



Framework: Collaborative Delivery Framework

Supplier: Ove Arup & Partners Ltd

Company Number: 01312453

**Geographical Area:** North East

Contract Name: <u>Butteryhaugh</u> SOC to OBC

Project Number:

**Contract Type:** Professional Service Contract

Option: Option C

Contract Number: P-32414

Stage: SOC\_to\_OBC

Revision	Sta	itus	Origi	nator	Revi	ewer	Date
0 For final approval						17-Aug-23	
Α	Final Version						30-Aug-23

# PROFESSIONAL SERVICE CONTRACT under the Collaborative Delivery Framework CONTRACT DATA

### **Project Name**

Butteryhaugh SOC to OBC

#### **Project Number**

This contract is made on between the *Client* and the *Consultant* 

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 01st day of April 2019 and Framework Agreement Extens on dated 1st April 2023 between the *Client* and the *Consultant* in relation to the Collaborative Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference
- Schedules 1 to 23 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference NEC4 Scope Butteryhaugh Lot 1 Arup OBC RevB

#### 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 avo ding disputes and secondary Options of the NEC4 Profess onal Service Contract June 2017.

	, ,				
Main Opt on	Option C	Opt on for resolving and avo ding disputes	W2		
Secondary (	Opt ons				
	X2: Changes in the law				
	X7: Delay damages				
	X9: Transfer of rights				
	X10: Information modelling				
	X11: Terminat on by the <i>Client</i>				
	X18: Limitat on of liabil ty				
	X20: Key Performance Ind cators				
	Y(UK)2: The Housing Grants, Construct on and Regenerat on Act 1996				
	Y(UK)3: The Contracts (Rights of Third Parties) Act 1999				
	Z: Additional conditions of contract				
The service is		Production of Out	tline Business Case through app	oraisal and modelling	
The <i>Client</i> is		Claire Hughe	es		
Address for communications		Tyneside Ho Newcastle B Skinnerburn	Environment Agency Tyneside House Newcastle Business Park Skinnerburn Road Newcastle Upon Tyne		
Address for electron c commun cat ons		NET /AK			
The Service Manager is Address for communications			_		

Address for electron c commun cat ons

The Scope is in

NEC4 Scope Butteryhaugh Lot 1 Arup OBC RevB

The language of the contract is English

The law of the contract is

the law of England and Wales, subject to the jurisd ction of the courts of England and Wales

2 weeks

The period for reply is

The period for retention is

6 years following Completion or earlier termination

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 Consultant's main responsibilities

The key dates and conditions to be met are

conditions to be met key date 'none set' 'none set' 'none set' 'none set' 'none set' 'none set'

The Consultant prepares forecasts of the total Defined Cost plus

Fee and expenses at intervals no longer than 4 weeks

3 Time

The starting date is 08 September 2023

The Client provides access to the following persons, places and things

access access date

FastDraft

ASite

The Consultant submits revised programmes at intervals no 4 weeks

The completion date for the whole of the service is

10 September 2024

The period after the Contract Date within which the *Consultant* is

to subm t a first programme for acceptance is

4 weeks

## 4 Quality management

The period after the Contract Date within which the  ${\it Consultant}$  is to

submit a quality pol cy statement and qual ty plan is

4 weeks

The period between Completion of the whole of the service and the

defects date is

26 weeks

#### 5 Payment

The currency of the contract is the £ sterling

The assessment interval is

The *Client* set total of the Prices is

The expenses stated by the Client are as stated in Schedule 9

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

The locations for which the *Consultant* provides a charge for the cost of support people and office overhead are

All UK Offices

If Option C is used

The Consultant's share percentages and the share ranges are:

share range

Consultant's share percentage 0 80 % less than to 120 % as set out in Schedule 17 as set out in Schedule 17 from 80 % 120 % greater than

#### 6 Compensation events

These are add t onal compensat on events

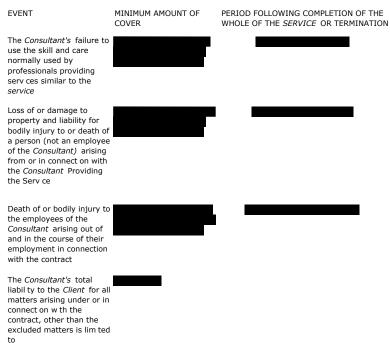
- Carbon Methodology Adherence to and compliance with the Carbon Methodology dated 08 June 2023
- 2. 'not used'
- 3. 'not used'
- 4. 'not used'
- 5. 'not used'

#### 8 Liabilities and insurance

These are add t onal Client's liabilities

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

The minimum amount of cover and the periods for which the Consultant maintains insurance are



## Resolving and avoiding disputes

The  $\ensuremath{\textit{tribunal}}$  is litigation in the courts

The *Adjudicator* is 'to be confirmed' Address for communications 'to be confirmed'

Address for electron c commun cat ons <u>'to be confirmed'</u>

The Adjudicator nominating body is 
The Institut on of Civil Engineers

#### **Z** Clauses

#### **Z1** Disputes

Delete existing clause W2.1

#### **Z2** Prevention

The text of clause 18 Prevent on is deleted.

Delete the text of clause 60.1(12) and replaced by:

- The *service* is affected by any of the following events

   War, civil war, rebellion, revolution, insurrection, military or usurped power;
- Strikes, r ots and civil commotion not confined to the employees of the *Consultant* and sub consultants,
- · Ionising radiation or radioactive contaminat on from nuclear fuel or nuclear waste resulting from the combust on of nuclear
- Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
- · Natural disaster,
- Fire and explos on.
- Impact by aircraft or other aerial device or thing dropped from them.

#### **Z3 Disallowed Costs**

Add the following in second bullet of 11.2 (18) add:

(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken). Add the following addit onal bullets after 'and the cost of '

- Mistakes or delays caused by the Consultant's failure to follow standards in Scopes/quality plans
- Reorganisation of the Consultant's project team
- Additional costs or delays incurred due to Consultant's failure to comply with published and known gu dance or document formats
- Exceeding the Scope without prior instruction that leads to abortive cost
- Re-working of documents due to inadequate QA pr or to submiss on, i.e. grammatical, factual ar thmet cal or design errors
- Production or preparat on of self-promotional material
- Excessive charges for project management time on a commiss on for secondments or full time appointments (greater than 5% of commission value)
- Any hours exceeding 8 per day unless with prior wr tten agreement of the Service Manager
- Any hours for travel beyond the locat on of the nearest consultant off ce to the project unless prev ously agreed with the Service Manager
- Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the Service
- Costs associated with the attendance at additional meetings after programmed Complet on, if delay is due to Consultant performance
- Costs associated with rectifications that are due to *Consultant* error or omiss on
- · Costs associated with the dentificat on of opportunities to improve our processes and procedures for project delivery through the Consultant's involvement
- Was incurred due to a breach of safety requirements, or due 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 resulting of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

#### Z4 Share on termination

Delete existing clause 93.3 and 93.4 and replace with:

93.3 In the event of terminat on in respect of a contract relating to services there is no Consultant's share'

#### **Z6 The Schedule of Cost Components**

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

### Z7 Consultant's share

54.1 The Service Manager assess the Consultant's share of the difference between the Aggregated Total of the Prices and the Aggregated Pr ce for Service Prov ded 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 Service Provided to Date divided by the Aggregated Total of the Prices, expressed as a percentage. The Consultant's share equals the sum of the products of the increment within each share range and the corresponding Consultant's share percentage.

54.2 If the Aggregated Price for Serv ce Provided to Date is less than the Aggregated Total of the Prices, the Consultant is pad its share of the saving. If the Aggregated Price for Service Provided to Date is greater than the Aggregated Total of the Prices, the Consultant pays its share of the excess.

54.2A If, prior to Complet on of the whole of the service, the Pr ce for Service Done to Date exceeds 111% of the total of the Prices, the amount in excess of 111% of the total of the Pr ces is retained from the Consultant.

54.3 If, pr or to the Completion Date, the Price for Serv ce Provided to Date exceeds 110% of the total of the Prices, the amount in excess of 110% of the total of the Prices is retained from the Consultant.

54.4 The Service Manager makes a preliminary assessment of the Consultant's share at Completion of the Whole of the service using forecasts of the final Aggregated Price for Serv ce Provided to Date and the final Aggregated Total of Prices. This share is included in the amount due following Completion of the whole of the services.

54.5 The Service Manager makes a final assessment of the Consultant's share, using the final Aggregated Price for Service Provided to Date and the final Aggregated Total of the Prices. This share is included in the final amount due.

93.3 If there is a terminat on except if Z4 applies, the Service Manager assesses the Consultant's share after certifying terminat on. The assessment uses as the Aggregated Price for Service Provided to Date the sum of

- the total of
- the Defined Cost which the Consultant has paid and
- which it is comm tted to pay for work done before termination
- and
- the total of
- the Defined Cost which the Consultant or Contractor has paid and
- which it is comm tted 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 activ ty 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 wh ch has been completed and  $\ensuremath{\mathsf{Add}} \colon$

11.2(25) The Aggregated Total of the Pr ces is sum of

- the total of the Pr ces and
- the total of the Pr ces in the partner contract

11.2(26 ) The Aggregated Price for Service Provided to Date is the sum of

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

### Z23 Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* will ne ther be an allowable cost under this contract or any subsequent contract, nor will t be a Compensation event under this contract or any subsequent contract under this project or programme.

#### Z24 Requirement for Invoice

Add the following sentence to the end of clause 51.1:

The Party to which payment is due subm ts an invoice to the other Party for the amount to be pad within one week of the Service Manager's certificate.

Delete existing clause 51.2 and replace w th:

51.2 Each certified payment is made by the later of

- one week after the paying Party receives an invo ce from the other Party and
- three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the per od stated. If a certified payment is late, or if a payment is late because the Service Manager has not issued a certif cate 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

#### **Z25** Risks and insurance

The Consultant is required to subm t insurances annually as Clause Z4 of the Framework Agreement

#### Z 29 Payment for Service Provided to Date

Delete existing clause 11.2 (21) and replace with:

\*\*11.2 (21) The Price for Serv ce Provided to Date is the total Defined Cost which the Service Manager forecasts will have been paid by the Consultant before the next assessment date plus the Fee. The Price for Service Provided to Date shall not exceed the forecast for the same as provided under clause 20.5"

### Z111 PSC - Fee adjustment for non compliance with Scope

Delete existing 11.2 (8) and replace w th the following clause

The Fee is the amount calculated by applying the fee percentage to the amount of the Defined Cost excluding the cost of Subcontractors 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 Subcontractors that have not complied with procurement by best value processes as defined in the Scope.

### Z120 PSC - 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>Consultant</i> is to achieve in Providing the Serv ce 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 Warning	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.
42.2 Accepting Defects	Delete Clause 42.2 and replace w th:  'If the Consultant and the Service Manager are prepared to cons der the change, the Consultant subm ts a quotation to the Service Manager for acceptance including any combinat on of:  "reduced Prices  an earlier Completion Date  a revised programme  -changes to the Performance Table  If the quotation is accepted, the Service Manager changes the Scope, the Prices, the
	Completion Date and the Performance Table accordingly and accepts the revised programme.
Performance Measurements	
57	Add as Clause 57:
57.1	From the starting date until the Complet on Date, the <i>Consultant</i> reports to the <i>Service Manager</i> ts performance against the targets in the Performance Table.  Reports are provided at the intervals stated in the Performance Table.
57.2	If the Consultant's performance against a target in the Performance Table is not achieving or is forecast not to achieve the performance target stated, it subm ts to the Service Manager for acceptance ts proposals for improving performance.  A reason for not accepting the proposals is that they will not provide the improvement in performance needed to achieve the target in the Performance Table.
57.3	At the dates stated in the Performance Table,  • if the relevant performance does not meet the target stated in the Performance Table, the Consultant pays the amount stated in the Performance Table,  • if the relevant performance exceeds or meets the target stated in the Performance Table, the Consultant is paid the amount stated in the Performance Table.
57.4	Information in the Performance Table is not Scope.

the Performance Table for this contract type [form, Partner, Stage] as set out in the Carbon Methodology dated 08 June 2023

## **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 service are

### **OPTION X10: Information modelling**

The period after the Contract Date within which the Consultant is to submit a first Information Execution Plan for acceptance is

### **OPTION X18: Limitation of liability**

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

The Consultant's liability to the Client for Defects that are not found until after the defects date is limited to

The *end of liability* date is 6 years after the Completion of the whole of the *service* 

### 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(UK)2: The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 days after the date on which payment becomes due

## Y(UK)3: The Contracts ( Rights of Third Parties Act) 1999

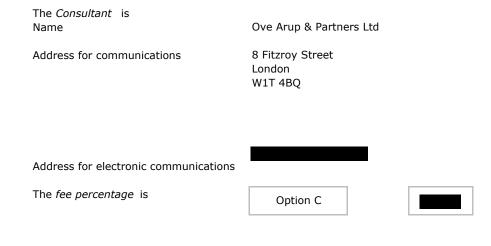
term beneficiary

not used None

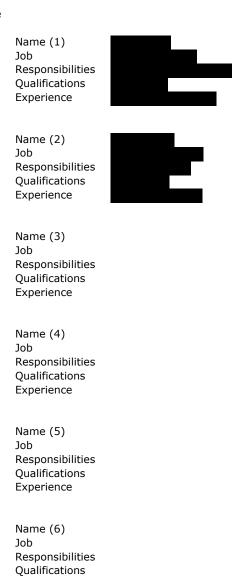
## Part Two - Data provided by the Consultant

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

### 1 General



## The key persons are



Experience

Name (7) Job Responsibilities Qualifications Experience

The following matters will be included in the Early Warning Register

3 Time

The programme identified in the Contract Data is

4 weeks from starting date

**5 Payment** 

The *activity schedule* is Butteryhaugh OBC - activity schedule v7 - final

## Resolving and avoiding disputes

The Senior Representatives of the Consultant are

Name (1)
Address for communications

Address for electronic communications

Name (2) Address for communications

## Address for electronic communications

## **X10: Information Modelling**

The *information execution plan* identified in the Contract Data is 4 weeks from starting date

# **Contract Execution**

## **Client** execution

Signed Underhand by [PRINT NAME]

for and on behalf of the Environment Agency

Signature	Date	Role	

## **Consultant** execution

Signed Underhand by [PI	RINT NAME]	for and on behalf of	Ove Arup & Partners Ltd
Signature	Date	Role	