

DEED OF VARIATION OF CONTRACT

WAREHAM COASTAL CHANGE THE MOORS AT ARNE CONTRACT

DATED5TH MARCH.....2024

DEED OF VARIATION OF CONTRACT

between

THE ENVIRONMENT AGENCY

and

Kier Integrated Services Ltd

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THIS DEED is dated5th March..... 2024

PARTIES

- (1) **THE ENVIRONMENT AGENCY (“EA”) (“the Client”); and**
- (2) Kier Integrated Services Ltd incorporated and registered in England and Wales with company number 00873179 whose registered office is at 2nd Floor, Optimum House, Clippers Quay, Salford, M50 3XP (**“the Contractor”**).

BACKGROUND

- (A) The Client and the Contractor are party to a contract dated 03 July 2023 (“the Contract known as the Wareham Coastal Change The Moors at Arne Contract”) for the creation of intertidal habitat and associated works. The Contract is the NEC4 Engineering & Construction conditions and related documents as amended, under the Collaborative Delivery Framework set up by the Environment Agency.
- (B) The conditions of contract for the work are the NEC4 Engineering & Construction Contract Main Option C with secondary options and amended by additional Z clauses, all as signed between the parties.

The Client wishes to implement the additional works specified in the amended Scope ENVIMSW002130-ATK-XX-3XX-RP-Z-000001 P07 10-10-2023 ECC4 Arne Moor DoV Scope
- (C) together with all core preliminaries relating to staff, welfare, vegetation management (post vegetation clearance) and biosecurity)
- (D) Consequently, the parties wish to amend the Contract as set out in this Deed with effect from 05/03/2024 (**Variation Date**).

1. DEFINITIONS AND INTERPRETATION

- 1.1 This deed is supplemental to and takes effect as an amendment to the Wareham Coastal Change The Moors at Arne (Arne Moor contract). References within the Arne Moor contract to “contract” and “work” or “works” shall be interpreted as meaning the Arne Moor contract as amended by this deed. Matters set out in this deed are subject to the terms Arne Moor contract as amended by this deed.

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1.2 Unless otherwise stated in this deed:

- (a) All references within this Deed to clauses are to the clauses of the Arne Moor contract;
- (b) Definitions and principals of interpretation set out or referred to in the Arne Moor contract apply to this Deed;
- (c) References to Annexes are to the Annexes to this Deed which form part of this Deed

1.3 In this Deed the following expressions have the following meanings:

- (a) Effective Date means the date of this Deed
- (b) Wareham Coastal Change The Moors at Arne or Arne Moor contract means the contract entered into between the parties on 03 July 2023.

1.4 The terms of this Deed are effective from the Effective Date.

2 VARIATION TO WAREHAM COASTAL CHANGE THE MOORS AT ARNE

2.1 This Deed varies the Arne Moor contract in accordance with the Annexes to this Deed

2.2 The parties acknowledge that this deed constitutes a variation of the works that falls outside of Core Clause 6 of the contract.

2.3 Subject to the variations set out in this Deed, the Arne Moor contract continues in full force and effect.

2.4 With effect from the Variation Date the Parties agree the following amendments to the Contract:

The Scope	Annex One – Wareham Coastal Change The Moors at Arne DOV Scope is additional to the Scope of the Arne Moors contract in its entirety and any reference in the NEC4 ECC, the Contract and any other part of the contract shall be interpreted as meaning the Arne Moor scope and the scope appended here as Annex One.
Contract Data Part One	The Site Information is in: ENVIMSW002130-ATK-XX-3XX-RP-Z-

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000002 Site Information.docx

The boundaries of the site are:

Refer to drawings ENVIMSW002130-ATK-XX-3XX-DR-EN-000128_C01_SiteAccessplanrevisedforSL.pdf

Time

The DOV starting date: 05/03/2024

The DOV access date: 05/03/2024

The completion date for the whole of the works: 12 February 2027

Quality Management

The defect period for the work is 52 weeks from the completion of the whole of the works.

Compensation Events

Carbon Methodology - Adherence to and compliance with the Carbon Methodology dated 08 June 2023

Ground conditions on site are flooded to a level which:

- prevents safe access to the works, or*
- prevents the works from being undertaken in accordance with the Scope, or*
- would result from construction activities causing damage to archaeological or environmental features*

Archaeological finds within the site boundaries

UXO finds within the site boundaries.

Any environmental mitigation or surveys (in addition to those already instructed) required will be compensation events informed by the outcomes of surveys, and finalised construction operation method statements.

Impermeable Core package of works to be added as a compensation event utilising clause 65 once the final

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specification of trenchmix is agreed

4no Pedestrian footbridges to be added as a compensation event utilising clause 65 once the final design is complete.

Secondary Options

OPTION X5: Sectional Completion

<i>Section</i>	<i>Description</i>	<i>Completion date</i>
<i>1</i>	<i>All Works Excluding Breach</i>	<i>15 January 2027</i>
<i>2</i>	<i>Breach Only</i>	<i>30 October 2026</i>

X7 plus X5

Delay damages for each section of the works are

<i>Section</i>	<i>Description</i>	<i>Amount per day</i>
<i>1</i>	<i>All Works Excluding Breach</i>	<i>£540.27</i>
<i>2</i>	<i>Breach Only</i>	<i>£540.27</i>

X7

Delay damages for the completion of the whole of the works are

<i>Amount per day</i>
<i>£540.27</i>

Payment

The client set target will be increased by: £29,514,326.47

Contract Data Part Two

General

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	Time The programme identified in the Contract Data is <i>2024-01-20 - Arne Moor ECC (CST)</i>
The Total of the Prices	The Total of the Prices will be increased by: £29,514,326.47
The programme	The contractor will revise the programme in accordance with the contract to reflect this Deed

- 1.5 The parties to this Deed may terminate the arrangements implemented by this Deed in accordance with the contract.

2. GOVERNING LAW AND JURISDICTION

- 2.1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with the law of England and Wales.
- 2.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this deed or its subject matter or formation (including non-contractual disputes or claims).

This deed has been entered into on the date stated at the beginning of it.

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**IN WITNESS WHEREOF THIS AGREEMENT HAS BEEN EXECUTED AS A DEED
THE DAY AND YEAR FIRST BEFORE WRITTEN**

AUTHORITY:

The Common Seal of
THE ENVIRONMENT AGENCY
was hereunto affixed
in the presence of



Executed as a deed by
KIER INTEGRATED SERVICES LTD Acting by 2 Directors or by a Director and its
Company Secretary



Name: Andrew Bradshaw



Director/Company Secretary

Name: Paul Jackson

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ANNEX ONE

ENVIMSW002130-ATK-XX-3XX-RP-Z-000001 P07 10-10-2023 ECC4 Arne Moor DoV
Scope

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