



Framework: Collaborative Delivery Framework
Supplier: Kier Integrated Services Ltd
Company Number: 00873179

Geographical Area:
Contract Name: SW HUB Lot 2 DTA Programme ESE
Project Number: EVNFCPNZ00228B00R

Contract Type: Engineering Construction Contract
Option: Option E

Contract Number: C24113

Stage: Other

| Revision | Status | | Originator | | Reviewer | | Date |
|----------|--------|--|------------|--|----------|--|------|
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ENGINEERING AND CONSTRUCTION CONTRACT under the Collaborative Delivery Framework
CONTRACT DATA

Project Name SW HUB Lot 2 DTA Programme ESE

Project Number EVNFCPNZ00228B00R

This contract is made on 17 June 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
LIT 13260 - CDT NEC4 ECC Scope_DTA_250334

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 E | 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*
- X15: *Contractor's* design
- X18 Limitation of Liability
- X20: Key Performance Indicators
- Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996
- Y(UK)3: The Contracts (Rights of Third Parties) Act 1999
- Z: *Additional conditions of contract*

The *works* are

South West HUB DTA Programme Support

The *Client* is Environment Agency

Address for communications
Horizon House
Deanery Road
Bristol
BS1 5AH

Address for electronic communications

The *Project Manager* is

Address for communications
Environment Agency
Aqua House
20 Lionel Street
Birmingham
B3 1AQ

Address for electronic communications [REDACTED]

The *Supervisor* is *TBC*

Address for communications

Address for electronic communications

The Scope is in
LIT 13260 - CDT NEC4 ECC Scope_DTA_250334

The Site Information is in
N/a

The *boundaries of the site* are
N/a

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' 'none set'

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

3 Time

The *starting date* is 17 June 2024

The *access dates* are
part of the Site date

The *Contractor* submits revised programmes at
intervals no longer than 4 weeks

The *Completion Date* for the whole of the *works* is 27 March 2027

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 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 | Public Health and Safety Issue | is 24 Hours |
| • The defect correction period for | | is |

5 Payment

| | | |
|---|-------------|---------------------------------------|
| The <i>currency of the contract</i> is the £ sterling | | |
| The <i>assessment interval</i> is | | Monthly |
| The <i>Client</i> set total of the Prices is | | £513,373.39 |
| The <i>interest rate</i> is | 2.00% | per annum (not less than 2) above the |
| Base | rate of the | Bank of England |

6 Compensation events

| | |
|---|-----------|
| The place where weather is to be recorded is | N/a |
| 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 | N/a |
| | hours GMT |

and these measurements:

- 1.
- 2.
- 3.
- 4.
- 5.

| | |
|---|-----|
| The weather measurements are supplied by | N/a |
| The weather data are the records of past weather measurement for each calendar month which were recorded at | |
| and which are available from | |

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

1. The working area is unsafe due to flooding
2. Water levels exceed 1:10 AEP at the nearest levels
3. 'not used'
4. 'not used'
5. 'not used'

8 Liabilities and insurance

These are additional Client's liabilities

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

3 'not used'

The minimum amount of cover for insurance against loss of or damage to property (except the *works*, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor* Providing the Works for any one event is

£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

N/a

Resolving and avoiding disputes

The *tribunal* is litigation in the courts

The *Senior Representatives* of the *Client* are

Amber Payler

Address for communications

Environment Agency

Horizon House
Deanery Road
Bristol
BS1 5AH

Address for electronic communications

amber.payler@environment-agency.gov.uk

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

Z Clauses

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."

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.

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 and
- 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 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 Sub-contractors that have not complied with procurement by best value processes as defined in the Scope.

Secondary Options

OPTION X2: Changes in the law

The *law of the project* is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

OPTION X7: Delay damages

X7 only

Delay damages for Completion of the whole of the *works* are
0.01 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
£5,000,000

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 X15: The *Contractor's* design

The *period for retention* following Completion of the whole of the *works* or earlier termination is
12 years

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 professionals designing works similar to the *works* is, in respect of each claim
£5,000,000.00

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
12 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

£1,000,000
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 than excluded matters, is limited to

£5,000,000
The *end of liability date* is 6 years after the
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(UK2): The Housing Grants, Construction and Regeneration Act 1996

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

Y(UK3): The Contracts (Rights of Third Parties Act) 1999

term beneficiary
no terms under this contract no beneficiaries under this contract

Part Two - Data provided by the Contractor

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

1 General

The Contractor is

Name Kier Integrated Services Ltd

Address for communications 2nd Floor
Optimum House
Clippers Quay
Salford
M50 3XP

Address for electronic communications [Redacted]

The fee percentage is Option E 10.60%

The working areas are The Sites, Kier Offices and private dwellings of Kier staff

The key persons are

Name (1) [Redacted]
Job Senior Project Manager
Responsibilities Project Delivery
Qualifications BEng IEng MICE
Experience 18+ years

The key persons are

Name (2) [Redacted]
Job Agent
Responsibilities Project Delivery
Qualifications BEng (Hons) CEng MICE
Experience 10 + Years

The key persons are

Name (3) [Redacted]
Job Environmental Advisor
Responsibilities Project Delivery
Qualifications Masters in Sustainability Studies
Experience 5 + years

The key persons are

Name (4)
Job
Responsibilities
Qualifications
Experience

The following matters will be included in the Early Warning Register

2 The Contractor's main responsibilities

The Scope provided by the *Contractor* for its design is in

3 Time

The programme identified in the Contract Data is

Resolving and avoiding disputes

The *Senior Representatives* of the *Contractor* are

Name (1) [REDACTED]
Address for communications
Hawthorn House
Emperor Way
Exeter Business Park
Exeter
EX1 3QS

Address for electronic communications
[REDACTED]

Name (2) [REDACTED]
Address for communications
Hawthorn House
Emperor Way
Exeter Business Park
Exeter
EX1 3QS

Address for electronic communications
[REDACTED]

X10: Information Modelling

The *information execution plan* identified in the Contract Data is

Contract Execution

Client execution

Signed Underhand by Amber Payler

for and on behalf of the Environment Agency



15/08/2024

Date

Project Executive, Innovation and Delivery Group

Role

Contractor execution

Signed Underhand by [PRINT NAME]

for and on behalf of

Kier Integrated Services Ltd



15/08/2024

Signature

Date

Managing Director

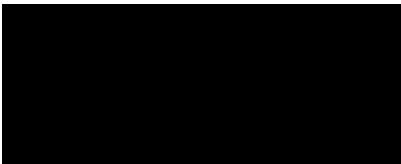
Role

Contractor execution

Signed Underhand by [PRINT NAME]

for and on behalf of

Kier Integrated Services Ltd



15/08/2024

Signature

Date

Commercial Director

Role