



# Engineering and Construction Short Contract

## Contract Data Forms

June 2017

(with amendments January 2023)

### Template version history

V1 (as per bidder pack)	Go live template (this document)

# NEC4 Engineering and Construction Short Contract

[Redacted]  
 [Redacted]  
 [Redacted]

<b>A contract between</b>	[Redacted] [Redacted] [Redacted] [Redacted] [Redacted]
---------------------------	--

<b>And</b>	[Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] [Redacted]
------------	--

<b>For</b>	<b>SP39-37C Branston Delph LHB Erosion Repairs</b>
------------	--

	<p><b>Contract Forms</b></p> <ul style="list-style-type: none"> <li>- <b>Contract Data</b></li> <li>- <b>The <i>Contractor's Offer</i> and <i>Client's Acceptance</i></b></li> <li>- <b>Price List</b></li> <li>- <b>Scope</b></li> <li>- <b>Site Information</b></li> </ul>
--	--

--	--

# Contract Data

## The *Client's* Contract Data

	The <i>Client</i> is	
Name	[REDACTED]	
Address for communications	[REDACTED]	
Address for electronic communications	[REDACTED]	
The works are	LNA 24/25 Asset Recovery Programme	
The site is	SP39-37C Branston Delph LHB Erosion Repairs	
The starting date is	[REDACTED]	
The completion date is	[REDACTED]	
The delay damages are	[REDACTED]	Per day
The period for reply is	[REDACTED]	weeks
The defects date is	[REDACTED]	weeks after Completion
The defects correction period is	[REDACTED]	weeks
The assessment day is	[REDACTED]	[REDACTED]
The retention is	[REDACTED]	%
The United Kingdom Housing Grants, Construction and Regeneration Act (1996) <b>does</b> apply		
The <i>Adjudicator</i> is :		
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 <i>Adjudicator</i> . The application to the Institution includes a copy of this definition of the <i>Adjudicator</i> . The referring Party pays the administrative charge made by the Institution. The person appointed is also <i>Adjudicator</i> 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	None	
Insurance Table		
Event	Cover	Cover provided until
Loss of or damage to the <i>works</i>	Replacement Cost	The <i>Client's</i> certificate of Completion has been issued
Loss of or damage to Equipment, Plant and Materials	Replacement Cost	The defects Certificate has been issued
The <i>Contractor's</i> liability for loss of or damage to property (except the works, 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 ██████ 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	
Failure of the <i>Contractor</i> to use the skill and care normally used by professionals providing works similar to the works	Minimum Contract Price in respect of every claim without limit to the number of claims	6 years following Completion of the whole of the works or earlier termination
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 (including 2023 amendments) and the following additional conditions		

Z1.0	Sub-contracting
Z1.1	The <i>Contractor</i> submits the name of each proposed subcontractor to the <i>Client</i> for acceptance. A reason for not accepting the subcontractor 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 them.
Z2.0	██████████ as a regulatory authority
Z2.1	The ██████████ 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 ██████████ in its capacity as a regulatory authority, the <i>Contractor</i> is responsible for obtaining these and paying fees (unless stated otherwise in the Scope). 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 ██████████ 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.
Z6.2	The <i>Contractor</i> designs the parts of the works which the Scope states they are to design.
Z6.3	The <i>Contractor</i> submits the particulars of their design as the Scope requires to the <i>Client</i> for acceptance. A reason for not accepting the <i>Contractor's</i> design is that it does not comply with either the Scope or the applicable law.  The <i>Contractor</i> does not proceed with the relevant work until the <i>Client</i> has accepted this design.
Z6.4	The <i>Contractor</i> may submit their design for acceptance in parts if the design of each part can be assessed fully.
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"> <li>• War, civil war, rebellion revolution, insurrection, military or usurped power</li> <li>• Strikes, riots and civil commotion not confined to the employees of the <i>Contractor</i> and subcontractor</li> <li>• Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel</li> <li>• Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device</li> <li>• Natural disaster</li> <li>• Fire and explosion</li> <li>• Impact by aircraft or other device or thing dropped from them</li> </ul>
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



# Contract Data

## The Contractor's Contract Data

		The Contractor is	
Name		[REDACTED]	
Address for communications		[REDACTED]	
Address for electronic communications		[REDACTED] [REDACTED] [REDACTED]	
The fee percentage is		[REDACTED]	%
The people rates are		[REDACTED]	
category of person	[REDACTED]	rate	
The published list of Equipment is		[REDACTED]	
The percentage for adjustment for Equipment is		N/A	





# Scope

## 1. Description of the works

### 1.1 Project background

1.1.1 Several *Client* owned/maintained assets have been identified as being below required condition (BRC) with the causal events being the winter storms of 2023/24. Bringing these assets back to the *Client's* minimum acceptable standard is of primary importance.

In the Midlands Hub, Lincolnshire and Northampton (LNA) catchment area the *Client* has identified several BRC schemes that have incurred damage caused by winter storm events. These assets require improvement to bring each asset back to a minimum acceptable standard that existed prior to the asset damage. The works shall be undertaken considering all required environmental, programme and cost considerations whilst also complying with all relevant *Client* good practice and guidance.

1.1.2 The overall objective is to make the necessary improvements to the *Client's* assets such that they are:

- a) Return assets to at least minimum acceptable standard which shall not be less than the asset condition prior to the winter storm events
- b) Legally compliant in respect of flood risk and public safety
- c) Safe and efficient to operate and maintain
- d) Low in whole-life financial and carbon cost

1.1.3 The specific objective within this contract is to ensure all remedial works are carried out as per the Description of the Works contained in Section 1.2, the *Client* provided Scope Information Document (SID) and the other documents contained in Sections 2 and 3.

### 1.2 Description of the works

1.2.1 The *Contractor* is to undertake the design and construction for all assets where repair works are required. All construction work, including that of peripheral assets but not limited to fencing and telemetry, must be compliant with all current *Client* Standards and industry best practice. Where compliance is not possible, reasonable justification must be provided by the *Contractor* for the *Client's* consideration and to inform the engineering decision process.

The works are as described in drawings and other documents which can be found in section 2 and section 3.

#### 1.2.2 Purpose of the Works/ Outcome required

An assessment of the need for works to be carried shall be as described in the SID and PCI. The production of SID and PCI will be carried out by Others. The purpose and outcome of the Works will be the return of BRC assets to the asset condition they were in prior to the winter storm events in order that the assets meet the *Client's* minimum acceptable standards required to ensure compliance with the *Client's* flood risk and safety works are met.

The *Contractor* shall maximise positive environmental outcomes and demonstrate mitigation has been considered.

#### 1.2.3 Branston Delph LHB Erosion Repairs (Asset Reference 511593, 511594)

There are two areas of overtopping erosion on two assets on the Branston Delph damaged during Storm Babet which are approximately 150m apart.

On the first area of overtopping damage on the Branston Delph located at w3w /// tram.declares.spindles there are two sections of embankment slip approximately 20m long with the worst erosion damage around 2m length on the landward face for both sites. Soil exposed at the erosion sites is generally poor material made up of silty/sandy clay soil with poor benching capabilities.

A secondary area of overtopping damage is located at w3w /// expel.prices.stunning and consists of overtopping damage (similar to the first section) in the form of erosion to the landward face and washout of material onto the

landward berm and into the adjacent ditch. The impacted area is approximately 15m long with less damage to the landward face due to a slightly higher crest height and reduced time overtopping.

The Works can be summarised as follows and the *Contractor* is to pay due cognisance of the *Client's* completed SID and other available information.

- Obtain all required permits, licences and the like to allow works to commence. The *Client* Project Manager will provide detail of requirement and where exemption(s) may be permitted.
- The *Client* holds ground investigation data for several of their assets. Where data does not exist or is incomplete, the *Contractor* is to assume a worst-case scenario in preparing their design. The *Contractor* is to undertake including utility searches to further inform the *Contractor's* design solution(s).
- Develop design solution and submit to the *Client* for acceptance.
- Prepare and submit all necessary documentation to ensure compliance with CDM Regulations and any *Client* specific health and safety requirements.
- Undertake pre and post condition surveys including photographs/video.
- Mobilise and demobilise People and Equipment to the site.
- Undertake vegetation clearance and dispose of the arisings off-site.
- Remove topsoil and set aside for re-use.
- Excavate slipped soil mass beyond failure plane and bench into embankment as required.
- Rebuild in layers imported material or as-dug material (subject to appropriate stability / soil suitability assessment) and reinforce with geogrid if required and dispose of all surplus excavation arisings not used in the permanent works.
- Topsoil and seed embankment.
- Reinstatement of the site on completion of site activities

The *Contractor* is to produce all required handover documents and H&S Pack including operation and maintenance manuals, ground investigation reports, as-built drawings, recommended maintenance regimes to be followed and the like. All documentation is to be submitted to the *Client* and accepted by the *Client*. Acceptance by the *Client* shall determine completion of the Work.

[REDACTED]

#### 1.4 Accommodation

1.4.1 The *Contractor* shall provide accommodation, services, and facilities as is necessary to complete the *works*, as quantified and priced in the Framework Pricing Workbook.

#### 1.5 Access to the Site

1.5.1 Prior to first entry to the site to undertake physical works, the *Contractor* shall record the condition of the site and accesses to the site through photographs and videos. These are submitted to the *Client* for record keeping. The *Contractor* shall leave the site and accesses to the site in as good a condition as prior to first entry.

#### 1.6 Sharing the Site with the *Client* and Others

1.6.1 In the context of this contract, others is defined as all stakeholders relevant to the Scope of the contract.

1.6.2 The *Contractor* shall co-operate with others in obtaining and providing information which they need in connection with the *works*.



[REDACTED]

[REDACTED]

[REDACTED]

**1.13 Title**

1.13.1 No materials are expected to be vested under this contract.

1.13.2 The *Contractor* shall be responsible for disposing of all excavation arisings. A standard waste test (WAC) is required to be carried out prior to disposal of arisings which are to be disposed of through a licenced waste carrier at a licenced waste disposal facility. The *Contractor* is to provide all relevant waste disposal documentation such as carrier details and waste transfer notes.

**1.14 Completion**

1.14.1 Prior to Completion the *Contractor* shall arrange a joint site inspection with the *Client*. The initial inspection shall take place a minimum of one week in advance of the *Contractor's* Completion date. Completion is achieved and certified only when the *works* have reached a stage of completion where the site is judged to be acceptable for handover and the required *Contractor* handover documentation has been provided as described in Section 1.2 of this contract. The *Client* is responsible for making their initial judgement following the joint inspection.

1.14.2 The following criteria must be met for the *works* to be certified as complete

- all hard landscape construction *work* must be fully complete, and all construction plant, and machinery must have been removed from *site*.
- all excavation, earthworks, and topsoiling work must be fully complete, and all construction plant, and machinery must be removed from *site*.
- all site perimeter fencing, temporary *works*, materials storage, and waste must be removed from *site*.
- all public open spaces must be safe for use by the public with no remaining hazards associated with construction operations.

1.14.3 The following are absolute requirements for Completion to be certified, without these items the *Client* is unable to accept the *works*:

- Provision of all information required by the Principal Designer for the Health & Safety File including but not limited to:
  - As-built drawings if there have been any changes to design

- Operation & Maintenance Manuals
- Maintenance plans
- Testing certificates
- Public Safety Risk Assessment

[Redacted]

## 2. Drawings

List the drawings that apply to the contract.

Title
2494510-ACE-02-00-DR-C-0010 Branston Delph LHB Existing Site Plan Sheet 1 of 2
2494510-ACE-02-00-DR-C-0020 Branston Delph LHB Existing Site Plan Sheet 2 of 2
2494510-ACE-02-00-DR-C-0030 Branston Delph LHB Existing Sections
2494510-ACE-02-00-DR-C-0100 Branston Delph LHB Proposed Works Plan & Section SH1_CDp
2494510-ACE-02-00-DR-C-0110 Branston Delph LHB Proposed Works Plan & Section SH2_CDp
S2-Branston Delph LHB-HEM-Rev0-03Oct24 TA

## 3. Specifications

List the specifications which apply to the contract.

Title	Date or Revision	Tick if publicly available
Asset OMR Framework Deed of Agreement and Schedules	[Redacted]	
Minimum Technical Requirements – Standard (LIT 13258)	V 13	
AOMR Lot 1 Specification Supplementary Clauses Document Reference 249_18_SD11	V.01	
Exchange Information Requirements (LIT 17641)	V 3.0	
Safety, Health, Environment and Wellbeing (SHEW) Code of Practice (LIT 16559)	V 6.0	

## 4. Constraints on how the *Contractor* Provides the Works

4.1 In accordance with Clause 14.5 of the contract, all the *Client's* actions under the contract are delegated to [REDACTED]. The *Contractor* shall only act upon instructions received from the *Client's* delegate.

4.2 All communications from the *Contractor* to the *Client* shall be sent to [REDACTED].

### 4.3 Protection against Damage

4.3.1 The *Contractor* shall ensure that flood embankments, access tracks, fences, hedges, structures etc. found on *site* are not damaged by their activities. Such features are fully reinstated to the satisfaction of the *Client* and the landowner/occupier within the timescales detailed in the Specification.

4.3.2 Particular attention is required when working in proximity to [REDACTED] which may have exposed elements above the surface. Significant damage would be caused to assets should these elements get entangled in *Contractor's* Equipment.

4.3.3 The *Contractor* shall not commence any works on site until the *Client*, or their representative, has accepted the construction phase plan, including method statements and risk assessments ahead of each project in this contract. Acceptance will be by way of a written communication from the *Client* confirming the *Contractor* may take possession of the site from the agreed starting date.

[REDACTED]

4.3.5 In order to assess the extent of work, the *Contractor* shall visit each site when pricing the work. The *Contractor* shall inform the *Client* of the time and date of each site visit before going to site.

4.3.6 The *Client* has the contractual right to access the working area as shown on the drawings. The *Contractor* shall be required to determine the suitability of the access and agree any alternative routes with the landowner should the identified routes be unsuitable.

4.3.7 Details of the routes must be included within the method statements. Access conditions may deteriorate following wet weather and the *Contractor* should assume the worst conditions when preparing his quotation.

4.3.8 Compensation will be agreed and paid by the *Client* (via its appointed land agents) to affected landowners based on the *Contractor's* programme, proposed access routes and method statements. Compensation claims incurred due to the *Contractor's* failure to comply with its programme, access routes and/or method statements will be passed on to the *Contractor*.

4.3.9 Where necessary the *Contractor* shall include for the removal and replacement of any gates, fences or hedges or any other measures necessary such as installing temporary tracks or crossings to facilitate access. The *Contractor* shall be responsible for reinstating access tracks/routes to the same conditions as encountered on arrival to the site.

4.3.10 The *Contractor* shall take all reasonable steps to avoid damage and disruption to the surrounding land, to the designated sites and associated access routes. Such land may be privately owned, commercially managed for industrial, agricultural use, or part of the local social amenities etc. Any problems with access should be reported directly to the *Client*.

4.3.11 A key, which must be returned on Completion of the works, will be provided as necessary to allow access through the *Client's* gates.

4.3.12 If access to a site has deteriorated (e.g., due to heavy rainfall) making it difficult or impossible for the *Contractor* to access, the *Contractor* shall immediately contact the *Client*. The *Contractor* shall inform the *Client* of their intention to continue work at this site or submit a request to the *Client* that they may either postpone work or be permitted to start work at another site. If the *Contractor* decides to continue at the original site, this will be at his own risk.

4.3.13 Fourteen (14) working days' notice of commencement of works shall be given to the *Client*.

4.3.14 Seven (7) working days' notice must be given to the *Client* in advance of any inspection or test and Completion of the works.

4.3.15 All accidents, near misses, dangerous occurrences and environmental incidents shall be notified to the *Client*, or their representative.

4.3.16 The *Contractor* shall be responsible for obtaining and/or registering for any necessary waste exemptions.

4.3.17 The *Client* requires twenty-four (24) hour / seven (7) days per week emergency contacts from the *Contractor* including the provision of out of hour's response if required due to theft, fire, flood, and vandalism. It is expected that any emergency procedures are conducted by a competent employee of the *Contractor*.

4.3.18 No mud or other debris to be deposited on any tarmac areas outside the site access gate, any such material to be removed immediately.

4.3.19 The *Contractor* shall ensure that any service diversions and protection measures required during the works have been arranged and agreed with the relevant Statutory Authority.

4.3.20 Un-scoped or additional projects may be added to the package upon acceptance of the relevant compensation events (CE's) and revised programmes depending on *Contractor* performance.

4.3.21 No fires may be lit on site unless expressly authorised by the *Client*.

#### 4.4 Choice of Equipment

4.4.1 The *Contractor* shall choose the most appropriate equipment to complete the *works*.

4.4.2 The *Contractor* ensures that all equipment is maintained.

4.4.3 Equipment with hydraulic systems shall use biodegradable hydraulic oil.

4.4.4 Equipment traversing under overhead cables shall be fitted with a Prolec or other height limiting device.

#### 4.6 Working times

4.6.1 The *Contractor* will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday). In some instances, it may be deemed necessary for the *Contractor* to undertake weekend working, if required this will be limited to Saturday mornings and subject to advanced agreement with the *Client*.

#### 4.7 Site Restrictions

4.7.1 N/A

## 5. Requirements for the programme

The *Contractor* submits his programme with the *Contractor's* Offer for acceptance. The *Contractor* shows on each programme which they submits for acceptance (in form of Gantt chart showing the critical path, proposed order and timing to undertake the works and proposed plant and labour resources) the following:

The *Contractor* shall submit the programme in Adobe PDF and Microsoft Project formats.

The *Contractor* shall show on each programme submitted for acceptance:

- the *starting date* and Completion Date
- the critical path
- Period required for mobilisation/ planning & post contract award
- Each of the activities listed within the Price List
- Any key third party interfaces: lead in periods for materials and sub-*Contractors*; time required to obtain consents/waste permits; stated constraints; *Contractor's* risks.
- the dates when the *Contractor* forecasts to need first access to each part of the *site* to undertake physical *works*
- the order and timing of the operations which the *Contractor* plans to do in order to provide the *works*
- lead in periods for materials and sub-*Contractors*,
- the order and timing of the *work* of the *Client* and others required for the *Contractor* to provide the *works*,
- provisions for float, time risk allowance and procedures set out in the contract,

The *Contractor* shall submit a revised programme to the *Client* for acceptance:

- Within the *period for reply* after the *Client* has instructed the *Contractor* to
- When the *Contractor* chooses to and, in any case,
- At no longer interval than stated below from the *starting date* until Completion of the whole of the *works*

[REDACTED]	[REDACTED]	[REDACTED]

**6. Services and other things provided by the *Client***

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

# Site Information

[REDACTED]

**Existing utilities and services**

*Contractor* is to undertake a full services search as part of the Works.

**Site investigation**

*Contractor* is to liaise with the *Client* for available site investigation data which the *Client* holds on a central database.

**Site location plans**

Please refer to section “*The Site*” above and the relevant Scope Information Document.

**Health and safety file**

N/A

[REDACTED]

**Use of the site**

General: The *sites* will not be used for anything other than the execution of the *works*.

Limitations: N/A

**Surrounding land / building uses**

General: Adjacent and nearby uses are as follows: Only land which has been agreed prior to the *works* commencing can be used for the *works*.

**Health and safety hazards**

General: The nature and condition of the *site* cannot be fully and certainly ascertained before it is opened up. However, the following hazards are or may be present:

- Working near water
- Road conditions such as dirt roads

Information: The accuracy and sufficiency of this information is not guaranteed. Ascertain if any additional information is required to ensure the safety of all persons and the *works*.

Site staff: Draw to the attention of all personnel working on the site the nature of any possible contamination and the need to take appropriate precautionary measures.

## 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:	