This document is executed as a deed and is delivered and takes effect at the date written at the beginning of it





Framework: Collaborative Delivery Framework

Supplier: BAM Nuttall Ltd

Company Number: 00305189

Geographical Area: East

Contract Name: Cockett Wick Sea Defences - Construction

Project Number: ENV0001929C

Contract Type: Engineering Construction Contract

Option: Option C

Contract Number: C17024

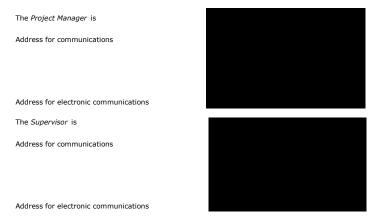
Stage: Construction

Revision	Sta	itus	Origi	nator	Revi	ewer	Date

ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework CONTRACT DATA

Project Name	Cockett Wick Sea Defences Construction					
Project Number	ENV0001929C					
	This contract is made on 31 May 2023 between the Client and the Contractor					
	 This contract is made pursuant to the Framework Agreement (the "Agreement") dated 10th 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 Cockett Wick Ph 1 Scope Construction Works v3.1.docx					
Part One - Data prov Statements given in all Contracts	rided by the <i>Client</i>					
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 C Option for resolving and avoiding disputes W2					
	Secondary Options					
	X2: Changes in the law					
	X5: Sectional Completion					
	X7: Delay damages X9: Transfer of rights X10: Information modelling X11: Termination by the <i>Client</i>					
	X15: Contractor's design					
	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					
	The construction of a new sea wall along the line of the current sea wall (approximately 330m) and reinforcement of the seaward revetment to improve to Standard of Protection from tidal flooding and to reduce the risk of breach of the sea wall.					
	The Client is Environment Agency					
	Address for communications					

Address for electronic communications



The Scope is in

Cockett Wick Ph 1 Scope - Construction Works v3.1.docx

The Site Information is in

ENV0001929C-JAENV0001929C-JAC-ZZ-00-RP-Z-0002 S3 P01 K200 EA3 LOD3-Pre construction information.pdf

The boundaries of the site are

shown on ENV0001929C-JAC-ZZ 00 DR C 1001 S3-P02-B1300 EA3-LOD3 General Arrangement.pdf

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

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 key date

'none set'

'none set'

'none set'

'none set'

'none set'

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

3 Time

The starting date is 15 May 2023

The access dates are part of the Site date

Site 15 May 2023

Client staff, data and systems as set out in the Scope 15 May 2023

The *Contractor* submits revised programmes at intervals no longer than

4 weeks

The Completion Date for the whole of the works is

30 June 2023

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 $\it works$ and the $\it defects\ date$ is

52 weeks

The defect correction period is • The defect correction period for • The defect correction period for

except that

a safety issue for the public is 24 Hours

is

5 Payment

The $\it currency of the contract$ is the £ sterling

The assessment interval is

Monthly

The Client set total of the Prices is

The interest rate is

2.00% per annum (not less than 2) above the rate of the Bank of England

Base

The Contractor's share percentages and the share ranges are

share range

Contractor's share percentage

less than 80 % 80 % to

0 %

120 % from 120 % greater than

as set out in Schedule 17 as set out in Schedule 17

6 Compensation events

The place where weather is to be recorded is

Wattisham

The weather measurements to be recorder 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

and these measurements:

- 1.
- 2. 3.
- 4

The weather measurements are supplied by

Met Office

The weather data are the records of past weather measurement for each calendar month

which were recorded at and which are available from Wattisham Met Office

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

Jan Jul Feb Aug Mar Sep Apr Oct May Nov

These are additional compensation events

The Project Manager gives an instruction authorised by the Client to add a new section of the works, or to provide a Scope for an existing section of the works, and provides for that section (a) Scope, (b) Site Information, (c) Completion Date, and (d) Target Price.

- 2 Carbon Methodology Adherence to and compliance with the Environment Agency's Carbon Methodology dated 19 April 2023
- 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 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

£15,000,000

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

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 'to be confirmed'

Address for communications 'to be confirmed'

Address for electronic communications 'to be confirmed'

The Adjudicator nominating body is The Institution of Civil Engineers

Z Clauses

Z1 Correctness of Site Information and other documents

21.1 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.

21.2 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.

Z3 Prevention: No change to prices

Delete first sentence of clause 62 2 and replace with:

Quotations for compensation events except for the compensation event described in 60 1(19) comprise proposed changes to the Prices and any delay to the Completion Date and Key Dates assessed by the Contractor Quotations for the compensation event described in 60.1(19) comprise any delay to the Completion Date and Key Dates assessed by the Contractor. Delete 'The' At start of clause 63.1 and replace with:

"For the compensation event described in 60.1(19) the Prices are not changed. For other compensation events the...

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. In all instances and circumstances the Price for Work Done to Date shall not exceed the forecast for the same as provided under clause 20.4."

Z7 Contractor's share

After cl54 2 and before cl54.3, insert the following additional clause: 54.2A If, prior to Completion of the whole of the works, the Price for Work Done to Date exceeds 111% of the total of the Prices, the amount in excess of 111% of the total of the Prices is retained from the Contractor.

Z10 Payments to subcontractors, sub consultants and

Subcontractors

The Contractor will use the NEC4 contract on all subcontracts for works unless another alternative and appropriate form is proposed and agreed in accordance with clause 26.3. Payment to subcontractors will be 28 days from the assessment date.

If the Contractor does not achieve payments within these timescales then the Client reserves the right to delay payments to the Contractor in respect of subcontracted work, services or

Failure to pay subcontractors and suppliers within contracted times scales will also adversely affect the Contractor's opportunities to work on framework contracts

Z11Y(UK) 3 The Contracts (Rights of Third Parties) Act

211.1 The Contractor warrants all design complies with the contract whether undertaken by the Contractor or by sub-contractors.
211.2 All contracts for design employed by the Contractor must include:

• Y(UK)3 The Contracts Rights of Third Parties) Act 1999

- A requirement for the Contractor's sub-contractor to hold Professional indemnity insurance to the same level as the cover specified for the Contractor in this Call-off contract
- A clause to give the Client (the Environment Agency) the right to enforce the provisions of the Contracts (Right of Third Parties) Act 1999,
 A clause to ensure that neither the Contractor nor their sub contractor can alter the provisions of their sub-contract without the consent of the Client
- A clause to ensure that the Client's rights against the sub-contractor under this agreement shall be subject to the same conditions, limitations and exclusions as apply to the Contractor's rights against the design consultant under this agreement
- A clause to state that except as provided in clause Z11 1, the agreement does not create any right enforceable by any person who is not a party to it (Other Party) under the Contracts (Rights of Third Parties) Act 1999, but the clause does not affect any right or remedy of any other party which exists or is available apart from that Act

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.

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

Z20 Defect Dates for Sections

Where a section of the works is defined and is located in a separate area of the Site, the time to the defects date for that section is the defined period after the Completion of that section, and is defined in the Contract Data.

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

Z31 ECC - Price Adjustment for Inflation

The Client recognises the ongoing pricing uncertainty with regards to inflation. The Client will mitigate this uncertainty through this clause.

Z31 1 Defined terms:

- a) The index is Office for National Statistics (ONS) CPI (UK, 2015=100)
 b) The Base Date Index (B) is the latest available index published by ONS prior to the Contract Date.
 c) The Latest Index (L) is the latest available index published by ONS before the date of assessment of an amount due.
- d) The Price Adjustment Factor (PAF) at each date of assessment of an amount due is 0.9((L B)/B).

Z31.2 Application rules.

The provisions of this clause [Z31] shall apply provided that:

- a) The Price for Work Done to Date is less than or equal to the total of the Prices
- b) Inflation remains positive i e L is greater than B

Z31.3 Price Adjustment Factor.

If an index is changed after it has been used in calculating a PAF, the calculation is not changed. The PAF calculated at the last assessment date before the Completion Date for the whole of the works is used for calculating an amount for price adjustment after that date

Z31.4 Price adjustment Options A and B.

NOT USED

Z31.5 Price adjustment Options C and D.

Each time the amount due is assessed, an amount for price adjustment is added to the total of the Prices which is the change in the Price for Work Done to Date since the last assessment of the amount due multiplied by (PAF/(1+PAF))

The Price Adjustment Factor is not applied to the fixed (non-fluctuating) element of the purchase price of rock and/or steel pile casings as agreed with the Project Manager.

The change in the Price for Work Done to Date is adjusted by deducting the cost (including fee) of the fixed price elements in the calculation for the month in which they occur.

Z31.6 Compensation events. **NOT USED**

Z111 ECC - Fee adjustment for non compliance with Scope

Delete existing 11.2 (10) and replace with the following clause

The Fee is the amount calculated by applying the fee percentage to the Defined Cost excluding the cost of Sub-contractors that have not complied with procurement by best value processes as defined in the Scope. 80% of the fee percentage is applied to the amount of the Defined Cost for Sub-contractors that have not complied with procurement by best value processes as defined in the Scope.

Z120 ECC - Carbon reduction

Ref. (Clause No.)	Clause words	
11 2 Definitions	Add as Clause 11 2(36) (36) The Performance Table states the targets the Contractor is to achieve in Providing the Works and sets out the adjustment payment if a measured performance is higher, the same or lower than its target. The Performance Table is the performance table unless later changed in accordance with the contract.	
15.1	In Clause 15.1 add as a new bullet between the second and third bullet:	
Early Warnings	"• result in a target in the Performance Table not being met,"	
Performance Measurements		
57	Add as Clause 57:	
57 1	'From the starting date until the Completion Date, the Contractor reports to the Project Manager its performance against the targets in the Performance Table. Reports are provided at the intervals stated in the Performance Table.	
57 2	If the Contractor's performance against a target in the Performance Table is not achieving or is forecast not to achieve the performance target stated, it submits to the Project Manager for acceptance its proposals for improving performance A reason for not accepting the proposals is that they will not provide the improvement in performance needed to achieve the target in the Performance Table.	
57.3	At the dates stated in the Performance Table, • if the relevant performance exceeds or meets the target stated in the Performance Table, the Contractor pays the amount stated in the Performance Table, • if the relevant performance exceeds or meets the target stated in the Performance Table, the Contractor is paid the amount stated in the Performance Table.	
57 4	Information in the Performance Table is not Scope	
X18	X18.5 add as a new bullet after the fourth bullet: I low performance damages if the Performance Table applies	

The performance table is

the Performance Table for this contract type (ECC contract for CDF Lot 2 Construction Stage) as set out in the Carbon Methodology dated 19 April 2023.

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 X5: Sectional Completion

The completion date for each section of the works is

section	description	completion date
1	Phase 1	30 June 2023

2 Phase 2 30 June 2023

X7 plus X5 Delay damages for each section of the works are

sectiondescriptionamount per day1Phase 1£229 00

2 Phase 2 £402.00

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

£5,000,000

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

12 years

OPTION X15: The Contractor's design

The *period for retention* following Completion of the whole of the *works* or earlier termination is

12

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 professionals designing works similar to the *works* is, in respect of each claim

£5,000,000.00

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

12

OPTION X18: Limitation of liability

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

£5,000,000

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

£5,000,000

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

£5,000,000

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

£5,000,000

The end of liability date is

Completion of the whole of the works

12 years after the

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

No terms under this contract No beneficiary under this contract

term beneficiary

The provisions of

Y(UK)1

To be advised

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 following matters will be included in the Early Warning Register

2 The Contractor's main responsibilities

The Scope provided by the Contractor for its design is in

3 Time

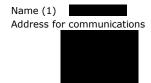
The programme identified in the Contract Data is

5 Payment

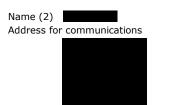
The activity schedule is

Resolving and avoiding disputes

The Senior Representatives of the Contractor are



Address for electronic communications



 ${\tt Address\ for\ } \underline{{\tt electronic\ communicat}} \\ {\tt ions}$

X10: Information Modelling

The *information execution plan* identified in the Contract Data is

Y(UK)1: Project Bank Account

The project bank is

named suppliers are TBA

Contract Execution Client execution Signed as a Deed by [PRINT NAME] for and on behalf of the Environment Agency Signature Date Role In the presence of: Signature Date Role Address Name [Print] Contractor execution This document has been executed as a deed and takes effect on the date stated at the beginning of it. EXECUTED as a DEED on behalf of BAM NUTTALL LIMITED acting by: Director / Attorney SIGNATURE: NAME: POSITION: For use with Attorney signature only WITNESS SIGNATURE: In the presence of: NAME: OCCUPATION: ADDRESS:

SIGNATURE:

NAME:

POSITION:

Director / Attorney / Company Secretary

In the presence of:	WITNESS SIGNATURE:
	NAME:
	OCCUPATION:
	ADDRESS:

For use with Attorney signature only

(Named Attorneys are authorised to execute contracts on behalf of BAM Nuttall Limited pursuant to a Power of Attorney dated 8th October 2022)