

# NEC4 Engineering and Construction

## Short Contract

FCRM Operational Framework – NE (Yorkshire) Hub

A contract between

The Environment Agency  
Horizon House  
Deanery Road  
Bristol  
BS1 5AH

And

A.E. Yates Ltd

For

Brownlee Site NFM, University of Leeds - Leeds FAS phase 2 – Natural Flood Management 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, Lateral, 8 City Walk, Leeds, LS11 9AT.	
Address for electronic communications	[REDACTED]	
The <i>works</i> are	The construction of leaky dams to delay rainwater run-off, drainage ribs to direct water across roads, attenuation ponds, bunds and similar features, including visitor information, information signage and attendant landscaping and associated planting to re-instate on completion.	
The <i>site</i> is	The Brownlee Triathlon Site, Bodington Way, Adel, Leeds LS16 8NA (formerly Bodington Playing Fields) at the junction of the A660 - Otley Road and A6120 – Leeds Ring Road.	
The <i>starting date</i> is	To be identified the successful Contractor's proposed programme and subject to agreement, but no earlier than 21 June 2021.	
The <i>completion date</i> is	No later than 20 August 2021.	
The <i>delay damages</i> are	£70.00	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) <b>does</b> apply		
The <i>Adjudicator</i> is :		
In the event that a first dispute is referred to adjudication, the referring Party at the same time applies to the Institution of Civil Engineers to appoint an <i>Adjudicator</i> . The application to the Institution includes a copy of this definition of the <i>Adjudicator</i> . The referring Party pays the administrative charge made by the Institution. The person appointed is also <i>Adjudicator</i> for later disputes.		

## Contract Data

### The *Client's* Contract Data

The interest rate on late payment is		% per complete week of delay.
Insert a rate only if a rate less than 0.5% per week of delay has been agreed.		
For any one event, the liability of the <i>Contractor</i> to the <i>Client</i> for loss of or damage to the <i>Client's</i> property is limited to	£100k (one hundred thousand pounds)	
The <i>Client</i> provides this insurance	None	
Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the <i>works</i>	The replacement cost	The <i>Client's</i> 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 <i>Contractor's</i> liability for loss of or damage to property (except the works, Plant and Materials and Equipment) and for bodily injury to or death of a person (not an employee of the <i>Contractor</i> ) arising from or in connection with the <i>Contractor's</i> Providing the Works	Minimum £5,000,000 in respect of every claim without limit to the number of claims	
Liability for death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with this contract	The amount required by the applicable law	

Failure of the <i>Contractor</i> to use the skill and care normally used by professionals providing works similar to the works	Minimum £500k in respect of every claim without limit to the number of claims	6 years following Completion of the whole of the works or earlier termination
The <i>Adjudicator nominating body</i> is		
		The Institution of Civil Engineers
The <i>tribunal</i> is		
		litigation in the courts
The <i>conditions of contract</i> are the NEC4 Engineering and Construction Short Contract June 2017 and the following additional conditions		
<b>Only enter details here if additional conditions are required.</b>		
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:	

	<p>The <i>works</i> are affected by any one of the following events</p> <ul style="list-style-type: none"> <li>• War, civil war, rebellion revolution, insurrection, military or usurped power</li> <li>• Strikes, riots and civil commotion not confined to the employees of the <i>Contractor</i> and sub-contractors</li> <li>• Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel</li> <li>• Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device</li> <li>• Natural disaster</li> <li>• Fire and explosion</li> <li>• Impact by aircraft or other device or thing dropped from them</li> </ul>
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	<p>Packaging</p> <p>- Not Used</p>
Z12.1	<del>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</del>
Z7.2	<p>Additional Compensation Event COVID-19</p> <p>Managing and mitigating the impact of Covid 19 and work in accordance with Public Health England guidance, as may vary from time to time, from 1st April to 30th June 2021.</p>

# Contract Data

## The Contractor's Contract Data

The Contractor is		
Name	A.E. Yates Ltd	
Address for communications		
[REDACTED]		
Address for electronic communications		
[REDACTED]		
The fee percentage is	[REDACTED]	%
The people rates are		
category of person	unit	Rate
Site Agent	£	[REDACTED]
Site Engineer	£	[REDACTED]
Foreman	£	[REDACTED]
Labourer	£	[REDACTED]
The published list of Equipment is		CECA
The percentage for adjustment for Equipment is		[REDACTED]

# 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 £101,240.45

Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name

Position

Signature

Date

10<sup>th</sup> of June, 2021

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

Signed on behalf of the *Client*

Name

Position

Signature

Date 13<sup>th</sup> of August, 2021

# Price List

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

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

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

Item Number	Description	Unit	Quantity	Rate	Price
0.01	Preconstruction activity	Sum			
0.02	Mobilisation	Sum			
0.03	Site management and supervision	Sum			
0.04	Maintenance of site	Sum			
0.05	Demobilisation	Sum			
1.01	Ref 2A. Bunded pond area	m2	436		
1.02	Ref 2B. Flow interception bund	m	35.58		
1.03	Ref 2C. Flow interception bund	m	31.31		
1.04	Ref 2D. Bunded pond area	m2	347		
1.05	Ref 2E. Flow interception bund	m	30.04		
1.06	Ref 2F. Diversion structure	m	2.67		
1.07	Ref 2G. Wetland scrape	m2	631		
1.08	Ref 2H. Diversion structure	m	4.82		

1.09	Ref 2I. Wetland scrape	m2	503	
1.10	Ref 3A. Overland flow barrier	m	17	
1.11	Ref 3B. Overland flow barrier	m	15	
1.12	Ref 3C. Overland flow barrier	m	16	
1.13	Ref 3D. Cross track drain	m	8	
1.14	Ref 3E. Cross track drain	m	8	
1.15	Ref 3F. Information board	nr	1	
2.01	Sand pit/box – NOT TO BE PRICED	n/a	n/a	
2.02-2.06	Information boards including £200 for sign	nr	5	
2.07	Earth bund seating area	nr	1	
3.01	Strip & reinstate borrow pit topsoil	m2	600	
3.02	Excavate and haul fill from borrow pits	m3	500	
3.03	Cultivate and seed topsoiled areas	m2	3400	
3.04	Imported clay fill RATE ONLY	m3		
<b>The total of the Prices</b>				101,240.45

The method and rules used to compile the Price List are

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

# Scope

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

## 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.

See Scope document issued as part of the tender pack.

The Contractor is required to construct the works as identified in the Specification; 2020.02.10\_NFMSpec\_UoLBrownlee\_Rev002-02\_Nov20 FS where the Responsible partner is listed as the Environment Agency.

Contractor is to interpret and develop the outline design ('2020.02.10\_NFMSpec\_UoLBrownlee\_Rev002-02\_Nov20 FS') to enable implementation of the works shown, including:

1. To assess and identify levels and prepare a spoil management plan to ensure re-instatement of fertile topsoil over new features to ensure support of re-planting.
2. Design construction of roadway 'rills' and rainwater directional features to create robust and features that resist deterioration and scour.
3. Design features to suit local conditions. E.g. To ensure that three features shown across slope are maximised across the gradient using spoil from local excavations or elsewhere on the site.
4. Identify appropriate angles of repose for features to ensure longevity and to reduce future erosion.
5. identify the need for and undertake adequate preparation and compaction to receive stone barriers
6. To allow to meet with the Environment Agency and University of Leeds on two occasions prior to the start of the works to discuss and agree final aspects of the design, implementation and construction methodology.

## 2. Drawings

List the drawings that apply to the contract.

Drawing Number	Revision	Title

## 3. Specifications

List the specifications which apply to the contract.

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

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

**State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the *Client*.**

The Contractor is required to complete the works during the University's summer vacation period and provide adequate time prior to the start of the Autumn term for the works to bed-in and settle, hence Completion is required by the end of August 2021

Other timing constraints have been identified in the Pre-contract information and Scope and should be referred to when pricing.

Any assumptions in respect of constraints should be clearly scheduled for assessment.

**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 what the use of the *works* is intended to be at their Completion as defined in clause 11.2(1).**

On completion the works will slow and attenuate rainwater run-off from the site and will be studied by the university to assess the effectiveness of the features provided. The site will continue to be used as a recreational facility and to support the flora and fauna that exists and will be planted.

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:

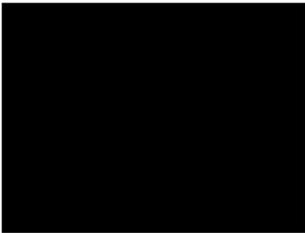
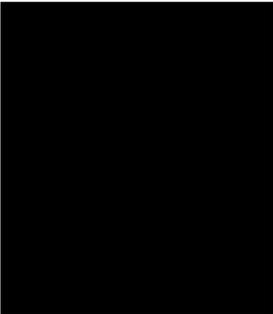
- (a) Period required for mobilisation/ planning, design & post contract award
- (b) Starting date
- (c) Each of the activities listed within the Price List including sequencing for each individual item of work (feature) showing the construction processes required for the work items that are identified in the Specification.
- (d) Key materials and equipment delivery dates
- (e) 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.
- (f) Establishment, dismantling removal and making good of the site compound
- (g) 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
None	

<h1>Site Information</h1>	
See Pre-Construction Information pack	

<h2>Proposed sub-contractors</h2>		
	Name and address of proposed subcontractor	Nature and extent of work
1.		Design Element
2.		Seeding works

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