



Framework: Collaborative Delivery Framework
Supplier: Ove Arup & Partners Ltd
Company Number: 01312453

Geographical Area: North East
Project Name: Portrack FAS - Principal Designer appointment
Project Number: [REDACTED]

Contract Type: Professional Service Contract
Option: Option C

Contract Number:

Stage: SOC_to_OBC

Revision	Status	Originator	Reviewer	Date
1 Draft		[REDACTED]		26/11/2020
2 Latest		[REDACTED]		17/11/2021
3 Contract Tool Rev [REDACTED]		[REDACTED]		21/02/2022

PROFESSIONAL SERVICE CONTRACT under the Collaborative Delivery Framework
CONTRACT DATA

Project Name Portrack FAS - Principal Designer appointment

Project Number [REDACTED]

This contract is made on 25 July 2022
between the *Client* and the *Consultant*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 01st day of April 2019 between the *Client* and the *Consultant* in relation to the Collaborative Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference
- Schedules 1 to 22 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference
Principal Designer appointment and Scope letter_NE Hub_final_Portrack

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 C

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

X20: Key Performance Indicators

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 Principal Designer Appointment to Portrack Flood Alleviation Scheme

The *Client* is Environment Agency

Address for communications
Tyneside House
Skinnerburn Road
Newcastle upon Tyne
NE4 7AR

Address for electronic communications

The *Service Manager* is

Address for communications

Address for electronic communications

The *Scope* is in
Principal Designer appointment and Scope letter_NE Hub_final_Portrack

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 than 2 weeks

2 The Consultant's main responsibilities

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

key date
'none set'
'none set'
'none set'

The *Consultant* prepares forecasts of the total Defined Cost plus Fee and *expenses* at intervals no longer than 4 weeks

3 Time

The *starting date* is 22nd July 2022

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

The *Consultant* submits revised programmes at intervals no longer than 4 weeks

The *completion date* for the whole of the *service* is 23rd May 2023

The period after the Contract Date within which the *Consultant* is to submit a first programme for acceptance is 4 weeks

4 Quality management

The period after the Contract Date within which the *Consultant* is to submit a quality policy statement and quality plan is 4 weeks

The period between Completion of the whole of the *service* and the *defects date* is 26 weeks

5 Payment

The *currency of the contract* is the £ sterling

The *assessment interval* is Monthly

The *Client* set total of the Prices is £15,089.00

The *expenses* stated by the *Client* are as stated in Schedule 9

The *interest rate* is 2.00% per annum (not less than 2) above the
Base rate of the Bank of England

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

If Option C is used The *Consultant's share percentages* and the *share ranges* are:

share range			Consultant's share percentage
less than	80 %	to 120 %	0 %
from			as set out in Schedule 17
greater than			as set out in Schedule 17

6 Compensation events

These are additional compensation events

1. 'A compensation event implemented under the Named Contract will result in a compensation event being applicable on this contract where a change to the Completion Date on the Named Contract is implemented. The change to the Completion Date implemented under the Named Contract will be the same duration implemented for this contract.
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

EVENT	MINIMUM AMOUNT OF COVER	PERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE <i>SERVICE</i> OR TERMINATION
The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the service	██████████ 0 in respect of each claim, without limit to the number of claims	6 years after Completion
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>) arising from or in connection with the <i>Consultant</i> Providing the Service	██████████ in respect of each claim, without limit to the number of claims	6 years after Completion
Death of or bodily injury to the employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Legal minimum 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	██████████	

Resolving and avoiding disputes

The *tribunal* is litigation in the courts

The *Adjudicator* is 'to be confirmed'
Address for communications 'to be confirmed'

Address for electronic communications ['to be confirmed'](#)

The *Adjudicator nominating body* 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 replaced by:

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

Add the following 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

Z4 Share on termination

Delete existing clause 93.3 and 93.4 and replace with:

93.3 In the event of termination in respect of a contract relating to services there is no *Consultant's* share'

Z6 The Schedule of Cost Components

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

Z7 Consultant's share

After c154.2 and before c154.3, insert the following additional clause:

54.2A If, prior to the Completion Date, the Price for Service Provided to Date exceeds 112% of the total of the Prices, the amount in excess of 112% of the total of the Prices is retained from the Consultant.

Z23 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* 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.

Z24 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 *Service Manager's* certificate.

Delete existing clause 51.2 and replace with:

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

Z25 Risks and insurance

The *Consultant* is required to submit insurances annually as Clause Z4 of the Framework Agreement

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

£ [REDACTED]

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

£ [REDACTED]

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

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)2: The Housing Grants, Construction and Regeneration Act 1996

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

Y(UK)3: 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 Ove Arup & Partners Ltd

Address for communications 8 Fitzroy Street
London
W1T 4BQ

Address for electronic communications [Redacted]

The fee percentage is [Option C] [Redacted]

The key persons are

Name (1) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

Name (2) [Redacted]
Job [Redacted]
Responsibilities [Redacted]
Qualifications [Redacted]
Experience [Redacted]

Name (3)
Job
Responsibilities
Qualifications
Experience

Name (4)
Job
Responsibilities
Qualifications
Experience

Name (5)
Job
Responsibilities
Qualifications
Experience

Name (6)
Job
Responsibilities
Qualifications
Experience

Name (7)
Job
Responsibilities

Qualifications
Experience

The following matters will be included in the Early Warning Register

3 Time

The programme identified in the Contract Data is

TBC

5 Payment

The *activity schedule* is
Portrack PD Activity Schedule.pdf

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)
Address for communications

Address for electronic communications

X10: Information Modelling

The *information execution plan* identified
in the Contract Data is
tbc

Contract Execution

Client execution

Signed Underhand by [PRINT NAME]

for and on behalf of the Environment Agency

[Redacted Signature]

[Redacted Date]

[Redacted Role]

Signature

Date

Role

Consultant execution

Signed Underhand by [Redacted Name]

for and on behalf of

Ove Arup & Partners Ltd

[Redacted Signature]

[Redacted Date]

[Redacted Role]

Date

Role

Appointment of Collaborative Delivery Team (CDT) principal designer under the Construction (Design and Management) Regulations (2015)

Environment Agency
Lateral
8 City Walk
Leeds
LS11 9AT

Our ref.: [REDACTED]

Date: [REDACTED]

Arup
Admiral House
Rose Wharf
78 East Street
Leeds
LS9 8EE

For the attention of: [REDACTED]

Dear Sir/Madam

Appointment of CDT Principal Designer under the Construction (Design and Management) Regulations 2015.

In accordance with the requirements of regulation 5 of the Construction (Design and Management) Regulations 2015 you are hereby appointed as Principal Designer in respect of the construction work at:

North East Hub NGSA Collaborative Delivery Team

Project Name: Portrack FAS

SOP Code: [REDACTED]

Name of Project PD Representative: [REDACTED]

You will discharge your duties in accordance with the requirements of regulations 8, 9, 11 and 12 of the aforementioned regulations and additional duties as listed in the Schedule of Collaborative Delivery Team Principal Designer's duties attached.

The Completion Date of this Principal Designer appointment contract will be the Completion Date as per the Named Contract and this alignment with the Named Contract will be provided by the additional compensation event included in Contract Data Part 1.

Therefore, this appointment will be for the duration of the Named Contract (the current Named Contract identified in the Scope is “Portrack FAS PSC – SOC to OBC”), and should the appointment be required to continue for further CDF contract stages, this will be implemented by notifying an instruction changing the Named Contract identified in the Scope of this contract.

Yours faithfully

[Redacted Signature]

Tel: [Redacted]

Project Manager

Email: [Redacted]

Additional defined term

PD11.1 (1) The Named Contract is the Collaborative Delivery Framework PSC (Lot 1) contract that this Principal Designer appointment contract is aligned with. The Named Contract will be the initial Named Contract identified in the Scope unless later changed in accordance with this contract.

Scope of Principal Designer contract

- The Scope of this contract is to undertake the items identified in the below table required to discharge the duties of the Principal Designer for the stage relevant for the current Named Contract and any of its predecessors.
- The initial Named Contract is “Scheme Portrack PSC – SOC to OBC”
- Further Named Contracts may be added through a notified instruction, resulting in a compensation event for the continuation of the Principal Designers duties.

Schedule of Collaborative Delivery Team Principal Designer’s duties

	Duty	Rqd
1	Ensure the Client representatives are aware of their duties under the CDM regulations (and other related Health & Safety regulations) (Regulation 9)	M
2	Ensure they have (and not accept the appointment if they do not have) the skills, knowledge and experience necessary to undertake the role of PD for this particular project (Regulation 8)	M
3	Co-operate with anyone working on, or in relation to the Client’s portfolio of projects (or at an adjoining construction sites) to enable any person with a duty or function to fulfil that duty or function, including the CSF Resident Principal Designer (Regulation 8)	M
4	Report to the Client anything which is likely to endanger anyone’s health or safety (Regulation 8)	M
5	When required, provide comprehensible information as soon as is practicable (Regulation 8), e.g. monthly reports, CDM forms and reports	M
6	Plan, manage, monitor and report the pre-construction phase and co-ordinate matters relating to the CDM regulations to ensure that, so far as is reasonably practical, the Client’s project (under this contract) is carried out without risks to health or safety (Regulation 11)	M

	Duty	Rqd
7	In fulfilling their duties, take into account the general principles of prevention, and, where relevant, the content of any construction phase plan and any health and safety file (Regulation 11)	M
8	Identify, eliminate or control, so far as is reasonably practicable, foreseeable risks to the health or safety of any person (Regulation 11); Carrying out or liable to be affected by construction work Maintaining or cleaning a structure; or Using a structure designed as a workplace	M
9	Ensure (so far as is reasonably practicable) all designers comply with their duties in the CDM regulations and cooperate with each other (Regulation 11)	M
10	Ensure that anyone working in relation to the pre-construction phase co-operate with the Client, the PD and each other (Regulation 11)	M
11	Assist the Client in the compilation of the pre-construction information (Regulation 11)	M
12	So far as it is within the PD's control, provide pre-construction information, promptly and in a convenient form, to every designer and contractor appointed, or being considered for appointment to the project (Regulation 11)	M
13	Liaise with the PC for the duration of the PD's appointment and share with the PC, information relevant to the planning, management and monitoring of the construction phase and the coordination of health and safety matters during the construction phase (Regulation 11)	M
14	Assist the PC in preparing the construction phase plan by providing to the PC all information the PD holds that is relevant to the construction phase plan including pre-construction information obtained from the Client and any information obtained from designers (Regulation 12)	M
15	Prepare a health and safety file appropriate to the characteristics of the project which must contain information relating to the project which is likely to be needed during any subsequent project to ensure the health and safety of any person (Regulation 12)	M
16	Ensure that the health and safety file is appropriately reviewed, updated and revised from time to time to take account of the work and any changes that have occurred (Regulation 12)	M
17	At the end of the project, pass the health and safety file to the Client (or PC) (Regulation 12)	M
18	Demonstrate their compliance with their CDM duties by preparing and updating the Pre-Construction Management	M

	Duty	Rqd
	Tool on a monthly basis (or more frequently for start of construction activities) and liaising with the CSF Resident Principal Designer.	