



Framework: Collaborative Delivery Framework

Supplier: BAM Nuttall Ltd

Company Number: 00305189

Geographical Area: East

Contract Name: Happisburgh to Winterton Stage 3B – Phase 3

Project Number: ENVIMAN000745

Contract Type: Engineering Construction Contract

Option: Option C

Contract Number: C25518

Stage: Construction

Revision	Status		Originator		Reviewer		Date

ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework CONTRACT DATA

Project Name Happisburgh to Winterton Stage 3B - Phase 3

Project Number

ENVIMANO00745

This contract is made on 15th August 2024 between the *Client* and the *Contractor*

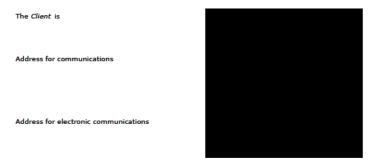
- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 10th day of April 2019 and Framework
 Agreement Extension dated and signed 1st April 2023 between the Client and the Contractor in relation to the Collaborative
 Delivery Framework. The entire agreement and the following Schedules are incorporated into this Contract by reference
- Schedules 1 to 23 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference
 Happisburgh to Winterton Phase 3b Groyne Replacement CDT NEC4 ECC Scope Template v6 Final_

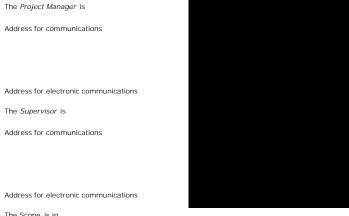
Part One - Data provided by the *Client* Statements given in all Contracts

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 C	Option for resolving and avoiding disputes	W2			
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)1: Project Bank Account					
	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 c	contract				
he works are						
eplace 11 groynes for Happisburgh to Winterton Phase 3b						





The Scope is in
Happisburgh to Winterton Phase 3b Groyne Replacement CDT NEC4 ECC Scope Template v6 Final_

The Site Information is in EA PCI_WIP_Jul 2024 - PD

The boundaries of the site are ENVIMAN000745-JAC-00-00-DR-C-0001 - Groyne location Plan

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'

The Contractor prepares forecasts of the total Defined

The Contractor prepares forecasts of the total Defined
Cost for the whole of the works at intervals no longer
than

3 Time

The starting date is 09 September 2024

part of the Site date

The *Contractor* submits revised programmes at intervals no longer than

The access dates are

4 weeks

4 weeks

11 June 2025

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 ${\it Contractor}$ 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 safety issue for the public 24 Hours is • The defect correction period for

5 Payment

The currency of the contract is the £ sterling

The assessment interval is Monthly

The Client set total of the Prices is £3.869.382.00

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

Contractor's share percentage share range

less than 80 % 0 % 120 % as set out in Schedule 17 greater than 120 % as set out in Schedule 17

6 Compensation events

The place where weather is to be recorded is Neatishead

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 GMT

and these measurements:

- 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 Neatishead 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

- Carbon Methodology Adherence to and compliance with the Carbon Methodology dated 08 June 2023
- Demurrage risk associated with rock deliveries
- Volume of rock ordered will be sufficient to complete works
- MMO consent
- 'not used'

8 Liabilities and insurance

These are additional Client's liabilities

- 1 'not used'
- 'not used'
- '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

£15,000,000

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

not applicable

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 '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

7 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 2A: Risk transfer: Physical conditions within the Site

Clause 60.1 (12) is deleted from this contract.

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. 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 and

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.

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

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

 A clause to state that except as provided in clause Z11.1, the 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 the clause does not affect any right or remedy of any 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.

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

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
- 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 compiled 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 payment if a measured performance is higher, the same or lower than its target. The Performance Table is the <i>performance tab</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 Contractor's 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 Project Manager 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 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 Contractor pays the amount stated in the Performance Table, • if the relevant performance exceeds or meets the target stated in the Performance Table, the Contractor is paid the amount stated in the Performance Table.		
57.4	Information in the Performance Table is not Scope.		
X18	X18.5 add as a new bullet after the fourth bullet: • low performance damages if the Performance Table applies		

The performance table is ECC-carbon-performance-table.xlsx

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

OPTI ON X7: Delay damages

X7 only Delay damages for Completion of the whole of the works are

Nil per day

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

6 years

OPTION 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

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

6 years

than excluded matters, is limited to

£5,000,000

after the

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

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)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

beneficiary

No Term No Beneficiary

beneficiary term

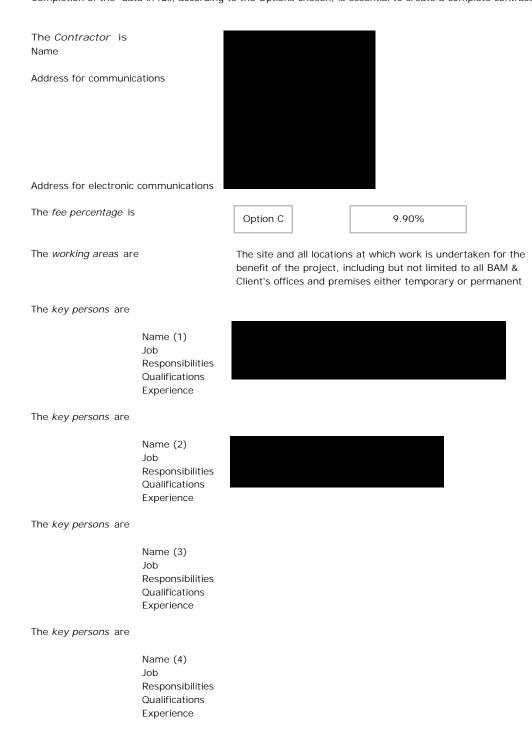
The provisions of

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 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 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 TBC

named suppliers are

TBC

Contract Execution

Client execution

cheft execution					
Signed Underhand by [PRINT NAME]			for and on behalf of the Environment Agency		
	Signature	Date	Role		

Contractor execution

Signed Underhand by [PRINT NAME] for and on behalf of BAM Nuttall Ltd