



Framework: Collaborative Delivery Framework
Supplier: Kier Integrated Services Ltd
Company Number: 00873179

Geographical Area: South West
Contract Name: Sutton Harbour Gate ECC
Project Number: ENV0002555C

Contract Type: Engineering Construction Contract
Option: Option C

Contract Number: C17227

Stage: Construction

Revision	Status		Originator		Reviewer		Date

Rev 1.9.1a

Address for electronic communications

The Scope is in
Sutton Harbour ECC Scope ENV0002555 V10 15th May 2023

The Site Information is in
Site information as detailed in the File "ENV0002555C-ATK-00-3XX-RP-C-000004 SI P01 19th July 22"

The boundaries of the site are
Site Boundary as detailed in the File " Sutton Harbour Red Line Boundary "

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'	'none set'
The Contractor prepares forecasts of the total Defined Cost for the whole of the works at intervals no longer than	4 weeks

3 Time

The starting date is	22 May 2023
The access dates are part of the Site	date
Access date for phase 1	29 August 2023
Access date for phase 2	04 March 2024

The Contractor submits revised programmes at
intervals no longer than 4 weeks

The Completion Date for the whole of the works is 10 August 2024

The Client is not 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 works and the defects date is	52 weeks

The defect correction period is	2 weeks	except that
• The defect correction period for Health and Safety issues for	is	24 Hours
• The defect correction period for	is	

5 Payment

The *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
Base rate of the Bank of England

6 Compensation events

The place where weather is to be recorded is Met Office , Weather Station, Plymouth, Mountbatten; Location: 50.354, -4.12

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 hours

and these measurements:

- 1.
- 2.
- 3.
- 4.
- 5.

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 jth, Mountbatten; Location: 50.354
and which are available from 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
Jun	Dec

These are additional compensation events

1. Currents in excess of 2 knots – The compensation event for high current flow is defined as currents greater than 2 knots as measured using a site-based flowmeter. This will be of the type shown in the following link
<https://www.valeport.co.uk/products/model-001-flowmeter/> or similar agreed. The location of the flowmeter will be agreed with the Site Supervisor and installed prior to any works.
2. Wind speeds of 12m/s for lifting and 7m/s for man-riding - Compensation Event for wind affecting crane operations is defined as when wind speed at the crane anemometer location exceeds 7m/s for operations using man riding basket and 12m/s for operations not involving a man riding basket.
3. Sea state with 1m swell/ Wave height – The compensation event for swell affecting works is defined as swell greater than 1m as measured on a site gauge board installed on the southern face of the lock structure. This will be agreed with the Site Supervisor on site and installed prior to any works.
4. Unexploded Ordnance – The presence of any UXO within the boundaries of the site is a compensation event
5. 'not used'

8 Liabilities and insurance

These are additional *Client's* liabilities

- 1 'not used'
- 2 'not used'
- 3 'not used'

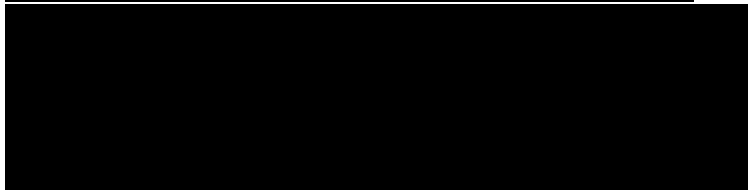
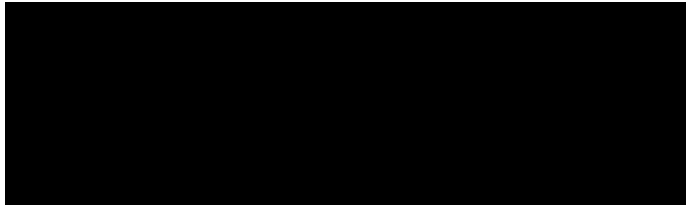
The minimum amount of cover for insurance against death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with the contract for any one event is

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 *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

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..."

Z 4 The Schedule of Cost Components

The Schedule of Cost Components is as detailed in the Framework Schedule 9.

Z 6 Payment for

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

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 goods.

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

Z11.1 The *Contractor* warrants all design complies with the contract whether undertaken by the *Contractor* or by sub-contractors.

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

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.

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

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 and

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 $(PAF/(1+PAF))$.

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 <i>Contractor</i> is to achieve in Providing the Works and sets out the adjustment to payment if a measured performance is higher, the same or lower than its target. The Performance Table is the <i>performance table</i> unless later changed in accordance with the contract.
15.1 Early Warnings	In Clause 15.1 add as a new bullet between the second and third bullet: “• result in a target in the Performance Table not being met.”
Performance Measurements	
57	Add as Clause 57:
57.1	From the <i>starting date</i> until the Completion Date, the <i>Contractor</i> reports to the <i>Project Manager</i> its performance against the targets in the Performance Table. Reports are provided at the intervals stated in the Performance Table.
57.2	If the <i>Contractor's</i> 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 <i>Project Manager</i> 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

57.3	<p>At the dates stated in the Performance Table,</p> <ul style="list-style-type: none"> • if the relevant performance does not meet the target stated in the Performance Table, the <i>Contractor</i> pays the amount stated in the Performance Table, • if the relevant performance exceeds or meets the target stated in the Performance Table, the <i>Contractor</i> is paid
57.4	Information in the Performance Table is not Scope.
X18	<p>X18.5 add as a new bullet after the fourth bullet:</p> <ul style="list-style-type: none"> • low performance damages if the Performance Table applies

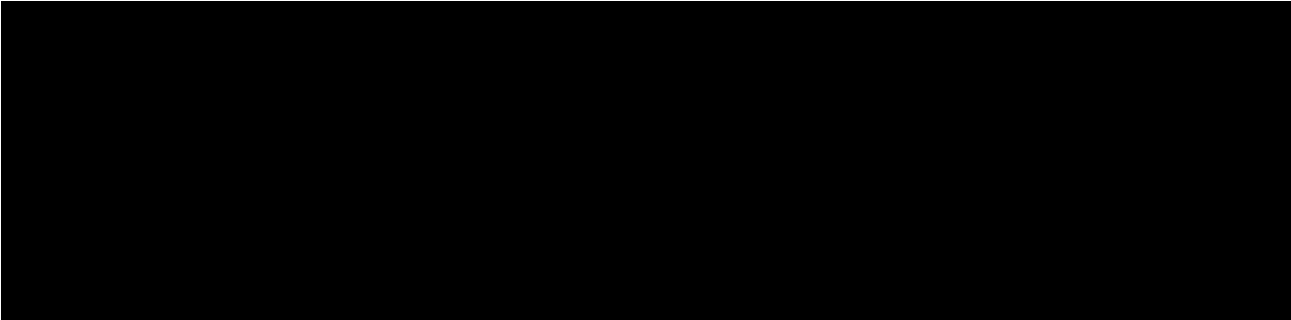
The *performance table* is

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

OPTI ON 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



of works to the acceptance of the Client

The delay damages for the remainder of the *works* are £342.00

OPTI ON X10: I nformation 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 6 years

OPTI ON X18: Limitation of liability

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 loss or damage to the *Client's* property is limited to

£1,000,000
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* 6 years after the Completion of the whole of the *works*

OPTI ON X20: Key Performance I ndicators (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*

term *beneficiary*
The provisions of
Y(UK)1

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	
Name	Kier Integrated Services Ltd
Address for communications	2nd Floor Optimum House Clippers Quay Salford M50 3XP
Address for electronic communications	
The fee percentage is	
The working areas are	The site, Kier offices, and private dwellings of Kier staff.
The key persons are	
The key persons are	
The key persons	
The key persons are	
	Name (4) Job Responsibilities Qualifications Experience
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

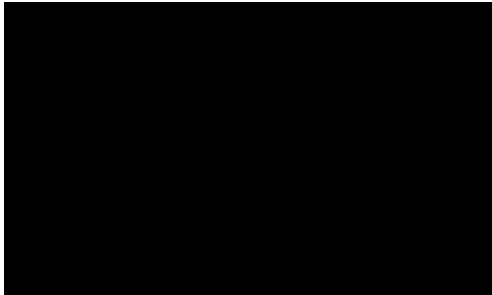
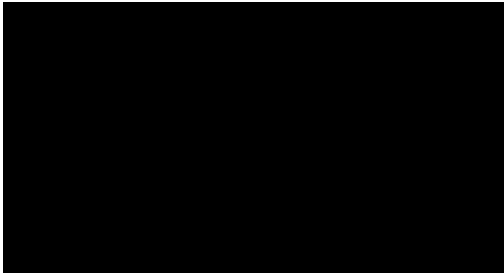
The programme identified in the Contract Data is
2023-04-28 - INT22 - Sutton Harbour

5 Payment

The *activity schedule* is

Resolving and avoiding disputes

The *Senior Representatives* of the *Contractor* are



X10: Information Modelling

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

Y(UK)1: Project Bank Account

The *project bank* is
NatWest

named suppliers are

t.

Contract Execution

Client execution

