



**Framework:** Collaborative Delivery Framework  
**Supplier:** VolkerStevin Ltd  
**Company Number:** 00288392

**Geographical Area:**  
**Project Name:** Kendal FRMS  
**Project Number:** ENV0000489C

**Contract Type:** Engineering Construction Contract  
**Option:** [REDACTED]

**Contract Number:** 32094

Revision	Status	Originator	Reviewer	Date



## ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework CONTRACT DATA

**Project Name** Kendal FRMS

**Project Number** ENV0000489C

This contract is made on 23 April 2021  
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  
Ground Investigation Works. Ref: ECC\_Ph2-3\_GI Scope\_NEC4 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 for resolving and  
avoiding disputes



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)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

Undertake ground investigation works and provide site supervisory services on Phase 2 and 3 of the Kendal FRMS scheme

The *Client* is

Environment Agency

Address for communications

Address for electronic communications

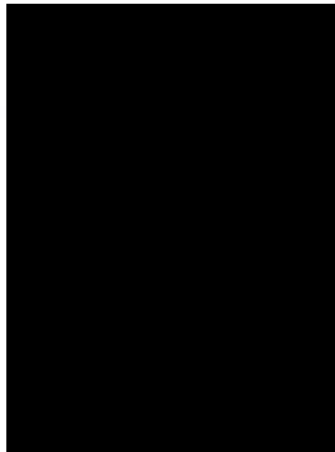
The *Project Manager* is

Address for communications

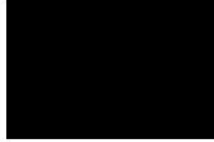
Address for electronic communications

The *Supervisor* is

Address for communications



Address for electronic communications



The Scope is in  
Ground Investigation Works. Ref: ECC\_Ph2-3\_GI Scope\_NEC4 v3

The Site Information is in  
Ground Investigation Works. Ref: ECC\_Ph2-3\_GI Scope\_NEC4 v3 - APPENDIX 1

The boundaries of the site are  
Ground Investigation Works. Ref: ECC\_Ph2-3\_GI Scope\_NEC4 v3 - APPENDIX 1

The partner contract is  
Jacobs - Ph2&3 Detailed Design: Stage A & B. Ref: 1070100995 and any other contracts advised by the Client under separate cover

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 following matters will be included in the Early Warning Register  
Works delivery risks associated with Covid-19

Early warning meetings are to be held at intervals no longer than 2 weeks

## 2 The Contractor's main responsibilities

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

key date  
None

The Contractor prepares forecasts of the total Defined  
Cost for the whole of the works at intervals no longer  
than 4 weeks

## 3 Time

The starting date is 04 May 2021

The access dates are  
part of the Site  
All parts of the site

date  
04 May 2021

The Contractor submits revised programmes at  
intervals no longer than 4 weeks

The Completion Date for the whole of the works is 16 September 2022

The Client is willing to take over the works before the Completion Date

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

## 4 Quality management

The period after the Contract Date within which the Contractor is to  
submit a quality plan is 4 weeks

The period between Completion of the whole of the works and the  
defects date is 52 weeks

The defect correction period is 2 weeks except that  
• The defect correction period for Matters of H&S is 24 Hours  
• The defect correction period for Matters of flood risk is 7 Days

## 5 Payment

The currency of the contract is the £ sterling

The assessment interval is Monthly

The Client set total of the Prices is £2,702,127.75

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

The *Contractor's share percentages* and the *share ranges* are



## 6 Compensation events

The place where weather is to be recorded is Met Office Weather Station at Levens Hall (Cumbria)

The *weather measurements* to be recorded 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 09:00 hours GMT

and these measurements:

1. None
- 2.
- 3.
- 4.
- 5.

The *weather measurements* are supplied by the National Meteorological Office  
The *weather data* are the records of past weather measurement for each calendar month  
which were recorded at Met Office Weather Station at Levens Hall (Cumbria)  
and which are available from the National Meteorological Office

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

Jan	Not used	Jul	Not used
Feb	Not used	Aug	Not used
Mar	Not used	Sep	Not used
Apr	Not used	Oct	Not used
May	Not used	Nov	Not used
Jun	Not used	Dec	Not used

These are additional compensation events

1. Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time, between 31st October 2020 and 30th June 2021
- 2.
3. Not used
4. Not used
5. Not used

## 8 Liabilities and insurance

These are additional *Client's* liabilities

1. Not used
- 2.
- 3.

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



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

'to be confirmed'

'to be confirmed'

['to be confirmed'](#)

The Institution of Civil Engineers

**Z Clauses**

Z1.1 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*.

Z1.2 Information regarding construction methods or processes referred to in pre 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 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*."

**Z7 Aggregated Contractor's share**

Delete existing clauses 54 and 93.4 and replace with:

54.7 The *Project Manager* assesses the *Contractor's* share of the difference between the Aggregated Total of the Prices and the Aggregated Price for Work Done to Date. The difference is divided into increments falling within each of the *share ranges*. The limits of a *share range* are the Aggregated Price for Work Done to Date divided by the Aggregated Total of the Prices, expressed as a percentage. The *Contractor's* share equals the sum of the products of the increment within each *share range* and the corresponding *Contractor's share percentage*.

54.8 If the Aggregated Price for Work Done to Date is less than the Aggregated Total of the Prices, the *Contractor* is paid its share of the saving. If the Aggregated Price for Work Done to Date is greater than the Aggregated Total of the Prices, the *Contractor* pays its share of the excess.

54.9 If, prior to the Completion Date, the Aggregated Price for Work Done to Date exceeds 110% of the Aggregated Total of the Prices, the amount in excess of 110% of the Aggregated Total of the Prices is retained from the *Contractor*.

54.10 The *Project Manager* makes a preliminary assessment of the *Contractor's* share at Completion of the Whole of the works using forecasts of the final Aggregated Price for Work Done to Date and the final Aggregated Total of Prices. This share is included in the amount due following Completion of the whole of the *works*.

54.11 The *Project Manager* makes a final assessment of the *Contractor's* share, using the final Aggregated Price for Work Done to Date and the final Aggregated Total of the Prices. This share is included in the final amount due.

93.4 If there is a termination, the *Project Manager* assesses the *Contractor's* share after certifying termination. The assessment uses as the Aggregated Price for Work Done to Date the sum of

- the total of
  - o the Defined Cost which the *Contractor* has paid and
  - o which it is committed to pay for work done before termination

- and
- the total of
  - o the Defined Cost which the *Contractor* has paid and
  - o which it is committed to pay

in the *partner contract* before the date the termination certificate is issued under this contract.

The assessment uses as the Aggregated Total of the Prices the sum of

- the total of
  - the lump sum price for each activity which has been completed and
  - a proportion of the lump sum price for each incomplete activity which is the proportion of the work in the activity which has been completed
- and
- the total of
  - the lump sum price for each activity which has been completed and
  - a proportion of the lump sum price for each incomplete activity which is the proportion of the work in the activity which has been completed

in the *partner contract* before the date the termination certificate is issued under this contract.

Add:

- 11.2(37) The Aggregated Total of the Prices is sum of
  - the total of the Prices and
  - the total of the Prices in the *partner contract*

11.2(38) The Aggregated Price for Work Done to Date is the sum of

- the Price for Work Done to Date and/
- the Price for Service Provided to Date in the *partner contract*.

## **Z10 Payments to subcontractors, sub consultants and**

### **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.

## **Z16 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.

## **Z18 Payment of pain/gainshare and programme incentivisation**

Delete existing clause 54.3 and replace with:

54.3 The *Project Manager* makes regular assessments of the *Contractor's* share until the Completion Date using forecasts of the final Price for Work Done to Date and the final total of the Prices. This share is included in the amount due in the following assessment. The *Project Manager* shall be entitled to take the *Contractor's* share percentage into account when assessing amounts in clause 50 and clause 51 due for payment at each assessment date thereafter. The *Project Manager* shall not assess any amount greater than the amount due when the forecast reaches the top share range in the Contract Data Part 1 (120% of the total of the Prices).

Delete existing clause 54.4 and replace with:

54.4 If clause 54.3 does not occur during the works, the *Project Manager* makes a preliminary assessment of the *Contractor's* share at Completion of the Whole of the works using forecasts of the final Price for Work Done to Date and the final total of Prices. This share is included in the amount due following Completion of the whole of the work.

Insert the following new clause 54.5:

54.5 If clause 54.3 does not occur during the works, the *Project Manager* makes a final assessment of the *Contractor's* share, using the final Price for Work Done to Date and the final total of the Prices. This share is included in the final amount due.

Insert the following new clause 54.6:

Programme Payments will be made under the Framework in accordance with Schedule 17

## **Z19 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.

## **Z21 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 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

## **Z22 Resolving Disputes**

Delete W2.1

## **Z23 Risks and Insurance**

Replace clause 84.1 with the following

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



**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 *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

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

**OPTION X18: Limitation of liability**

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

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

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

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

The end of liability date is [REDACTED] after the [REDACTED] 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 beneficiary

Not used Not used

term

*beneficiary*

The provisions of  
Y(UK)1

Not used

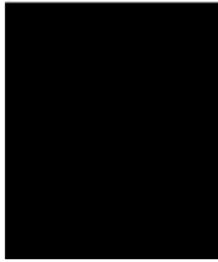
## Part Two - Data provided by the Contractor

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

[nick.jones@volkerstevin.co.uk](mailto:nick.jones@volkerstevin.co.uk)

The fee percentage is



The working areas are

VolkerStevin Offices and any other areas required to complete

The key persons are

Name (1)  
Job  
Responsibilities  
Qualifications  
Experience

The key persons are

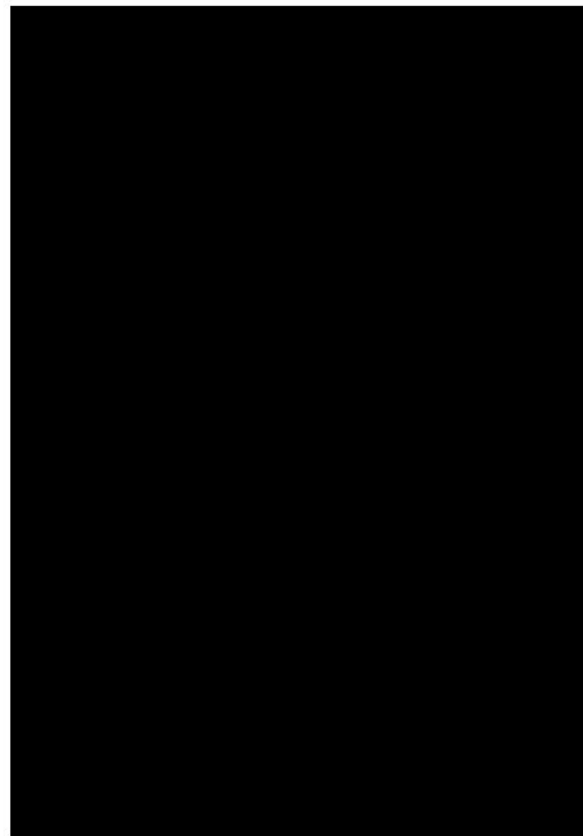
Name (2)  
Job  
Responsibilities  
Qualifications  
Experience

The key persons are

Name (3)  
Job  
Responsibilities  
Qualifications  
Experience

The key persons are

Name (4)  
Job  
Responsibilities  
Qualifications  
Experience



The following matters will be included in the Early Warning Register

Kendal Ph 2 & 3 - Risk Register (VS) - 310321

### 2 The Contractor's main responsibilities

The Scope provided by the *Contractor* for its design is in

None

**3 Time**

The programme identified in the Contract Data is

C14365 Kendal Phase 2 & 3 GI – CI 31 Programme – Rev A

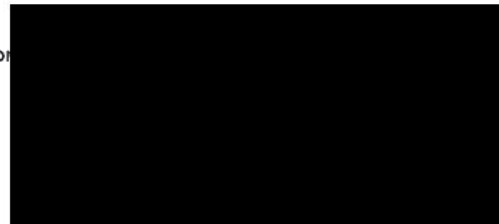
**5 Payment**

The *activity schedule* is

**Resolving and avoiding disputes**

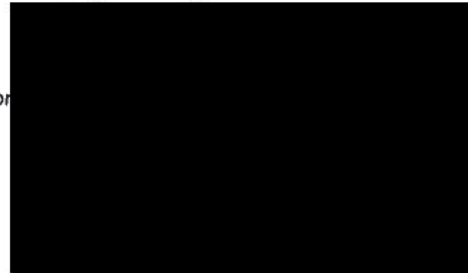
The *Senior Representatives* of the *Contractor* are

Name (1)  
Address for



Address for electronic communications

Name (2)  
Address for



Address for electronic communications



**X10: Information Modelling**

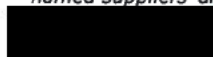
The *information execution plan* identified in the Contract Data is  
None

**Y(UK)1: Project Bank Account**

The *project bank* is



*named suppliers* are



## Contract Execution

### *Client execution*

Signed as a Deed

for and on behalf of the **Environment Agency**



Signature

Role

29 April 2020

Date

Signature

Role

Date

### *Contractor execution*

Signed as a Deed

for and on behalf of

**VolkerStevin Ltd**

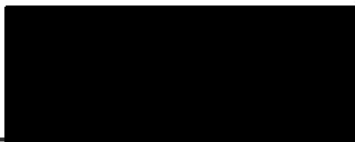


Signature

Role

21/04/2021

Date



Signature

Role

21/4/21

Date

