

NEC4 Engineering and Construction Short Contract

Property Flood Resilience Framework 2024

A contract between

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

And

Flood Control NI Ltd

For

Glasson Dock PFR

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	[REDACTED]	
Address for electronic communications	[REDACTED]	
The <i>works</i> are	Provision and installation of Property Flood resilience measures (PFR) for properties in Glasson, Lancashire	
The <i>site</i> is	Glasson, Lancashire	
The <i>starting date</i> is	11 November 2024	
The <i>completion date</i> is	30 November 2024	
The <i>delay damages</i> are	[REDACTED]	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	to be decided for each call off from framework	[REDACTED]
The United Kingdom Housing Grants, Construction and Regeneration Act (1996) does apply.		
The <i>Adjudicator</i> is: the person appointed as follows:		

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 *Adjudicator*. The application to the Institution includes a copy of this definition of the *Adjudicator*. The referring Party pays the administrative charge made by the Institution. The person appointed is also *Adjudicator* for later disputes.

Contract Data

The *Client's* Contract Data

The interest rate on late payment is	■	% per complete week of delay.
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	■	
The <i>Client</i> provides this insurance	■	
Only enter details here if the <i>Client</i> is to provide insurance.		
Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the <i>works</i>	The cover is 1.2 times the replacement cost	The <i>Client's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	The cover is 1.2 times the replacement cost	The Defects Certificate has been issued
The <i>Contractor's</i> liability for loss of or damage to property (except the <i>works</i> , 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. Each and every occurrence and include an 'indemnity to principal clause'.	
Failure of the <i>Contractor</i> to use the skill and care normally used by professionals providing works similar to the <i>works</i>	Minimum £2,000,000 in respect of every claim without limit to the number of claims	6 years following Completion of the whole of the <i>works</i> or earlier termination
Loss of damage to or failure of any Products used in Installation.	Minimum £1,000,000 in respect of every claim without limit to the number of claims	The Defects Certificate has been issued
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 with October 2020 amendments 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 sub-contractor to the <i>Client</i> for acceptance. A reason for not accepting the sub-contractor 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 him.
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. 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.
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 <ul style="list-style-type: none"> • War, civil war, rebellion revolution, insurrection, military or usurped power • 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	Payment on Termination

	Replace Clause 92.3 with “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”.
Z10	Data Protection
Z10.1	Schedule 14 – Data Protection Schedule of the Deed of Agreement shall be incorporated into this Agreement.
Z10.2	A request or instruction pursuant to Schedule 14 by the <i>Project Manager</i> shall be treated as being a request or instruction by the <i>Client</i> .
Z10.3	For the avoidance of doubt, reference to Supplier in Schedule 14 is reference to the <i>Contractor</i> .
Z11	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	Inflation At the Contract Date the Client set total of the Prices does not include a sum to cover inflation. The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments. The number of Price Adjustments shall be equal to: The number of months between the Completion Date included at the Contract Date and the Contract Date. The proportion of Price Adjustment shall be equal to: The Client set total of the Prices at the Contract Date / The number of Price Adjustments Each time the amount due is assessed, the Price Adjustment shall be: The proportion of Price Adjustment x [80% x Construction Output Price, Non-Housing Repair & Maintenance index – month rate] The Construction Output Price, Non-Housing Repair & Maintenance index – month rate shall be the value determined by the Office of National Statistics for the applicable month of the amount due assessment Provided always that the fixed number of Price Adjustments has NOT been exceeded. The Price Adjustment adjusts the [Client set] total of the Prices. If a compensation event under this contract omits original Scope covered by the total of the Prices at the Contract Date the Price Adjustments made under this clause shall be corrected accordingly.

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 [REDACTED] £ [REDACTED]
Enter the total of the Prices from the Price List.

Signed on behalf of the *Contractor*

Name [REDACTED]

Position [REDACTED]

Signature [REDACTED]

Date [REDACTED]

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

Signed on behalf of the *Client*

Name [REDACTED]

Position [REDACTED]

Signature [REDACTED]

Date [REDACTED]

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
1					
2					
3					
4					
5					
6					
7					
The total of the Prices					

The method and rules used to compile the Price List are PFR 2024 Framework pricing schedule. Any items not listed on the schedule will be priced separately.

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. Information provided by the *Contractor* should be listed in the Scope only if the *Client* is satisfied that it is required, is part of a complete statement of the *Client's* requirements and is consistent with the other parts of the Scope.

Include any prefilled text already included within the Scope section below.

Background/ Context

The works involve a variety of activities and installations to provide temporary defences at Glasson, Lancashire.

The works are designed to provide temporary flood protection for a period of up to 5 years, when a decision will be made to remove the temporary PFR and either replace with permanent PFR or repair and reinstall the Glasson Dock Flood gate which has been removed pending repair/ replacement and reinstallation.

The scope has been developed over a series of site visits and inspections, and has evolved over time, as the needs of the community have been refined, and the support from the Contractor has been better understood and communicated.

Design

The *Contractor* designs the parts of the works which the Scope states they are to design.

The *Contractor* submits the particulars of their design as the Scope requires to the *Client* for acceptance. A reason for not accepting the *Contractor's* design is that it does not comply with either the Scope or the applicable law.

The *Contractor* does not proceed with the relevant work until the *Client* has accepted his design.

The *Contractor* may submit their design for acceptance in parts if the design of each part can be assessed fully.

LOT 2: [REDACTED]

Under this Lot, the *Contractor* shall confirm the preferred PFR solution and carry out detailed design.

Following approval from the *Client* and property owner and/or tenant, the *Contractor* shall install PFR interventions, in accordance with the property flood resilience Minimum Technical Requirements (MTR).

This scope fulfils the requirements of the PFR Code of Practice including steps 5-6 of standard 3 (Options development and design), standard 4 (Construction) and standard 5 (commissioning and handover).

This scope should be read in conjunction with the PFR Code of Practice and property flood resilience Minimum Technical Requirements.

OBJECTIVES

The *Clients* objective is to improve the flood resilience of a property and its owner and/or tenant.

Appropriate interventions to reduce the amount of water entering the property (RESISTANCE) or to limit the damage caused if water does enter the property (RECOVERABILITY) should be identified. Appropriate interventions that should be taken by the property owner and/or tenant to prepare for flooding should also be identified (PREPAREDNESS). Collectively, the PFR solution will provide the property owner and/or tenant with the tools to prepare and build back better after a flood.

2.2 The objectives of the *Contractor* are to:

- confirm the preferred PFR solution, following engagement with the property owner and/or tenant, *Client*.
- assess the effectiveness of any existing PFR measures and where appropriate, incorporate into the design;
- carry out detailed design of the preferred PFR solution and produce a PFR Specification which meets the standard of the property flood resilience MTR;
- work collaboratively to ensure any changes, including design amendments, are managed effectively and in accordance with the Framework Agreement;
- install, where appropriate, flood resistance and recoverability interventions in accordance with the PFR Specification;
- work collaboratively with the *Client* to provide assurance of the PFR solution, including post installation testing in line with the property flood resilience MTR;
- ensure that the commissioning and handover process is completed in accordance with this scope and the property flood resilience MTR, including encouraging property owner and/or tenants to sign up for PFR maintenance; and
- ensure that project closure is completed to the appropriate standard.

KEY DELIVERABLES

Table 1 sets out the key deliverables required to fulfil the requirements of this scope. The property flood resilience MTR sets out the requirements of these key deliverables

Table 1: Key deliverables- Lot 2

<u>Service</u>	<u>Key deliverable</u>
<u>Detailed design</u>	<u>Option Development Summary Agreement</u>
	<u>PFR Specification</u>
	<u>Contract Scope</u>
	<u>Contract Scope Written Summary</u>
<u>Construction</u>	<u>Inspection and quality check</u>
<u>Commissioning and handover</u>	<u>Handover pack</u>

DETAILS OF THE WORKS: DETAILED DESIGN

The *Contractor* shall:

- attend a project Start-up meeting with the *Client*;
- attend progress meetings with the *Client*;
- liaise with the *Client* to ensure they fully understand the flood hazard affecting the property, construction form and its condition and property owner and/or tenant assessment;
- attend a property owner and/or tenant demonstration day with the *Client*;
- confirm the preferred PFR solution by:
- arranging and attending a Works Inspection with the property owner and/or tenant;
- informing the *Client* at the earliest opportunity of any changes to the PFR solution and provide evidence to the *Consultant* and *Client* for written acceptance;
- confirming the preferred option via the completion of the Options Development Summary Agreement, in accordance with the property flood resilience MTR;

No detailed design activities can commence until approved by the *Client*, following provision of a signed Options Development Summary Agreement, in accordance with the property flood resilience MTR.

Upon written acceptance of a signed Options Development Summary Agreement by the *Client*, the *Contractor* shall commence detailed design. The *Contractor* shall:

- be responsible for the detailed design and specification of the preferred PFR solution under the Construction Design and Management Regulations (CDM);
- use their own skill and judgment to identify what proprietary items will suit the specific needs of the property and its owner and/or tenant in accordance with the property flood resilience MTR;
- identify the need for, and commission, structural surveys as per the property flood resilience MTR;
- identify the need for, and commission, all licences, authorisations, consents or permits required in relation to the performance of the PFR solution; and,

- produce a PFR Specification in accordance with the property flood resilience MTR and deliver to the *Client* for written acceptance.

As part of the detailed design assurance process, the *Contractor* shall collaborate with the *Client* to ensure that the PFR Specification meets the requirements of the Property Survey Report and the property flood resilience MTR.

Where not accepted, update within two (2) weeks unless otherwise agreed in writing by the *Client*.

Upon written acceptance of the PFR Specification, the *Contractor* shall:

- a. produce a Contract Scope and Contract Scope Written Summary for written acceptance by the *Client* and in accordance with the specification set out in the property flood resilience MTR.
- b. distribute the Contract Scope Written Summary, with an appended Contract Scope Agreement, in the agreed format to the property owner and/or tenant following approval from the *Client*;

The *Client* is responsible for securing a signed Scope Agreement.

Orders cannot be placed until permitted by the *Client*, following written acceptance of the Contract Scope and provision of a signed Scope Agreement.

DETAILS OF THE WORKS: CONSTRUCTION of PFR

Construction cannot commence until permitted by the *Client*.

The *Contractor* is responsible for the installation of the PFR solution in line with the manufacturers specification and as identified in the PFR Specification and Contract Scope. The *Contractor* shall:

- a. undertake a condition survey of the property, land, and any other features, such as highway, which may be affected by the works. The *Contractor* shall:
 - i. carry out the condition survey two (2) weeks before commencing work;
 - j. give the *Client* and property owner and/or tenant one (1) week notice prior to undertaking the condition survey;
 - k. ensure all photographs, surveys and inventories are date stamped and their location clearly defined;
 - l. provide a copy of the condition survey to the *Client* and property owner and/or tenant for written acceptance; and,
 - m. Work cannot commence until the condition survey is accepted in writing by all parties.
- b. use their skill and judgment to overcome site specific issues that arise during the construction process, where changes to the Contract Scope Summary are required the *Client* and property owner and/or tenant should be notified at the earliest opportunity.
- c. where accidents or incidents arise, they must be reporting in accordance with the SHEW Code of Practice. Where required, the condition survey should be updated and accepted in writing by all parties;
- d. provide supervision for the works at each site to an appropriate level and duration to comply with the CDM Regulations and in line with the SHEW Code of Practice;
- e. attend regular progress meetings with the *Client*. Frequency shall be a maximum of one (1) per week.
- f. commission, all licences, authorisations, consents or permits required in relation to the performance of the PFR solution;
- g. identify and complete all snagging prior to the commencement of the commissioning and handover process;

- h. provide the Client with a photographic record of each completed PFR intervention. This should be clearly presented on a property-by-property basis and be provided in full for each site location;
- i. repeat the condition survey, as per Section 5.2 (a). The *Contractor* shall:
 - i. identify any damage attributed to their activities;
 - ii. engage with the Client and property owner and/or tenant to confirm any damage and required remediation;
 - iii. upon agreement from the Client and property owner and/or tenant, remedy damage attributable to their activities; and,
 - iv. The cost of making good any damage shall be met by the Contractor.
- j. Work collaboratively with the *Consultant* to update the PFR Outcome Reporting Tool for the project as per the Framework Schedule 9. No modifications are to be made to this template.

The *Contractor* shall complete post installation testing and assurances, in collaboration with the *Consultant*. The *Contractor* shall:

- a. Complete post installation wet testing on flood resistant doorsets and flood barriers of 20% of properties.
 - i. be in completed in accordance with the property flood resilience MTR;
 - ii. be supported by a method statement that has been accepted by the *Client*, in writing, as part of the Contract Scope;
 - iii. be agreed with the property owner and/or tenant prior to commencement.
- b. attend a Post Installation Audit, led by the *Consultant*, collaborating on its completion; and,
- c. rectify any issues identified as part of the Post Installation Audit. Where required, pre-condition photographs shall be taken and accepted in writing by the property owner and/or tenant prior to commencement.

DETAILS OF THE WORKS: COMMISSIONING AND HANDOVER

As part of the commissioning and handover process, the *Contractor* shall collaborate with the *Consultant* and *Client* to:

- a. provide training on the operation, storage, and maintenance of installed PFR interventions to the property and/or tenant;
- b. provide the property owner and/or tenant the option to sign up to after sales service including maintenance agreements;
- c. ensure the property owner and/or tenant is aware of the warranty periods associated with each intervention provided, in accordance with the property flood resilience MTR;
- d. produce a Handover Pack, in accordance the property flood resilience MTR, and deliver to the *Client* for written acceptance. Publish to the property owner and/or tenant in the format agreed with the *Client*;
- e. provide the relevant information to the *Consultant* for the Post Installation Flood Risk Report, in accordance with the property flood resilience MTR; and,
- f. attend, a Flood Exercise Day with the *Client* and *Contractor*.

The Contractor is to keep a stock of consumable spares for the PFR intervention installed, which may be purchased by the homeowner, or to advise property owners and/or tenant where spares can be purchased directly from the manufacturer.

DETAILS OF THE WORKS: PROJECT CLOSURE

As part of the project closure process, the *Contractor* shall:

- a. provide the relevant information to the Client to update the PFR Outcome Reporting Tool for the project as per the Framework Schedule 9. No modifications are to be made to this template;
- b. ensure all project data and outputs are provided back to the *Client*, in a format requested by the *Client*;
- c. support the development of customer feedback activities with the *Client* and *Consultant*;
- d. attend a lesson learnt workshop with the *Client* at the end of the contract to provide knowledge transfer and feedback to the *Client* on the PFR project, including contract management and key deliverables. The template provided in as per the Framework Schedule 9 should be used. No modifications are to be made to this template; and,
- e. complete 360 Feedback Form, as per as per the Framework Schedule 9. No modifications are to be made to these templates.

CONSTRAINTS ON HOW THE CONSULTANT PROVIDES THE SERVICES

All model and survey information shall be provided to the *Consultant* in an encrypted format (using WinZip 128 bit encryption) according to *Clients' Data*.

Project deliverables shall be returned to the *Client* in an encrypted format (using WinZip 128 bit encryption) according to *Clients' Data*.

SERVICES AND OTHER THINGS PROVIDED BY THE CLIENT

The *Client* shall provide, as a minimum, the following:

- a. available address data;
- b. outputs of Client led community engagement including the Initial Property Questionnaire outputs;
- c. Hazard Assessment and Property Survey Report;
- d. Options Development Summary; and,
- e. Post flood incident report (where appropriate).

All data shared with the supplier remains the Intellectual Property of the Client.

Any material prepared by or on behalf of the *Contractor* for the purposes of the contract shall be the property of the *Client* and the Contractor shall have no rights, either expressly or impliedly therein. No use may be made by the *Contractor* of any material prepared for this contract by them, for purposes other than those stated in this document without the *Clients'* prior agreement.

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
Minimum Technical Requirements	V12 Dated December 2021	√

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*.

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).

Formal Programme not required, however, contractor is aware of requirement to install equipment in advance of August spring high tides.



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
N/A	

7. Site Information

Proposed sub-contractors

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