> <li>• <b>Ground truth survey data points uploaded to the AGOL dashboard with all required information</b></li> </ul>
<b>Why is this of benefit to Living England? Justification of why to do it</b>	<p>This analysis will help to validate the change detection mapped outputs to identify true areas of habitat change. A validation assessment will be developed with the inclusion of ground truth data. This will directly lead to improvements in the current methodology and the development of guidance in how to use the change detection outputs and what it should and should not be used for.</p>
<b>Measurable outputs</b>	<ul style="list-style-type: none"> <li>• Access permission evidence for field surveys</li> <li>• Site specific risk assessments</li> <li>• Survey issues log</li> <li>• Ground truth survey points</li> </ul>

The Intellectual Property Rights resulting from the work shall belong to Natural England.

The cover of all reports or drawings will include a statement © Natural England and the date of creation.

When using existing data the supplier should own, or be licensed to use, all Intellectual Property Rights that are necessary to provide the Services. You should seek advice from Natural England on responsibilities for obtaining a data licence for third party data. Note that Natural England requires to know the lineage of your output (i.e., all the datasets that went into the work) and be able to identify what the licence terms for each of the inputs is in order to be able to license the output for use.

The Supplier shall indemnify and keep indemnified Natural England against all actions, claims, demands, losses, damages, costs and expenses and other liabilities Natural England may suffer or incur arising from any infringement or alleged infringement of any third-party Intellectual Property Rights except to the extent that they have been caused by or contributed to by Natural England's acts or omissions

## Scope of the specification

### 2.2 Contract Period



The contract period will be 6 months from the commencement of the contract.

This is a one-off requirement; however, there may be scope in future to extend the scope of the field surveys to additional BGZ's.

(a) Outputs and Contract Management

Natural England will nominate a Project Officer who will manage the project and serve as the principle point of contact from Natural England. They will be responsible for the day-to-day management of this contract and will coordinate regular meetings to review the work and ensure it meets the projects aims and objectives. As outlined below, meetings will be incorporated into the programme of works to discuss progress and facilitate feedback provision. Meetings will be organised by the successful Tenderer.

The contractor will be expected to appoint a Project Manager who will act as the principle point of contact and will be responsible for the day-to-day management of the project. The contractor will be required to regularly update the Natural England Project Officer on project progress via meetings (held on MS Teams) arranged by the contractor, and when there are any significant issues.

Specific outputs will be required from the contractor during the course of this project. All reports must be produced in accordance with the Authority's templates for publications. The deliverables are to be provided as geospatial outputs, MS Word (in draft) and PDF documents (once finalised).

(b) Timeline and Deadline

It is anticipated that this contract will be awarded for a period of 6 months, to end no later than 01/03/2024. Prices will remain fixed for the duration of the contract award period.

## 2.3 Disclosure

All Central Government Departments, their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement, including ensuring value for money and related aspects of good procurement practice.

For these purposes, the Authority may disclose within Government any details contained in your quotation. The information will not be disclosed outside Government during the procurement.

In addition, the Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, which provide a public right of access to information held by public bodies. In accordance with these two statutes, the Authority may

be required to disclose information contained in your quotation to any person who submits a request for information pursuant to those statutes.

By submitting a quotation you consent to these terms as part of the procurement.

(a) Disclaimers

Whilst the information in this RFQ and any supporting information referred to herein or provided to you by the Authority have been prepared in good faith the Authority does not warrant that this information is comprehensive or that it has been independently verified.

The Authority does not:

- make any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the RFQ;
- accept any liability for the information contained in the RFQ or for the fairness, accuracy or completeness of that information; or
- accept any liability for any loss or damage (other than in respect of fraudulent misrepresentation or any other liability which cannot lawfully be excluded) arising as a result of reliance on such information or any subsequent communication.

Any supplier considering entering into contractual relationships with the Authority following receipt of the RFQ should make its own investigations and independent assessment of the Authority and its requirements for the goods and/or services and should seek its own professional financial and legal advice.

(b) Protection of Personal Data

In order to comply with the General Data Protection Regulations 2018 the contractor must agree to the following:

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



(i) General Data Protection Regulations 2018

For the purposes of the Regulations the Authority is the data processor.

The personal information that we have asked you provide on individuals (data subjects) that will be working for you on this contract will be used in compiling the tender list and in assessing your offer. If you are unsuccessful the information will be **held and destroyed within two years** of the award of contracts. If you are awarded a contract, it will be retained for the duration of the contract and destroyed within **seven years** of the contract's expiry.

We may monitor the performance of the individuals during the execution of the contract, and the results of our monitoring, together with the information that you have provided, will be used in determining what work is allocated under the contract, and in any renewal of the contract or in the award of future contracts of a similar nature. The information will not be disclosed to anyone outside the Authority without the consent of the data subject, unless the Authority is required by law to make such disclosures.

**REDACTED Under FOIA Section: 43, Commercial**





















































































































## Use of Confidential Information by the Authority

The Authority may disclose the Confidential Information of the Supplier:

- (a) on a confidential basis to any central Government body for any proper purpose of the Authority or of the relevant central Government body;
- (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by the Authority for any purpose relating to or connected with this Agreement;
- (e) on a confidential basis for the purpose of the exercise of its rights under this Agreement; or
- (f) on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Agreement

## SCHEDULE 2

### PRICES

Due to the sites not yet being decided, the mileage has been assumed to be no more than 75 miles per surveyor per day. This is achievable through our geographic spread of the survey team throughout Zone 6. Survey sites would be selected at selection stage to ensure that this mileage estimate is not exceeded. The costs in Table 1 below are for the full 560 sites.

Task	Staff/Grade	Day Rate (£)	No. of Days	Total (£)
<b>REDACTED Under FOIA Section: 43, Commercial</b>				
Total (excluding VAT)				49,747.75
VAT at 20%				9,949.55
Total (including VAT, which would be charged at the prevailing rate at time of invoice)				59,697.3

(a) The Contract has been entered into on the date stated at the beginning of it.

SIGNED for and on behalf of the  
**AUTHORITY**

SIGNED for and on behalf of the  
**SUPPLIER**

SIGNATURE.

REDACTED Under FOIA Section: 40, Personal

SIGNATURE

REDACTED Under FOIA Section: 40, Personal

NAME ....

REDACTED Under FOIA Section: 40, Personal

NAME

REDACTED Under FOIA Section: 40, Personal

Position ...

REDACTED Under FOIA Section: 40, Personal

Position

REDACTED Under FOIA Section: 40, Personal