

# 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

A contract between	The Environment Agency
And	Breheny Civil Engineering Ltd
For	EMD Toton Stables drainage channel repair works
<u>.                                    </u>	
	Contract Forms
	<ul><li>Contract Data</li><li>The Contractor's Offer and Client's Acceptance</li></ul>
	- Price List
	- Scope - Site Information
	<u> </u>

## **Contract Data**

## The Client's Contract Data

	The <i>Client</i> is	
Name	Environment Agency	
Address for communications		
Address for electronic communications		
The works are	Repair works to a drainage cha	nnel
The <i>site</i> is	2-304_EMB_Toton Stables	
The starting date is	16/07/2025	
The completion date is	24/11/2025	
The <i>delay damages</i> are		Per day
The <i>period</i> for reply is		weeks
The defects date is		weeks after Completion
The defects correction period is		weeks
The assessment day is		of each month
The retention is		%
The United Kingdom Housing Grants, Co	nstruction and Regeneration Act	(1996) <b>does</b> apply

The Adjudicator 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 *Adjudicator*. The application to the Institution includes a copy of this definition of the *Adjudicator*. The referring Party pays the administrative charge made by the Institution. The person appointed is also *Adjudicator* for later disputes.

## **Contract Data**

## The Client's Contract Data

The interest rate on late payment is		% per complete week of delay.	
per week of o	lelay has been a	greed.	
The Contract	t Price		
None			
Insurance	Table		
	Cover	Cover provided unt	til
d Materials			cate
nd Equipme person (not		nas peen issued	
ourse of th			
		Completion of the w	hole
The Institution	on of Civil Enginee	ers	
litigation in th	ne courts		
	Insurance  Insurance	Insurance Table Cover  d Materials age to prope and Equipme berson (not ir in connecti apployees of t ourse of th ott d care norma alar to the wor	Insurance Table  Cover  Cover provided unt  The Client's certification completion has be issued  The defects Certification has been issued  The defects Ce

Only e	nter details here if additional conditions are required.
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.
Z1.2	Payment to subcontractors and suppliers will be no more than 30 days from receipt of correct invoice.
Z2.0	Environment Agency as a regulatory authority
Z2.1	The Environment Agency's 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 Environment Agency 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 Environment Agency 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 Contractor may publicise the works only with the Client's 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 Contractor 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 Contractor does not proceed with the relevant work until the Client has accepted this design.
Z6.4	The Contractor 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 works are affected by any one of the following events
	War, civil war, rebellion revolution, insurrection, military or usurped power
	• Strikes, riots and civil commotion not confined to the employees of the <i>Contractor</i> and sub-contractors
	Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel
	Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device
	Natural disaster
	Fire and explosion
	Impact by aircraft or other device or thing dropped from them
Z8.0	Framework Agreement
Z8.1	The Contractor shall ensure at all times during this contract it complies with all the obligations and conditions of the Framework Agreement made with the Client.

Z9.0	Termination
Z9.1	Delete the text of Clause 92.3 and replace with:
	If the <i>Contractor</i> terminates for Reason 1 or 6, the amount due on termination also includes 5% of any excess of a forecast of the amount due at Completion had there been no termination over the amount due on termination assessed as for normal payments.
Z10.0	Data Protection
Z10.1	The requirements of the Data Protection Schedule shall be incorporated into this contract
Z11.0	Liabilities and Insurance
Z11.1	Civil data protection claims and regulatory fines for breaches of Data Protection Legislation are excluded from any limit of liability stated.
<del>Z12.0</del>	Packaging
<del>Z12.1</del>	For contracts containing packages of projects the <i>Client's</i> Contract Data, Scope and Site Information particular to an individual project is contained within its Site Specific Pack
Z110	Inflation
	At the Contract Date the total of the Prices does not include a sum to cover inflation.
	The total of the Prices [at the Contract Date] shall be adjusted by a fixed number of Price Adjustments.
	The number of Price Adjustments shall be equal to:
	The number of months between the Completion Date included at the <i>starting date</i> and the Contract Date.
	The proportion of Price Adjustment shall be equal to:
	The total of the Prices at the Contract Date / The number of Price Adjustments
	Each time the amount due is assessed, the Price Adjustment shall be:
	The proportion of Price Adjustment x [80% x Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate]
	The Construction Output Price Indices (OPIs) New work output prices: Infrastructure Index 1 – month rate shall be the value determined by the Office of National Statistics for the applicable month of the amount due assessment
	Provided always that the fixed number of Price Adjustments has NOT been exceeded.
	The Price Adjustment adjusts the total of the Prices.
	If a compensation event under this contract omits original Scope covered by the total of the Prices at the Contract Date the Price Adjustments made under this clause shall be corrected accordingly.

## **Contract Data** The Contractor's Contract Data The Contractor is Breheny Civil Engineering Ltd Name Address for communications Address for electronic communications The fee percentage is The people rates are As per Pricing Workbook category of person unit rate

The published list of Equipment is	
Production of the Production o	
The percentage for adjustment for Equipment is	
, , , , , , , , , , , , , , , , , , , ,	
	4

## **Contract Data**

# The Contractor's Offer and Client's Acceptance

The Contractor offers to Provide the determined in accordance with these	e Works in accordance with these <i>conditions of contract</i> for an amount to be
determined in accordance with the	se conditions of contract.
The offered total of the Prices is	
	Enter the total of the Prices from the Price List.
Signed on behalf of the Contractor	
Name	
Position	Commercial Manager
	- Commercial Manager
Signature	
Date	
The Client accepts the Contractor's	offer to Provide the Works
·	
Signed on behalf of the Client	
orginal or the onem	
N.	
Name	
Position	Recovery Manager
Signature	
Date	

### **Price List**

Entries in the first four columns in this Price List are made either by the *Client* or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price Column only: the Unit, Quantity and rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

Item Number	Description	Unit	Quantity	Rate	Price	
1	Advanced Works	Item	1			
2	Preliminaries	Item	1			
3	Site Supervision, Liaison and Project Management	Item	1			
4	Temporary Works	Item	1			
5	Permanent Works	Item	1			
6	Waste Disposal	Item	1			
7	Hand Over Documents	Item	1			
	т	he total of	the Prices			

The method and rules used to compile the Price List are

Civil Engineering Standard Method of Measurement 4<sup>th</sup> edition (CESMM4) as per the Framework Price Workbook.

## Scope

The Scope should be a complete and precise statement of the *Client's* requirements. If it is incomplete or imprecise there is a risk that the *Contractor* will interpret it differently from the *Client's* intention.

#### 1. Description of the works

Give a detailed description of what the *Contractor* is required to do and of any work the *Contractor* is to design.

The *Client* maintains a number of flood embankment assets that were impacted by Storms Babet & Henk. This Scope refers to remedial *works* to be undertaken at the River Erewash relief channel at Toton Stables.

The works shall be undertaken considering all required environmental, programme and cost considerations whilst also complying with all relevant *Client* good practice and guidance. Where compliance is not possible, reasonable justification must be provided and a written agreement shall be made with the *Client*.

The River Erewash relief channel is located at National Grid reference SK5031734136 to SK5071433758, AIMS ID(s): 36904 and 39353, The site features a manmade brook designed to mitigate flood risks by directing flood water from the Erewash to the Trent. The brook itself is 547m from end to end and approximately 6.5m in width (however this will vary). The site features a riding school and stables to the north and ongoing sewerage works to the south.

The Scope of *works* comprises the Red and Amber solutions as per the Project Identification Form contained in Appendix A.

A bespoke Flood Risk Activity Permit (FRAP) is required due to nature of repairs and proximity to Local Nature Reserve; the *Contractor* is responsible for obtaining the FRAP.

#### **General Requirements**

The *Contractor* will undertake a pre-condition survey prior to the start of *works* (to include as a minimum accesses, adjacent land, storage and compound). These areas must be reinstated prior to the *Contractor* leaving site.

The Contractor must make good any damage caused during the works.

The *Contractor* shall safeguard the site, the *works*, products, materials, and any existing structures affected by the *works* from damage and theft.

All regular testing and material certifications used on site shall be recorded and shared with the *Client* during the *works*.

The Contractor shall be familiar with all information shared by the Client in the project folder on SharePoint.

#### Construction works:

The *Contractor* will provide the following after the *Client* has accepted the Construction Phase Plan (CPP) and agreed the start date:

- Construction work required to deliver the Scope of works for each location
- Ongoing liaison with the Principal Designer (PD), if PD is required
- Contractor to take photos on the first and the last day of each working week to show the progress of the works. Photos to be saved in project folder on SharePoint weekly and shared with the Client
- · Contractor to engage with the Stakeholders
- Carbon reporting to be carried out in line with the guidelines provided on the Environment Agency Asset Operation, Maintenance and Response (AOMR) Framework requirements
- A final site visit to be arranged by the Contractor with the Client and the Senior User after the completion of works
- Provides information for Health & Safety File about the completed *works* including any electronic copies of the as-built drawings, in both pdf and dwg formats;
- Copies of all certificates of materials testing carried out as part of the works

The *Contractor* shall assume that ground conditions require no supplementary ground improvements and the ground conditions allow excavation utilising a machine bucket with no hard obstructions.

Of the ten soil samples tested four were Inert and six were Non-Hazardous with regard to Waste Acceptance Criteria (WAC) Testing. Asbestos as Chrysotile Fibre Bundles and Asbestos Containing Material (ACM) Debris quantified to 0.015% w/w was recorded as being present in in one sample, which was classified as Non-Hazardous Waste.

**Access to working areas**; is shown in the Project Identification Form contained in Appendix A. The *works* may involve access to private land, initial introductions and any ongoing matters concerning powers to undertake the *works* will be undertaken by the *Client*. The details for known contacts will be provided by the *Client* and the *Contractor* will work collaboratively with the *Client* to engage with the stakeholders. It is therefore envisaged that input from the *Contractor's* Public Liaison Officer will be required.

Based on the location of the *works*, welfare facility shall be proportionate and shall have minimum impact of *works* on the local residents.

#### **Utility Services**

The *Contractor* is to identify and mark up all overhead and underground cables following the requirements of the *Client*'s Safety, Health, Environment and Wellbeing (SHEW) Code of Practice (CoP). Where services are identified, suitable control measures are required prior to work commencing.

The Contractor shall assume no impact on the works from services or utilities.

#### **Methodology Statement**

Prior to the start of construction work, the *Contractor* must produce a Construction Phase Plan that, amongst other things, contains:

- A schedule of activities for which risk assessments and method statements must be prepared;
- The *Contractor* arrangements for the preparation and approval of risk assessments and method statements:
- The schedule of risk assessments and method statements must meet the requirements of the Construction Design and Management Regulations;
- The Contractor will be free to add to the schedule as the work progresses.
- The Contractor will ensure the risk assessments and method statements for each operation includes;
  - Risk assessments of the works;
  - · People and resources proposed;
  - Timing and sequencing of construction, materials, plant and equipment:
  - Details of temporary works;
  - · Indication of activities that represent a higher level of safety, health and environmental risk;
  - Safety, health and environmental controls proposed; and
  - Any permit to work proposals, if required.

The *Contractor* submits the required risk assessments and method statements to the *Client* two weeks before starting the tasks to which they refer. The *Contractor* must ensure that risk assessments and method statements are approved by the authorised individual within their own organisation before submission.

Method statements shall include full particulars of the methods, timing and sequence of construction.

The *Contractor* must obtain any CPP approvals required by a PD where appointed or by the *Client*. The *Contractor* does the work in accordance with the method statement.

*Contractor* shall be familiar with ecological constraints identified in the draft Pre-Construction Information (PCI) document before the works starts. Any new and additional ecological constraints will be treated as change.

#### Construction (Design and Management) Regulations 2015 (CDM) Requirements

The *Contractor* shall assume the role of Principal *Contractor* (PC) upon award of the Contract and receipt of the PC appointment letter from the *Client*.

The Contractor is required to liaise with the Client's CDM Principal Designer (where applicable).

If required a copy of the HSE Notification (F10) shall be provided to the *Contractor* by the Principal Designer prior to commencement of the works and be put up in a visible location on site

The *Contractor* shall be cognisant of the CDM Pre-construction Information, the AOMR Framework Requirements and the current SHEW CoP. The *Contractor* shall ensure that all parties under sub-contract are cognisant of the requirements of these documents.

The *Contractor* shall prepare the Construction Phase Plan before work commences on site. The *Contractor* shall issue the Construction Phase Plan to the *Client* for acceptance. The Construction Phase Plan must be accepted by the *Client* before work can commence on site.

#### Completion

Prior to Completion, the *Contractor* provides the following information in electronic format to the *Client* or Principal Designer (if appointed) for inclusion in the Health & Safety File:

- a. Description of the works including quantities of materials and photographs
- b. Control of Substances Hazardous to Health Regulations 2002 (COSHH) lists substances hazardous to health & specific precautions that must be taken as a result of their presence;
- c. Information on any unforeseen hazards encountered during construction;
- d. Residual hazards & risk assessment; and
- e. *Contractor* to undertake a photographic condition survey on completion of the works and provide a copy to the *Client*.

The above list is not exhaustive and reference is required to *Client*'s Health & Safety File requirements. The *Contractor* shall make allowance in their programme for liaison with the Principal Designer and the *Client* in providing the relevant information for the Health & Safety File prior to Completion.

The works required to be done by the Completion Date is:

The whole of the works.

On Completion, the *Contractor* returns the roads, footpaths, car parks and any other areas affected by the *works* to a condition not inferior to that pertaining at the commencement of the works. All debris, unused materials, equipment and temporary *works* are to be dismantled and cleared from the site.

2. Drawings			
Z. Drawings			
List the drawings that	apply to the	contract.	
		ed as part of the Tender pack	
Drawing Number	Revision	Title	
_			
3. Specifications			
List the specifications which apply to the contract.			

Title	Date or Revision	Tick if publicly available
Environment Agency Blockage Management Guide (Gov.uk)	12/2019	yes
Latest Ciria Guidance: Culvert, screen and outfall manual - New CIRIA guidance	12/2019	yes

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

State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the *Client*.

#### Protection against Damage

- 1. No parking of construction vehicles are permitted on the grass verges unless prior communications with landowners and permission is granted at all sites.
- 2. The Contractor shall take care of removing and replacing gates, fences, hedges, or implementing temporary solutions like tracks or crossings as needed, and is also responsible for restoring access routes to their original condition upon arrival at the site. 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.
- 3. The Contractor shall always leave all accesses clear to properties whilst undertaking the works.

#### Permits

- 1. The *Contractor* shall have obtained all licenses before work commences so that all waste can be removed from site immediately.
- 2. Bespoke FRAP required due to nature of repairs and proximity to Local Nature Reserve.
- 3. Seven (7) working days' notice of commencement of works shall be given to the Client.
- 4. Two (2) working days' notice must be given to the *Client* in advance of completion of the works.
- 5. The *Contractor* must ensure that any vegetation works to be undertaken outside of bird nesting season (1st March to 31st August inclusive) that a bird nesting check must be undertaken by a professional ecologist or suitably qualified person, at maximum 48hrs in advance of the vegetation works.
- 5. The *Contractor* is to prepare, for the *Client's* acceptance, the Construction Phase Plan (CPP) and the Environmental Action Plan (EAP) prior to starting the *works*.
- 7. The *Contractor* shall have obtained all highway and footpath consents required prior to starting construction.
- 8. The *Contractor* shall not park any construction vehicles on the grass verges unless prior communications with landowner and permission is granted.

#### Environmental/Fisheries/Geomorphology

- 1. The Contractor shall not store fuel or chemicals or refuel plant/equipment within 10m of the watercourse,
- 2. The *Contractor* must undertake a precautionary check for reptiles if the works are undertaken between March 1<sup>st</sup> and 31<sup>st</sup> August inclusive if any scrub need to be removed.
- 3. The *Contractor* shall always retain the existing dimensions of the low flow channel to prevent silt build up from returning at a high rate.
- 4. Watercourse is an overflow channel and is usually dry for long periods however is subject to inundation following periods of rainfall. Watercourse is designated as Salmonid therefore works may require additional mitigations if taking place between 1<sup>st</sup> October and 14<sup>th</sup> March inclusive. Liaison with Fisheries required.

#### Choice of Plant/Equipment

- 1. The Contractor shall choose the most appropriate plant to complete the works.
- 2. The Contractor ensures that all plant is maintained.
- 3. All Equipment with hydraulic systems shall use biodegradable hydraulic oil.
- . All plant traversing under overhead cables shall be fitted with a height limiting device.

#### Other

- 1. The *Contractor* shall not commence any work on the *site* until the *Client*, or their representative, has accepted the method statements and risk assessments related to this contract.
- 2. The *Contractor* shall prepare, for the *Client's* acceptance, the Construction Phase Plan (CPP) and the Environmental Action Plan (EAP) prior to starting the works.
- 3. The Contractor issues method statements to the Client for information in advance of carrying out items of work.
- 4. The *Contractor* shall not commence any work on the *site* until the *Client*, or their representative, has accepted the method statements and risk assessments related to this contract.
- 5. 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.
- 6. The *Contractor* shall provide and display suitable signs appropriate to the works. Signs are to be located in line with Health and Safety requirements.
- 7. The *Contractor* must recognise that the site remain hazard-free and unobstructed for public safety and convenience.
- 8. No mud or other debris to be deposited on any footpaths/roads, any such material to be removed immediately.
- 9. Access to each site working area is also the same access used by the landowner or the tenant where priority will be given.
- 10. The site is located on an active Stables with over 50 horses, posing a potential threat to workers.
- 11. Hay bails stacked up in the Stables directly above the work area, vibration and machine movement may cause them to fall posing a major risk.
- 12. Approval may be required from the Stables.
- 13. Overhead cables are present in the work area around the stables where remediation works on the existing concrete are to be carried out.
- 14. Weather dependent working in/near water may pose a risk
- 15. Traffic movement over the bridge situated above the work area
- 16. Access for a concrete wagon is limited, may have to be situated either on or just besides the bridge.
- 17. Ladders may be required to provide adequate access and egress to the work area

#### Working times

The Contractor will be permitted to work between 7.30am and 6.00pm on weekdays (Monday to Friday)

#### 5. Requirements for the programme

State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

State what the use of the works is intended to be at their Completion as defined in clause 11.2(1).

The *Contractor* submits his programme with the *Contractor*'s Offer for acceptance. The *Contractor* shows on each programme which they submit 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:

- (a) Period required for mobilisation/ planning & post contract award
- (b) starting date
- (c) Each of the activities listed within the Price List
- (d) 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.
- (e) Completion date

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

	nat the <i>Client</i> will provide, su aterials and equipment.	ch as services (including water and el	ectricity) and "free issue'
Item			Date by which it will be provided
Pre-Constru	ction Information document		Upon award of Contract
An intrusive	ground investigation has been	undertaken	As part of Tender package
Statutory No	tices of Entry for access to priv	rate land.	7 days prior to possession dates.
	tilities on site particularly the p	Contractor's responsibility to check and rivate utility not showing during utility	
Provide supp	oort to all communications with	Landowners and tenants.	Where required
Access to Ci	lient's SharePoint site		Upon award of Contract
package.			
Prop	osed sub-co	ontractors	
	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:	







