



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)

NEC4 Engineering and Construction Short Contract

A contract between	The Environment Agency Horizon House Deanery Road Bristol BS1 5AH
And	Breheny Civil Engineering Ltd Flordon Road Creeting St Mary Needham Market Ipswich Suffolk IP6 8NH
For	Early Supplier Engagement for the West Midlands, East Midlands and Lincolnshire and Northamptonshire hubs
	Contract Forms <ul style="list-style-type: none">- Contract Data- The <i>Contractor's</i> Offer and <i>Client's</i> Acceptance- Price List- Scope- Site Information

Contract Data

The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications	Aqua House, 20 Lionel Street, Birmingham, B3 1AQ	
Address for electronic communications	[REDACTED]	
The <i>works</i> are	Early Supplier Engagement (ESE) to support the Asset OMR lot 1 supplier in delivering works within WMD, EMD and LNA hubs.	
The <i>site</i> is	Various and to be advised, throughout the WMD, EMD and LNA hubs.	
The <i>starting date</i> is	16th December 2024	
The <i>completion date</i> is	31st March 2026	
The <i>delay damages</i> are	NIL	Per day
The <i>period</i> for reply is	2	weeks
The <i>defects date</i> is	52	weeks after Completion
The <i>defects correction period</i> is	4	weeks
The <i>assessment day</i> is	the last working day	of each month
The <i>retention</i> is	nil	%

The United Kingdom Housing Grants, Construction and Regeneration Act (1996) does apply
The <i>Adjudicator</i> 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 <i>Adjudicator</i> . The application to the Institution includes a copy of this definition of the <i>Adjudicator</i> . The referring Party pays the administrative charge made by the Institution. The person appointed is also <i>Adjudicator</i> for later disputes.

Contract Data

The *Client's* Contract Data

The interest rate on late payment is	2 (two)	% per complete week of delay.
Insert a rate only if a rate less than 0.5% per week of delay has been agreed.		
For any one event, the liability of the <i>Contractor</i> to the <i>Client</i> for loss of or damage to the <i>Client's</i> property is limited to	The Contract Price	
The <i>Client</i> provides this insurance	None	
Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the <i>works</i>	Replacement Cost	The <i>Client's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	Replacement Cost	The defects Certificate has been issued
The <i>Contractor's</i> liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor's</i> Providing the Works	Minimum £5,000,000 in respect of every claim without limit to the number of claims	

Liability for death of or bodily injury to employees of the <i>Contractor</i> 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 <i>Contractor</i> to use the skill and care normally used by professionals providing works similar to the works	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 <i>Adjudicator nominating body</i> is	The Institution of Civil Engineers	
The <i>tribunal</i> is	litigation in the courts	
The <i>conditions of contract</i> are the NEC4 Engineering and Construction Short Contract June 2017 (including 2023 amendments) and the following additional conditions		
Only enter details here if additional conditions are required.		
Z1.0	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.	
Z1.2	Payment to subcontractors and suppliers will be no more than 30 days from receipt of correct invoice.	
Z2.0	Environment Agency as a regulatory authority	
Z2.1	The Environment Agency’s 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 Environment Agency in its capacity as a regulatory 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 works does not constitute statutory approval or consent.	
Z2.3	An action by the Environment Agency as regulatory authority is not in its capacity as <i>Client</i> and is not a compensation event.	
Z3.0	Confidentiality & Publicity	
Z3.1	The <i>Contractor</i> may publicise the works only with the <i>Client’s</i> 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 <i>Contractor</i> designs the parts of the works which the Scope states they are to design.	

Z6.3	<p>The <i>Contractor</i> submits the particulars of their design as the Scope requires to the <i>Client</i> for acceptance. A reason for not accepting the <i>Contractor's</i> design is that it does not comply with either the Scope or the applicable law.</p> <p>The <i>Contractor</i> does not proceed with the relevant work until the <i>Client</i> has accepted this design.</p>
Z6.4	The <i>Contractor</i> 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	<p>Delete the text of Clause 60.1(11) and replace by:</p> <p>The <i>works</i> are affected by any one of the following events</p> <ul style="list-style-type: none"> • 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 sub-contractors • 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 <i>Contractor</i> shall ensure at all times during this contract it complies with all the obligations and conditions of the Framework Agreement made with the <i>Client</i> .
Z9.0	Termination
Z9.1	<p>Delete the text of Clause 92.3 and replace with:</p> <p>If the <i>Contractor</i> terminates for Reason 1 or 6, the amount due on termination also includes 5% 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.</p>
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
Z110	<p>Inflation</p> <p>At the Contract Date the total of the Prices does not include a sum to cover inflation.</p> <p>The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments.</p> <p>The number of Price Adjustments shall be equal to:</p> <p>The number of months between the Completion Date included at the <i>starting date</i> and the Contract Date.</p>

	<p>The proportion of Price Adjustment shall be equal to:</p> <p>The total of the Prices at the Contract Date / The number of Price Adjustments</p> <p>Each time the amount due is assessed, the Price Adjustment shall be:</p> <p>The proportion of Price Adjustment x [80% x Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate]</p> <p>The Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate shall be the value determined by the Office of National Statistics for the applicable month of the amount due assessment</p> <p>Provided always that the fixed number of Price Adjustments has NOT been exceeded.</p> <p>The Price Adjustment adjusts the total of the Prices.</p> <p>If a compensation event under this contract omits original Scope covered by the total of the Prices at the Contract Date the Price Adjustments made under this clause shall be corrected accordingly.</p>
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Contract Data

The Contractor's Contract Data

	The <i>Contractor</i> is	
Name	Breheny Civil Engineering Ltd	
Address for communications	Atlas 1, Balby Carr Bank, Doncaster, DN4 5JT	
Address for electronic communications	<div></div> <div></div> <div></div>	
The <i>fee</i> percentage is	8	%
The <i>people rates</i> are	As per Pricing Workbook	
category of person	unit	rate
The <i>published list of Equipment</i> is		CECA minus 20%
The <i>percentage for adjustment for Equipment</i> is		N/A

Contract Data

The *Contractor's* Offer and *Client's* Acceptance

The *Contractor* offers to Provide the Works in accordance with these *conditions of contract* for an amount to be determined in accordance with these *conditions of contract*.

The offered total of the Prices is £1.00

Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name

Position Senior Contracts Manager

Signature

Date 22/01/2025

The *Client* accepts the *Contractor's* Offer to Provide the Works

Signed on behalf of the *Client*

Name

Position Local Delivery Lead

Signature

Date 31/01/2025

Price List

Entries in the first four columns in this Price List are made either by the *Client* or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price Column only: the Unit, Quantity and rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

Item Number	Description	Unit	Quantity	Rate	Price
	ESE Works are to be priced in accordance with the Pricing Workbook	sum	1	£1.00	£1.00
The total of the Prices				£1.00	

The method and rules used to compile the Price List are

Civil Engineering Standard Method of Measurement 4th edition (CESMM4) as per the Framework Price Workbook.

Scope

The Scope should be a complete and precise statement of the *Client's* requirements. If it is incomplete or imprecise there is a risk that the *Contractor* will interpret it differently from the *Client's* intention.

The *Contractor* shall work with and provide Early Supplier Engagement (ESE) to the Asset Operation, Maintenance and Response (Asset OMR) Lot 1 supplier for the West Midlands (WMD), East Midlands (EMD) and Lincolnshire and Northamptonshire (LNA) hubs.

1. Description of the works

Give a detailed description of what the *Contractor* is required to do and of any work the *Contractor* is to design.

The Environment Agency have requirements to carry out minor civil engineering works and associated activities under Lot 1 of the Asset OMR framework. Early Supplier Engagement is required to aid the Lot 1 supplier in progressing the *works*.

As part of the *works* the *Contractor* shall:

Support in developing Scopes and Pre Construction Information.

This will require, site visits and the review of design options/drawings (draft and final copies) developed by Lot 1 of the Asset OMR framework, provide advice and comment on:

1. Buildability, Operability and Maintainability
2. Hazards, Risks and Constraints
3. Health and Safety and SHE compliance
4. Indicative construction costs.
5. Construction methods and material specification
6. Access requirements
7. Programme schedule,
8. Programme Opportunities, Risks and Issues

Further consideration will be given to:

- Review of high-level programme and input into activities, durations and sequence – with cognizance of; seasons (e.g. earthworks in the summer months), identification of long lead items (and therefore when does the contract need to be let), ecological constraints, third party constraints, consents, robust delivery durations considering risk. Early identification of programme constraints that could prevent a scheme from starting or completing as planned.
- Support in writing and reviewing draft ECSC Scope.
- Review of draft Site Information - is sufficient information available for the Lot 1 supplier to price the schemes. If gaps are identified, assessment made as to whether there is value in closing the gaps.
- Review of draft temporary works schedule. Identification of any significant temporary works designs

that need to be considered from a CDM perspective in advance of the works tender, to ensure sufficiency of resources and time.

- Information for the carbon tool.
- Contribution to specialist areas of the high-level cost estimate against a defined scope as requested by the project team. Suitable risk pot established considering stage of project.
- Input into a project level risk register with reference to construction risks that can be communicated to Lot 1 suppliers at time of works offer and updated regularly throughout the life of the project.
- Sharing lessons learned from the *Contractor's* wider organisation
- Providing advice on available materials and products including information on carbon and sustainability implications using amongst other tools the Carbon Planning Tool
- Engaging with utility companies to discuss service diversion requirements and proposed plant activities in immediate vicinity of services
- Costing of specialist or bespoke operations to inform or augment PCT costing
- Providing advice on specialist operations and viability of those operations
- Selection and advanced procurement and storage of materials where this delivers efficiencies in cost and time to the project/package.
- Input into optioneering and selection of best procurement methods for the project/package.
- Enabling or advance works, where this will allow the project to proceed at the required programme

Works methodology; to include but not limited to:

- Health & safety measures
- Extent of Working Areas and protective barriers including matting and fencing
- Access to Working Areas, including confined spaces
- The implementation of relevant statutory regulations
- The design and construction of temporary works and de-watering measures
- How the environmental impact of the activities is to be minimised
- Equipment requirements, siting, and mode of operation
- Labor requirements and supervision
- Delivery and storage of Plant and Materials
- Provision of access to third parties
- Details of the construction sequence
- Details of working methods
- Detailed programme
- Result of any consultation with third parties
- Contingency plans in the event of flooding, other difficulties, or emergencies
- Risk and COSHH assessments.

Management of the works:

The *Contractor* shall attend progress meetings as requested by the *Client*.

Produce and issue monthly financial updates and forecasts of the total Defined Costs on or before the first Friday of each month.

Ensure that all the original data sent to the *Contractor* (i.e. all model and survey information provided by the *Client* in an encrypted format (using WinZip 128 bit encryption) according to the *Client's* data security policy), which is classed as commercially sensitive, is returned to the *Client* in an encrypted format using WinZip 128 bit encryption.

Ensure that project deliverables such as model files, survey data or anything of a personal nature such as questionnaires or address data is returned to the *Client* in an encrypted format using WinZip 128 bit encryption.

Deliver a copy of survey data undertaken and collected for the appraisal, and supporting detailed technical reports. The *Contractor* will take the risk of the adequacy of existing data quality and quantity. Copies of reports should be issued in digital format to the *Client*.

2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title

3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
Environment Agency Blockage Management Guide (Gov.uk)	12/2019	yes
Latest Ciria Guidance: Culvert, screen and outfall manual - New CIRIA guidance	12/2019	yes

4. Constraints on how the *Contractor* Provides the Works

State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the <i>Client</i>.
Confidentiality <ol style="list-style-type: none"> 1. The <i>Contractor</i> does not disclose information in connection with the works except when necessary to carry out their duties under the contract or their obligations under the contract 2. The <i>Contractor</i> may publicise the services only with the <i>Client</i>'s written permission.
The <i>Contractor</i> is required to inform the <i>Client</i> of any physical works taking place on site and ensure the correct landowner approvals are in place prior to commencing works. The <i>Contractor</i> must provide at least 4 weeks' notice prior to starting the works.
The <i>Contractor</i> shall not commence any work on the site until the <i>Client</i> , or their representative, has accepted the method statements and risk assessments related to this contract
The <i>Contractor</i> shall ensure the correct Health and Safety measures are in place and ensure working within close proximity to the public is considered. This information must be included as part of the submitted risk assessments.
Working times The <i>Contractor</i> will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday)
5. Requirements for the programme
State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.
State what the use of the <i>works</i> is intended to be at their Completion as defined in clause 11.2(1).
The <i>Contractor</i> submits the programme for the <i>Client</i> 's acceptance monthly. The <i>Contractor</i> 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: <ol style="list-style-type: none"> (a) Period required for mobilisation/ planning & post contract award (b) starting date (c) Each of the activities listed within the Price List (d) Any key third party interfaces: lead in periods for materials and sub-contractors; time required to obtain consents/waste permits; stated constraints; <i>Contractor</i>'s risks. (e) Completion date The <i>Contractor</i> shall provide a programme in Microsoft project format and shared as a PDF.
6. Services and other things provided by the <i>Client</i>
Describe what the <i>Client</i> will provide, such as services (including water and electricity) and "free issue" Plant and Materials and equipment.

Item	Date by which it will be provided
Site Information	

Proposed sub-contractors		
	Name and address of proposed subcontractor	Nature and extent of work
1.	Form of Contract:	
2.	Form of Contract:	

3.	Form of Contract:	
4.	Form of Contract:	