

NEC4 Engineering and Construction

Short Contract

FCRM Operational Framework – North West Hub

A contract between

**The Environment Agency
Horizon House
Deanery Road
Bristol
BS1 5AH**

And

A E Yates Ltd.

For

H&T Environmental Programme – Weir Surveys and Minor Works

Contract Forms

- **Contract Data**
- **The *Contractor's* Offer and *Client's* Acceptance**
- **Price List**
- **Scope**
- **Site Information**

Contract Data

The *Client's* Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications	Environment Agency, Richard Fairclough House, Knutsford Rd, Latchford, Warrington WA4 1HT	
Address for electronic communications		
The <i>works</i> are	Professional assessments and subsequent reports of current condition and work required to repair weir, measuring station and safety control measure assets including some minor works at 5no sites across the Cumbria and Lancashire area.	
The <i>site</i> is	Brock A6 Weir, nr Myerscough and Bilsborrow, Lancashire Cummersdale Weir, Cummersdale, Cumbria Temple Sowerby Weir, Temple Sowerby, Cumbria Gt Musgrave Bridge Weir, Gt Musgrave, Cumbria Basinghyll Depot, Basinghyll, Cumbria	
The <i>starting date</i> is	28/02/2022	
The <i>completion date</i> is	28/02/2023	
The <i>delay damages</i> are		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: TBC
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		% 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 Contractor to the Client for loss of or damage to the Client's property is limited to	£100,000	
The Client provides this insurance	None	
Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the works	The replacement cost	The Client's certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	The replacement cost	The defects Certificate has been issued
The Contractor's 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 Contractor) arising from or in connection with the Contractor's Providing the Works	Minimum [REDACTED] in respect of every claim without limit to the number of claims	
Liability for death of or bodily injury to employees of the Contractor 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 Contractor to use the skill and care normally used by professionals providing works similar to the works	Minimum [REDACTED] in respect of every claim	[REDACTED] following Completion of the whole

		without limit to the number of claims	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 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 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	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. The <i>Contractor</i> does not proceed with the relevant work until the <i>Client</i> has accepted this design.		
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	Delete the text of Clause 60.1(11) and replace by: The <i>works</i> are affected by any one of the following events • War, civil war, rebellion revolution, insurrection, military or usurped power		

	<ul style="list-style-type: none"> • 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
Z30.0	<p>Material Price Volatility</p> <p>The Client recognises the ongoing pricing uncertainty in relation to materials for the period from 1 July 2021 to 30 June 2022 the Client will mitigate this additional cost through this clause. Payment is made per assessment based upon a general average material proportion within assessments, calculated at 40%.</p>
Z30.1	<p>Defined terms</p> <p>a) The Latest Index (L) is the latest index as issued by the Client. The L, which is at the discretion of the Client, is based upon the issued consumer price index ((CPI) based upon the 12-month rate) before the date of assessment of an amount due.</p> <p>b) The Price Volatility Provision (PVP) at each date of assessment of an amount due is the total of the Material Factor as defined below multiplied by L for the index linked to it.</p> <p>c) Material Factor (MF) 40% is used, based on a general average material proportion across our programme. The volatility provision is only associated with material element. No volatility provision is applicable to any other component of costs.</p>
Z30.2	<p>Price Volatility Provision</p> <p>Through a Compensation Event the Client shall pay the PVP. PVP is calculated as:</p> $\text{Assessment} \times \text{MF} \times \text{L} = \text{PVP}$
Z30.3	<p>Price Increase</p> <p>Each time the amount due is assessed, an amount for price increase is added to the total of the Prices which is the change in the Price for Work Done to Date for the materials component only (and the corresponding proportion) since the last assessment of the amount due multiplied PVP for the date of the current assessment.</p>
Z30.4	Compensation Events

The Contractor shall submit a compensation event for the PVP on a monthly basis (where applicable) capturing Defined Cost only for the PWDD increase in month. Forecasted costs should only be considered for the June 2022 period compensation event.

Assessment Date	Defined Cost?	Forecasted Cost?
31 st Jul 21	In period costs only	No
31 st Aug 21	In period costs only	No
30 th Sept 21	In period costs only	No
31 st Oct 21	In period costs only	No
30 th Nov 21	In period costs only	No
31 st Dec 21	In period costs only	No
31 st Jan 22	In period costs only	No
28 th Feb 22	In period costs only	No
31 st Mar 22	In period costs only	No
30 th Apr 22	In period costs only	No
31 st May 22	In period costs only	No
30 th Jun 22	In period costs only	Forecasted costs for remainder of contract

The Defined Cost for compensation events is assessed using

- the Defined Cost at base date levels for amounts calculated from rates stated in the Contract Data for People and Equipment and
- the Defined Cost current at the date the compensation event was notified, adjusted to the base date by 1+PVP for the last assessment of the amount due before that date, for other amounts.

Contract Data

The Contractor's Contract Data

	The Contractor is	
Name	A E Yates Ltd.	
Address for communications		
Address for electronic communications		
The fee percentage is		%
The people rates are		
category of person	unit	rate
The published list of Equipment is		CECA
The percentage for adjustment for Equipment is		

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 **£143,807.05**

Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name

Position

Signature

Date **26th January 2022**

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

Signed on behalf of the *Client*

Name

Position

Signature

Date	7th March 2022

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
1. Brock	
1.1	Vegetation clearance of access into and immediate areas around weir and measuring station site (including far side embankment)
1.2	Survey existing measuring station
1.3	Survey of existing weir structure
1.4	Site welfare and security
1.5	Design of passive eel pass
1.6	Installation of passive eel pass to be fitted to the central crest of the weir
1.7	Repair to far side wall abutting weir
1.8	Renewal of safety handrails alongside weir
1.9	Supervision Costs
1.10	Replace Post & Rail Gate
2. Gt Musgrave Bridge	
2.2	Survey existing of weir structure and embankment
2.3	Site welfare and security
2.4	Repositioning of missing blockstone
2.5	Supervision Costs



3. Temple Sowerby		
3.2	Survey existing of weir structure and embankment	
3.3	Repositioning of missing blockstone	
3.3	Supervision Costs	
3.4	Site Welfare & Security	
4. Cummersdale		
4.1	Vegetation clearance of access into and around embankment	
4.2	Survey existing of weir structure and embankment	
4.3	Repositioning of missing blockstone	
	Supervision Costs	
	Site Welfare & Security	
5. Basinghyll		
5.1	Repair to perimeter drystone wall	
5.2	Vegetation clearance of access into and around river embankment and behind perimeter wall for repair access	
5.3	Replacement of damaged post and rail fence with more robust chain link fence and access gate	
5.4	Repair of brickwork and tying on island structure in middle of the river	
5.5	Repair of 3no fish counter strips (ambiguity in document – allowed for 3nr fish counters with 4nr strips each)	
5.6	Supervision Costs	
5.7	Site Welfare & Security	
5.8	Survey Existing Wall to determine extent of repairs	
6. General		
6.1	Prepare and submit any permits required in relation to the works	
6.2	Project management plan issued to client	
6.3	Project meetings: Start up meeting and progress meetings (1/month)	
The total of the Prices		£143,807.05

The method and rules used to compile the Price List are

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.

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 (EA) Project and Contract Management (PCM) team for the North West Hub are seeking to appoint a *Contractor* through Lot 1 FCRM Operations Framework to deliver 5 H&T asset assessments and subsequent recovery/recondition projects. The projects are all located in the Cumbria & Lancashire (CLA) Area of the North West region. There will be one combined Invitation to Tender for the packages.

For all sites:

Site Visit / Investigation, Project Management and Design

- The *Contractor* is required to attend an on-site meeting with the EA representative to discuss the *works* and requirements of each site.
- The *Contractor* is required to attend bi-monthly progress meetings with the *Client* or *Client* representative.
- The *Contractor* is required to produce an initial programme at the start of the Contract and on a monthly basis, before the monthly early warning meeting, for acceptance of the *Client*.
- The *Contractor* will prepare and submit any Permits and planning documentation that is required in relation to the works.
- The *Contractor* will provide a full set of construction drawings indicating the proposed *works*.
- The construction drawings must comply with all *Client* specifications as noted within the Scope.
- If compliance with the MTR is not practical given site constraints, the *Contractor* must consider alternative solutions and submit to the *Client* for acceptance.
- The *Contractor* will carry out the role of CDM 'Designer' and 'Principal Contractor' for the construction period.
- The *Contractor* is required to provide the relevant Health and Safety, Construction Phase Plan (CPP), Risk Assessment, Method Statements and CDM Documentation to the *Client*. The *Contractor* must ensure that the documents satisfy the PD-PCMT checklist requirements.
- The *Contractor* is required to revise, response, and resubmit *Client's* deliverables responses/comments when required.
- The *Contractor* is required to provide the Project Execution Plan (PEP) to the *Client* for approval.

Construction and Handover

- The *Contractor* is required to agree in writing with the *Client* or *Client* representative the start and completion dates of construction activities.
- The *Contractor* is to provide the construction *works* in accordance with the agreed PEP and detailed construction drawings.
- The *Contractor* is required to attend and contribute to any project progress meetings that take place, as arranged by the Parties stated within the Contract.
- The *Contractor* is required to provide all site set up and preliminary works in accordance with the SHEW Code of Practice.
- The *Contractor* is required to comply with the EA Minimum Technical Requirements.

- Where appropriate, the *Contractor* is required to provide any temporary works to facilitate safe access, dry working areas or any required and safe environment for conducting the *works*.
- If temporary *works* are utilised, the *Contractor* is required to ensure that the area and surrounding environment are returned to their original state upon completion.
- The *Contractor* is required to provide a Waste Management Plan for the acceptance of the *Client*
- The *Contractor* is required to remove all waste/soil from site straight away to an appropriate licensed waste handler, unless agreed with the *Client*.
- The *Contractor* is required to provide site photographs and records of the site before starting construction, during construction and post-construction.
- The *Contractor* is required to issue any as-built drawings and associated H&S file information to the *Client* at completion of each site.
- Monitoring is required by the *Contractor* where *works* will be expected to cause significant noise and/or vibration disturbance.

Site 1- 'Brock A6 Weir'

Works required:

The *Contractor* must

- Undertake vegetation clearance of long grass / briars (excluding trees) of access into and immediate areas around weir and measuring station site (approx. 200m²).
- Asset condition survey of the measuring station with the *Contractor* providing the final output of the surveys in the form of a survey report in paper/ digital format.
- Topographic and asset condition survey existing of weir structure and embankment. This must be in sufficient detail to inform the detailed design of repair works and eel easement solutions in order to restore optimum functionality and effectiveness. Any requirement for survey must be discussed and agreed with the Employer.
- The *Contractor* shall provide the final output of the surveys in the form of a survey report in paper/ digital format, together with the survey data in digital format in ASCII format ready to be imported in a GIS system.
- The *Contractor* shall review and agree surveyors' site risk assessment, be responsible for the supervision and management of topographic survey company and the review data / check deliverables.
- The main outcomes of the commission are to produce all necessary detailed designs including repair works, fish easement and any temporary works requirements. The designs will be SHEW compliant and EA approved before the commission is complete. The designs must be sufficient in detail to adequately inform your construction price.
- Design and build of passive eel pass to be fitted to the central crest of the weir as per standards stated in LIT55615.
- Repair wall on far side wall abutting weir, replace missing dry stone wall blocks, coping stones and repoint where deemed to be required by the *Client* (approx. 6m²).
- Renewal of safety handrails alongside weir with steel tube pedestrian barriers to be agreed by *Client* (approx. 3m).

Site 2- 'Gt Musgrave Bridge'

Works required:

The *Contractor* must

- Topographic and asset condition survey existing of weir structure and embankment. This must be in sufficient detail to inform the detailed design of repairs to asset. Any requirement for survey must be discussed and agreed with the Employer.
- The *Contractor* shall provide the final output of the survey in the form of a survey report in paper/ digital format, together with the survey data in digital format in ASCII format ready to be imported in a GIS system.
- The *Contractor* shall review and agree surveyors' site risk assessment, be responsible for the supervision and management of topographic survey company and the review data / check deliverables.
- Repositioning and replacement of missing blockstone as identified on site visit.

Site 3 'Temple Sowerby'

Works required:

The *Contractor* must

- Topographic and asset condition survey existing of weir structure and embankment. This must be in sufficient detail to inform the detailed design of repairs to asset. Any requirement for survey must be discussed and agreed with the Employer.

- The Contractor shall provide the final output of the survey in the form of a survey report in paper/ digital format, together with the survey data in digital format in ASCII format ready to be imported in a GIS system.
- The Contractor shall review and agree surveyors' site risk assessment, be responsible for the supervision and management of topographic survey company and the review data / check deliverables.
- Repositioning and replacement of missing blockstone as identified on site visit with *Client*.

Site 4 'Cummersdale'

Works required:

The *Contractor* must

- Undertake vegetation clearance of long grass / briars (excluding trees) of access into and around river embankment (approx. 200m)
- Topographic and asset condition survey existing of weir structure and embankment. This must be in sufficient detail to inform the detailed design of repairs to asset. Any requirement for survey must be discussed and agreed with the *Client*.
- The Contractor shall provide the final output of the survey in the form of a survey report in paper/ digital format, together with the survey data in digital format in ASCII format ready to be imported in a GIS system.
- The Contractor shall review and agree surveyors' site risk assessment, be responsible for the supervision and management of topographic survey company and the review data / check deliverables.
- Repositioning and replacement of missing blockstone as identified on site visit with *Client*.

Site 5 'Basinghyll Depot'

Works required:

The *Contractor* must

- Undertake vegetation clearance of long grass / briars (excluding trees) of access into and around river embankment and behind perimeter wall for repair access (approx. 1000m²)
- Inspection of the perimeter drystone wall and repair. Methodology to be dependent on output of inspection.
- Replacement of damaged post and rail fence with more robust chain link fence (approx 15m) and 3 x 1.2m steel pedestrian gate.
- Repair of damaged brickwork including with effective tying solution and repointed using hydraulic mortar tying on island structure in middle of the river. This should include adequate weather / river protection as agreed with the *Client*.
- Repair of 3no fish counters to include replacement of approx. 4 steel flat bar measuring strips and testing with the EA FBG *Client*.

Constraints on Works:

- Inspection and repair of perimeter drystone wall to be the first construction activity in programme provided by the *Contractor*.

define

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
EA SHEW Code of Practice	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 *Client*.

Any *works* requiring compliance with the Rivers (Prevention of Pollution) Act 1951 shall be submitted to the Area Catchment Engineer for prior approval.

Early engagement with the local council regarding traffic management will be required when designing the *works* to ensure public and construction *Contractor* health, safety, and wellbeing throughout construction.

The *Contractor* will be responsible for obtaining any necessary Permits.

In river working to be completed by 30th September 2022.

Working times

The *Contractor* 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 *works* is intended to be at their Completion as defined in clause 11.2(1).

The *Contractor* submits his programme with the *Contractor's* Offer for acceptance. The *Contractor* shows on each programme which he 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:

- (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; *Contractor's* risks.
- (e) Completion date

6. Services and other things provided by the *Client*

Describe what the *Client* 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

The Client will provide the Contractor with historic information for three of the sites.

Proposed sub-contractors

	Name and address of proposed subcontractor	Nature and extent of work
3.	Form of Contract:	
4.	Form of Contract:	