

# Engineering and Construction Contract

OPTION A: PRICED CONTRACT WITH ACTIVITY SCHEDULE

## **Contract Data Forms**

June 2017 (with amendments January 2019)

> Rivermede Embankment ACUA Ref:

## **Contract Execution**

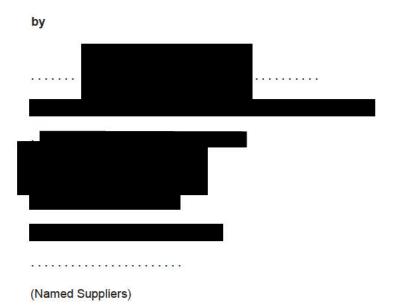
This agreement is made between the Client, the Contractor and the Named Suppliers.

Terms in this agreement have the meanings given to them in the contract between the Environment Agency and ..... for ..... (the *works*).

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 *Contractor* was appointed to the framework and executed the framework agreement (with reference number RM6088).

Executed under hand .....



## **Contract Data**

## PART ONE - DATA PROVIDED BY THE CLIENT

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

### **1** General

The *conditions of contract* are the core clauses, the clauses for main Option A, the following Option for resolving and avoiding disputes and secondary Options of the NEC4 Engineering and Construction Contract June 2017 (with amendments January 2019)

Option for resolving and avoiding disputes

W2

Secondary Options	X2 Changes in law X10 Information Modelling X11 Termination by the ClientX15 the <i>Contractor's</i> design X16 Retention 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 works are	the embankment a	d a long term, cost effective solution to the erosion of nd install measures that will alleviate the seepage kment into the residents gardens.
The <i>Client</i> is		
Name		
Address for commu	inications	
Address for electron	nic communications	
The Project Manager is		
Name		
Address for commu	inications	Richard Fairclough House Knutsford Road Warrington Cheshire WA4 1HG
Address for electron	nic communications	
The Supervisor is		4

Name

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This page has been amended in 2019

Address for communications	
Address for electronic communications	

The Scope is in				
The Site Information is in				
The boundaries of the site are				
The language of the contract is	6	English		
The <i>law of the contract</i> is the la	aw of	the law of England and W the jurisdiction of the cour Wales		
The period for reply is		2 weeks	except that	
- The period for reply for			is	
The period for reply for			is	
The following matters will be inc	luded in the I	Early Warning Register		
due to works being Application for Floor Marine Managemenduring application o Invasive Species – within the work area Consent for the work	<ul> <li>Third-party interface – Consultation needed with landowners and residents due to works being carried out within residents gardens.</li> <li>Application for Flood Risk Activity Permit (FRAP)</li> <li>Marine Management Organisation – Project team is to seek an exemption during application of the FRAP.</li> <li>Invasive Species – Japanese Knotweed and Himalayan Balsam found on site within the work area.</li> <li>Consent for the works needed from Natural England.</li> <li>Working window constraints May to September – migrating fish interface.</li> </ul>			

Early warning meetings are to be held at intervals no longer 4 weeks than

## 2 The Contractor's main responsibilities

If the <i>Client</i> has identified work which is set to meet a stated <i>condition</i> by a	The key dates and conditions to be met are	
key date	condition to be met	key date

(1)	
(2)	
(3)	

## 3 Time

	The <i>starting date</i> is		
	The access dates are		
	part of the Site		date
	(1) Rivermede Embankment site	area	
	(2)		
	(3)		
	The Original for submitteen is in the second		
	The <i>Contractor</i> submits revised prog no longer than	grammes at intervals	4 weeks
If the <i>Client</i> has decided the <i>completion date</i> for the whole of the <i>works</i>	The <i>completion date</i> for the whole o	f the <i>works</i> is	13/12/2025
Taking over the <i>works</i> before the Completion Date	The <i>Client</i> <u>is w</u> illing to take over the Completion Date	works before the	
If no programme is identified in part two of the	The period after the Contract Date v <i>Contractor</i> is to submit a first progra		is
Contract Data			4 weeks
4 Quality management			
+ quanty management			
	The period after the Contract Date within which the		
	<i>Contractor</i> is to submit a quality poli quality plan is	cy statement and	4 weeks
	The maximum for the state of th	<b></b>	
	The period between Completion of t <i>works</i> and the <i>defects date</i> is	ne whole of the	52 weeks
	The defect correction period is	2 weeks	except that
	• The defect correction period for	Defects causing health and safety issues	is 24 hours
	• The <i>defect correction period</i> for	Defects causing increased flood risk	is 24 hours
		TISK	
5 Payment			
	The currency of the contract is the	£ Sterling	
	The assessment interval is	Monthly	

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Base rate (Bank Rate)

rate of the Bank of England

Bank

If the period in which payments are made is not three weeks and Y(UK)2 is not used

The period within which payments are made is

The *Client* will make payment within 14 days of the date of the invoice.

6 Compensation even	its		
	The place where weather is to be recorded is		
	The weather measurements to be recorded for each calendar month are		
	- the cumulative rainfall (mm)		
	<ul> <li>the number of days with rainfall more than 5 mm</li> </ul>		
	- the number of days with minimum air temperate	ure less than 0 degrees Celsius	
	- the number of days with snow lying at 09:0	00 hours GMT	
	and these measurements:		
	The weather measurements are supplied by	Met Office	
	The weather data are the records of past weather n	neasurements for each calendar month	
	which were recorded at	Hagg Lane, Preston PR3 0UJ	
	and which are available from	Met Office	
Where no recorded data are available	Assumed values for the ten year weather return we measurement for each calendar month are	X	
	The <i>value engineering percentage</i> is 50%, unless a which case it is	nother percentage is stated here, in	
If there are additional compensation events	These are additional compensation events		

## 8 Liabilities and insurance

If there are additional *Client's* liabilities

These are additional Client's liabilities

- (1) Not used
- (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

£5,000,000

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

£5,000,000 of the minimum amount required by law if that is greater

If the *Client* is to provide 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

Nil			

If the *Client* is to provide any The *Client* provides these insurances from the Insurance Table

of the insurances stated in the Insurance Table (1) In

\_\_\_\_\_

(1) Insurance against

Minimum amount of cover is

The deductibles are

(2) Insurance against

Minimum amount of cover is

The deductibles are

(3) Insurance against

Minimum amount of cover is

The deductibles are

If additional insurances are to be provided

The Client provides these additional insurances

(1) Insurance against	
Minimum amount of cover is	
The deductibles are	
(2) Insurance against	
Minimum amount of cover is	
The deductibles are	
(3) Insurance against	
Minimum amount of cover is	
The deductibles are	

Γ

The Contractor provides these additional insurances

Insurance against
 Minimum amount of cover is
 The deductibles are
 Insurance against
 Minimum amount of cover is
 The deductibles are
 Insurance against

Minimum amount of cover is

The deductibles are

Professional indemnity	
£2,000,000.00	

Resolving and avoiding	ng disputes	
	The tribunal is	the courts
If the tribunal is arbitration	The arbitration procedure is	
	The place where arbitration is to be held is	
	The person or organisation who will choose an choice or if the <i>arbitration procedure</i> does not s	
If Option W1 or W2 is used	The Senior Representatives of the Client are	
	Name (1)	
		Environment Agency Horizon House Deanery Way Bristol BS1 5AH
	Address for electronic communications	
	Name (2)	
	Address for communications	
	Address for electronic communications	
	The Adjudicator is	
	Name	
	Address for communications	
	Address for electronic communications	
	The Adjudicator nominating body is	he Institution of Civil Engineers

## X10: Information modelling

If Option X10 is used

If no *information execution plan* is identified in part two of the Contract Data The period after the Contract Date within which the Contractor is to submit afirst Information Execution Plan for acceptance is2 weeks

The minimum amount of insurance cover for claims made against the *Contractor* arising out of its failure to use the skill and care normally used by professionals providing information similar to the Project Information is, in respect of each claim

£2,000,000

The period following Completion of the whole of the works or earlier termination for<br/>which the Contractor maintains insurance for claims made against it arising out of its<br/>failure to use the skill and care is6 years

### X15: The Contractor's design

If Option X15 is used The period for retention following Completion of the whole of the works or earlier 6 years termination is The minimum amount of insurance cover for claims made against the Contractor arising out of its failure to use the skill and care normally used by professionals designing £5m works similar to the works 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 6 years failure to use the skill and care is X16: Retention 0 of the total of the If Option X16 is used The retention free amount is Prices 5 % The retention percentage is Retention bond The Contractor may not give the Client a retention bond X18: Limitation of liability If Option X18 is used The Contractor's liability to the Client for indirect or consequential loss is limited to £1,000,000 For any one event, the Contractor's liability to the Client for £5,000,000 loss of 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 £2,000,000 The Contractor's total liability to the Client for all matters arising under or in connection with the contract, other than £5,000,000 excluded matters, is limited to years after the Completion of the whole of 6 The end of liability date is the works

## Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

If Option Y(UK)2 is used and the final date for payment is not fourteen days after the date on which payment becomes due The period for payment is

days after the date on which payment becomes due

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

If Option Y(UK)3 is used	term	beneficiary
If Y(UK)3 is used with Y(UK)1 the following entry is added to the table for Y(UK)3	term	beneficiary
	The provisions of Options Y(UK)1	Named Suppliers

#### Z: Additional conditions of contract

If Option Z is used The additional conditions of contract are

#### Z1 Correctness of Site Information and other documents

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.

#### 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..."

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

The Contractor will use the NEC4 contract on all subcontracts for works in excess of £25,000.00. Payment to subcontractors will be a maximum of 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.

## Z11 Transfer of Rights under Y(UK) 3 The Contracts (Rights of Third Parties) Act 1999

Z11.1 The Contractor warrants all design complies with the contract whether undertaken by the Contractor or by subcontractors.

Z11.2 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 rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit.

#### **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.

#### 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.

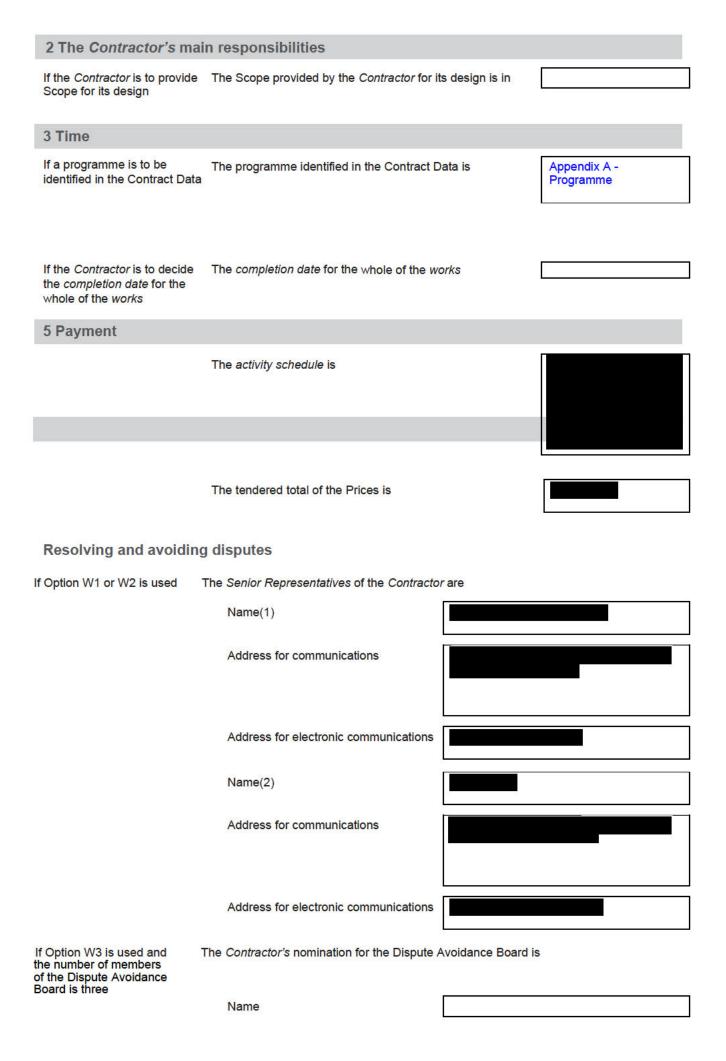
## PART TWO - DATA PROVIDED BY THE CONTRACTOR

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

## 1 General The Contractor is A E Yates Limited Name Address for communications Address for electronic communications % The fee percentage is The working areas are Site and remote site compound The key persons are Name (1) Job Responsibilities See Question 2 - Key Staff CVs Qualifications See Question 2 - Key Staff CVs See Question 2 - Key Staff CVs Experience Name (2) Job See Question 2 - Key Staff CVs Responsibilities See Question 2 - Key Staff CVs Qualifications See Question 2 - Key Staff CVs Experience

The following matters will be included in the Early Warning Register

n/a



Address for communications	
Address for electronic communications	

## Y(UK)1: Project Bank Account

If Option Y(UK)1 is used

The project bank is

named suppliers are

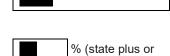
## Data for the Short Schedule of Cost Components

#### The people rates are

category of person	unit	rate
See attached NEC4 - CD Part 2 - Standard Data - September 2023		

The published list of Equipment is the edition current at the Contract Date of the list published by

The percentage for adjustment for Equipment in the published list is



minus)

The rates for other Equipment are