



Framework:
Supplier:
Company Number:

Client Support Framework

Geographical Area:
Project Name:
Project Number:

National
ECC Project Manager Services North West (Hub B) Projects
ENVIMNW000840

Contract Type:
Option:

Professional Service Contract
Option E

Contract Number:

Revision	Status		Originator		Reviewer		Date

**PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework
CONTRACT DATA**

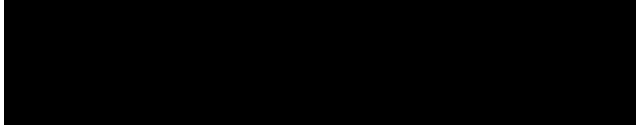
Project Name ECC Project Manager Services North West (Hub B) Projects

Project Number ENVIMNW000840

This contract is made on
between the *Client* and the *Consultant*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 02nd day of July 2019 between the *Client* and the *Consultant* in relation to the Client Support Framework. The entire Agreement and the following schedules are incorporated into this contract by reference

- Schedules 1 through to 14 inclusive of the Framework schedules are relied upon within this contract.

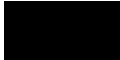


Part One - Data provided by the *Client*
**Statements given in
all Contracts**

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 for resolving and
avoiding disputes

W2

Secondary Options

X2: Changes in the law

X9: Transfer of rights

X11: Termination by the *Client*

X18: Limitation of liability

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

Provision of one full time ECC Project Manager to work on a variety of FCRM projects in the North West (Hub B)*

The *Client* is



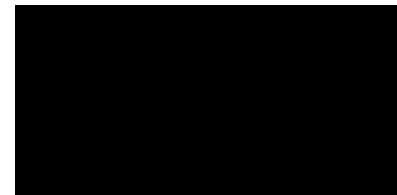
Address for communications



Address for electronic communications

The *Service Manager* is

Address for communications



Address for electronic communications



The Scope is in

Scope – ECC Project Manager Services; version: FINAL (F1); dated: 22nd April 2021

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

<i>condition</i> to be met		<i>key date</i>
'none set'	'none set'	
'none set'	'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 [REDACTED]

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 04 May 2022

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 *expenses* stated by the *Client* are as stated in Schedule 6.

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

The *exchange rates* are those published in on

6 Compensation events

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 1st April 2021 and 30th June 2021
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	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 <i>service</i>	£5 million in respect of each claim, without limit to the number of claims	12 years
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	Which ever is the greater of £5m or the amount required by law in respect of each claim, without limit to the number of claims	12 months
Death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Which ever is the greater of £5m or the amount required by law 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		£5 million

Resolving and avoiding disputes

The <i>tribunal</i> is	litigation in the courts
The <i>Adjudicator</i> is	'to be confirmed'
Address for communications	'to be confirmed'
Address for electronic communications	'to be confirmed'
The <i>Adjudicator nominating body</i> 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 replace with:

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

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

Z5 Secondments

When appointing *Consultants* on a secondment basis only:

Add clause 19

19.1 The *Client* will from starting date to Completion Date indemnify the *Consultant* against any and all liabilities, proceedings, costs, losses, claims and demands whatsoever arising directly or indirectly out of the activities of the *Consultant* in providing the services save where such claims, in the reasonable opinion of the *Client*, arise from or are contributed to by:

19.1.1 Misrepresentation or negligence by or on behalf of the *Consultant* ;

or

19.1.2 The *Consultant* has acted contrary to the *Service Manager's* reasonable instructions or wholly outside the scope of the *Consultant's* duties as defined by the *Service Manager* .

Z6 The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 6.

Z7 Linked contracts

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

Z8 Requirement for Invoice

Insert the following sentence at 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 insert the following:

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

Z9 Conflict of Interest

The *Consultant* immediately notifies the *Client* of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the *Consultant* (including without limitation its reputation and standing) and/or the *Client* of which it is aware or which it anticipates may justify the *Client* taking action to protect its interests. Should the Parties be unable to remove the conflict of interest to the satisfaction of the *Client*, the *Client*, in its sole discretion, may terminate this Contract.

Z10 Change in Control

The *Consultant* shall notify the *Client* as soon as reasonably practicable, in writing, of any agreement, proposal or negotiations which will or may result in a *Consultant* Change in Control and shall give further notice to the *Client* when any Change in Control has occurred. The *Client* may terminate this contract with immediate effect by notice in writing and without compensation to the *Consultant* within six (6) months of being notified that a Change of Control has occurred, or, where no notification has been made, the date that the *Client* becomes aware of the Change of Control, but shall not be permitted to terminate where the Client's prior written acceptance was granted prior to the Change in Control. A Change of Control is defined as per the Deed of Agreement, Z14.4.

Z11 Rate Increase Provision

Contracts with a duration of less than two years, which are extended over this duration by the *Service Manager* due to *Client* Scope increases, may apply a rate review as follows. The *Consultant* will charge the *Client* the contract staff rates for a minimum of two full years, and at the next annual rate review where a new staff rate list is accepted (as stated in Schedule 6), the new staff rate will apply to the contract as per Schedule 6. No Compensation Event is permitted for this different contract staff rate.

Z12 Waiver

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party by the Service Manager in writing in accordance with the Contract, and with express reference to Clause Z12. The failure of either party to insist upon strict performance of the Contract, or any failure or delay in exercising any right or remedy shall not constitute a waiver or diminution of the obligations established by the Contract.

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 X18: Limitation of liability

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

£1,000,000

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

£1,000,000

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

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

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 and company number

Address for communications

Address for electronic communications

The *fee percentage* is

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 *key persons* are

Name (5)
Job
Responsibilities
Qualifications
Experience

The *key persons* are

Name (6)
Job
Responsibilities
Qualifications
Experience

The *key persons* are

Name (7)
Job
Responsibilities
Qualifications
Experience

The following matters will be included in the Early Warning Register

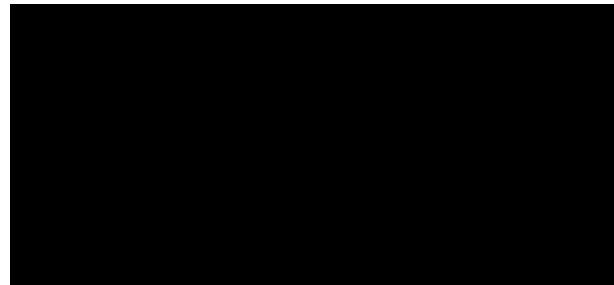
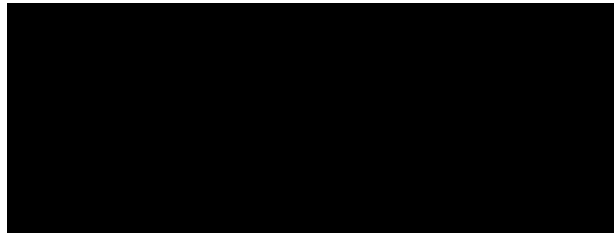
Travel expenses are not included due to the current Covid 19 arrangement;
Managing and mitigating the impact of Covid 19 and working in accordance

3 Time

The programme identified in the Contract Data is

01/04/21-31/03/22

Resolving and avoiding disputes



Classification: Internal

Contract Execution

Client execution

Signed under hand by

for and on behalf of the Environment Agency

Signature

Role

Consultant execution

Consultant execution

Signed under hand by

Rev 1.4.9

Environment Agency
Client Support Framework (CSF)
NEC4 Professional Services Contract (PSC)
Scope – ECC Project Manager Services

Project / contract information

Project name	ECC Project Manager Services North West (Hub B) Projects
Project SOP reference	██████
Contract reference	IMNW000840
Date	April 2021
Version number	FINAL (v1)
Author	██████████

Revision history

Revision date	Summary of changes	Version number
	FINAL	v1

This Scope should be read in conjunction with the version of the Minimum Technical Requirements current at the Contract Date. In the event of conflict, this Scope shall prevail. The services are to be compliant with the version of the Minimum Technical Requirements.

Document	Document Title	Version No	Issue date
412_13_SD01	Minimum Technical Requirements	9	10/2/20

1 Objectives of the project (project outcomes)

1.1 Objective

A number of Flood Risk Management (FRMS) construction projects and packages of construction works are programmed to be delivered in the North West of England over the coming years. A full-time ECC *Project Manager* is required to manage these projects and packages during the design, construction and defects stages.

These projects and packages include:

- Carlisle FRMS Phases 1 & 2
- Carlisle Appraisal Package PSC
- Gosling Sike FRMS
- Appleby FRMS

The appointment will be made via an individual contract let under the Client Support Framework (CSF) and will be compliant with the overarching terms and conditions of this framework. The contract will be for 12 months duration with the potential for extension subject to ongoing workload.

1.2 Outcome Specification

The following outputs are required:

- Undertake the role of ECC Project Manager (the *Project Manager* under a NEC3 and/or NEC4 Engineering and Construction Contract), or the *Client's* representative under the NEC3 and/or NEC4 Engineering and Construction short contract.
- Review of contract documentation for construction work to check for ambiguities or conflicts that may give potential opportunities for compensation events
- Undertake an assessment with the project team to ensure all risks and costs are clearly understood
- Review *Contractor's* proposed methodology in building the scheme(s) to drive efficiencies and identify potential opportunities for efficiencies
- Separate site reporting based on the individual requirements of the projects
- Support the *Client* in agreeing the allocation of risk during the agreement of the final target cost
- Produce Cost Manager's Final Audit Report

The overall objective of this commission is to enable efficient delivery of construction projects and/or environmental protection/enhancement measures.

2 Project team

- 1 The design consultant is various

- 2 The *Contractor* is various
- 3 The *Supervisor* various
- 4 The *Contractor* will be appointed using the NEC3 or NEC4 Engineering and Construction Contract option C most normally but can be Option E), or another version of the NEC4 suite of contracts (e.g. smaller projects may use the NEC3 or NEC4 Engineering and Construction Short Form contract)
- 5 Cost management will be provided by either the Programme and Contract Management (PCM) project cost advisor or the co-located cost manager
- 6 Principal Designer is various
- 7 BIM Information Manager the EA Project Manager
- 8 The Environmental Clerk of Works is various

3 *Consultant* provides the services

- 1 Carry out the duties of *Project Manager* as required by the *Client's* NEC3/NEC4 Engineering and Construction Contract. The *Project Manager* is to maintain close contact with the *Client* in order that their actions reflect the *Client's* objectives for the project.
- 2 The *Project Manager* is to carry out their duties strictly in accordance with the *Client's* version of the ECC. This is particularly important when dealing with Early Warnings and Compensation Events.
- 3 If the *Project Manager* believes it is necessary to act other than strictly in accordance with the Contract they must seek and obtain written confirmation in advance from the *Client's* project manager and project executive.
- 4 The *Project Manager* is to report monthly on the tasks they have undertaken and time to be charged for that month and provide a forecast of the final cost for their services all as detailed in the *Client's* NEC4 Professional Services Contract.
- 5 During construction of the works the *Project Manager* is to chair all contract progress meetings and produce & distribute meeting minutes. For typical meeting agendas see Pre-Start meeting and Progress meeting agenda [413_13_SD13].
- 6 In addition during the construction period the *Project Manager* will report monthly on the construction works using the *Client's* Monthly Work Progress Summary(MWPS) [*Client* document ref 413_13_SD15] and Tracker Schedule for Early Warnings & Compensation Events [on Asite NEC4 Manager]. Post-construction this report should be updated when changes (eg to costs, forecasts, defect corrections etc) occur.
- 7 Note that the *Project Manager* needs to discharge the duties they have under the modifications made by the *Client* to the NEC3/NEC4 ECC including their additional conditions of contract (Z clauses). Some examples are:
 - Certification under the *Client* NEC ECC The target cost figure used should only include Compensation Events that have been implemented.

- Completion may not be awarded until the Contractor has provided the *Client* with two copies of the H&S File and O&M Manual. Population of the *Client's* latest version of the Project Cost Tool, Carbon Tool and BIM information has been uploaded onto the *Client's* data storage system. These are an absolute requirement of Completion.
- 8 The *Consultant* is also required to provide the following additional services for this project:
- Lessons learnt meeting & report after completion
 - Updating efficiency register and reporting monthly during construction
 - Co-ordination of performance assessment/KPIs and reporting quarterly
 - Report on *Contractor's* compliance with S 905 to the *Client*

4 Definition of completion and defects

- 1 Completion is only achieved when all of the *services* have been provided and accepted by the *Client*. Population of the *Client's* latest version of the Project Cost Tool, is an absolute requirement of Completion.
- 2 A defect is part of the services which is not in accordance with the Scope or the applicable law.

5 Constraints on how the consultant provides the services

- 1 The *Project Manager* is not to delegate their duties or powers without prior written agreement from the *Client*.

6 Standards to be achieved

6.1 Health and safety

Health, safety and welfare is of paramount importance to the *Client* and one of the objectives for the contract is that the works should be undertaken in a manner that achieves highest possible standards. Health, safety and welfare provisions must be seen as integral parts of carrying out the works and not as stand-alone considerations. The *Project Manager* will take reasonable steps, when considering documents supplied to him by the Contractor, that the **management arrangements** adopted by the Contractor for safety are suitable.

The contract requires the Contractor to produce a schedule of activities for which risk assessments and method statements must be prepared. The schedule and method statements will meet the dual requirements of the Construction Design and Management Regulations and the requirements of sub-clause 31.2 of the contract.

The Contractor will be free to add to the schedule as the work progresses. Prior to the start of construction work, and again after any revisions prior to implementation of the revisions, the Contractor must forward the schedule to you, with the programme for acceptance.

The level of detail required will depend on the activity. As a minimum the Contractor must ensure that risk assessments and method statements are prepared and submitted for review in accordance with the ECC Scope covering:

- full, timing and sequence of construction including the use and design of temporary works, materials, plant and equipment proposed by the Contractor;

- Indication of activities that represent a higher than normal level of health and safety risk.

Some additional information may be required in respect of compliance with the environmental action plan and the minimisation of environmental impacts of the activities.

Method statements supplied in support of the ECC Scope are to be formatted for the benefit of those personnel undertaking the works, and contain language and detail appropriate for those individuals. They shall take account of experience, to ensure that account is taken of the matters identified above

In particular the *Project Manager* will be required to:

- before the start of construction work, or thereafter in the case of a proposal for a revision, receive from the Contractor the schedule of risk assessments and method statements for acceptance;

Take reasonable steps to ensure that the persons carrying out risk assessment on behalf of the Contractor are competent for the type of risks, and have adequate resources including time, to properly consider, in an appropriate time, risks identified in the schedule.

Take reasonable steps, for ensuring the effectiveness of method statements as regards language, appropriate detail and quality of briefing arrangements for example by review at progress meetings of risk assessments and method statements to be employed for higher risk or unusual tasks in the coming period.

- Seek a more specialised opinion, about the content of a submission from the Principal Designer, *Client* project manager and/or ncps safety advisor or safety, health and environment manager as appropriate.
- Ensure that the Contractor completes, updates and holds on behalf of the *Client*, the schedule of risk assessments and method statements.

6.2 Co-operation with the Principal Designer

There will be a Principal Designer for this scheme. The Principal Designer duties will include for a review of any site based works and notifying the HSE of these, as well as a review of the design. The Principal Designer will comment and include for any work required following review. The ECC PM will need to ensure that any instructions from the Principal Designer are properly administered

6.3 Specifications or standards to be used

In managing the Contract the ECC PM and Contractor should make full use of the *Client* ECC standard commercial and contract forms that have been developed for this purpose. Some examples are:

- Contract administration must always be done with reference to the contract including the Standard ECC Scope [*Client* document ref 412_13_SD03]
- Project Manager's Instruction [*Client's* Contract Management system]
- Contractor's Technical Query [*Client's* Contract Management system]
- Weekly Site Record [*Client* document ref 413_13_SD14]

- Early Warning [*Client's* Contract Management system]
- Compensation Event [*Client's* Contract Management system]

The ECC PM is to make full use of the *Client's* web based project collaboration tool. Whenever practical all contract records are to be distributed and stored using this project collaboration tool.

7 Requirements of the programme

7.1 A programme is not required

8 Services and other things provided by the *Client*

8.1 Contract to be administered

The *Client* will provide a bound copy of the contract to be administered to the ECC PM / Supervisor. This will include the ECC Scope and Site Information. Other information referred to in the contract will be available on Project Collaboration Tool.

8.2 Training to be provided by the *Client*

The *Client* will provide access to and training on their web based Project Collaboration Tool.

8.3 Data and information management and intellectual property rights

All of the data listed as being supplied to the *Consultant* as part of this study remains the Intellectual Property of the *Client*.

8.4 Data custodianship

The data custodian for project deliverables from this commission will be the area PSO team.

8.5 Licensing information

Licences for LiDAR Data, Ordnance Survey mapping, model, survey, hydrometric and historical data will be provided to the *Consultant* upon award of this commission.

8.6 Metadata

The *Client* populates a metadata database called the Information Asset Register (IAR). It is a requirement that all information produced by modelling work is appropriately tagged with metadata. The *Client* project manager will supply an IAR spreadsheet (and any supplementary local metadata requirements if appropriate) where all relevant metadata can be recorded and handed over on project completion.

8.7 Data security

All model and survey information will be provided to the *Consultant* in an encrypted format (using WinZip 128 bit encryption) according to *Client* data security policy. It is expected that once the commission is completed, all the original data sent to the *Consultant*, which is classed as commercially sensitive, is returned in an encrypted format using WinZip 128 bit encryption.

Project deliverables such as model files, survey data or anything of a personal nature such as questionnaires or address data must also be returned in an encrypted format using WinZip 128 bit encryption.

Further details regarding security measures will be discussed at the start-up meeting for this commission

8.8 Timesheets

Timesheets as normally utilised by the *Consultant* shall be submitted with fee notes unless otherwise agreed with the *Client's* project manager. Electronic submissions would be acceptable.

8.9 Payment procedure

Payment is subject to the procedure agreed in or under the framework

8.10 Quality

The quality management system complies with the requirements of ISO9001 and ISO14001.

Please detail any other requirements of the Quality Pan.

Appendices

Appendix 1 BIM Protocol – Production and Delivery Table

All *Client* issued information referenced within the Information Delivery Plan requires verifying by the *Consultant* unless it is referenced elsewhere within the *Scope*.

www.Pow.bim4.info

You need google chrome for this link to work. Once the table is completed it should be printed for issue in the tender document, so that the correct baseline position can be seen by suppliers