



<b>Framework:</b>	<b>Collaborative Delivery Framework</b>
<b>Supplier:</b>	<b>VolkerStevin Ltd</b>
<b>Company Number:</b>	<b>00288392</b>
<b>Geographical Area:</b>	<b>North West</b>
<b>Project Name:</b>	<b>Littleborough FRMS Gale Enabling Works</b>
<b>Project Number:</b>	<b>ENVIMNW000100</b>
<b>Contract Type:</b>	<b>Engineering Construction Contract</b>
<b>Option:</b>	<b>[REDACTED]</b>
<b>Contract Number:</b>	<b>32178</b>

Revision	Status	Originator	Reviewer	Date
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# ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework

## CONTRACT DATA

**Project Name** Littleborough FRMS Gale Enabling Works

**Project Number** ENVIMNW000100

This contract is made on 08 March 2021  
between the *Client* and the *Contractor*

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 01st day of April 2019 between the *Client* and the *Contractor* in relation to the Collaborative Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference
- Schedules 1 to 21 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference  
The Scope document reference is:  
ENVIMNW000100-EA-XK-4C0-CD-0001 v5 23 Feb 21  
PCI Asite reference:  
ENVIMNW000100-JAC-ZZ-4C0-SP-C-0002

### Part One - Data provided by the *Client*

#### Statements given in all Contracts

##### 1 General

The conditions of contract are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and the secondary Options of the NEC4 Engineering and Construction Contract June 2017.

Main Option		Option for resolving and avoiding disputes	W2
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#### Secondary Options

- X2: Changes in the law
- X7: Delay damages
- X9: Transfer of rights
- X10: Information modelling
- X11: Termination by the *Client*
- X18 Limitation of Liability
- X20: Key Performance Indicators
- 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

Access enabling works at Gale West and East sites including formation of access, haul roads, work areas and (Gale East) watercourse diversion.

The *Client* is Environment Agency

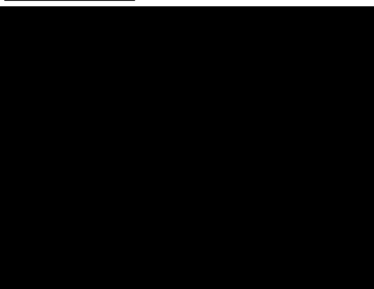
Address for communications



Address for electronic communications

The *Project Manager* is

Address for communications



Address for electronic communications

The *Supervisor* is

Address for communications



Address for electronic communications

The Scope is in  
ENVIMNW000100 - Littleborough, Gale Sites Enabling Works ECC Scope v5 23 Feb 21.

The Site Information is in  
Site Information Asite reference:

The boundaries of the site are  
Drawing reference: IMNW000100-JAC-ZZ-4B0-DR-PL-0007-C07

The partner contract is  
Those contracts identified by the Client under separate cover which pertain to this contract

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  
COVID-19 - risk arising from COVID-19 measures  
Groundwater - quantity and quality - risk of additional pumping and/or treatment  
Watercourse flows - risk of site flooding arising from overtopping of watercourse(s) within site red-line boundaries  
Invasive Species - risk of having to manage any invasive species not identified to date

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	none
none	none
none	none

The Contractor prepares forecasts of the total Defined Cost for the whole of the works at intervals no longer than	4 weeks
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## 3 Time

The starting date is	08 March 2021
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The access dates are	date
part of the Site	
Gale West Site	06 April 2021
Gale East Site	17 May 2021
Enabling works items - pre-ordered from other contra	06 April 2021
Sladen and Punchbowl Bridges Weight Load Capacity	17 May 2021

The Contractor submits revised programmes at intervals no longer than	2 weeks
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The Completion Date for the whole of the works is	04 September 2021
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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	2 weeks
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## 4 Quality management

The period after the Contract Date within which the Contractor is to submit a quality plan is	4 weeks
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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 to the public is 24 hours insert term  
 • The defect correction period for Dealing with flood risk is 7 days insert term

## 5 Payment

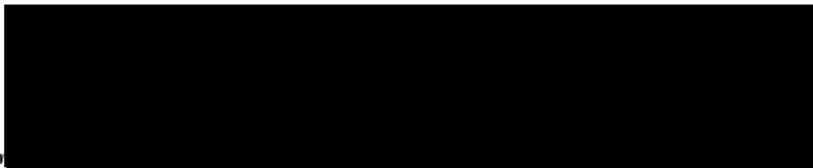
The currency of the contract is the £ sterling

The assessment interval is Monthly

The Client set total of the Prices is £2,101,936.00

The interest rate is 2.00% per annum (not less than 2) above the  
 Base rate of the Bank of England

The Contractor's share percentages and the share ranges are



## 6 Compensation events

The place where weather is to be recorded is

The nearest calibrated Met Office Weather Station to the site is: Littleborough: Lat: 53.6459 Long: -2.0

The weather measurements to be recorded 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 GMT

and these measurements:

1. none
2. none
3. none
4. none
5. none

The weather measurements are supplied by

Refer to Metoffice site: <https://www.metoffice.gov.uk/services/business-industry/construction>

The weather data are the records of past weather measurement for each calendar month

which were recorded at

none

and which are available from

none

Assumed values for the ten year weather return weather data for each weather measurement for each calendar month are

Jan	not used	Jul	not used
Feb	not used	Aug	not used
Mar	not used	Sep	not used
Apr	not used	Oct	not used
May	not used	Nov	not used
Jun	not used	Dec	not used

These are additional compensation events

1. Managing and mitigating the impact of Covid 19 and working in accordance with Public Health England guidance, as may vary from time to time, between 1st November 2020 and 31st March 2021
2. Groundwater - quantity and quality - Client Instruction by CE of adc
3. Watercourse flows - risk of site flooding arising from overtopping of
4. Invasive Species - risk of having to manage any Invasive species on
5. Sladen and Punchbowl Bridges Weight Load Capacity confirmation r

## 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 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



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 Senior Representatives of the Client are

Address for communications

Address for electronic communications

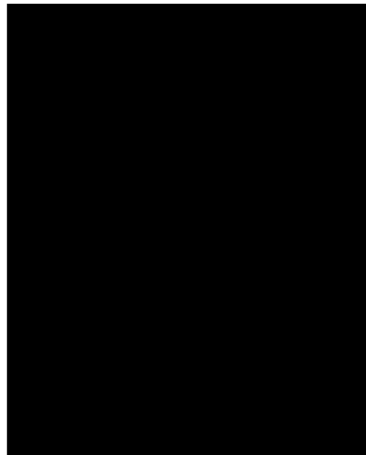
Name

Address for communications

Address for electronic communications

The Adjudicator is

Address for communications



'to be confirmed'

'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.

### Z 2B: Water levels: Contractor's risk

Clause 60.1 (12) second bullet point is amended to: "are not weather conditions or floods and"

### 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 Work

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, not exceeding the forecast provided under clause 20.4 and accepted by the Client."

### Z7 Aggregated Contractor's share

Delete existing clauses 54 and 93.4 and replace with:

54.7 The *Project Manager* assesses the *Contractor's* share of the difference between the Aggregated Total of the Prices and the Aggregated Price for Work Done to Date. The difference is divided into increments falling within each of the *share ranges*. The limits of a *share range* are the Aggregated Price for Work Done to Date divided by the Aggregated Total of the Prices, expressed as a percentage. The *Contractor's* share equals the sum of the products of the increment within each *share range* and the corresponding *Contractor's share percentage*.

54.8 If the Aggregated Price for Work Done to Date is less than the Aggregated Total of the Prices, the *Contractor* is paid its share of the saving. If the Aggregated Price for Work Done to Date is greater than the Aggregated Total of the Prices, the *Contractor* pays its share of the excess.

54.9 If, prior to the Completion Date, the Aggregated Price for Work Done to Date exceeds 110% of the Aggregated Total of the Prices, the amount in excess of 110% of the Aggregated Total of the Prices is retained from the *Contractor*.

54.10 The *Project Manager* makes a preliminary assessment of the *Contractor's* share at Completion of the Whole of the works using forecasts of the final Aggregated Price for Work Done to Date and the final Aggregated Total of Prices. This share is included in the amount due following Completion of the whole of the works.

54.11 The *Project Manager* makes a final assessment of the *Contractor's* share, using the final Aggregated Price for Work Done to Date and the final Aggregated Total of the Prices. This share is included in the final amount due.

93.4 If there is a termination, the *Project Manager* assesses the *Contractor's* share after certifying termination. The assessment uses as the Aggregated Price for Work Done to Date the sum of

- the total of
  - o the Defined Cost which the *Contractor* has paid and
  - o which it is committed to pay for work done before termination
  - and
  - the total of
  - o the Defined Cost which the *Contractor* has paid and
  - o which it is committed to pay
  - in the *partner contract* before the date the termination certificate is issued under this contract.
- The assessment uses as the Aggregated Total of the Prices the sum of
- the total of
  - the lump sum price for each activity which has been completed and
  - a proportion of the lump sum price for each incomplete activity which is the proportion of the work in the activity which has been completed
  - and
  - the total of
  - the lump sum price for each activity which has been completed and
  - a proportion of the lump sum price for each incomplete activity which is the proportion of the work in the activity which has been completed
  - in the *partner contract* before the date the termination certificate is issued under this contract.

Add:

11.2(37) The Aggregated Total of the Prices is sum of

- the total of the Prices and
- the total of the Prices in the *partner contract*

11.2(38) The Aggregated Price for Work Done to Date is the sum of

- the Price for Work Done to Date and/
- the Price for Service Provided to Date in the *partner contract*.

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

The *Contractor* will use the NEC4 contract on all subcontracts for works. Payment to subcontractors will be 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.

Failure to pay subcontractors and suppliers within contracted times scales will also adversely affect the *Contractor's* opportunities to work on framework contracts.

#### **Z11Y(UK) 3 The Contracts (Rights of Third Parties) Act**

The design consultant employed by the *Contractor* is required to fulfil the obligations of the warrantor under the primary contract for design works that they complete. This includes:

Transfer of rights clause Z11

Professional indemnity insurance cover to same cover as that specified for the *Contractor*

Z11.1 The *Client* ('the third party') may in its own right enforce the provisions of this clause, subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999 and the following provisions:

Z11.1.1 the parties may not rescind or vary any provision(s) of this agreement, including this clause, at any time without the consent of the third party; and

Z11.1.2 each third party's rights against party A under this agreement shall be subject to the same conditions, limitations and exclusions as apply to party B's rights against party A under this agreement.

Z11.2 Except as provided in clause Z11.1, this 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 this clause does not affect any right or remedy of a 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 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.

#### **Z18 Payment of pain/gainshare and programme incentivisation**

Delete existing clause 54.3 and replace with:

54.3 The *Project Manager* makes regular assessments of the *Contractor's* share until the Completion Date using forecasts of the final Price for Work Done to Date and the final total of the Prices. This share is included in the amount due in the following assessment. The *Project Manager* shall be entitled to take the *Contractor's share percentage* into account when assessing amounts in clause 50 and clause 51 due for payment at each assessment date thereafter. The *Project Manager* shall not assess any amount greater than the amount due when the forecast reaches the top *share range* in the Contract Data Part 1 (120% of the total of the Prices).

Delete existing clause 54.4 and replace with:

54.4 If clause 54.3 does not occur during the works, the *Project Manager* makes a preliminary assessment of the *Contractor's* share at Completion of the Whole of the works using forecasts of the final Price for Work Done to Date and the final total of Prices. This share is included in the amount due following Completion of the whole of the work.

Insert the following new clause 54.5:

54.5 If clause 54.3 does not occur during the works, the *Project Manager* makes a final assessment of the *Contractor's* share, using the final Price for Work Done to Date and the final total of the Prices. This share is included in the final amount due.

Insert the following new clause 54.6:

Programme Payments will be made under the Framework in accordance with Schedule 17

#### **Z19 Linked contracts**

Delays and additional cost on this contract resulting from the *Contractor's* fault or error on a previous contract on this project or programme will be a Disallowable cost under this contract and not be a Compensation event under this contract.

#### **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

## **222 Resolving Disputes**

Delete W2.1

## **223 Risks and Insurance**

Replace clause 84.1 with the following

Insurance certificates are to be submitted to the *Client* on an annual basis.

## Secondary Options

### OPTION 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

### OPTION X7: Delay damages

#### X7 only

Delay damages for Completion of the whole of the works are

### OPTION X10: Information 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

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

### OPTION X18: Limitation of liability

The Contractor's liability to the Client for indirect or consequential loss is limited to

For any one event, the Contractor's liability to the Client for loss 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

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

The end of liability date is  
Completion of the whole of the works

after the

### OPTION X20: Key Performance Indicators (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(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
not used	not used
not used	not used



not used  
not used

not used  
not used

## 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

Address for communications

Address for electronic communications

The fee percentage is

The working areas are

The site, off-site compounds, area offices and other areas th

The key persons are

Name (1)  
Job  
Responsibilities  
Qualifications  
Experience

The key persons are

Name (2)  
Job  
Responsibilities  
Qualifications  
Experience

The key persons are

Name (3)  
Job  
Responsibilities  
Qualifications  
Experience

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

Not applicable

### 3 Time

The programme identified in the Contract Data is

### 5 Payment

The activity schedule is

### Resolving and avoiding disputes

The Senior Representatives of the Contractor are

Name (1) [REDACTED]  
Address for communications

Address for electronic communications  
[REDACTED]  
Name (2) [REDACTED]  
Address for communications

Address for electronic communications  
[REDACTED]

### X10: Information Modelling

The Information execution plan identified in the  
Contract Data is  
not applicable

# Contract Execution

Client execution

Signed as deed

for and on behalf of the Environment Agency

[Redacted Signature]

[Redacted Signature]

[Redacted Signature]

Contractor execution

Consultant execution

Signed as deed

for and on behalf of

[Redacted Signature]

Signature

Signature

Role

Or witnessed by:

Name:

[Redacted Name]

Occupation:

Address:

[Redacted Occupation]

[Redacted Address]