

### Engineering and Construction Short Contract

### **Contract Data Forms**

June 2017 (with amendments January 2023)

#### Template version history

V1 (as per bidder pack)	Go live template (this document)
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## **NEC4 Engineering and Construction Short Contract** A contract between SP39-41C South Delph RHB (US of Sandhill Beck) Scour Repairs **Contract Forms Contract Data** The Contractor's Offer and Client's Acceptance **Price List** Scope Site Information

### **Contract Data**

### The Client's Contract Data The Client is Name Address for communications Address for electronic communications The works are LNA 24/25 Asset Recovery Programme The site is SP39-41C South Delph RHB (US of Sandhill Beck) Scour Repairs The starting date is The completion date is The delay damages are Per day The *period* for reply is weeks The defects date is weeks after Completion The defects correction period is weeks The assessment day is The retention is The United Kingdom Housing Grants, Construction and Regeneration Act (1996) does apply The Adjudicator is: In the event that a first dispute is referred to adjudication, the referring Party at the same time applies to the Institution of Civil Engineers to appoint an Adjudicator. The application to the Institution includes a copy of this definition of the Adjudicator. The referring Party pays the administrative charge made by the Institution. The person appointed is also Adjudicator for later disputes.

### **Contract Data**

The Client's Contract Data						
The interest rate on late payment is						
For any one event, the liability of the Contractor to the Client for loss of or damage to the Client's property is limited to		'				
The Client provides this insurance	None					
	Insurance '	[ahla				
Event	ilisulance	Cover	Cover provided until			
Loss of or damage to the works	es un constant constant.		The Client's certificate of Completion has been issued			
Loss of or damage to Equipment, Plant and	Materials	Replacement Cost	The defects Certificate			
The Contractor's liability for loss of or dama (except the works, Plant and Materials ar and for bodily injury to or death of a pemployee of the Contractor) arising from or with the Contractor's Providing the Works	Minimum in respect of every claim without limit to the number of claims	has been issued				
Liability for death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with this contract  The amount required by the applicable law						
Failure of the Contractor to use the skill and used by professionals providing works similar		Minimum Contract Price in respect of every claim without limit to the number of claims	6 years following Completion of the whole of the works or earlier termination			
The Adjudicator nominating body is						
·						
The tribunal is litigation in the courts						
The conditions of contract are the NEC4 Engineering and Construction Short Contract June 2017 (including 2023 amendments) and the following additional conditions						

Z1.0	Sub-contracting Sub-contracting				
Z1.1	The <i>Contractor</i> submits the name of each proposed subcontractor to the <i>Client</i> for acceptance. A reason for not accepting the subcontractor is that their appointment will not allow the <i>Contractor</i> to Provide the Works. The <i>Contractor</i> does not appoint a proposed subcontractor until the <i>Client</i> has accepted them.				
rst.					
Z2.1	position as a regulatory authority and as <i>Client</i> under the contract is separate and distinct. Actions taken in one capacity are deemed not to be taken in the other.				
Z2.2	Where statutory consents must be obtained from the authority, the <i>Contractor</i> is responsible for obtaining these and paying fees (unless stated otherwise in the Scope). The <i>Client's</i> acceptance of a tender and the <i>Client's</i> instruction or variation of the work does not constitute statutory approval or consent.				
Z2.3	An action by the as a regulatory authority is not in its capacity as <i>Client</i> and is not a compensation event.				
Z3.0	Confidentiality & Publicity				
Z3.1	The Contractor may publicise the works only with the Client's written agreement.				
Z4.0	Correctness of Site Information				
Z4.1	Site Information about the ground, subsoil, ducts, cables, pipes and structures is provided in good faith by the <i>Client</i> but is not warranted correct. The <i>Contractor</i> checks the correctness of any such Site Information they rely on for the purpose of Providing the Works.				
Z5.0	The Contracts (Rights of Third Parties) Act 1999				
Z5.1	For the purposes of the Contracts (Rights of Third Parties) Act 1999, nothing in this contract confers or purports to confer on a third party any benefit or any right to enforce a term of this contract.				
Z6.0	Design				
Z6.1	Where design is undertaken, it is the obligation of the <i>Contractor</i> to ensure the use of skill and care normally used by professionals providing similar design services.				
Z6.2	The Contractor designs the parts of the works which the Scope states they are to design.				
Z6.3	The Contractor submits the particulars of their design as the Scope requires to the Client for acceptance. A reason for not accepting the Contractor's design is that it does not comply with either the Scope or the applicable law.				
	The Contractor does not proceed with the relevant work until the Client has accepted this design.				
Z6.4	The Contractor may submit their design for acceptance in parts if the design of each part can be assessed fully.				
Z7.0	Change to Compensation Events				
Z7.1	Delete the text of Clause 60.1(11) and replace by:				
	The works are affected by any one 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 <i>Contractor</i> and subcontractor				
	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 device or thing dropped from them				
Z8.0	Framework Agreement				
Z8.1	The Contractor shall ensure at all times during this contract it complies with all the obligations and conditions of the Framework Agreement made with the Client.				
Z9.0	Termination				
RESERVED BY					

Z9.1	Delete the text of Clause 92.3 and replace with:
	If the <i>Contractor</i> terminates for Reason 1 or 6, the amount due on termination also includes of any excess of a forecast of the amount due at Completion had there been no termination over the amount due on termination assessed as for normal payments.
Z10.0	Data Protection
Z10.1	The requirements of the Data Protection Schedule shall be incorporated into this contract
Z11.0	Liabilities and Insurance
Z11.1	Civil data protection claims and regulatory fines for breaches of Data Protection Legislation are excluded from any limit of liability stated.
Z12.0	Packaging
Z12.1	For contracts containing packages of projects the <i>Client's</i> Contract Data, Scope and Site Information particular to an individual project is contained within its Site Specific Pack

## **Contract Data** The Contractor's Contract Data The Contractor is Name Address for communications Address for electronic communications The fee percentage is As per Pricing Workbook The people rates are category of person unit rate

The published list of Equipment is

The percentage for adjustment for Equipment is

N/A

### **Contract Data**

# The Contractor's Offer and Client's Acceptance

le Works in accordance with these <i>conditions of contract</i> for an amount to be se <i>conditions of contract</i> .
Enter the total of the Prices from the Price List.
s Offer to Provide the Works

Date

Pric	e List					
from the C	List is a summary using the subtotals from the deta Contractor's rates in the Lot 1 Pricing Workbook. Th high Scour (Sandhill Beck)					
ltem Number	Description	Unit	Quantity	Rate	Price	
	SP39-41C South Delph RHB (US of Sandhill					

Number	N.		228		
	SP39-41C South Delph RHB (US of Sandhill Beck) Scour Repairs				
	People	Wks			
	Equipment	Wks			
	Materials	Sum			
	Subcontractors	Sum			
	Risk	Sum			
	Fees	Sum			
				-	-

The method and rules used to compile the Price List are
Civil Engineering Standard Method of Measurement 4 <sup>th</sup> edition (CESMM4) as per the Framework Price Workbook.

The total of the Prices

### Scope

#### 1. Description of the works

#### 1.1 Project background

1.1.1 Several *Client* owned/maintained assets have been identified as being below required condition (BRC) with the causal events being the winter storms of 2023/24. Bringing these assets back to the *Client's* minimum acceptable standard is of primary importance.

In the Midlands Hub, Lincolnshire and Northampton (LNA) catchment area the *Client* has identified several BRC schemes that have incurred damage caused by winter storm events. These assets require improvement to bring each asset back to a minimum acceptable standard that existed prior to the asset damage. The works shall be undertaken considering all required environmental, programme and cost considerations whilst also complying with all relevant *Client* good practice and guidance.

- 1.1.2 The overall objective is to make the necessary improvements to the Client's assets such that they are:
  - Return assets to at least minimum acceptable standard which shall not be less than the asset condition prior to the winter storm events
  - b) Legally compliant in respect of flood risk and public safety
  - c) Safe and efficient to operate and maintain
  - d) Low in whole-life financial and carbon cost
- 1.1.3 The specific objective within this contract is to ensure all remedial works are carried out as per the Description of the Works contained in Section 1.2, the Client provided Scope Information Document (SID) and the other documents contained in Sections 2 and 3.

#### 1.2 Description of the works

1.2.1 The *Contractor* is to undertake the design and construction for all assets where repair works are required. All construction work, including that of peripheral assets but not limited to fencing and telemetry, must be compliant with all current *Client* Standards and industry best practice. Where compliance is not possible, reasonable justification must be provided by the *Contractor* for the *Client's* consideration and to inform the engineering decision process.

The works are as described in drawings and other documents which can be found in section 2 and section 3.

1.2.2 Purpose of the Works/ Outcome required

An assessment of the need for works to be carried shall be as described in the SID and PCI. The production of SID and PCI will be carried out by Others. The purpose and outcome of the Works will be the return of BRC assets to the asset condition they were in prior to the winter storm events in order that the assets meet the *Client's* minimum acceptable standards required to ensure compliance with the *Client's* flood risk and safety works are met.

The Contractor shall maximise positive environmental outcomes and demonstrate mitigation has been considered.

1.2.3 South Delph RHB (Upstream of Sandhill Beck) Scour Repairs (Asset 504472)

A section of the asset has damage caused by erosion/scour upstream of Sandhill Beck which occurred as a consequence of Storm Babet.

The overtopping damage has resulted in scour and the formation of a small crater on the landward face from the crest of the embankment that is approximately 5m wide by 2m long down the slope of the bank. The soil exposed at the erosion site is generally made up of a 200mm layer of clayey material on the embankment crest with the material underneath being a more silt/sand material.

On the Sandhill spillway, there is a loss of topsoil from the precast concrete spillway and to the sides of the spillway and replenishment of lost topsoil and grass seed mix to the grasscrete spillway and 5m downstream of the spillway area is lost due to overtopping of the asset.

 The Works can be summarised as follows and the Contractor is to pay due cognisance of the Client's completed SID and other available information.

- Obtain all required permits, licences and the like to allow works to commence. The Client Project Manager will provide detail of requirement and where exemption(s) may be permitted.
- The Client holds ground investigation data for several of their assets. Where data does not exist or is incomplete, the Contractor is to assume a worst-case scenario in preparing their design. The Contractor is to undertake including utility searches to further inform the Contractor's design solution(s).
- Develop design solution and submit to the Client for acceptance.
- Prepare and submit all necessary documentation to ensure compliance with CDM Regulations and any Client specific health and safety requirements.
- Undertake pre and post construction surveys including photographs/video
- Mobilise and demobilise People and Equipment to the site.
- · Undertake vegetation clearance and dispose of the arisings off-site.
- · Remove topsoil and set aside for re-use.
- Excavate slipped soil mass beyond failure plane and bench into embankment as required.
- Rebuild in layers imported material or as-dug material (subject to appropriate stability / soil suitability assessment) and reinforce with geogrid if required and dispose of all surplus excavation arisings not used in the permanent works.
- · Topsoil and seed embankment.
- · Reinstatement of the site on completion of site activities

The Contractor is to produce all required handover documents and H&S Pack including operation and maintenance manuals, ground investigation reports, as-built drawings, recommended maintenance regimes to be followed and the like. All documentation is to be submitted to the Project Manager and accepted by the Client. Acceptance by the Client shall determine completion of the Work.

#### 1.3 Contractor's design

The Contractor is to develop a design solution for the embankment repairs and present to the Client for acceptance with such acceptance not being unreasonably withheld.

Where design is undertaken, it is the obligation of the *Contractor* to ensure the use of skill and care normally used by professionals providing similar design services.

The Contractor submits the particulars of their design as the Scope requires to the Client for acceptance. A reason for not accepting the Contractor's design is that it does not comply with either the Scope or applicable law.

The Contractor does not proceed with the relevant work until the Client has accepted this design.

Should the *Contractor* seek to deviate from any relevant design code or standard for efficiency, then the *Contractor* shall seek derogation from the *Client* in writing which shall include detailed technical reasoning and proposal(s) for the derogation. The *Client*, in consideration of the *Contractor's* request may require further and better technical particulars prior to a final decision being made on the derogation request.

For the avoidance of doubt, the *Client's* acceptance of the *Contractor's* design solution or any design derogation does not relieve the *Contractor* of liability for their design under the contract.

#### 1.4 Accommodation

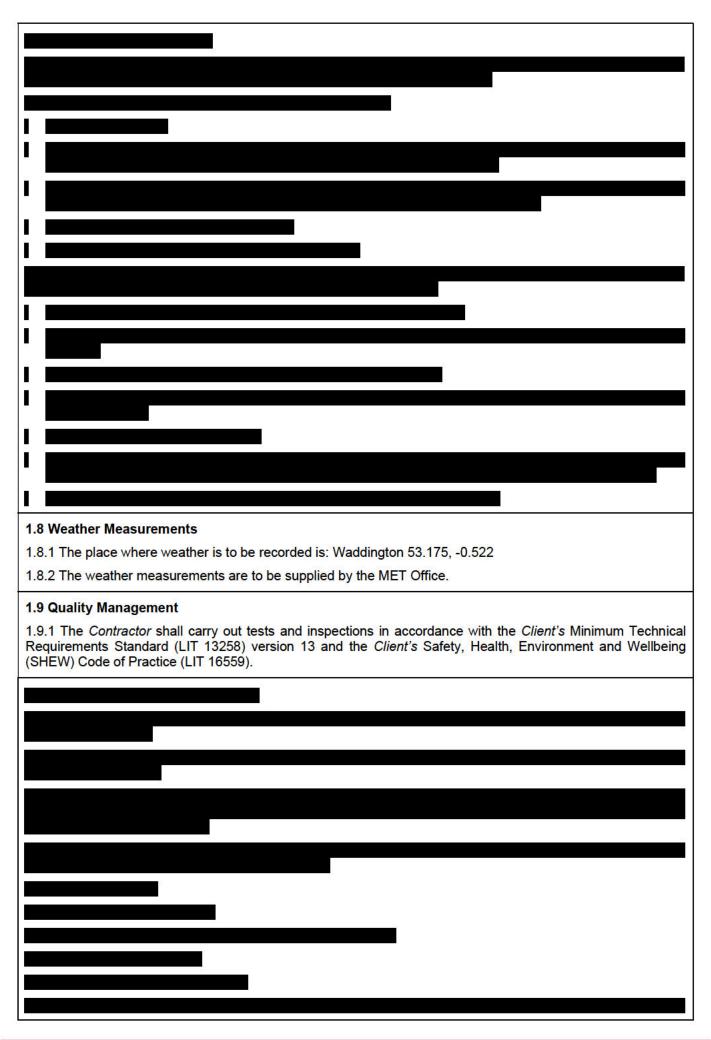
1.4.1 The *Contractor* shall provide accommodation, services, and facilities as is necessary to complete the *works*, as quantified and priced in the Framework Pricing Workbook.

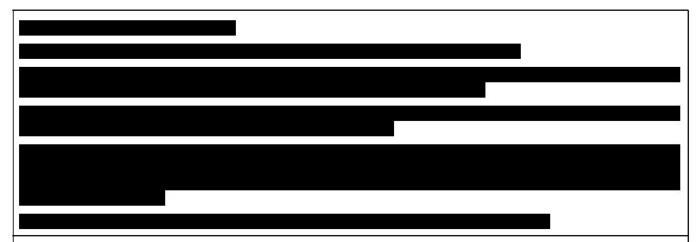
#### 1.5 Access to the Site

1.5.1 Prior to first entry to the site to undertake physical works, the *Contractor* shall record the condition of the site and accesses to the site through photographs and videos. These are submitted to the *Client* for record keeping. The *Contractor* shall leave the site and accesses to the site in as good a condition as prior to first entry.

#### 1.6 Sharing the Site with the Client and Others

- 1.6.1 In the context of this contract, others is defined as all stakeholders relevant to the Scope of the contract.
- 1.6.2 The *Contractor* shall co-operate with others in obtaining and providing information which they need in connection with the *works*.





#### 1.12 Procurement of subcontractors

- 1.12.1 In accordance with Framework Schedule 7 Clause 2.1.3, the *Contractor* shall use sustainability, quality and price criteria when selecting subcontractors, evidence of how this was undertaken to be retained and made available to the *Client* if required.
- 1.11.2 In accordance with Framework Schedule 7 Clause 2.1.6, the *Contractor* shall ensure that supply chain opportunities are inclusive and accessible to Small and medium-sized Enterprises; Voluntary, Community and Social Enterprise organisations and under-represented groups of suppliers.
- 1.11.3 In accordance with Framework Schedule 7 Clause 2.1.1, the *Contractor* shall use the Contracts Finder website to advertise any subcontracting opportunities to encourage a diverse and inclusive supply base. Within ninety (90) calendar days of awarding a sub-contract to a subcontractor, the Delivery Partner updates the notice on Contracts Finder with details of the successful subcontractor.

#### 1.13 Title

- 1.13.1 No materials are expected to be vested under this contract.
- 1.13.2 The *Contractor* shall be responsible for disposing of all excavation arisings. A standard waste test (WAC) is required to be carried out prior to disposal of arisings which are to be disposed of through a licenced waste carrier at a licenced waste disposal facility. The *Contractor* is to provide all relevant waste disposal documentation such as carrier details and waste transfer notes.

#### 1.14 Completion

- 1.14.1 Prior to Completion the *Contractor* shall arrange a joint site inspection with the *Client*. The initial inspection shall take place a minimum of one week in advance of the *Contractor's* Completion date. Completion is achieved and certified only when the *works* have reached a stage of completion where the site is judged to be acceptable for handover and the required *Contractor* handover documentation has been provided as described in Section 1.2 of this contract. The *Client* is responsible for making their initial judgement following the joint inspection.
- 1.14.2 The following criteria must be met for the works to be certified as complete
- all hard landscape construction work must be fully complete, and all construction plant, and machinery must have been removed from site.
- all excavation, earthworks, and topsoiling work must be fully complete, and all construction plant, and machinery must be removed from site.
- all site perimeter fencing, temporary works, materials storage, and waste must be removed from site.
- all public open spaces must be safe for use by the public with no remaining hazards associated with construction operations.
- 1.14.3 The following are absolute requirements for Completion to be certified, without these items the *Client* is unable to accept the *works*:
- Provision of all information required by the Principal Designer for the Health & Safety File including but not limited to:
  - · As-built drawings if there have been any changes to design
  - Operation & Maintenance Manuals
  - Maintenance plans

Testing certificates     Public Safety Risk Assessment
1.16 SITE PROGRESS MEETINGS
1.16.1 Frequency: Fortnightly
1.16.2 Location: To be determined by the <i>Client</i> 1.16.3 Chairperson (who will also take and distribute minutes): The <i>Contractor</i>
1. To o origin person (who will also take and also hade minutes). The oominutes
2. Drawings
List the drawings that apply to the contract.
Title
3. Specifications
3. Specifications  4. Constraints on how the <i>Contractor</i> Provides the Works

#### 4.3 Protection against Damage

- 4.3.1 The *Contractor* shall ensure that flood embankments, access tracks, fences, hedges, structures etc. found on *site* are not damaged by their activities. Such features are fully reinstated to the satisfaction of the *Client* and the landowner/occupier within the timescales detailed in the Specification.
- 4.3.2 Particular attention is required when working in proximity to Armaflex and Enkamat systems, which may have exposed elements above the surface. Significant damage would be caused to assets should these elements get entangled in *Contractor's* Equipment.
- 4.3.3 The *Contractor* shall not commence any works on site until the *Client*, or their representative, has accepted the construction phase plan, including method statements and risk assessments ahead of each project in this contract. Acceptance will be by way of a written communication from the *Client* confirming the *Contractor* may take possession of the site from the agreed starting date.
- 4.3.4 The *Contractor* must allow a minimum of 2 weeks to allow the Principal Designer to review construction phase plans.
- 4.3.5 In order to assess the extent of work, the *Contractor* shall visit each site when pricing the work. The *Contractor* shall inform the *Client* of the time and date of each site visit before going to site.
- 4.3.6 The *Client* has the contractual right to access the working area as shown on the drawings. The *Contractor* shall be required to determine the suitability of the access and agree any alternative routes with the landowner should the identified routes be unsuitable.
- 4.3.7 Details of the routes must be included within the method statements. Access conditions may deteriorate following wet weather and the *Contractor* should assume the worst conditions when preparing his quotation.
- 4.3.8 Compensation will be agreed and paid by the *Client* (via its appointed land agents) to affected landowners based on the *Contractor's* programme, proposed access routes and method statements. Compensation claims incurred due to the *Contractor's* failure to comply with its programme, access routes and/or method statements will be passed on to the *Contractor*.
- 4.3.9 Where necessary the *Contractor* shall include for the removal and replacement of any gates, fences or hedges or any other measures necessary such as installing temporary tracks or crossings to facilitate access. The *Contractor* shall be responsible for reinstating access tracks/routes to the same conditions as encountered on arrival to the site.
- 4.3.10 The *Contractor* shall take all reasonable steps to avoid damage and disruption to the surrounding land, to the designated sites and associated access routes. Such land may be privately owned, commercially managed for industrial, agricultural use, or part of the local social amenities etc. Any problems with access should be reported directly to the *Client*.
- 4.3.11 A key, which must be returned on Completion of the works, will be provided as necessary to allow access through the *Client's* gates.
- 4.3.12 If access to a site has deteriorated (e.g., due to heavy rainfall) making it difficult or impossible for the *Contractor* to access, the *Contractor* shall immediately contact the *Client*. The *Contractor* shall inform the *Client* of their intention to continue work at this site or submit a request to the *Client* that they may either postpone work or be permitted to start work at another site. If the *Contractor* decides to continue at the original site, this will be at his own risk.
- 4.3.13 Fourteen (14) working days' notice of commencement of works shall be given to the Client.
- 4.3.14 Seven (7) working days' notice must be given to the *Client* in advance of any inspection or test and Completion of the works.
- 4.3.15 All accidents, near misses, dangerous occurrences and environmental incidents shall be notified to the *Client*, or their representative.
- 4.3.16 The Contractor shall be responsible for obtaining and/or registering for any necessary waste exemptions.
- 4.3.17 The *Client* requires twenty-four (24) hour / seven (7) days per week emergency contacts from the *Contractor* including the provision of out of hour's response if required due to theft, fire, flood, and vandalism. It is expected that any emergency procedures are conducted by a competent employee of the *Contractor*.
- 4.3.18 No mud or other debris to be deposited on any tarmac areas outside the site access gate, any such material to be removed immediately.

- 4.3.19 The *Contractor* shall ensure that any service diversions and protection measures required during the works have been arranged and agreed with the relevant Statutory Authority.
- 4.3.20 Un-scoped or additional projects may be added to the package upon acceptance of the relevant compensation events (CE's) and revised programmes depending on *Contractor* performance.
- 4.3.21 No fires may be lit on site unless expressly authorised by the Client.

#### 4.4 Choice of Equipment

- 4.4.1 The Contractor shall choose the most appropriate equipment to complete the works.
- 4.4.2 The Contractor ensures that all equipment is maintained.
- 4.4.3 Equipment with hydraulic systems shall use biodegradable hydraulic oil.
- 4.4.4 Equipment traversing under overhead cables shall be fitted with a Prolec or other height limiting device.

#### 4.7 Site Restrictions

4.7.1 N/A

#### 5. Requirements for the programme

The Contractor submits his programme with the Contractor's Offer for acceptance. The Contractor shows on each programme which they submits for acceptance (in form of Gantt chart showing the critical path, proposed order and timing to undertake the works and proposed plant and labour resources) the following:

The Contractor shall submit the programme in Adobe PDF and Microsoft Project formats.

The Contractor shall show on each programme submitted for acceptance:

- the starting date and Completion Date
- the critical path
- Period required for mobilisation/ planning & post contract award
- Each of the activities listed within the Price List
- Any key third party interfaces: lead in periods for materials and sub-Contractors; time required to obtain consents/waste permits; stated constraints; Contractor's risks.
- the dates when the Contractor forecasts to need first access to each part of the site to undertake physical works
- the order and timing of the operations which the Contractor plans to do in order to provide the works
- lead in periods for materials and sub-Contractors,
- the order and timing of the work of the Client and others required for the Contractor to provide the works,
- provisions for float, time risk allowance and procedures set out in the contract,

The Contractor shall submit a revised programme to the Client for acceptance:

- Within the period for reply after the Client has instructed the Contractor to

7	When the Contractor chooses to and, in any case,						
-	At no longer interval than stated below from the starting date until Completion of the whole of the works						
			8				
			S.				
6.	6. Services and other things provided by the <i>Client</i>						
Item		Date I provi	by which it will be ded				

### Site Information

#### The Site

South Delph RHB (Upstream of Sandhill Beck) Scour Repairs (Asset Reference 504472)



#### **Existing utilities and services**

Contractor is to undertake a full services search as part of the Works.

#### Site investigation

Contractor is to liaise with the Client for available site investigation data which the Client holds on a central database.

#### Site location plans

Please refer to section "The Site" above and the relevant Scope Information Document.

#### Health and safety file

N/A

#### Access to site

Description: Please refer to section 7.

Limitations: Limitations may come in the form of site compound area as not all the *sites* have open space next to the structure.

Access for inspections: The *Contractor* is to provide adequate and safe access to the *Client* and others to inspect the works as they progress.

#### Use of the site

General: The sites will not be used for anything other than the execution of the works.

Limitations: N/A

#### Surrounding land / building uses

General: Adjacent and nearby uses are as follows: Only land which has been agreed prior to the works commencing can be used for the works.

#### Health and safety hazards

General: The nature and condition of the *site* cannot be fully and certainly ascertained before it is opened up. However, the following hazards are or may be present:

- Working near water
- · Road conditions such as dirt roads

Information: The accuracy and sufficiency of this information is not guaranteed. Ascertain if any additional information is required to ensure the safety of all persons and the *works*.

Site staff: Draw to the attention of all personnel working on the site the nature of any possible contamination and the need to take appropriate precautionary measures.

###