
NEC4 ENGINEERING AND CONSTRUCTION

June 2017

This Agreement by Deed is made on

Between the Client:



Herein represented by the duly authorized signatory:	AN Other County Hall Colliton Park Dorchester DT1 1XJ	Signed
		Date

And the Contractor:

Herein represented by the duly authorized signatory:		Signed
		Date

For the Contract:

West Bay and Lyme Regis Harbour Dredging



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The following appended documents form part of this Agreement:

Appendix 1 -	The priced bill of quantities which comprises all the prices
Appendix 2 -	The Drawings listed in the Scope
Appendix 3 -	The Specifications listed in the Scope
Appendix 4 -	The Reports listed in the Scope
Appendix 5 -	Completed Part 2 of the Contract Data: Data provided by the Contractor
Appendix 6 -	The Client's letter of invitation to tender
Appendix 7 -	The Contractor's tender submission or offer
Appendix 8 -	The Client's letter of acceptance

2. Document Status

Project Name	West Bay and Lyme Regis Harbour Dredging		
Project Phase	Tender		
Date	October 2022		
Document No.			
Drafted by	Ian Fitz	Date: 20 October 2022	Signed:
Checked by		Date:	Signed
Approved by		Date:	Signed



3. Work Package

West Bay and Lyme Regis Harbour Dredging in accordance with the Project Brief attached in Appendix 4



4. Contract Data

The Conditions of Contract are the core clauses and the clauses for the main Option B, the dispute resolution Option W2 and secondary Options X7, X9, X11, X13, X15, X16, Y(UK)2, Y(UK)3 and Z of the NEC4 Engineering and Construction Contract of June 2017 (with amendments October 2020).

The Works are described in Clause 3 above.

The Scope is provided in Clause 9 below

The Site Information is provided in Clause 10 below

The Client is:

The Project Manager is:

The Supervisor is:

The Adjudicator is:

The boundaries of the site are provided in the Site Information in Clause 10 below

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:

The Adjudicator nominating body is the Institute of Civil Engineers

The Tribunal is litigation

The following matters will be included in the Risk Register

The starting date is:

The access dates are:



The Contractor submits revised programmes at intervals no longer than weeks

The defects date is:

The defects correction period is:

The currency of the contract is the British Pound Sterling

The assessment interval is:

The interest rate is:

The Place where weather is to be recorded is:

The weather measurements to be recorded are:

The minimum limit of indemnity for insurance in respect of loss of or damage to property (except the Works, Plant and Material and Equipment) and liability for bodily injury to or death of a person (not the employee of the Contractor) caused by activity in connection with this contract for any one event is:

The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with this contract for any one event is:

The completion date is:

The Contractor is to submit a first programme for acceptance within weeks of the starting date.

The Clients Key Dates are:

The period for payment is:

The Client will not provide any Plant or Materials

The Client will not provide any of the Insurances in the Insurance Table.

The amount for Delay Damages is:

The Retention free amount is:



The Retention percentage is:

0%



5. Additional Contract Z Clauses

Additional Clause Z1 – Equal opportunities and human rights and anti-slavery

1. The Contractor is required to have in place an equal opportunities policy. This policy must specify that the Contractor will not treat staff less favourably on the grounds of their colour, race, ethnic or national origin, nationality (including citizenship), marital status, sex, sexual orientation, religion, or belief, or because they have a disability. The policy must also specify that the Contractor will not tolerate behaviour, which is inconsistent with the policy, and detail the measures it will take if this occurs.
2. The Contractor shall take all reasonable steps to secure that all its staff do not unlawfully discriminate and that they comply with the Contractor's obligations under this clause.
3. In the performance of the Service and in its dealings with service users, Authority employees and members of the public, the Contractor shall comply with, and shall ensure that its Representatives comply with:
 - a. 2.3.1 the Human Rights Act 1998 as if the Contractor were a public body (as defined in the Human Rights Act 1998)
 - b. 2.3.2 all Laws relating to equal opportunities, including but without limitation, relating to disability discrimination, sex discrimination and race relations; and the Authority's equal opportunities policies and procedures as may be adopted and amended from time to time and as notified to the Contractor.
4. In performing its obligations under the agreement, the Contractor shall:
 - a. Comply with all applicable anti-slavery and human trafficking laws, statutes, regulations, and codes from time to time in force (Anti-Slavery Laws) including but not limited to the Modern Slavery Act (2015)
 - b. Include in contracts with its subcontractors, anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 4
 - c. Notify the Client as soon as it becomes aware of any actual or suspected breach of anti-slavery laws by the Contractor or its subcontractors
 - d. Represent and warrant that it has not been convicted of any offence involving anti-slavery and human trafficking or been the subject of any investigation, inquiry, or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.
 - e. Accept that any breach of this Clause 4 shall be deemed a substantial failure to comply with its obligations

Additional Clause Z2 - Corrupt gifts and payments commission, Bribery Act 2010

The Client shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation, if the Contractor shall have offered, or given, or agreed to give to any person, any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or for having done, or forborne to do any action in relation to the obtaining or execution of the Contract, or any other Contract with the Client; or, for showing, or forbearing to show favour, or disfavour, to any person in relation to the Contract, or any other Contract with the Client; or if the acts shall have been done by any person employed by him/her, or acting on his/her behalf (whether with or without the knowledge of the Contractor), or, if in relation to any contract with the Client, the contractor or any person employed by him/her, or acting on his/her behalf, shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, the Bribery Act 2010 or, shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

Additional Clause Z3 - Recovery of sums due from contractor

Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor such sum may be deducted from or reduced by the amount of any sum or sums then due or which at any time thereafter may become due to the Contractor under the Contract or any other contract with the Client.

Additional Clause Z4 –Freedom of Information and Confidential Information



1. The Contractor shall not give any Information regarding the Contract to any member of the Press, Media, or general public without the prior consent of the Client expressed in writing.

2. Definitions

Commercially Sensitive Information: the information notified to the Client before or within 7 days of the start date comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights, or its business or which the Contractor has indicated to the Client that, if disclosed by the Client, would cause the Contractor significant commercial disadvantage or material financial loss.

Confidential Information: means all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party and that party's Representatives in connection with this agreement, including but not limited to:

- a) any information that would be regarded as confidential by a reasonable businessperson relating to: (i) the business, affairs, customers, suppliers or plans of the disclosing party; and (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party.
- b) any information developed by the parties while carrying out the Contract.
- c) Personal Data.
- d) any Commercially Sensitive Information.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; [and the guidance and codes of practice issued by the Information Commissioner, and which are applicable to a party].

Environmental Information Regulations: The Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

FOIA: the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Information: means information recorded in any form including unrecorded information.

Personal Data: as defined in the Data Protection Legislation.

Representatives: means, in relation to a party, its employees, officers, contractors, subcontractors, representatives and advisors.

Request for Information: a request for information or an apparent request under the FOIA or the Environmental Information Regulations.

Services: the services to be delivered by or on behalf of the Contractor under the Contract.

UK GDPR: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons regarding the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.



3. The Contractor acknowledges that the Client is subject to the requirements of the FOIA and the Environmental Information Regulations. The Contractor shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the Client to enable the Client to comply with its obligations under the FOIA and EIRs.
 - (b) transfer to the Client all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt.
 - (c) provide the Client with a copy of all Information belonging to the Client requested in the Request for Information which is in its possession or control in the form that the Client requires within 5 Working Days (or such other period as the Client may reasonably specify) of the Client's request for such Information; and
 - (d) not respond directly to a Request for Information unless authorised in writing to do so by the Client.
4. The Contractor acknowledges that the Client may be required under the FOIA and Environmental Information Regulations to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Contractor. The Client shall take reasonable steps to notify the Contractor of a Request for Information (in accordance with the Cabinet Office's Freedom of Information Code of Practice issued under section 45 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Client shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

Additional Clause Z5 – Ambiguities and Inconsistencies

If there is any ambiguity or inconsistency in or between the information provided and the documents identified in the Contract Data, the priority of the documents is in accordance with the following sequence:

- the Z clauses.
- the other *conditions of contract*.
- the Scope; and
- any other information provided, or document identified in the Contract Data.

Additional Clause Z6 – Contractor's Design

Add to clause 22 this additional clause 22.2 The *Client's* licence to use the Contractor's design carries the right to grant sub-licences and is transferable to third parties without the consent of the *Contractor* and survives termination (for any reason) of the *Contractor's* employment under this contract.

Add to clause 22 this additional clause 22.3 The *Client* may use the Contractor's design in connection with an extension of the *works* but may not reproduce the designs contained in the material in an extension.

Additional Clause Z7 – Works Performance

1. 7.1 The Contractor Provides the Works:
 - in a proper and workmanlike manner, and
 - in compliance with



- all statutes, statutory instruments, regulations, rules, and orders made under any statute or directive having the force of law which affect the *works* or performance of any obligations under this contract, and
 - any regulation, byelaw, permission or approval of any local authority or statutory undertaker having jurisdiction in relation to the *works* or with whose systems the *works* are, or are to be, connected.
2. The project that comprises or includes the works will use more than one contractor for the purposes of the Construction (Design and Management) Regulations 2015 (the "CDM Regulations"). The function of Principal Contractor under the CDM Regulations in respect of the works will be performed by the Earthmoving Contractor who will perform all the functions and obligations required to be performed by the Principal Contractor under the CDM Regulations and the Contractor will cooperate with the Principal Contractor in all matters pertaining thereto.

6. The Contractor's offer

Contractor's name:

Address:

Telephone:

Fax:

E-mail address:

The Contractor offers to provide the works in accordance with the conditions of contract for an amount to be determined in accordance with the 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:

Signature:



Date:

7. The Client's Acceptance

The Client accepts the Contractor's offer to provide the Works

Signed on behalf of the Client

Name:

Position:

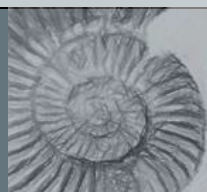
Signature:

Date:

8. Price List

The Price List is attached as Appendix 1.

The Price List should be priced to include all activities to cover the Scope of the works and to undertake the task. No variation to task prices contained in the Bill of Quantities will be accepted except where Compensation Events are approved as provided for in the Contract.



9. Scope

1. Description of the works:

As Described in the Method Statement for West Bay and Lyme Regis Dredging

2. Drawings (Appendix 2)

Drawing Number	Title

3. Specifications (Appendix 3)

The following specifications are applicable to the works:

Product	Specification

5. Reports (Appendix 4)

The following report are applicable to Works:

Report	Details

6. Constraints on how the Contractor Provides the Work

The site is open to the public. Appropriate precautions must be taken to ensure all necessary signage and barriers are in place to provide separation between the site and any surrounding areas that may be accessible to the public or workers not engaged in the siteworks.

Working times

Works will take place between 0700-1900, Monday to Friday inclusive, unless agreed otherwise prior in writing with the Clients Representative.

Environmental considerations

Taken into consideration in the Scope of Works

Protection of Work from the Weather

The site is exposed to coastal conditions and elements of the repair work will be subject to wave impact during inclement weather, the Contractor shall take such precautions as possible to protect any existing structure exposed because of the



Contract Works from possible damage due to inclement weather and this protection shall include partly completed or completed work and materials. In the event of any damage the Contractor shall be responsible for the cost of any remedial works necessary to repair such damage.

The Contractor shall be responsible for the safety of all plant and materials left on site. The Contractor shall provide in his prices for removing all plant and materials to his storage area at the completion of a day's work and for leaving no partially completed work.

Temporary Works

The Contractor must include in his rates for all temporary works, including a depot for the storage of materials, plant etc., necessary for the carrying out of the permanent works in a satisfactory and expeditious manner. The Contractor will also be responsible for the protection and security of all adjoining structures, fences, sewers, streams, roads, paths, services and property access.

The Contractor shall, if required by the Client, prepare and submit detail drawings of any temporary works he may wish to use showing the location, purpose, description, etc., of these temporary works. Notwithstanding the foregoing, the Contractor shall be fully responsible for the design and construction of all and any temporary works. All temporary works are to be removed by the Contractor on completion of the works.

Advertisements

All advertisements by the Contractor or Sub-Contractors within, or in the vicinity of the works shall be approved by the Client. Should any such advertisement be erected by the Contractor or Sub-Contractor without such prior approval then the Client may instruct the Contractor to remove the advertisement in writing. If the removal is not carried out within 24 hours of the instruction to do so, then the Client may remove the advertisement and charge the cost to the Contractor.

Removal, Storage or Disposal of Surplus Material

The Contractor shall be responsible for removing and disposing of unsuitable surplus materials at an authorised private tip, or as otherwise directed by the Client/ Clients Representative. Any tipping charges that the Contractor may be required to pay will be deemed to be included in his rates.

The Contractor is reminded of the Land Fill Tax and such additional costs incurred shall be included in his rates.

During such removal and disposal, the Contractor shall use every precaution to avoid causing a nuisance or annoyance to the public and should adopt any suggestion made by the Client with this objective in mind.

To maintain clean and tidy site conditions, all rubbish or other materials not required for use in the works shall be removed by the Contractor from the site of the works immediately upon completion of any portion of the works.



Inconvenience to the Public

Without prejudice to the Contractor's obligation under the Contract, the Contractor shall not under any circumstances deposit any earth, rubbish, material or waste of any description on footways or streets which in the opinion of the Project Manager shall unnecessarily hinder, obstruct or annoy any person using or wishing to use such public right of way.

The contractor is to liaise with the Client for updates on the works whilst onsite as required.



10. Site Information

The Site Information is available on the following plans:

Drawing Number	Title
	Site Location Plan
	Survey Observations, Deck Slabs and Beams
	Survey Observations, Columns and Vertical Bracing

Contractor General Responsibility

The Contractor shall be held responsible for the whole of the Works described in the Contract. This responsibility shall include accuracy, standard of workmanship and safety of all works.

Contractor Compound

A small compound could be established on-site, this would need to be agreed with the Client prior to works commencing.

CDM Regulations

The Contractor will co-operate with the Principal Contractor to ensure that all health and Safety requirements are observed.

Safety

The Contractor shall conform with all current legislation applicable to the works site safety. At all times the Contractor shall take adequate precautions to secure his operations and obviate all danger to members of the general public. The Contractor shall provide warning signage, cones, fences, notices and look-out men in the vicinity of plant etc. as necessary.

Water Supply

No water supply is available close to the site.

Availability of services

It is recommended the Contractor makes his own arrangement, however, a welfare unit will be provided by the Client for all employees on site.

Tidal Working

The structure(s) is/are located within the tidal zone. The timing of works will need to be carefully coordinated with tides.

Existing Overhead and Underground Services

The Contractors should satisfy themselves that the area is clear of such services.

