

This document is executed as a deed and is delivered and takes effect at
the date written at the beginning of it



Framework:	Collaborative Delivery Framework
Supplier:	
Company Number:	
Geographical Area:	South East
Project Name:	Rother Tidal Walls East Flood Defence Scheme
Project Number:	ENVIMSO0001254
Contract Type:	Engineering Construction Contract
Option:	Option C
Contract Number:	26699
Stage:	Construction

Revision	Status	Originator	Reviewer	Date

ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework
CONTRACT DATA

Project Name Rother Tidal Walls East Flood Defence Scheme
Project Number ENV/MSO0001254

[TBC when signed]

This contract is made on
between the Client and the Contractor

This contract is made pursuant to the Framework Agreement (the "Agreement") dated 01st day of April 2019 between the Client and the Contractor in relation to the Collaborative Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference:

- Schedules 1 to 21 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference

IMS0001254-VBA-XX-XX-SO-Z-0015-SO-P3 0-RTWE NEC4 ECC Scope V3

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 the secondary Options of the NEC4 Engineering and Construction Contract June 2017.

Main Option

Option C

Option for resolving and avoiding disputes

W2

Secondary Options

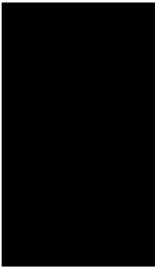
- X2: Changes in the law
X7: Delay damages
X9: Transfer of rights
X10: Information modelling
X11: Termination by the Client
X15: Contractor's design
X16: Retention
X18 Limitation of Liability
X20: Key Performance Indicators
Y(UK)1: Project Bank Account
Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996
Y(UK)3: The Contracts (Rights of Third Parties) Act 1999
Z: Additional conditions of contract

The works are
To deliver the Rother Tidal Walls East Defence Scheme construction, as defined within the Scope.

The Client is
Address for communications

Address for electronic communications
The Project Manager is
Address for communications

Address for electronic communications
The Supervisor is
Address for communications



Address for electronic communications

The Scope is in
IMSO001254-VBA-XX-XX-SO-Z-0015-S0-P3 0-RTWE NEC4 ECC Scope v3

The Site Information is in
IMSO001254-VBA-XX-XX-SO-Z-0021-S0-P1 0-RTWE NEC4 ECC Main Works Site Information

The boundaries of the site are
IMSO001254-VBA-00-00-DR-Z-4050 ECC Contract Site Boundary P3

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

The following matters will be included in the Early Warning Register

Early warning meetings are to be held at intervals no longer than

2 The Contractor's main responsibilities

The key dates and conditions to be met are
condition to be met
None set

The Contractor prepares forecasts of the total Defined Cost for the whole of the works at intervals no longer than

3 Time

The starting date is

The access dates are
part of the Site
The Site

Asite
Sharepoint
FastDraft

The Contractor submits revised programmes at intervals no longer than

The Completion Date for the whole of the works is

The Client

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

01 August 2022

date
01 August 2022

02 August 2022
02 August 2022
08 August 2022

is willing to take over the works before the Completion Date

4 weeks

31 March 2025

4 weeks

4 Quality management

The period after the Contract Date within which the Contractor is to submit a quality plan is

The period between Completion of the whole of the works and the defects date is:

• Except where it relates to landscaping undertaken in accordance with Specification "IMSO001254-VBA-00-00-SP-L-0017 Landscape Spec_REV 1", for which the period between Completion of the landscaping works and the defects date is:

4 weeks

except that

issues of public safety, and
waterways issues
issues relating to MEICA

is
is

24 hours
7 days

5 Payment

- The defect correction period for
- The defect correction period for

The currency of the contract is the £ sterling

The assessment interval is

The Client set total of the Prices is

The interest rate is

Base

The Contractor's share percentages and the share ranges are

less than
from
greater than

share range

80 %
to
80 %

120 %
to
120 %

Contractor's share percentage
0 %
as set out in Schedule 17
as set out in Schedule 17

6 Compensation events

The place where weather is to be recorded is

The weather measurements to be recorder for each calendar month are

- the cumulative rainfall (mm)
- the number of days with rainfall more than 5mm
- the number of days with minimum air temperature less than 0 degrees Celsius
- the number of days with snow lying at

and these measurements:

1. None

The weather measurements are supplied by

The weather data are the records of past weather measurement for each calendar month which were recorded at

and which are available from

Assumed values for the ten year weather return weather data for each weather measurement for each calendar month are

Not used

These are additional compensation events

1. Piling vibration restrictions specified by the Statutory Undertaker above those otherwise provided for in the Scope (including Minimum Technical Requirements) are agreed as a named Compensation Event
2. "Constraints or conditions imposed by Rother District Council or the Marine Management Organisation that are not already covered within the Contract" are agreed as a named Compensation Event
3. "Silt-won material not suitable for Section 5 salt marsh creation" will be treated as a named Compensation Event.
4. Geotechnical Engineer- It is acknowledged that the total of the prices does not include the provision of a Geotechnical Engineer. If this resource is instructed, then that will be CE.
5. Landowner requirements (Appendix I) will be issued on contract award and priced as a CE.

- 6 Delay to the Enabling Works Contract that impacts the sequencing of the works will be a compensation event.
- 7 Soft spot additional CE: Soft spots found below the stripping line and less than 1m depth to a cumulative max of 100 m3 across the works will be the Contractor's responsibility and any exceedance would be a compensation event under 60.1(12). The Contractor is responsible for maintaining the appropriate records and Supervisor acceptance of such records.

8 Liabilities and insurance

These are additional Client's liabilities

- 1 Not used

The nearest calibrated Met Office Weather Station to the site, located at Rye (lat. 50.9492, long 0.7389)

09:00
hours
GMT

The Met Office

ather Station to Site, located at Rye (lat. 50.9492, long 0.7389)
the Met Office

The minimum amount of cover for insurance against loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) arising from or in connection with the Contractor Providing the Works for any one event is

£15,000,000

The minimum amount of cover for insurance against death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with the contract for any one event is

not less than the amount required by law

The insurance against loss of or damage to the works, Plant and Materials is to include cover for Plant and Materials provided by the Client for an amount of

Not used

Resolving and avoiding disputes

The *tribunal* is litigation in the courts

The Senior Representatives of the Client are
Address for communications

Address for electronic communications

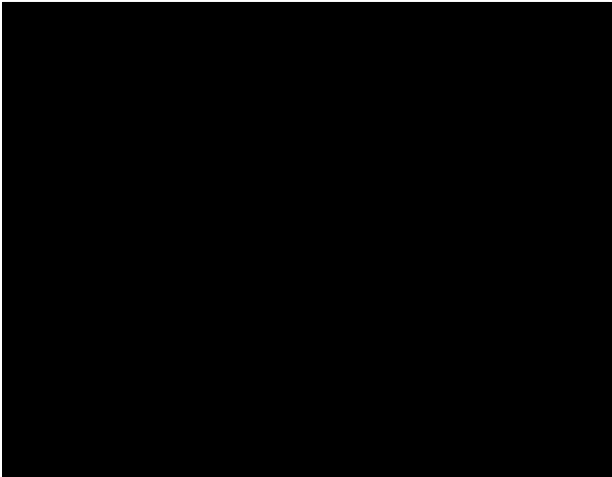
Name
Address for communications

Address for electronic communications

The *Adjudicator* is
Address for communications

Address for electronic communications

The *Adjudicator nominating body* is



Z Clauses

Z 1 Correctness of Site Information and other documents

Z 1.1 Site Information about the ground, subsoil, ducts, cables, pipes and structures is provided in good faith by the Client, but is not warranted correct. Clause 60.3 does not apply to such Site Information and the Contractor is responsible for checking the correctness of any such Site Information they rely on for the purpose of pricing for or providing the works.

Z 1.2 Information regarding construction methods or processes referred to in the contract health and safety plans are provided in good faith by the Client but are not warranted correct (except for the purpose of promoting high standards of health and safety) and the Contractor is responsible for checking the correctness of any such information they rely on for the purpose of pricing for, or providing the works.

Z 3 Prevention: No change to prices

Delete first sentence of clause 62.2 and replace with:

"Quotations for compensation events except for the compensation event described in 60.1(19) comprise proposed changes to the Prices and any delay to the Completion Date and Key Dates assessed by the Contractor. Quotations for the compensation event described in 60.1(19) comprise any delay to the Completion Date and Key Dates assessed by the Contractor.

Delete "The" At start of clause 63.1 and replace with:

"For the compensation event described in 60.1(19) the Prices are not changed. For other compensation events the..."

Z 4 The Schedule of Cost Components

The Schedule of Cost Components is as detailed in the Framework Schedule 9.

Z 6 Payment for Work

Delete existing clause 11.2 (31) and replace with:

"11.2 (31) The Price for Work Done to Date is the total Defined Cost which the Project Manager forecasts will have been paid by the Contractor before the next assessment date plus the Fee, not exceeding the forecast provided under clause 20.4 and accepted by the Client."

Z 7 Contractor's share

After d54.2 and before d54.3, insert the following additional clause:

54.2A If, prior to Completion of the whole of the works, the Price for Work Done to Date exceeds 111% of the total of the Prices, the amount in excess of 111% of the total of the Prices is retained from the Contractor.

Z 10 Payments to subcontractors, sub consultants and suppliers

Subcontractors

The Contractor will use the NEC4 contract on all subcontracts for works. Payment to subcontractors will be 28 days from the assessment date.

If the Contractor does not achieve payments within these time scales then the Client reserves the right to delay payments to the Contractor in respect of subcontracted work, services and supplies.

Failure to pay subcontractors and suppliers within contracted times scales will also adversely affect the Contractor's opportunities to work on framework contracts.

Z 16 Disallowed Costs

Add the following bullets to clause 11.2 (26) Disallowed costs

- was incurred due to a breach of safety requirements, or due to 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 result of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit.

Z 19 Linked contracts

Delays and additional cost on this contract resulting from the Contractor's fault or error on a previous contract on this project or programme will be a Disallowable cost under this contract and not be a Compensation event under this contract.

Z 21 Requirement for Invoice

Add the following sentence to 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 Project Manager's certificate.

Delete existing clause 51.2:

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 Project Manager has not issued a certificate which should be issued, 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

Z 22 Resolving Disputes

Delete W2.1

Z 23 Risks and Insurance

Replace clause 84.1 with the following

Insurance certificates are to be submitted to the Client on an annual basis.

Z30 Material Price Volatility

The Client recognises the ongoing pricing uncertainty in relation to materials for the period from 1 July 2021 to 30 June 2023 the Client will mitigate this additional cost through this clause. Payment is made per assessment based upon a general average material proportion within assessments, calculated at 40%.

Z30.1 Defined terms

- a) The Latest Index (L) is the latest index as issued by the Client. The L, which is at the discretion of the Client, is based upon the issued consumer price index (CPI) based upon the 12-month rate) before the date of assessment of an amount due.
b) The Price Volatility Provision (PVP) at each date of assessment of an amount due is the total of the Material Factor as defined below multiplied by L for the index linked to it.
c) Material Factor (MF) 40% is used, based on a general average material proportion across our programme. The volatility provision is only associated with material element. No volatility provision is applicable to any other component of costs.

Z30.2 Price Volatility Provision

Through a Compensation Event the Client shall pay the PVP. PVP is calculated as:

$$\text{Assessment} \times \text{MF} \times \text{L} = \text{PVP}$$

If an index is changed after it has been used in calculating a PVP, the calculation is not changed and remains based upon the rate issued by the Client. The PVP calculated at the last assessment before 30 June 2022 is used for calculating the price increase after that date.

Z30.3 Price Increase

Each time the amount due is assessed, an amount for price increase is added to the total of the Prices which is the change in the Price for Work Done to Date for the materials component only (and the corresponding proportion) since the last assessment of the amount due multiplied PVP for the date of the current assessment.

Z30.4 Compensation Events

The Contractor shall submit a compensation event for the PVP on a monthly basis (where applicable) capturing Defined Cost only for the PWDD increase in month. Forecasted costs should only be considered for the June 2022 period compensation event.

Assessment Date	Defined Cost?	Forecasted Cost?
31 July 2021	In period costs only	No
31 August 2021	In period costs only	No
30 September 2021	In period costs only	No
31 October 2021	In period costs only	No
30 November 2021	In period costs only	No
31 December 2021	In period costs only	No
31 January 2022	In period costs only	No
28 February 2022	In period costs only	No
31 March 2022	In period costs only	No
30 April 2022	In period costs only	No
31 May 2022	In period costs only	No
30 June 2022	In period costs only	No
31 July 2022	In period costs only	No
31 August 2022	In period costs only	No
30 September 2022	In period costs only	No
31 October 2022	In period costs only	No
30 November 2022	In period costs only	No
31 December 2022	In period costs only	No
31 January 2023	In period costs only	No
28 February 2023	In period costs only	No
31 March 2023	In period costs only	No
30 April 2023	In period costs only	No
31 May 2023	In period costs only	No
30 June 2023	In period costs only	Forecasted costs for remainder of contract

The Defined Cost for compensation events is assessed using

- the Defined Cost at base date levels for amounts calculated from rates stated in the Contract Data for People and Equipment and
- the Defined Cost current at the date the compensation event was notified, adjusted to the base date by 1+PVP for the last assessment of the amount due before that date, for other amounts.

Z110 total of the Prices adjustment for Inflation

(to be used in conjunction with Z30)

At the Contract Date the Client set total of the Prices does not include a sum to cover inflation.

The Client set total of the Prices at the Contract Date shall be adjusted by a fixed number of Price Adjustments.

The number of Price Adjustments shall be equal to:
The number of months between the Completion Date included at the Contract Date and the Contract Date.

The proportion of Price Adjustment shall be equal to:
The Client set total of the Prices at the Contract Date / The number of Price Adjustments

Each time the amount due is assessed, prior to Completion, the Price Adjustment shall be:
The proportion of Price Adjustment x Inflation

Inflation is $(L-B)/B$, where L and B are:
a) The Latest Index (L) is the latest available index before the date of assessment of an amount due
b) The Base Date Index (B) is the latest available index before the Contract Date.
c) The Index is the CPI Index (UK, 2015=100)

Provided always that the fixed number of Price Adjustments has NOT been exceeded.

The Price Adjustment adjusts the total of the Prices.

If a compensation event under this contract omits original Scope covered by the Client set total of the Prices at the Contract Date the Price Adjustments made under this clause shall be corrected accordingly.

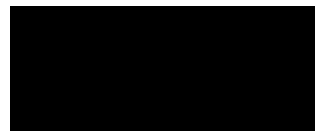
Secondary Options

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 X7: Delay damages

X7 only Delay damages for Completion of the whole of the *works* are



OPTION X10: Information modelling

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

The minimum amount of insurance cover for claims made against the *Contractor* arising out of its failure to use skill and care normally used by professional providing information similar to the Project Information is, in respect of each claim

£5,000,000

The period following Completion of the whole of the *works* or earlier termination for which the *Contractor* maintains insurance for claims made against it arising out of its failure to use the skill and care is

12 years

OPTION X15: The *Contractor's* design

The *period for retention* following Completion of the whole of the *works* or earlier termination is 12 years

The minimum amount of insurance cover for claims made against the *Contractor* arising out of its failure to use skill and care normally used by professionals designing works similar to the *works* is, in respect of each claim

£5,000,000.00

The period following Completion of the whole of the *works* or earlier termination for which the *Contractor* maintains insurance for claims made against it arising out of its failure to use the skill and care is

12 years

OPTION X16: Retention

The *retention free* amount is 95%
The *retention percentage* is 50.00%

The *Contractor* may give the *Client* a retention bond

OPTION X18: Limitation of liability

The *Contractor's* liability to the *Client* for indirect or consequential loss is limited to £5,000,000

For any one event, the *Contractor's* liability to the *Client* for loss or damage to the *Client's* property is limited to £5,000,000

The *Contractor's* liability for Defects due to its design which are not listed on the Defects Certificate is limited to £5,000,000

The *Contractor's* total liability to the *Client* for all matters arising under or in connection with the contract, other than excluded matters, is limited to £5,000,000.00

The *end of liability date* is 12 years after the
Completion of the whole of the *works*

OPTION X20: Key Performance Indicators (not used with Option X12)

The *incentive schedule* for Key Performance Indicators is in Schedule 17.

A report of performance against each Key Performance Indicator is provided at intervals of 3 months.

Y(UK)1:Project Bank Account

The Contractor is to pay any bank charges made and to be paid any interest paid by the *project bank*

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	<i>beneficiary</i>
N/A	N/A

term	<i>beneficiary</i>
The provisions of Y(UK)1	

Part Two - Data provided by the Contractor

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

1 General

The Contractor is
Name

Address for communications

Address for electronic communications

The fee percentage is

The working areas are

The key persons are

Name (1)
Job
Responsibilities
Qualifications
Experience

Name (2)
Job
Responsibilities
Qualifications
Experience

Name (3)
Job
Responsibilities
Qualifications
Experience

Name (4)
Job
Responsibilities
Qualifications
Experience

The following matters will be included in the Early Warning Register

2 The Contractor's main responsibilities

The Scope provided by the Contractor for its design is in

N/A

3 Time

The programme identified in the Contract Data is
[TBC]

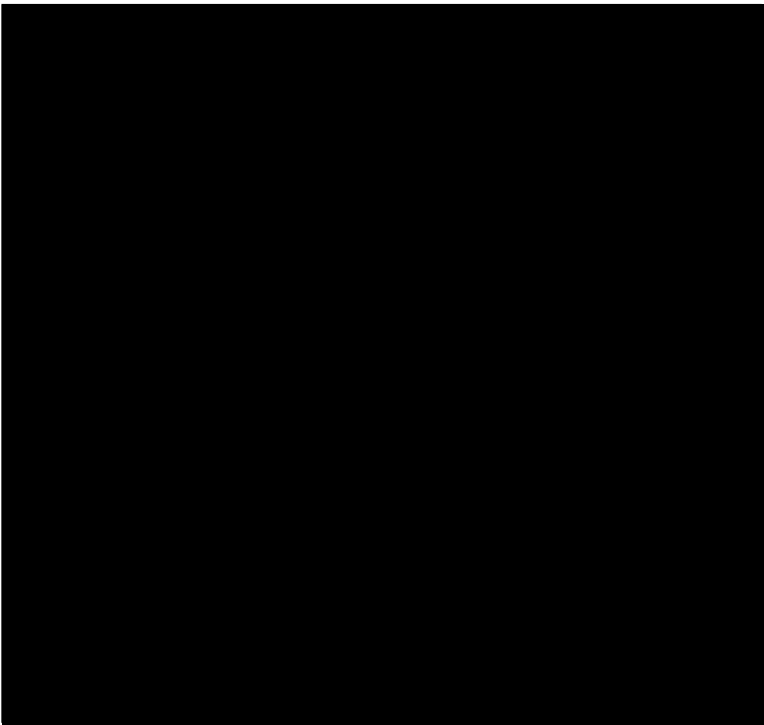
5 Payment

The activity schedule is
[TBC]

Resolving and avoiding disputes

X10: Information Modelling

Y(UK)1: Project Bank Account



The *project bank* is

named suppliers are

Contract Execution

Client execution

Signed as a Deed by [PRINT NAME] for and on behalf of the Environment Agency

