**CONTRACT REF [ ]**

## 

**SELLAFIELD LTD**

**AND**

**[INSERT NAME OF CONTRACTOR]**

**Legacy Ponds Operating Unit Diving and Support Services**

**AT**

**THE SELLAFIELD SITE**

**SEASCALE, CUMBRIA**

**DRAFT**

**[NOTE: THIS DRAFT IS BEING SHARED FOR DISCUSSION PURPOSES TO OBTAIN SPECIFIC FEEDBACK FROM THE MARKET. THE ENTIRETY OF THIS DRAFT CONTRACT (INCLUDING THE COMMERCIAL MODEL) IS UNDER DEVELOPMENT AND IS SUBJECT TO CHANGE]**

**FORM OF AGREEMENT**

This contract is made on this day of 202

Between

(1) **SELLAFIELD LTD** (company number 1002607), registered office at Hinton House, Birchwood Park Avenue, Risley, Warrington, Cheshire, WA3 6GR, (the "*Client*"); and

(2) **[INSERT]** (company number [INSERT]), registered office at [INSERT] (the "*Contractor*").

Introduction

1. The *Contractor* has agreed to provide the *service* for the *Client* in accordance with this contract for the Legacy Ponds Operating Unit Diving and Support Services.
2. The Parties acknowledge that the *service* can be divided into four core work streams as set out in the Scope and that, once the *Client* has obtained the required governance approvals, the *Client* will instruct the *Contractor* to Provide the Service in respect of such work streams through a series of Task Orders at the appropriate point in the *Client’s* governance process in accordance with clause 19 of the contract.
3. Each Task is able to be instructed by the *Service Manager* on the basis of either Main Option A, Main Option C or Main Option E as appropriate for the relevant Task. The Task Order for each Task will confirm which Main Option is applicable to that Task.

It is agreed as follows:

1. **Incorporation of documents**

1.1 This contract comprises the following documents only:

(a) This Form of Agreement.

(b) The schedule of amendments including Option Z additional conditions of contract set out in Annex 1 to this Form of Agreement.

(c) NEC4 term service contract June 2017 edition (with amendments January 2019, October 2020, and January 2023) as amended and supplemented by the schedule of amendments in Annex 1, and the following Secondary Option clauses:

X2, X11, X15, X18, X20, X23; and

Y(UK)2;

(d) each Task Order, including the documents referred to therein and the Main Option and additional secondary Options selected therein, all as amended and supplemented by the schedule of amendments in Annex 1.

(e) Contract Data Part 1 set out in Annex 2, including the documents referred to therein.

(f) Contract Data Part 2 set out in Annex 3, including the documents referred to therein.

1.2 For the purpose of identification, the above documents are bound in with this Form of Agreement and have been signed by and on behalf of the *Client* and the *Contractor*.

2. **Precedence**

2.1 Unless the contrary is expressly stated in this contract, in the case of conflict between any of the documents comprising this contract, those documents have precedence in the order in which they are set out above.

**IN WITNESS WHEREOF** the parties hereto have caused this Form of Agreement to be executed as a Deed

EXECUTED as a deed and delivered on

the date at the head of this document by

**SELLAFIELD LIMITED**

Affixing hereto its Common Seal

in the presence of:

Director

EXECUTED as a deed and delivered on

the date at the head of this document by

**[INSERT CONTRACTOR DETAILS]**

acting by:

…………………………………………

Director

…………………………………………

Director/Company Secretary

**Annex 1**

**SCHEDULE OF AMENDMENTS**

|  |  |
| --- | --- |
| The core clauses and clauses for Options are amended and added to as follows: | |
| **Identified and defined terms** | |
| 11.1 | 1. Insert “or a Task Order” after the words “Contract Data”. |
| 11.2(2) | 1. Insert “or a Task Order” after the words “Contract Data”. |
| 11.2(4) | 1. Delete and insert: “The Accepted Plan for a Task is the plan identified in the relevant Task Order or is the latest plan for that Task accepted by the *Service Manager*. The latest plan for a Task accepted by the *Service Manager* supersedes previous Accepted Plans for that Task. |
| 11.2(5) | At the end of the second bullet point replace the full stop with "or" and insert the following additional bullet point.   * a part of the *service* which is not otherwise in accordance with this contract. |
| 11.2(6) | In the first bullet insert “and/or the relevant Task Order” after “Contract Data”. |
| 11.2(8) | Delete and substitute:  “The Fee is the Base Fee plus Earned Fee”. |
| 11.2(13) | Delete and substitute:  “To Provide the Service means regularly and diligently to do the work necessary to provide the *service* in accordance with this contract and all incidental work and actions which this contract requires.” |
| 11.2(14) | Insert “and/or a Task Order” after the words “Contract Data”. |
| 11.2(21) | At the end of the definition insert “in the form appended to the Form of Agreement at Annex 4.” |
| 11.2(22) | [Only applicable when using Main Option A  Delete and substitute:  “Defined Cost is the cost of components in the Short Schedule of Cost Components less Disallowed Cost.”] |
| 11.2(24) | 1. Definition of “Disallowed Cost” is applicable when using Main Option A as well as Main Option C and Main Option E 2. At the end of the first bullet point, insert the following: 3. “including, but without limitation, any failure of the *Contractor* to properly utilise the electronic time booking system agreed with the *Client*, including identifying the *Client*’s Purchase Order number for the work in question, for all of the *Contractor*’s people and Equipment engaged in the Affected Property (such electronic timesheets to be made available to the *Service Manager* for authorisation by the Friday of the week following the week in which the work was executed)”. 4. At the end of the existing sixth main bullet point, delete “and”. 5. At the end of the existing seventh main bullet point, delete the full stop and insert “and”. 6. After the existing seventh main bullet point, insert the following new main bullet point:   “● any other item expressly stated in this contract as being classed as Disallowed Cost”. |
| 11.2(25) | [Only applicable when using Main Option A   1. After “The Price for Service Provided to Date is”, insert “in respect of each Task,” |
| 11.2(26) | [Only applicable when using Main Option C or Main Option E  After “The Price for Service Provided to Date is”, insert “in respect of each Task,”. After “Defined Cost” insert “for that Task”. |
| 11.2(28) | [Only applicable when using Main Option A or Main Option C  Delete the first sentence and replace with the following:  “The Prices for a Task are the amounts stated in the relevant Task Order, calculated by reference to the Price column of the Price List.” |
| 11.2(29) | [Only applicable when using Main Option E  Delete and replace with the following:  “The Prices for a Task are the amounts stated in the relevant Task Order, calculated by reference to the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate. If no Prices are stated in a Task Order and no Price List is included, the Prices are the forecast of the total Defined Cost for the whole of a Task plus the Fee.” |
| 11.2 | Insert new definitions: |
| (30) | Affected Party means a party which is affected by a Force Majeure Event. |
| (31) | Anti-Slavery and Human Trafficking Policy means the *Client*’s Anti-Slavery and Human Trafficking Policy – reference number (SLCP 4.06.06) as amended and updated from time to time incorporated within the *Client*’s Anti-Slavery and Human Trafficking Statement available on the *Client*’s website. |
| (32) | As Built Information has the meaning given in clause Z26.1. |
| (33) | Asset Purchase is the purchase of supplies, goods, materials, equipment and/or utilities (including gas, electricity, water, sewerage, heat, cable and telecommunications) and excluding the creation, design, development or building by the *Contractor* or any subcontractor or any supplies, goods, materials, equipment and/or utilities, and Asset Purchases is construed accordingly. |
| (34) | Authority is the Nuclear Decommissioning Authority, a non-departmental public body whose head office is at Herdus House, West Lakes Science and Technology Part, Moor Row, Cumbria. |
| (35) | Authority Agent means any one of the duly authorised representatives of the Authority (including but not limited to auditors, advisers, consultants, and agents) acting on behalf of the Authority. |
| (36) | Authority Facing Work is employment for Authority purposes as defined in the Energy Act 2004. |
| (37) | Authority Insurances has the meaning given in clause 88. |
| (38) | 1. Base Fee is the amount calculated by applying the Base Fee Percentage to the amount of Defined Cost. |
| (39) | 1. Base Fee Percentage is the *fee percentage* less the Profit at Risk Percentage. |
| (40) | 1. Category A Force Majeure Event means a Force Majeure Event which affects the *Client*'s ability to comply with:  * any Law; * Regulatory Requirement; * Security Requirements; or * Internal Procedures. |
| (41) | 1. CDM Regulations are the Construction (Design and Management) Regulations 2015 (SI 2015/320). |
| (42) | 1. Civil Nuclear Security Requirements are the provisions set out in clause Z24. |
| (43) | 1. Client’s Consents means those consents stated in the Scope and/or any Task Order as being the responsibility of the *Client* including any consents which are required in connection with the use or occupation of the area within the Site, including the Nuclear Site Licence. |
| (44) | 1. Client’s Nuclear Licensed Site is any site in respect of which the *Client* holds a licence granted under Section 1 of the Nuclear Installations Act 1965. |
| (45) | 1. Consents means the Client’s Consents and the Contractor’s Consents. |
| (46) | 1. Contractor’s Consents means all consents required by the applicable Laws or Regulatory Requirements in relation to the performance of the *Contractor’s* obligations under this contract which can only be held by the *Contractor*, or any employees or subcontractor of the *Contractor*, excluding Client’s Consents. |
| (47) | 1. Contractor’s Documents are the documents comprising the Scope provided by the *Contractor* and the documents, calculations, computer programs, software, drawings, manuals, models, test reports quality assurance information and other similar documents (including items created and stored on disks, diskettes, tapes and other electronically readable media), if any, prepared by the *Contractor* (or on his behalf, including by any subcontractor of the *Contractor*) in relation to the *Contractor’s* design or this contract. |
| (48) | Corruption Related Offences means any of the following offences or practices:  corruption, including offering, giving, receiving, or soliciting, directly or indirectly, a financial or other advantage to influence improperly the actions of any person or to reward a person for such improper performance;  fraud, including any act, omission or misrepresentation, that knowingly or recklessly misleads (or attempts to mislead) any person to obtain a financial or other benefit or to avoid any obligation and other fraud offences included within the United Kingdom’s Fraud Act 2006;  coercion, including impairing or harming, or threatening to impair or harm, directly or indirectly, any person (or the property of any person) to influence improperly the actions of any person;  collusion, including entering into any arrangement between two or more persons designed to achieve an improper purpose, and including influencing improperly the actions of another person;  obstruction, including:   * + - * 1. deliberately destroying, falsifying, altering or concealing any evidence material to any investigation; and/or threatening, harassing or intimidating any person to prevent that (or any other) person from disclosing knowledge of matters relevant to any investigation or from pursuing any investigation; or         2. any act or omission intended to materially impede the exercise of any rights of audit or access to information (including any such rights of the *Client*) or the rights that any funder or any banking, regulatory or examining authority or other equivalent body of the United Kingdom, EU or any of its member states may have in accordance with any Law, regulation or treaty or pursuant to any agreement into which any funder may have entered in order to implement such Law, regulation or treaty;   money laundering and/or terrorist financing, as defined in the UK Money Laundering and Anti-Terrorist Financing Laws or the EC/EU Directives on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as amended and supplemented from time to time , and including:   * + - * 1. the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of their actions;         2. the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;         3. the acquisition, possession or use of property, knowing (at the time of receipt, possession or use) that such property was derived from criminal activity or from any act of participation in such activity;         4. participation in, association to commit, attempting to commit and/or aiding, abetting, facilitating and/or counselling the commission of any of the actions mentioned in paragraphs (vi)(A) to (C) (inclusive); and/or         5. financing of terrorism, and including the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out any of the offences within the meaning of Articles 1 to 4 of Directive (EU) 2017/541 of 15 March 2017 on combating terrorism. |
| (49) | 1. Cyber Essentials Certificate means a Cyber Essentials Certificate awarded on the basis of self-assessment and issued by an independent certification body, under the Cyber Essentials Scheme (or an equivalent *Client* approved accreditation); |
| (50) | 1. Cyber Essentials Declaration means a written declaration in the form set out at Appendix 4 to Option Z (Form of Cyber Essentials Declaration); |
| (51) | 1. Cyber Essentials Scheme means the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats. Details of the Cyber Essentials Scheme can be found here: <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview.> |
| (52) | 1. Cyber Hygiene Requirements means the basic controls and IT infrastructure requirements that all organisations should implement to mitigate the risk from common internet-based threats. Details of which can be found here: <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview> |
| (53) | 1. Deleterious means in relation to a material that (whether alone or in combination with other materials) it:  * poses a threat to health and safety or the environment; * poses a threat to the structural stability or performance or the physical integrity of any thing (or any part of any thing) in which it is used or included; * would or could reduce the normal life expectancy of any thing (or any part of any thing) in which it is used; * is generally known in the construction industry to be deleterious; or * is not in conformity with Good Industry Practice. |
| (54) | 1. Dispute Resolution Procedure is the dispute resolution procedure set out in Appendix 1. |
| (55) | 1. Earned Fee is the amount calculated and paid to the *Contractor* pursuant to Option X20 and the *incentive schedule*. |
| (56) | 1. Employees means all staff, including directors, officers and employees, as well as the agents and workers of either Party together with the directors, officers and employees of such party's subcontractors and further down any contractual chain, and Employee shall mean any one of them individually as the context dictates. |
| (57) | 1. EIR are the Environmental Information Regulations 2004. |
| (58) | 1. Energy Act is the Energy Act 2004. |
| (59) | 1. Excluded Loss is any loss of profit, loss of overhead, loss of revenue, loss of use, loss of production, loss of opportunity, business interruption or any similar damage and any consequential or indirect losses of any kind. |
| (60) | 1. FOIA is the Freedom of Information Act 2000. |
| (61) | 1. Force Majeure Event means any occurrence of an unpredictable event or occurrence affecting any Party’s performance of its obligations under the contract, for which neither Party is responsible and which neither Party controls attributable either to the forces of nature or to other circumstances not confirmed as to their causes or effects wholly or principally to the Parties, any subcontractor (in the case of the *Contractor*, having acted in accordance with Good Industry Practice), and which is not attributable to any act or failure to take reasonable preventative action in accordance with Good Industry Practice. |
| (62) | 1. Good Industry Practice means the exercise of the degree of skill, care, diligence, prudence and foresight which would reasonably (taking into account all the factors relating to the Site) and ordinarily be expected from a skilled and experienced contractor engaged (in any European Union jurisdiction where there is experience of nuclear operations and/or decommissioning activities which have at least equivalent standards to those of the United Kingdom) in activities of a similar scope and complexity to those that are the subject of this contract and under the same or similar circumstances, where such contractor is seeking to comply with contractual, legal and regulatory obligations which are analogous to those obligations which are incumbent on the *Contractor*. |
| (63) | 1. Information has the meaning given to it in clause Z9.3. |
| (64) | 1. Information Commissioner means the UK Information Commissioner (including any successor or replacement). |
| (65) | Internal Procedures are all internal *Client* company documentation (regardless of the manner in which it is held, stored or collated) which: |
|  | * in the reasonable opinion of the *Client*, constitutes a mandatory internal guideline, standard, procedure or policy; |
|  | * in the reasonable opinion of the *Client*, relates directly or indirectly to the *Client*’s structure, operation and management; and |
|  | * relates materially and directly to the duties imposed on the *Client* in accordance with the manner in which the *Client* chooses to fulfil its contractual, legal and regulatory obligations therein. |
| (66) | IP or Intellectual Property is intellectual property including all inventions (whether patentable or not), design rights, database rights, copyright, semiconductor topography rights, unregistered trade and service marks, logos, get-up and trade names and, in each case, the goodwill attaching to them, all patents, utility models, registered designs, registered copyrights, registered trade and service marks, domain names and any applications for registration and rights to grant of any of the foregoing, confidential information, know-how and any rights or forms of protection of a similar nature and having equivalent or similar effect to any of them which subsist anywhere in the world. |
| (67) | IPR Materials means all information, reports, records, drawings, designs, results, inventions, software and other materials in any physical or electronic form created as part of the deliverables required from the *Contractor* pursuant to this contract. |
| (68) | Law is any Act of Parliament or subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, any enforceable community right within the meaning of section 2 of the European Communities Act 1972, any other applicable law, common law proclamation, bye-law, directive, decision, regulation, rule, notice or court ruling binding on the Parties directly or through precedent, international convention or Treaty ratified by the United Kingdom, all applicable laws, regulations, directives, orders, decisions or other rules having the force of law in the jurisdiction (including in relation to international waters) where the *Contractor*'s obligations under this contract are carried out and any United Kingdom government policy expressly binding on the Parties either particularly or as part of a class. |
| (69) | Legal Proceedings means any litigation, arbitration, adjudication, defence, dispute, claim, mediation, negotiation, other alternative dispute resolution procedure, compromise, appeal or investigations before an ombudsman or tribunal. |
| (70) | Losses means losses, liabilities, damages, costs, charges, expenses whether arising in contract, tort (including negligence), breach of statutory duty or otherwise and includes legal fees, on a solicitor/client basis, and other professional charges and expenses, disbursements, costs of investigation, costs of claims and/or complaints handling, cost of litigation, cost of settlement including ex gratia payment, judgment interest, and penalties including fines. |
| (71) | MSA Action Plan has the meaning given in clause Z6.9. |
| (72) | Official Sensitive Information shall have the meaning ascribed by the provisions of the Anti-Terrorism, Crime and Security Act 2001 and shall include any information connected with or arising out of the execution of this contract and/or the *service* which is, or may hereafter by notice in writing given by the *Client* to the *Contractor*, be designated "OFFICIAL SENSITIVE”. |
| (73) | ONR (CNS) is the Office for Civil Nuclear Regulation Civil Nuclear Security Division (which substantially replaces the Office for Civil Nuclear Security) or any body having responsibility for civil nuclear security in the United Kingdom which substantially replaces the same from time to time. |
| (74) | payment notice in default has the meaning given in clause Y2.5. |
| (75) | Prevention Event is an event which:   * makes it impossible for the *Contractor* to provide all of the *service*; or * makes it impossible for the *Contractor* to Provide the Servicein accordance with the Accepted Plan; |
|  | and which   * neither Party could prevent; * does not comprise or result from a breach of contract or other fault by either Party or any breach or failure by a subcontractor (whether due to insolvency or otherwise); and * an experienced *Contractor* would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for it to have allowed for it. |
| (76) | Profit at Risk Percentage is the percentage referred to in the *incentive schedule* as “Percentage Profit at Risk against Key Performance Indicators”. |
| (77) | Protected Employees are those employees who benefit from pension protection pursuant to the Energy Act 2004. |
| (78) | Purchase Order means a purchase order raised by the *Client* in relation to the *service* and which is subject to the requirements of this contract (including all schedules, appendices and annexes hereto). |
| (79) | Regulators are the Health and Safety Executive (including the Office for Nuclear Regulation), the Environment Agency, the Scottish Environment Protection Agency, the Office for Civil Nuclear Security, the Scottish Executive, the Financial Conduct Authority and Prudent Regulation Authority, the Pensions Regulator, the Pension Protection Fund, and Regulator means each or any one of them. |
| (80) | Regulatory Requirements are any legally enforceable requirement of any Regulator. |
| (81) | Relevant Policies are the Ministry of Justice guidance in respect of anti-bribery published in March 2011. |
| (82) | Relevant Requirements are all applicable Laws and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010. |
| (83) | Security Manager has the meaning given in clause Z24.10. |
| (84) | Security Requirements means all security requirements relating to the Site including those required by the *Client*’s security planand all other security requirements to which a competent manager of a nuclear site would reasonably be expected to adhere. |
| (85) | Series of Contracts is more than one contract for the procurement of the same or substantially similar works, goods and/or services between the *Client* and the *Contractor*. |
| (86) | Series of Subcontracts is more than one contract for the procurement of the same or substantially similar works, goods and/or services between the *Contractor* and the same subcontractor. |
| (87) | Service Entry Number is a number issued by the *Service Manager* in accordance with clause 50.13. |
| (88) | Site is the *Sellafield Site* from which or at which the *service* is to be performed or provided. |
| (89) | Subcontract is any agreement entered into by the *Contractor* with any subcontractor or by any subcontractor with any other subcontractor relating to performance of the *Contractor*’s obligations under this contract. |
| (90) | Subcontract Procurement Plan is a plan issued by the *Contractor* in accordance with this contract which details the subcontractors whom the *Contractor* intends to use to Provide the Service, either wholly or in part, providing no fewer details than the name and business address of the subcontractor, the nature of the services which they are to perform, the basis of the remuneration for such Subcontract services and the extent to which such the subcontractor may not be prepared to accept like terms to those set out herein within its Subcontract. |
| (91) | Task Defect Certificate is, in respect of each Task, either a list of Defects that the *Service Manager* has notified before the *defects date* identified in the Task Orderwhich the *Contractor* has not corrected or, if there are no such Defects, a statement that there are none. |
| (92) | Third Party is any person other than the Authority, the *Client* and the *Contractor*. |
| (93) | Third Party Funder has the meaning given in clause Y2.6. |
| (94) | Vitiated Insurance Liability is any cost or liability of the *Contractor* which is or ought to be insured under the Authority Insurances from time to time but in respect of which the Authority or the *Client* (as applicable) is either:   * unable to recover under the relevant insurance as a result of any act or omission of the *Client*, the *Contractor* or its subcontractors which renders the Authority Insurance void, voidable, unenforceable, suspended or impaired in whole or in part; or * required to repay to the insurer under the relevant Authority Insurance as a result of any act or omission of the *Client*, the *Contractor* or its subcontractors. |
| 11.3 | Insert new clause 11.3:  "Any references in this contract to "British Nuclear Fuels plc", "BNFL", "British Nuclear Group *Sellafield Limited*" and "BNGSL" are references to the *Client*." |
|  | **Interpretation and the law** |
| 12.5 | Insert new clause 12.5:  "The *Contractor* acknowledges that in entering into this contract it has not relied on any representation or statement made by or on behalf of the *Client* other than any representation or statement expressly set out in this contract." |
| 12.6 | Insert new clause 12.6:  "A reference to any Law or code of practice is a reference to that Law or code of practice as amended, consolidated, replaced or re-enacted from time to time." |
| 12.7 | Insert new clause 12.7:  “Where any clause in this contract refers to a number of copies or time for providing such copies or information then those numbers and times will apply except to the extent that they are inconsistent with the Scope, in which case those numbers and times specified in the Scope shall apply.” |
| 12.8 | Insert new clause 12.8:  “A reference to a Party’s subcontractor(s) is a reference to any contractor (not being the *Client* or the *Contractor*), subcontractor, supplier, consultant or other third party at any level in the supply chain engaged by the relevant Party in connection with the *service* to be provided under this contract and such Party’s contractual obligations under this contract.” |
|  | ***The Service Manager*** |
| 14.1 | Delete and substitute:  “None of the following change the *Contractor*'s responsibility to Provide the Service or any liability the *Contractor* has under this contract, whether for its plan or its design or otherwise: |
|  | * The *Service Manager*'s acceptance of a communication from the *Contractor* or of its work. * A communication, instruction or certificate. * An inspection or test.” |
| 14.5 | Delete and insert new clauses 14.5 to 14.7: |
| 14.5 | “Without limitation to the nature and extent of instructions the *Service Manager* may issue in accordance with this contract, a *Service Manager*'s instruction may be or include an instruction to omit any part or all of the *service* and any consequent change to the Scope. |
| 14.6 | Where the instruction issued by the *Service Manager* has been issued in circumstances where the *Contractor* has failed to perform its obligations under this contract, the *Client* shall not be obliged to make further payments to the *Contractor* until its losses in connection with such failure have been ascertained. Such losses shall be deducted from any sums due to the *Contractor*. |
| 14.7 | Where an instruction is issued by the *Service Manager* pursuant to clause 14.6, the obligations (including services) which are the subject of the instruction shall no longer form part of the *Contractor*'s obligations under this contract and the provisions of this contract (including the Prices, Task Completion and the Accepted Plan) shall be amended to take into account the removal of such obligations. Such amendments shall be made by the *Client* on the basis of what in the *Client’s* opinion is fair and reasonable having regard to the circumstances in which the instruction was issued, including whether the *Contractor* was complying with its obligations under this contract.” |
|  | **Early Warning** |
| 15.5 | Insert new clause 15.5:  "If the *Contractor* or the *Service Manager* gives an early warning in relation to any matter, the notification of that early warning includes sufficient detail to enable the *Service Manager* and the *Client* to understand:   * the nature of the matter notified; * the reason why the matter exists; * the potential impacts of the matter, including potential impacts in relation to the total of the Prices, delay to provision of the *service*; * any steps being taken by the *Contractor* or third parties to mitigate the impact of the matter; and * any steps which could be taken by the *Client* or Others to mitigate the impact of the matter.   The *Contractor* provides supporting documentation to substantiate and explain the details in the early warning notice." |
| 15.6 | Insert new clause 15.6:  "The Early Warning Register does not change the allocation of risk as set out in this contract." |
|  | **Task Orders** |
| 19.1 | Delete the first sentence and replace with “The *Contractor* does not commence any part of the *service* under this contract unless and until the *Service Manager* issues a Task Order in respect of such part of the *service*. The *Service Manager* may issue a Task Order to the *Contractor* at any time during the Service Period.”  After the third bullet, insert the following bullets:   * “if Main Option A or C is used, the total of the Prices for the Task, * if Main Option E is used, the total of the forecast Prices for the Task.” |
| 19.2 | In line one delete “three weeks” and substitute: “four weeks”.  In line three delete “two weeks” and substitute: “three weeks”. |
| 19.8 | Delete the first bullet point. |
| 19.8 | Insert new clause:  “The *Contractor* acknowledges that the decision to issue any Task Order shall be at the sole and absolute discretion of the *Client* acting by the *Service Manager* and that the *Client* shall be entitled without payment of any compensation to the *Contractor*, to elect not to issue Task Orders for, or to elect to award to another person or persons a contract or contracts in respect of, the whole or any part of the *service* contemplated by this contract.” |
|  | **Providing the Service** |
| 20.1 | After the word “Scope” insert “and this contract (including each Task Order)”. |
| 20.3 | Insert new clause 20.3:  "The *Contractor* performs its obligations under this contract:   * in a safe, secure, efficient and cost effective manner; * in accordance with Good Industry Practice; * in accordance with the Consents; * in a transparent and co-operative manner; * in accordance with all relevant Internal Procedures; * in accordance with all applicable Law and Regulatory Requirements; and * ensuring that all aspects of any works, *service* or undertakings comply with the requirements of this contract." |
|  | **Design of Equipment** |
| 21.1 | Delete and replace with the following:  “The *Contractor* designs the parts of the *service* and/or items of Equipment which the Scope states the *Contractor* is to design and the *Contractor*:   * + integrates and co-ordinates its design with the *Client* and Others as set out in the Scope and/or the relevant Task Order; and   + subject to Option X15, accepts sole and exclusive responsibility for the *Contractor’s* design and for any mistake, inaccuracy, discrepancy or omission in or arising from the *Contractor’s* design.” |
| 21.2 | Insert a new clause 21.2:  “The *Contractor* submits the particulars of its design of the *service* and/or items of Equipment as the Scope requires, or as instructed by the *Service Manager*, to the *Service Manager* for acceptance. A reason for not accepting the *Contractor’s* design is that it does not comply with either the Scope, the applicable Law or Regulatory Requirements.  The *Contractor* does not proceed with the relevant work or use the item of Equipment until the *Service Manager* has accepted its design in accordance with the Scope.” |
|  | **People** |
| 22.1 | At the end of clause 22.1 add:  “and/or that the *Client* has not granted any consent required pursuant to this contract for employment of that replacement person or any condition attached to such consent has not been met.” |
| 22.3 | Insert new clause 22.3:  “The *Contractor* does not, without the prior written consent of the *Client*, allocate any person to work under this contract who, during any part of the twelve months prior to the date of such proposed allocation, was in the employment of the *Client* on work which the *Client* considers was closely connected with the subject matter of this contract. Before the *Contractor* allocates any former employee of the *Client* to work under this contract the *Contractor* gives the *Client*’s Commercial and Contract Management Department not less than two weeks’ notice of the name and details of such personnel and the *Client* shall endeavour to respond in writing within two weeks of such notice approving, or otherwise, the proposed allocation. If no response is forthcoming from the *Client* by the date of the proposed allocation the personnel shall not commence work under this contract.” |
|  | **Working with the *Client* and Others** |
| 23.3 to 23.7 | Insert new clauses 23.3 to 23.7 as follows:  “23.3 The *Contractor* gives the *Client* any information required in order for the *Client* to obtain or maintain the Client’s Consents and the approval or sanction of the *Contractor’s* design from Others. Where it is not stated in the Scope as being the responsibility of the *Client*, the *Contractor* obtains approval or sanction of the *Contractor’s* design from Others and the *Contractor* communicates to the *Client* the approvals or sanctions he obtains. Approval or sanction of the *Contractor’s* design by Others does not alter or exclude any duty or liability of the *Contractor* under this contract. |
|  | 23.4 The *Contractor* obtains the Contractor’s Consents. |
|  | 23.5 Save in respect of those Client’s Consents specified in the Scope, the *Contractor* gives all notices and pays all taxes, duties and fees required by the applicable Laws relevant to Providing the Service. |
|  | 23.6 The *Contractor* notifies the *Client* of any Client’s Consents which are required by the *Contractor* to enable the *Contractor* to Provide the Service. The *Contractor* does so in accordance with the Accepted Plan and any Task Order programme so as to enable the *Client* to obtain, procure or maintain the Client’s Consents without causing delay to the *service*. |
|  | 23.7 The *Contractor*   * + uses reasonable endeavours to ensure it does not cause any interruption or interference to the carrying out or progress of any work to be undertaken by Others or the business operations of the *Client* on the Site, other than as agreed with the *Service Manager* in advance or as may be provided for in the Scope, and   + makes available information (including the Contractor’s Documents) which is relevant to the work of Others in a timely fashion and upon the *Service Manager*'s request.” |
|  | **Subcontracting** |
| 24.3 | Delete and substitute:  Unless the *Service Manager* instructs otherwise the *Contractor* selects each proposed subcontractor by means of a competitive tender process between no less than three competent tenderers. When the *Contractor* submits the name of a proposed subcontractor to the *Service Manager* for acceptance, the *Contractor* submits full details of that competitive tender process and the basis of selection of the proposed subcontractor and provides such further reasonable supporting information as the *Service Manager* may request to allow them to assess each proposed subcontractor. In addition to any other reason stated in this contract, a reason for the *Service Manager* not accepting a proposed subcontractor is that:   * it has not been selected in accordance with this contract, including any relevant provision of the Scope; * the *Contractor* has not provided details of the competitive tender process and the basis of selection of the proposed subcontractor in accordance with this contract; or * the *Client* has not granted any consent required pursuant to the Civil Nuclear Security Requirements for appointment of that subcontractor or any condition attached to such consent has not been met.” |
| 24.4 | *[Only applicable when using Main Option C or Main Option E*  Delete and insert: “Not used.”] |
|  | Insert new clauses 24.5 – 24.15 |
| “24.5 | The *Contractor* submits the proposed conditions of contract (including the pricing information where Main Option C or Main Option E applies) for each Subcontract to the *Service Manager* unless the *Service Manager* has agreed that no submission is required. The *Contractor* does not appoint a subcontractor on the proposed subcontract conditions submitted until the *Service Manager* has accepted them. In addition to any other reason stated in this contract, a reason for not accepting them is that:   * they will not allow the *Contractor* to Provide the Service; * they do not include a statement that the parties to the subcontract shall act in a spirit of mutual trust and co-operation; * they do not comply with any requirement set out in this contract, the Civil Nuclear Security Requirements or the Scope; or * the *Contractor* has not demonstrated in the manner required by the *Client* that the proposed subcontract conditions include all terms required for compliance with this contract. |
| 24.6 | The *Contractor* provides to the *Service Manager* upon request copies of, or access to, all records, correspondence, tenders and other documentation relating to the assessment and selection of subcontractors. |
| 24.7 | The *Contractor* ensures that all Subcontracts are capable of transfer, assignment and novation ("novation" being the transfer of obligations between *Contractor* and subcontractor to become equivalent obligations between the subcontractor and a new entity in place of the *Contractor*) from the *Contractor* to the *Client* or to the *Client*'s nominee without further consent being required from the subcontractor upon notice from the *Client*. |
| 24.8 | The *Contractor* provides the *Client* with a Subcontract Procurement Plan before awarding or amending any Subcontract or Series of Subcontracts where the value of such Subcontract or Series of Subcontracts exceeds £10,000. |
| 24.9 | At the same time as or following submission by the *Contractor* of the proposed conditions of contract for a Subcontract to the *Client* for acceptance the *Contractor* provides information and analysis in the form and level of detail required by the *Client* demonstrating how and where the proposed conditions of contract include terms required for compliance with this contract. |
| 24.10 | Save to the extent that the *Client* gives prior written consent for any derogation, the *Contractor* ensures that all Subcontracts include the contractual provisions set out in each of:   * Clauses Z5 - 10 (inclusive); and * Clauses 20.3, 24, 88 and Z11 - 19 (inclusive), Z23, Z24, Z25, Z27, Z28, Z29 and Appendix 1, Appendix 2 and Appendix 4 to Option Z and the definitions applicable thereto,   mutatis mutandis. |
| 24.11 | Where any proposed Subcontract:   * has a value per annum of less than one hundred and fifty thousand pounds Sterling (£150,000); or * is required solely in connection with an Asset Purchase,   the *Client* may by written notice to the *Contractor* elect to omit one or more of the clauses referred to in clause 24.13. The granting of any such consent is a matter for the *Client*’s absolute discretion. |
| 24.12 | The *Contractor* does not subcontract the whole of any Task, unless agreed in advance in a Task Order or by the *Service Manager*. |
| 24.13 | The *Contractor* gives the *Service Manager* a true copy of each subcontract entered into by the *Contractor* as soon as it is entered into unless the *Service Manager* confirms otherwise in writing. The *Contractor* does not allow a subcontractor to commence performing the *service* until the copy has been given to the *Service Manager*. |
|  | 1. **Other Responsibilities** |
| 25.5 | Insert new clause 25.5:  “In Providing the Service the *Contractor*:   * complies with all relevant requirements of the contract (including the Scope and each Task Order); * in relation to any controlled area working, complies with and shall ensure that its subcontractors comply with the provisions of [Form CFMT 122.1 – Special Supplementary Conditions of Contract applicable to Work subject to the Ionising Radiations Regulations 1999 (Controlled and Supervised Areas designated by Sellafield Ltd), as more particularly set out in Appendix 2 to Option Z];[[1]](#footnote-1) * requires its staff to submit themselves for an annual medical examination (as required by the Ionising Radiation Regulations 1999) at the *Contractor*’s cost, and an introductory radiological protection course at the *Contractor*’s premises at the *Contractor*’s cost for staff whose duties involve work within a radiological controlled or supervised area at the Affected Property; * procures that all subcontractors comply with the provisions of the above provisions of this clause 25.” |
|  | **Assignment** |
| 26 | Delete and insert “Not used”. |
| 27 | **Disclosure** |
|  | Delete and insert “Not used”. |
|  | **Starting and the Service Period** |
| 30.1 | Delete and insert “Not used”. |
| 30.3 | Delete the third bullet. |
|  | **The *Contractor*’s plan** |
| 31.3 | In the hanging paragraph, in line 3 after “*Contractor*’s notification” insert “the *Contractor* sends a further notice to the *Service Manager*. If the *Service Manager* does not notify acceptance or non-acceptance within two weeks after the *Contractor’s* second notification”. |
|  | 1. **Task Order programme** |
| 33.3 | 1. In the hanging paragraph, in line 3 after “*Contractor*’s notification” insert “the *Contractor* sends a further notice to the *Service Manager*. If the *Service Manager* does not notify acceptance or non-acceptance within two weeks after the *Contractor’s* second notification”. |
|  | 1. **Access** |
| 35.1 | 1. At the start of the clause, delete “The” and replace with “Subject to clauses 35.2 and 35.3, and only insofar as is necessary to enable the *Contractor* to perform its obligations under the contract, the”. |
| 35.2 | 1. Insert new clause 35.2:   "The *Contractor* acknowledges that its access to and use of each part of the Affected Property and the Site is not exclusive. The *Contractor* shares the Affected Property with the *Client* and Others. In Providing the Service the *Contractor* co-ordinates its activities with the work and activities of the *Client* and Others." |
| 35.3 | 1. Insert new clause 35.3:   “Such access and use referred to in this clause 35 shall be   * + at the entire discretion of the *Client*,   + subject to compliance with all Site rules and procedures, and Regulatory Requirements and other requirements in the Scope,   + non-exclusive in nature,   + revocable at will by the *Client*,   + shared with the *Client* and Others from time to time, and   + a personal right only associated with the contract.   The *Contractor* shall, and shall procure that its subcontractors shall   * + allow the *Client*, the Authority and the Regulators immediate access to the Affected Property at any time and without notice, and   + upon the date specified in any notice by the *Client*, provide all the personnel or advisers named in such notice (together with any equipment which such persons may reasonably require) access to its sites, workshops or other places where the *service* is being performed at any reasonable time.   The *Contractor’s* access to and use of those areas of the Affected Property referred to in this clause 35 shall cease when such access is no longer required to Provide the Service or upon termination (whichever is earlier) at any time prior to such termination or expiry upon immediate notice from the *Client* to the *Contractor*.  The *Contractor* acknowledges the fact that the *service* or part thereof may be executed on a licensed nuclear site subject to, inter alia, the Nuclear Site Licence and the provisions of the Official Secrets Acts 1911 to 1989 and the Nuclear Installations Act 1965 and Nuclear Installations Act 1969 (the "Acts" for the purposes of this Clause). The requirements of the Site Licence and the Acts require that access to the Affected Property will only be granted to those issued with an appropriate site pass (the "Site Pass") and only for the purposes of the work for which that person is engaged.   1. The *Contractor* shall not, and shall procure that its *Contractor’s* personnel and subcontractors shall not, by any act or omission, prejudice the capability of the *Client* to maintain its Site Licence (in accordance with the provisions of the Nuclear Installations Act 1965 and any guidance issued by a Regulator from time to time).” |
|  | 1. **Instructions to stop or not to start work** |
| 36.1 | 1. At the end of the second bullet, insert “and/or a Task Order” |
|  | **Tests and inspections** |
| 41.1 | In clause 41.1, after “Scope” insert:  “, a Task Order”. |
| 41.2 | In clause 41.2, after “Scope” insert:  “or a Task Order (as appropriate)”. |
| 41.8 | Insert new clause 41.8:  “Notwithstanding any other provision of this contract, any costs incurred by the *Contractor* in repeating a test or inspection after a Defect is found are excluded from Defined Cost and the *Contractor* is not otherwise entitled to those costs.” |
|  | **Notifying and Correcting Defects** |
| 43 | Delete and substitute as follows: |
| 43.1 | For each Task where there is a *defects date* identified in the Task Order, until the *defects date*, the *Service Manager* may instruct the *Contractor* to search for a Defect. The *Service Manager* gives reasons for the search with the instruction. Searching may include   * uncovering, dismantling, re-covering and re-erecting work, * providing facilities, materials and samples for tests and inspections done by the *Service Manager* and * doing tests and inspections which the Scope does not require. |
| 43.2 | For each Task where there is a *defects date* identified in the Task Order, until the *defects date*, the *Service Manager* and the *Contractor* notifies the other as soon as they become aware of a Defect.  In respect of parts of the *service* which are not subject to a Task Order, until the end of the Service Period the *Service Manager* and the *Contractor* notifies the other as soon as they become aware of a Defect. |
| 43.3 | The *Contractor* corrects a Defect whether or not the *Service Manager* has notified it. |
| 43.4 | For each Task where there is a *defects date* identified in the Task Order, the *Contractor* corrects a notified Defect before the end of the *defect correction period* stated in the relevant Task Order (if applicable). The relevant *defect correction period* (if applicable) begins at Task Completion for Defects notified before Task Completion and when the Defect is notified for other Defects.  In respect of parts of the *service* which are not subject to a Task Order, the *Contractor* corrects a notified Defect within a time which minimises the adverse effect on the *Client* or Others. |
| 43.5 | The *Service Manager* issues the Task Defect Certificate at the *defects date* for a Task if there are no notified Defects, or otherwise at the later of   * the end of the last *defect correction period* for such Task and * the date when all notified Defects have been corrected for such Task.   The *Client’s* rights in respect of a Defect which the *Service Manager* has not found or notified are not affected by the issue of a Task Defect Certificate. |
| 43.6 | Task Defect Certificates are not conclusive evidence that the *Contractor* has complied with its obligations under the contract. |
| 43.7 | Without prejudice to any other rights or remedies the *Client* may have, if a Defect has, or creates a material risk of, a significant adverse impact in relation to health, safety or the environment or correction of that Defect is otherwise urgent, then:   * the *Service Manager* may by notice to the *Contractor* reduce the *defect correction period* for that Defect by such amount of time as the circumstances require; or * regardless of whether that Defect has been notified to the *Contractor* * the *Client* may correct that Defect or have that Defect corrected by other people; and * the *Service Manager* assessed the cost to the *Client* of correcting that Defect and the *Contractor* pays this amount. |
| 43.8 | The *Contractor* corrects a Defect notwithstanding that the Defect is located in an area classed as a Controlled and Supervised Area (as defined by the Ionising Radiations Regulations 2017) and subject to CFMT 122.1 (September 2018) and will meet any reasonable costs associated with the removal and replacement of materials removed as a consequence of a Defect.” |
|  | **Accepting Defects** |
| 44.1 | In line 1, after “Scope” insert:  “or Task Order (as appropriate)”. |
| 44.3 | Insert new clause 44.3:  “For the avoidance of doubt, the *Contracto*r continues to be liable for Defects (including Defects listed in any Task Defect Certificate and latent or inherent Defects) after |
|  | * the issue of any Task Defect Certificate; or * the termination of this contract for any reason (including breach by the *Client*) |
|  | in accordance with the law of the contract, subject to any time limit on claims and limitation on liability expressly provided by this contract.” |
| 45 | Insert a new clause 45 as follows:  “**Uncorrected Defects** |
| 45.1 | If the *Contractor* is given access in order to correct a Defect but it has not corrected it within its *defect correction* period or other time required by the contract (as the case may be):   * the *Service Manager* assesses the cost to the *Client* of having the Defect corrected by other people and the *Contractor* pays this amount, and * the *Service Manager* also assesses the cost to the *Client* of having any Defects listed in the Task Defect Certificate or, if the Task Defect Certificate has not been issued notified to the *Contractor* in any part of the *service,* corrected by other people and the *Contractor* pays this amount.   The Scope is treated as having been changed to accept such Defects. |
| 45.2 | If the *Contractor* is not given access in order to correct a notified Defect before the *defects date* or other time required by the contract (as the case may be), the *Service Manager* assess the cost to the *Contractor* of correcting the Defect and the *Contractor* pays this amount. The Scope is treated as having been changed to accept such Defect.” |
|  | **Assessing the amount due** |
| 50.1 | In the third line delete “*starting date*” and replace with “the date of instruction of the first Task Order”.  Delete the first bullet point and replace with:  “for each Task Order, twelve weeks after Task Completion, or in respect of work comprised in the *service* which is not subject to a Task Order, 12 weeks after the end of the Service Period, or, in either case, if a different period is stated in the Contract Data, within the period stated for the final assessment” |
| 50.2 | Delete the second paragraph and substitute:  “In assessing the amount due, the *Service Manager* considers any application for payment the *Contractor* has submitted not later than one week before the assessment date. The *Service Manager* gives the *Contractor* details of how the amount due has been assessed.” |
| 50.5 | In line 1 after “Contract Data” insert the following:  “or no programme has been submitted in relation to a Task Order”.  After “first plan” on the third line insert:  “or a first programme in relation to a Task Order”. |
|  | At the end after “which the contract requires” insert the following:  “and the *Service Manager* has accepted the plan or the programme in relation to a Task Order. Where the *Contractor* fails to submit a revised plan or the programme in relation to a Task Order required under the contract to the *Service Manager* in accordance with the contract, one quarter of the Price for Service Provided to Date in respect of the part of the *service* carried out from when the revised plan or the programme in relation to a Task Order should have been provided is retained in assessments of the amount due until the *Contractor* has submitted a revised plan or the programme in relation to a Task Order to the *Service Manager* for acceptance showing the information which this contract requires and the *Service Manager* has accepted the plan or the programme in relation to a Task Order”. |
| 50.7 | *[Only applicable when using Main Option C*  Delete and substitute:  "All payments to the *Contractor* under this contract are in the *currency of this contract*. Payments of Defined Cost made by the *Contractor* in a currency other than the *currency of* this contract are converted to the *currency of* this contract in order to calculate the amount due, the Fee and any *Contractor*'s share using the *exchange rates*."] |
| 50.8 | *[Only applicable when using Main Option E*  Delete and substitute:  "All payments to the *Contractor* under this contract are in the *currency of this contract*. Payments of Defined Cost made by the *Contractor* in a currency other than the *currency of* this contract are converted to the *currency of* this contract in order to calculate the amount due and the Fee using the *exchange rates*."] |
| 50.9 | *[Only applicable when using Main Option C and Main Option E*  Delete and insert “Not used”] |
|  | Insert new clauses 50.10-50.12 |
| 50.10 | “It is recognised that the Authority controls the funding and work scope made available to the *Client*. It is consequently recognised and agreed that the *Contractor* only carries out work as particularly identified on a Purchase Order, on the funding basis therein set out and not in excess of the funding limit (if any) therein set out. Any limit of expenditure set out in a Purchase Order is not exceeded without the prior written authority of the *Client* and any work executed in excess of the scope or limit of expenditure or other than in accordance with the funding basis set out in a Purchase Order is at the *Contractor*’s sole risk and expense. |
| 50.11 | The *Service Manager* issues a Service Entry Number for the amount of its assessment at the same time as issuing its certificate. Not less than seven (7) days prior to the final date for payment, the *Contractor* issues a VAT invoice for the amount which the *Service Manager* has certified is due detailing the Service Entry Number, or, if the *Service Manager* fails to issue a certificate in accordance with clause 51.1, a VAT invoice for the amount in the *Contractor*’s application for payment. If the *Contractor* has issued an invoice and the amount certified as due is different from the *Contractor*'s invoice, the *Contractor* issues a new invoice for the amount which the *Service Manager* has certified as due detailing the Service Entry Number provided and a credit note for the amount of the original invoice. |
| 50.12 | Notwithstanding any other provision of this contract, no amount is included in the Price for Service Provided to Date in respect of any Plant and Materials (whether by means of inclusion in any actual or forecast Defined Cost or otherwise) unless the *Contractor* demonstrates to the satisfaction of the *Service Manager* that:   * title in those Plant and Materials has passed to the *Client* in accordance with this contract; and * those Plant and Materials are secured and protected in accordance with any relevant requirements of the Scope.” |
|  | **Payment** |
| 51.4 | Delete and substitute:  "Interest is calculated on a daily basis at the *interest rate* without compounding." |
| 51.6 | Insert new clause 51.6:  "Save to the extent already deducted in calculation of the amount due, any liability of the *Contractor* under or in connection with this contract or any Task Order may be set-off against or otherwise deducted from any amount due or to become due to the *Contractor* under this contract or any Task Order." |
| 51.7 | Insert new clause 51.7:  “Notwithstanding any other provision of this contract, the *Contractor* is not entitled to apply for, be paid or include as Defined Cost in any application for payment any Defined Cost that the *Contractor* incurred more than twelve (12) months prior to the date upon which the *Contractor* purports to apply for, be paid or include suchDefined Cost.” |
|  | **Final assessment** |
| 53.1 | Delete the first bullet point and substitute:  “twelve weeks after Task Completion, or in respect of work comprised in the *service* which is not subject to a Task Order, 12 weeks after the end of the Service Period, or, in either case, if a different period is stated in the Contract Data, within the period stated, or”  In the second paragraph, delete from “by the later of” to the end of the clause and replace with “in accordance with clause Y2.2.” |
| 53.2 | Delete from “by the later of” to the end of the clause and replace with “in accordance with clause Y2.2.” |
| 53.3 | Delete the first paragraph and substitute:  “An assessment of the final amount due issued within the time stated in the contract is conclusive evidence of the final amount due only in respect of the Price for Service Provided to Date under or in connection with the contract unless a Party takes the following actions.” |
| 53.4 | Delete the second bullet point and substitute:  “a determination pursuant to the Dispute Resolution Procedure.”  Delete the hanging paragraph and substitute:  “A changed assessment becomes conclusive evidence of the final amount due in respect of the Price for Service Provided to Date under or in connection with the contract.” |
|  | **The *Contractor’s* share** |
| 54.3 | *[Only applicable when using Main Option C*  Delete and substitute:  “The *Service Manager* makes an assessment of the *Contractor*’s share at Task Completion or when the Price for Service Provided to Date is greater than the total of the Prices for a Task, whichever is the sooner, using its forecasts of the final Price for Service Provided to Date and the final total of the Prices for that Task.”] |
|  | **Reverse VAT** |
| 56 | Insert new clause 56: |
| 56.1 | For the purposes of the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019 (as amended, the "Order"), and having regard to HM Revenue & Customs' VAT reverse charge technical guide (24 September 2020 edition, the "Guidance"), the *Client* confirms that in relation to any supplies or services that are made to it under this contract that are specified services (as defined in the Order), it is an 'end user' in the sense contemplated in the Guidance. |
|  | **Invoices** |
| 57 | Insert new clause 57: |
| 57.1 | “Subject to clause 57.2, each amount to be paid to the *Contractor* under this contract shall be payable:   * where the *Contractor* submits an invoice to the *Client*, the *Client* will consider and verify that invoice in a timely fashion. * the *Client* shall pay the *Contractor* any sums due under such an invoice no later than a period of 30 days from the date on which the *Client* has determined that the invoice is valid and undisputed. * where the *Client* fails to comply with the first bullet point above and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of clause 57.2 after a reasonable time has passed. * where the *Contractor* enters into a Subcontract, the *Contractor* shall include in that Subcontract a provision requiring the counterparty to that Subcontract to include in any Subcontract which it awards provisions having the same effect as this clause 57.1. |
| 57.2 | To the extent this contract is a construction contract as defined in the Housing Grants, Construction and Regeneration Act 1996 (as amended), the final date for payment of an amount due under this contract is in accordance with clause Y2.2. |
| 57.3 | For the purpose of this provision, a valid invoice is an invoice that:   * the *Contractor* was entitled to submit in accordance with this contract; and * complies with the requirements of this contract. |
| 57.4 | Any provision of this contract that purports to make payment to the *Contractor* conditional on:   * receipt of any payment by the paying party from a third person; * certification of any payment to the paying party; * performance of obligations under another contract; and/or * a decision by any person as to whether obligations under another contract have been performed;   shall have no effect. |
| 57.5 | Nothing in this clause 57 overrides any provision of this contract relating to payment to the *Contractor* following termination of this contract or termination of the *Contractor*’s obligations under this contract by reason of any breach or failure on the part of the *Contractor*.” |
|  | **IR35** |
| 58 | Insert new clause 58: |
| 58.1 | [To be inserted in due course] |
|  | **Compensation events** |
| 60.1(16) | Delete and insert “Not used”. |
|  | **Notifying compensation events** |
| 61.7 | Delete and substitute:  “A compensation event is not notified:   * in respect of a Task, after Task Completion of that Task Order; * in respect of any other work comprised in the *service*, after the end of the Service Period.” |
|  | **Assessing compensation events** |
| 63.1 | Delete and replace with the following:  “For a compensation event which only affects the quantities of work shown in the Task Order, the change to the Prices is assessed by multiplying the changed quantities of work by the appropriate rates in the Price List and/or where work in the Task Order was not covered by the Price List, such applicable rates as were agreed between the Parties prior to the issue of the relevant Task Order.” |
| 63.5 | Delete the fourth bullet point. |
| 63.10 | In the third line after the word “event” insert:  “, that the *Contractor* notified the event as soon as reasonably practicable under clause 61.3,” |
|  | Insert new clauses 63.16 – 63.18: |
| “63.16 | Notwithstanding any other provision of this contract:   * Defined Cost does not include any Excluded Loss; * assessment of a compensation event, whether comprising any omission of all or part of the *service*, breach of contract by the *Client* or otherwise does not include any Excluded Loss, regardless of whether the *Client* subsequently employs any other person to carry out any such omitted *service*. |
| 63.17 | If the *Service Manager* gives an instruction to the *Contractor* that changes the Scope or the Task Completion Date because the *Contractor* has failed to perform its obligations in accordance with this contract:   * the Prices are not increased; * to the extent that the instruction comprises omission of part of the *service*, the Price for Service Provided to Date does not include any amount that would otherwise have been included in respect of that omitted part, whether due to inclusion of any amount in Defined Cost or Fee, by reference to the Price List if applicable, or otherwise; and * to the extent that such amount exceeds the amount of any reduction in the Prices under any other provision of this contract, the Prices are further reduced by the amount of that excess. |
| 63.18 | If the *Service Manager* gives an instruction omitting all or substantially all of the *service* and/or a Task:   * the *service* or that part of the *service* (as the case may be) ceases to form part of the *Contractor*'s obligations to Provide the Service; and * the provisions of this contract (including Prices, Task Completion, the Accepted Plan and the accepted Task Order programme) are amended to take into account the change in the *Contractor*'s obligations. Such amendment is made by the *Client* on the basis of what in the *Client*'s opinion is fair and reasonable, having regard to the circumstances in which the instruction was issued, including whether the *Contractor* has complied with its obligations under this contract. |
|  | **The *Client*'s title to Plant and Materials** |
| 70.1 | Delete and substitute:  “Where this contract states that title in Plant and Materials passes to the *Client*, the *Contractor* passes and the *Client* receives good and unencumbered title to those Plant and Materials free from any lien, charge or other interest, whether in favour of the *Contractor*, a subcontractor or any Third Party. The *Contractor* ensures that it has all necessary rights and title to pass such good, unencumbered and free title to the *Client* and warrants that the title received by the *Client* will comply with all requirements of this clause.” |
| 70.2 | Insert new clause 70.2:  “Title to Plant and Materials outside the Affected Property passes to the *Client* when the *Contractor* has:   * clearly segregated those Plant and Materials from any other items; * identified and marked those Plant and Materials as for this contract and the property of the *Client;* and * complied with any requirements of the Scope to be satisfied prior to passing of title;   and the *Service Manager* verifies that the *Contractor* has complied with the above.” |
|  | **Removing Plant and Materials** |
|  | Insert new clauses 73 |
| “73.1 | The *Contractor* does not remove Plant and Materials from the Affected Property except for use in the *service* or with the *Service Manager*’s permission. |
| 73.2 | Where title in any Plant and Materials outside the Affected Property has passed to the *Client*, the *Contractor*:   * does not remove those Plant and Materials from storage other than for immediate transportation to the Affected Property for use in the *service* or with the *Service Manager*’s permission; * does not remove, alter or add to any marking of those Plant and Materials; and * ensures that those Plant and Materials remain clearly segregated from all other items.” |
|  | **Reversion of title in Plant and Materials** |
|  | Insert new clause 74: |
| 74.1 | Title to Plant and Materials passes back to the *Contractor* if:   * the *Service Manager* rejects those Plant and Materials in accordance with this contract; or * the *Service Manager* otherwise notifies the *Contractor* that title to those Plant and Materials has reverted to the *Contractor*.   If any such Plant and Materials are within the Affected Property, the *Contractor* promptly removes those Plant and Materials from the Affected Property. |
|  | **Delivery up of Plant and Materials** |
|  | Insert new clause 75: |
| 75.1 | Where title in any Plant and Materials outside the Affected Property has passed to the *Client*, the *Service Manager* may instruct the *Contractor* to deliver those Plant and Materials to the Affected Property within one week or within such other period as may be reasonable in the circumstances. If the *Contractor* fails to do so:   * the *Client* is entitled to enter the premises of the *Contractor* and/or a subcontractor and to remove such Plant and Materials; and * the *Service Manager* assesses the cost to the *Client* of so doing and the *Contractor* pays that amount. |
|  | **Passing of title does not change risk allocation** |
|  | Insert new clause 76: |
| 76.1 | Passing of title in any Plant and Materials to the *Client* does not change the allocation of risk as set out in this contract. |
|  | ***Client*'s liabilities** |
| 80.1 | In the first bullet point, second sub-bullet point after *Contractor* delete “.” and insert “and except any such negligence, breach of statutory duty or interference in respect of any design or any other documentation or information provided and/or prepared by or on behalf of the *Client* for which the *Contractor* is responsible pursuant to the terms of this contract.”  In the eighth bullet point after “Contract Data” delete “.” and insert “and/or Task Order.”  After the eighth bullet point, insert an additional bullet point:   * “A fault in the *Client’s* design contained in   + the Scope provided by the *Client* or   + an instruction from the *Service Manager* changing the Scope~~.~~,   and except any fault in any design or any other documentation or information provided and/or prepared by or on behalf of the *Client* for which the *Contractor* is responsible pursuant to the terms of this contract.” |
|  | ***Contractor*’s liabilities** |
| 81.1 | Delete the first sentence and substitute:  “The *Contractor*’s liabilities are the risks and items for which the *Client* is not liable, including but not limited to the following:” |
|  | **Nuisance** |
| 82A | Insert a new clause 82A: |
| “82A.1 | To the extent that any such trespass, nuisance or interference is not the inevitable and unavoidable result of the *service* or the use or occupation of the Affected Property for the purpose of the *service*, the *Contractor* at all times takes all measures necessary to prevent any trespass, public or private nuisance (including, without limitation, any nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway) or other interference with the rights and activities of any adjoining or neighbouring landowner, tenant or occupier or any statutory undertaker arising out of the carrying out of the *service* and assists the *Client* in defending any relevant action or proceedings which may be instituted. |
| 82A.2 | The *Contractor* is responsible for and indemnifies the *Client* from and against any and all expenses, liabilities, losses, claims and proceedings whatsoever resulting from any such trespass, nuisance or interference, except only where and to the extent that such trespass, nuisance or interference is the inevitable and unavoidable result of the *service* or the use or occupation of the Affected Property for the purpose of the *service*, in each case in respect of which the *Contractor* warned the *Client*. |
| 82A.3 | The *Client* issues to the *Contractor* such instructions as it considers necessary if any injunction is granted or court order is made in consequence of any such trespass, nuisance or interference. Except where such trespass, nuisance or interference was the inevitable and unavoidable result of the use of occupation of the Affected Property for the purpose of the *service,* the *Contractor* is not entitled to a compensation event or any additional payment (whether by way of an addition to the total of the Prices or otherwise) by reason of any such injunction or instruction. |
| 82A.4 | The *Contractor* indemnifies and keeps the *Client* and the Authority fully and effectively indemnified against any and all claims, proceedings, compensation and costs resulting from any infringement or alleged infringement of any IP of any third party arising directly or indirectly as a result of the use or exercise by or on behalf of the *Client*, the Authority or by any of their respective permitted licensees, agents, *Contractor*s or assignees of any rights in respect of IP granted or procured or required to be granted or procured by the *Contractor* pursuant to this contract. |
| 82A.5 | If any claim is made or action brought against the *Client* or the Authority arising out of any such infringement or alleged infringement:   * the *Contractor* at its own expense promptly conducts all negotiations for the settlement of that claim and any litigation or other proceedings that may arise. Unless and until the *Contractor* fails promptly to conduct such negotiations and proceedings the *Client* does not make any admission which might be prejudicial to such proceedings; * the conduct by the *Contractor* of such negotiations and/or proceedings is conditional upon the *Contractor* having first given to the *Client* such reasonable security as the *Client* from time to time requires to cover any amount ascertained or agreed or estimated as the case may be of any compensation, damages or expenses for which the *Client* or the Authority are or may become liable; and * at the request of the *Contractor* the *Client* provides all reasonable assistance for the purpose of contesting any such claim or action. The *Contractor* pays to the *Client* the amount of any expenses incurred by the *Client* in so doing. |
| 82A.6 | The *Contractor* acknowledges that contravention of any of its obligations under this contract relating to confidentiality, non-disclosure of information or the taking of any photographs or any other form or manner of image recording of the *service* or the Affected Property could result in severe loss and or damage to the *Client*. |
| 82A.7 | The *Contractor* indemnifies and keeps the *Client* fully and effectively indemnified against any and all losses, claims, proceedings, compensation and costs caused by or arising from any such contravention, whether direct or indirect, consequential or economic or comprising loss of profits, loss of opportunity or otherwise, and regardless of whether falling within the definition of Excluded Loss.” |
| 83 | **Insurance Cover** |
| 83.3 | After “Service Period” insert “or for such other duration as may be expressly required by the provisions of this contract.”. |
| 84 | **Insurance Policies** |
|  | Insert new clauses 84.4 – 84.9 |
| 84.4 | As soon as reasonably practicable the *Client* and the *Contractor* each notifies the other in writing of any claims which they receive in respect of any injury, loss or damage in respect of which this contract requires insurance. Notification by the *Contractor* is given to the *Service* *Manager*. |
| 84.5 | Insurance policies do not include any term or condition to the effect that the *Contractor* must discharge any liability before being entitled to recover from insurers, or any other term or condition which might adversely affect the rights of any person to recover from insurers under any applicable law relating to the rights of third parties against insurers. |
| 84.6 | The *Contractor* does not:   * without the prior approval in writing of the *Client*, settle or compromise with insurers any claim which the *Contractor* may have against insurers and which relates to a claim by the *Client* against the *Contractor*; or * by any act or omission lose or prejudice the *Contractor’s* right to make or proceed with such a claim against insurers. |
| 84.7 | The insurances provided pursuant to this contract do not relieve the *Contractor* from any of its obligations and liabilities under this contract or otherwise at law. |
| 84.8 | If the *Client* insures a risk which this contract requires the *Contractor* to insure, this is without prejudice to any of the *Client's* other rights, powers or remedies under this contract. |
| 84.9 | The *Contractor* does not, by any act, omission or default, prejudice, lose or forego the Parties' right or the right of either of them to make or proceed with a claim against any insurer. |
| 86 | **Insurance by the *Client*** |
|  | Delete clauses 86.1 – 86.3 and insert “Not used.” |
|  | **Professional Indemnity Insurance** |
| 87 | Insert new clause 87: |
| “87.1 | If the Contract Data and/or a Task Order so requires, the *Contractor* maintains professional indemnity insurance:   * covering all its professional liability under this contract in an amount not less than that, and of the type, required by the Contract Data and/or Task Order (as applicable); * upon customary and usual terms and conditions prevailing for the time being in the insurance market with reputable insurers lawfully carrying on such insurance business in the territory named in the Contract Data and/or Task Order (as applicable);   for a period beginning not later than the Contract Date and ending 6 (six) years (or such other period as is required by the Contract Data and/or Task Order (as applicable)) after the earlier of Task Completion of the Task with the latest planned Task Completion or, the termination of the *Contractor*’s obligation to Provide the Service for any reason, including breach by the *Client*, provided that such insurance is available at commercially reasonable premiums. |
| 87.2 | Any increased or additional premium required by insurers by reason of the *Contractor*’s claims record or other matters particular to the *Contractor* are considered to be within commercially reasonable premiums. |
| 87.3 | The *Contractor* immediately informs the *Client* if such insurance ceases to be available at commercially reasonably premiums, and fully co-operates with any measures reasonably required by the *Client*, including:   * completing any proposals for insurance and associated documents; and * maintaining such insurance at premiums above commercially reasonable premiums, if the *Client* undertakes in writing to reimburse the *Contractor* in respect of the net cost of such insurance to the *Contractor* above commercially reasonable premiums.” |
|  | **Authority Insurances** |
| 88 | Insert new clause 88: |
| “88.1 | The *Client* shall notify the *Contractor* of the relevant insurance arrangements put in place by the Authority (the “**Authority Insurances**”), including any information provided by the Authority from time to time in respect of such Authority Insurances. |
| 88.2 | The *Contractor* shall:   * not purchase insurance that duplicates the Authority Insurances; * consent to being a joint named insured under the Authority Insurances; and * comply with (and procures that its subcontractors agree to comply with) any instructions issued by the Authority from time to time in relation to the Authority Insurances, claims handling and other procedures relevant to this contract. |
| 88.3 | In addition to any other insurance obligations under this contract, the *Contractor* arranges appropriate insurance cover to reflect the nature of the contract works, goods and/or *service* to be performed (for example public and product liability, employer’s liability, professional indemnity and motor insurance). For the avoidance of doubt, all the *Contractor*’s insurance policies required by this contract, with the exception of any professional indemnity insurance, contain a provision which obliges the insurers to indemnify the *Client*, and the Authority in respect of claims made against them arising from the performance or provision of works, goods and/or *service* by the *Contractor*. |
| 88.4 | The *Contractor* shall not and shall procure that its subcontractors shall not take any action or fail to take any reasonable action or (insofar as it is reasonably within its power) permit or allow others to take or fail to take any action (in either case including failure to disclose any fact) as a result of which any of the Authority Insurances may be rendered void, voidable, unenforceable, suspended or impaired in whole or in part or which may otherwise render any sum paid out under any of the Authority Insurances repayable in whole or in part. |
| 88.5 | Where and to the extent that this contract requires the *Client* to meet costs incurred by the *Contractor*, in addition to any exclusion or limitation under any other provision of this contract the amount to be paid by the *Client* shall exclude:   * any costs (to the extent the Authority has not received insurance proceeds in respect of the costs in question) incurred due to a material failure of the *Contractor* to complete and/or carry out any works or *service* or provide any goods in accordance with this contract unless that failure is a direct result of a Force Majeure Event or a direct result of the *Client* failing to perform its obligations under this contract; and * any costs that fall within any Vitiated Insurance Liability as a result of any act or omission of the *Contractor* or its subcontractors.” |
|  | **Termination** |
| 90.2 | Delete all references to A4 in the Termination Table. |
|  | **Reasons for Termination** |
| 91.1 | Delete “Either” and substitute “Subject to clause 91.1A, either”.  In the second bullet point, under the first sub-bullet point, insert as follows:  “a monitor appointed or any document is filed at the court to obtain or apply for a moratorium or order is made for a moratorium to come into force (R5A),  Delete "had an administration order made against it or had an administrator appointed over it (R8)" and insert "had a notice of intention to appoint an administrator filed at court, an administration order made against it or an administrator appointed (R8),"  Delete “made an arrangement with its creditors (R10)” and insert “made an arrangement, compromise or composition with its creditors or a monitor appointed or any document is filed at court to obtain or apply for a moratorium or order is made for a moratorium to come into force (R10).” |
| 91.1A | Insert new clause 91.1A:  “The *Contractor's*right to terminate for any of reasons R5A to R8, R9 where an administrative receiver is appointed, or R10 where a voluntary arrangement approved under Part 1 of the Insolvency Act 1986 takes effect in relation to the *Client*, or after a court order is made under section 901C(1) of the Companies Act 2006 in relation to the *Client* (a "relevant insolvency procedure") will not arise unless and to the extent that   * in a case where the *Client* has entered administration, an administrative receiver of the company has been appointed (otherwise than in succession to another administrative receiver), gone into liquidation and/or a provisional liquidator of the *Client* is appointed (otherwise than in succession to another provisional liquidator), the office-holder consents to the termination, * in any other case, the *Client* consents to the termination, * the court is satisfied that the continuation would cause the *Contractor* hardship and grants permission for the termination or * the termination is otherwise permitted pursuant to Section 233B of the Insolvency Act 1986 (as amended and in force from time to time).” |
| 91.2 | Delete the opening sentence and substitute:  “The *Client* may terminate if:   * the *Service Manager* has notified that the *Contractor* has defaulted in one of the following ways and not put the default right within four weeks of the notification; or * the *Contractor*, having previously been notified that it has defaulted in one of the following ways, has at any subsequent time defaulted in the same or a similar manner and such subsequent default either occurred after or had not been put right within four weeks of that previous notification.” |
| 91.3 | Delete the opening sentence and substitute:  “The *Client* may terminate if:   * the *Service Manager* has notified that the *Contractor* has defaulted in one of the following ways and not stopped defaulting within four weeks of the notification; or * the *Contractor*, having previously been notified that it has defaulted in one of the following ways, has at any subsequent time defaulted in the same or a similar manner provided that such subsequent default either occurred after or had not stopped within four weeks of that previous notification.” |
| 91.5A | Insert new clause 91.5A:  “The *Contractor's*termination rights under clauses 91.4 and/or 91.5 may not be exercised while the *Client* is and remains subject to a relevant insolvency procedure unless such exercise is expressly permitted and/or is not prohibited by the provisions of Section 233B of the Insolvency Act 1986 (as amended and in force from time to time).” |
| 91.7 | Delete and substitute:  “The *Client* may terminate if a Prevention Event occurs (R21).” |
| 91.8 | Insert new clause 91.8:  "For the avoidance of doubt in the event of any change in ownership, management or control of the *Client*, the *Contractor* is not entitled to terminate this contract or make any amendment to this contract." |
|  | **Payment on Termination** |
| 93.2 | Delete the whole of A4, including the bullets. |
| 94 | Insert new clause 94: |
|  | “**Limitation Period**  Notwithstanding any other provision of the contract, any provision of the Limitation Act 1980, the method of execution of the contract, and to the extent permissible under the applicable law, proceedings may be commenced against the *Contractor* in respect of a Task at any time prior to the expiry of 6 years after the end of Task Completion for that Task (or, if earlier, 6 years after the employment of the *Contractor* under the contract is terminated.” |

**SECONDARY OPTION CLAUSES**

The Secondary Option Clauses are amended and supplemented as follows.

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| **X11** | **Termination by the *Client* (Not used with Option X19)** |
| X11.2 | Delete “and A4”. |
| X11.3 | Insert new clause X11.3:  "Subject to clause X11.3, where the *Client* terminates this contract pursuant to this Option X11, the *Contractor* is entitled to recover from the *Client* costs reasonably and actually incurred and arising directly from termination of this contract. For the avoidance of doubt the *Contractor* is not entitled to recover any payment in respect of any Excluded Loss." |
| X11.4 | Insert new clause X11.4:  "Notwithstanding any other provision of this contract, nothing in this contract obliges the *Client* to make any termination payment under clause X11.3 in excess of £100,000 (one hundred thousand pounds Sterling) or 15% (fifteen per cent) of the total value of this contract, whichever is the greater." |

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| **X15** | **Design responsibility** |
|  | Insert new Secondary Option Clause X15 as follows. |
|  | “X15 **DESIGN RESPONSIBILITY**  X15.1 The *Contractor* is not liable for a Defect which arose from its design unless it failed to carry out that design using Good Industry Practice.  X15.2 If the *Contractor* corrects a Defect for which it is not liable under the contract it is a compensation event.  X15.3 The *Contractor* may use the material provided by it under the contract for other work unless   * the ownership of the material has been given to the *Client* or * it is stated otherwise in the Scope.   X15.4 The *Contractor* retains copies of drawings, specifications, reports and other documents which record the *Contractor’s* design for the *period for retention*. The copies are retained in the form stated in the Scope.” |

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| **X18** | **Limitation of liability** |
| X18.2 | Delete and insert “Not used.” |
| X18.6 | Delete X18.6 and replace with:  “Save where this contract expressly provides to the contrary, no Party shall have any liability to the other Party arising out of or in connection with this contract whether for breach of contract (including without limitation any liability for low performance), for breach of duty, in tort (including without limitation negligence), by way of indemnity or in respect of any rights for the *Client* to make deductions from payments due to the *Contractor* or any liability for the *Contractor* to pay the *Client* or in respect of any theory of liability or cause of action for any Excluded Loss, whether or not foreseeable at the date of execution of this contract or at any time and whether under the express or implied terms of this contract or at law or in any other way including following the termination of the engagement of any Party under this contract for any reason.” |

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| **X20** | **Key Performance Indicators (Not used with Option X12)** |
| X20.4 | Delete “when the target has been improved upon or achieved” and replace with “in the immediately subsequently interim application for payment following the end of the quarterly assessment (as described in the Incentive Schedule), provided the target has been improved upon or achieved.” |

Y(UK)2:  **The Housing Grants, Construction and Regeneration Act 1996**

Y2.2 In paragraph 2, beginning “The final date for payment…” delete “seven days” and insert “fourteen days”

Y2.3 In the first line, after the words “the notified sum” and before the comma, insert “(including where the *Contractor* has not issued a VAT invoice in accordance with clause 50.13)”.

In the second line, delete “seven” and insert “three”.

Y2.3A Insert new clause Y2.3A:

“The issue of a payment application in accordance with clause 50.2 and the issue of a valid VAT invoice in accordance with clause 50.13 by the *Contractor* are each a precondition to the relevant interim payment under this contract, provided that, in the case of a failure by the *Contractor* to provide a VAT invoice, the *Client* has notified the *Contractor* in accordance with the contract that it intends to pay less than the notified sum.”

Y2.6 Insert new clause Y2.6:

"If the *Service Manager* fails to issue a certificate in accordance with clause 51.1, the amount to be paid by the *Client* is the sum stated in the *Contractor*'s application for payment, subject to any pay less notice served by the *Contractor* pursuant to Clause Y2.3. If the *Contractor* fails to issue an application for payment in accordance with clause 50.2 and the *Service Manager* fails to issue a certificate in accordance with clause 51.1, the *Contractor* may at any time issue a payment notice in default stating the amount it considers to be due at the due date for payment and the basis upon which that sum is calculated ("payment notice in default”). The "notified sum" for the purposes of clause Y2.3 is the amount specified in either the *Service Manager*'s certificate under clause 51.1 or the *Contractor*'s application under clause 50.2, or the *Contractor*'s payment notice in default, whichever is applicable. In circumstances where the *Contractor* serves a payment notice in default, the period between the due date and the final date for payment shall be extended by a period equal to the period beginning on the last date when the *Service Manager* should have issued its certificate under clause 51.1 and ending on the date when the payment notice in default is served by the *Contractor*."

Y2.7 Insert new clause Y2.7:

"Notwithstanding anything to the contrary in this contract, if the *Contractor* becomes insolvent as defined in Section 113 of the Act after the last date upon which a pay less notice could have been given by the *Client*, the *Client* shall not be obliged to pay the relevant notified sum on or before the relevant final date for payment."

**OPTION Z –** **ADDITIONAL CONDITIONS OF CONTRACT**

**CONTENTS**

Z1 Transfer of Employees

Z2 Novation and Assignment

Z3 Rights of Third Parties

Z4 Nuclear Installations Act

Z5 Freedom of Information

Z6 Modern Slavery Act

Z7 Rights of Audit, Inspection and Access

Z8 Anti-bribery and Corruption

Z9 Confidentiality

Z10 Force Majeure

Z11 Data Protection

Z12 Agreements with Trade Unions

Z13 Quality Management System

Z14 Collateral Warranties

Z15 Health and Safety/CDM

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Z21 WANO

Z22 Contractor’s Constitution

Z23 Images of the Site

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Z29 Prevention of the Facilitation of Tax Evasion

Z30 Asbestos Licence

Appendix 1 Dispute Resolution Procedure

Appendix 2 Controlled Area Working

Appendix 3 Data Protection

Appendix 4 Form of Cyber Essentials Declaration

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**Z CLAUSES**

The *additional conditions of contract* areas follows:

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| Z1 | **Transfer of Employees** |
|  | Where as a result of entry into this contract, this contract and other contracts as a Series of Contracts or any Subcontract, the employment of any Protected Employee transfers to the *Contractor*, a subcontractor or any Third Party (the "Transferee Employer") and following the transfer of employment such Protected Employee continues to undertake wholly or mainly Authority Facing Work the *Contractor* complies with and procures that complies with the following provisions:   * ensures that on or before the date of transfer of employment the Transferee Employer has established or become a participant in a pension scheme which has been certified by the Government Actuary’s Department ("GAD Certified Pension Scheme") as providing sufficient benefits to enable the Authority to satisfy itself that its duties and obligations under Part 4 of Schedule 8 of the Energy Act 2004 have been met, and complying fully with the Fair Deal on Staff Pensions issued by HM Treasury in October 2013, including the supplementary guidance issued by HM Treasury in December 2016 concerning bulk transfer payments; * ensures that on or before the date of transfer of employment each Protected Employee is enrolled as a member of the GAD Certified Pension Scheme; * does and does not omit to do any such other thing which the Authority determines to be necessary to enable the Authority to satisfy itself that its duties and obligations in respect of the Protected Employees under Schedule 8 to the Energy Act 2004 are met; * maintains for the duration of this contract, Series of Contracts or Subcontract a record of those Protected Employees undertaking wholly or mainly Authority Facing Work; and * complies with the Authority’s policies for the provision of pensions within the nuclear industry. |
| Z1.2 | In the event of any breach of the undertakings or other obligations set out in this clause Z1, where the *Contractor* is the Transferee Employer the *Contractor* does, and where the *Contractor* is not the Transferee Employer the *Contractor* ensures that the Transferee Employer does, all things reasonably necessary, as directed by the Authority, to restore the rights and benefits of such Protected Employees so as to enable the Authority to satisfy itself that its duties and obligations under Schedule 8 to the Energy Act 2004 are, and continue to be, met. |
| Z2 | **Novation and Assignment** |
| Z2.1 | The *Contractor* does not, without the prior written consent of the *Client*, assign or otherwise transfer the benefit of any or all of its rights and benefits under this contract. |
| Z2.2 | The *Client* is entitled to assign, novate or transfer its interest in this contract to a party nominated by the *Client*:   * without the consent of the *Contractor*; * without requiring the consent of any Third Party; and * without incurring any payment obligation or other additional liability. |
| Z3 | **Rights of third parties** |
| Z3.1 | The Authority is, pursuant to the Contracts (Rights of Third Parties) Act 1999, entitled to enforce any of the *Client*’s rights under this contract and any term in this contract which directly or indirectly prevents or attempts to prevent the Authority from exercising those rights has no legal effect. |
| Z3.2 | The *Contractor* acknowledges that its obligations under this contract benefit both the *Client* and the Authority. |
| Z4 | **Nuclear Installations Act** |
| Z4.1 | Pursuant to section 12(3A) of the Nuclear Installations Act 1965 ("the Act"), the *Client* and the *Contractor* agree as follows. |
| Z4.2 | In the event of an occurrence involving nuclear matter as defined within section 7 of the Act, the *Client* shall be liable to the *Contractor* for damage to the property of the *Contractor* and / or the property of the *Contractor*’s subcontractors which is located on the *Client*’s Nuclear Licensed Site for the purposes of this contract. |
| Z4.3 | The liability in clause Z4.2 shall be limited to liability for property damage as would otherwise exist if section 7(3) of the Act did not apply and claims under this contract for property damage shall be governed by the Act as if section 7(3) of the Act did not apply. |
| Z4.4 | The *Client* shall not be liable under this clause Z4 unless and to the extent that the *Contractor* has:   * notified the *Client* and the Authority of the estimated value of the *Contractor*’s plant, equipment and assets and any such plant, equipment and assets of its subcontractors brought onto the Client’s Nuclear Licensed Site on an annual basis for the purposes of this contract; and * where the estimated value of such property has changed by 20% (twenty per cent) or more during any one (1) financial year, notified the *Client* and Authority of the amount of such change. |
| Z4.5 | The liability in clause Z4 is limited to the market value of the property notified in writing pursuant to clause Z4.4 above. |
| Z4.6 | The *Client* shall not liable under clause Z4.2 to the extent that the occurrence involving nuclear matter was attributable to any act or omission of the *Contractor* or any employee, servant or agent of the *Contractor*, or the *Contractor*’s subcontractors or any employee, servant or agent of the *Contractor*’s subcontractors done with the intent to cause injury or damage or done with reckless disregard for the consequences of the act or omission. |
| Z4.7 | For the avoidance of doubt, nothing in this contract is or shall be deemed to be an agreement for the *Contractor* to incur liability under Section 12(3A) of the Act. |
| Z5 | **Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR)** |
| Z5.1 | The *Contractor* acknowledges that the Authority and the *Client* aresubject to the requirements of FOIA, and the EIR and the *Contractor* shall assist and co-operate with the Authority and/or the *Client* to enable the Authority and/or the *Client* to comply with these information disclosure requirements. |
| Z5.2 | If the Authority and/or the *Client* is required to provide information as a result of a request made to it under FOIA and /or EIR and such information is in the possession of any of the *Contractor* or its subcontractors then the *Contractor* shall provide such information to the *Client* and/or the Authority as soon as reasonably practicable. |
| Z5.3 | The *Contractor* shall provide all necessary assistance as reasonably requested by the Authority and/or the *Client* to enable the Authority and/or the *Client* to respond to a Request for Information (as defined under FOIA) within the time for compliance set out in section 10 of the FOIA or regulation 5 of EIR. |
| Z5.4 | The Authority or the *Client* (as appropriate) shall be responsible for determining at its absolute discretion whether any information provided to the Authority and/or the *Client* is exempt from disclosure in accordance with FOIA or EIR or is to be disclosed in response to a Request for Information (as defined under FOIA). |
| Z5.5 | The *Contractor* acknowledges that the Authority and/or the *Client* may, acting in accordance with the FOIA or EIR, disclose information without consulting the *Contractor*, or at its discretion, elect to consult the *Contractor* and take its views into account. |
| Z5.6 | The *Contractor* acknowledges that any lists or schedules provided by it outlining confidential information or commercially sensitive information are of indicative value only and that the Authority and/or the *Client* may nevertheless be obliged to disclose such information in accordance with this clause Z5. |
| Z6 | **Modern Slavery Act 2015** |
| Z6.1 | The *Contractor* shall and shall use all reasonable endeavours to procure that its subcontractors shall, comply with all Laws, codes and sanctions relating to modern slavery including but not limited to the Modern Slavery Act 2015, the *Client*'s Supplier Code of Conduct and the Anti-Slavery and Human Trafficking Policy and any revisions and/or updates to those documents notified by the *Client* to the *Contractor*. |
| Z6.2 | The *Contractor* undertakes, warrants and represents to the *Client* on a continuing basis for the duration of its obligations under this contract that neither it nor any of its officers or Employees has been or will be:   * convicted of any offence involving slavery and human trafficking; * or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking. |
| Z6.3 | The *Contractor* shall use reasonable endeavours to implement due diligence procedures for its own subcontractors, to ensure that there is no slavery or human trafficking in its supply chains or in any part of its business. |
| Z6.4 | The *Contractor* shall notify the *Client* as soon as it becomes aware of:   * any breach, or potential breach, of the Modern Slavery Act 2015, the Supplier Code of Conduct and the Anti-Slavery and Human Trafficking Policy as the same may be updated or replaced from time to time; or * any actual or suspected slavery or human trafficking within its supply chains. |
| Z6.5 | If requested by the *Client*, the *Contractor* for its most recent financial year shall prepare and deliver to the *Client*, a report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in its supply chains or in any part of its business. The extent and format of the report and the time for its preparation and delivery shall be agreed with the *Client* on a basis which is reasonable and proportionate, according to the particular circumstances, that shall include, but not be limited to the nature and size of the *Contractor*'s activities. Such a report where it is requested, shall as a minimum specifically state if the *Contractor* has taken no such steps. The time for the report’s preparation and delivery shall be agreed with the *Client* on a basis which is reasonable and proportionate according to the particular circumstances. |
| Z6.6 | Without prejudice to clause Z6.3, the *Contractor* shall:   * maintain an appropriate system for monitoring its supply chain's compliance with the Modern Slavery Act 2015 and the Anti-Slavery and Human Trafficking Policy and any revisions and/or updates to those documents notified by the *Client* to the *Contractor*, including but not limited to, a complete set of records to trace the supply chain of all equipment, plant and materials and services provided to the *Contractor* in connection with this contract; and * if requested to do so by the *Client* from time to time, implement a subcontractor audit, either directly or through a third party auditor to monitor compliance with the Anti-Slavery and Human Trafficking Policy and any revisions and/or updates to those documents notified by the *Client* to the *Contractor*. |
| Z6.7 | The *Contractor* shall keep a record of all training offered and completed by its employees to ensure compliance with the Anti-Slavery and Human Trafficking Policy and any revisions and/or updates to those documents notified by the *Client* to the *Contractor* and shall make a copy of the record available to the *Client* on request. |
| Z6.8 | If the *Contractor* is in breach of any undertaking, warranty or representation as provided in this clause Z6 then the *Client* shall be entitled to terminate this contract for breach of contract on immediate written notice to the *Contractor*. |
| Z6.9 | Without prejudice to any other right or remedy (including the right to terminate the *Contractor*’s employment under this contract):   * the *Client* shall be entitled to investigate a potential breach by the *Contractor* of the *Contractor*'s obligations under this clause Z6 and require the *Contractor* to co-operate fully and to provide all information at the request of the *Client* which is necessary to enable the *Client* to conduct and complete such investigation within reasonable timescales; * where, in the opinion of the *Client*, such investigation concludes that the *Contractor* is in breach of any of its obligations under this clause Z6:   + the *Client* shall notify the *Contractor* in writing of such breach;   + the *Contractor* shall, within such period as specified by the *Client* submit its proposals, setting out the steps that are to be taken in order to comply with its obligations under this clause Z6, such proposals to be to the satisfaction of the *Client* (a "**MSA Action Plan**");   + upon agreement of a MSA Action Plan by the *Client* (in its absolute discretion) and without prejudice to the *Contractor*'s other obligations under this contract, the *Contractor* shall immediately proceed in accordance with and complete such MSA Action Plan within timescales agreed by the *Client* which are to be commensurate with the actions to be undertaken;   + the *Client* shall have the right to monitor the *Contractor*'s progress against the MSA Action Plan and, if, at any time, the *Client* considers (in its absolute discretion) sufficient  progress is not being made by the *Contractor* in respect of the MSA Action Plan, including but not limited to, a failure or repeated failures to complete all or any part of the MSA Action  Plan within the agreed timescales, the *Client* shall be entitled to take any further action it considers appropriate (including, but not limited to, agreeing a new MSA Action Plan and/or termination of the contract). |
| Z6.10 | Notwithstanding any other term of this contract the *Contractor* is liable for and is to indemnify the *Client* against all payment, loss, damage, action, cost, fines, financial penalty or expense of whatsoever nature paid made or incurred by the *Client* arising out of or in connection with any breach by the *Contractor* of its obligations, representations and/or warranties under this clause Z6. |
| Z7 | **Rights of audit, inspection and access** |
| Z7.1 | Subject to compliance with applicable Law and Regulatory Requirements, the *Client*, the *Client*’s employees and agents, the Authority and the Authority’s employees and agents shall be entitled at any time, or frequency, to conduct an audit, inspection, review, periodic monitoring and spot check for the purposes of:   * reviewing the *Contractor*’s activities in connection with, and performance in respect of, this contract; * verifying the accuracy of all amounts paid or payable under this contract and any costs of subcontractors of the *service*, goods and/or services, which shall include the verification of any supporting documentation in respect of the amounts paid or payable under this contract; * reviewing all information required to be kept by the *Contractor* pursuant to this contract; * verifying the accuracy and completeness of any management information delivered or required by this contract; * reviewing the integrity, confidentiality and security of the information required to be kept by the *Contractor* pursuant to this contract; * reviewing the *Contractor*’s compliance with the Freedom of Information Act 2000 and Environmental Information Regulations 2004 and the Data Protection Act 2018 and the Modern Slavery Act 2015 in accordance with Clauses Z16 and Z6, compliance with the Bribery Act 2010 in accordance with Clause Z8 and any other Regulatory Requirements or legislation applicable to the *service,* goods and/or services. |
| Z7.2 | For the purpose of carrying out an audit pursuant to this clause Z7 the *Client* and the Authority and the Authority Agent shall, subject to compliance with applicable Law and Regulatory Requirements, be entitled to:   * reasonable access to all parts of the Site and any other site and facilities used by the *Contractor* for or in connection with the performance or provision of the *service,* goods and/or services; * interview any employees, secondees or other personnel of the *Contractor*; * carry out any inspections or tests to determine the integrity of information supplied and the quality of the information systems used by the *Contractor*; * request and receive all information, books of accounts, records and data together with appropriate rights of access to any equipment and/or information systems required to obtain such information; and * copy and collate any information requested pursuant to this clause Z7. |
| Z7.3 | 1. For the purposes of: |
|  | * carrying out the audit and certification of the Authority’s accounts; and/or |
|  | * carrying out an examination pursuant to section 6(1) of the National Audit Act 1983 or any re-enactment thereof, of the economy, efficiency and effectiveness with which the Authority has used its resources; |
|  | 1. the Comptroller and Auditor General may examine such documents relating to expenditure and income as it may reasonably require which are owned, held or otherwise within the control of the *Contractor* and may require the *Contractor* to produce such oral or written explanations as they consider necessary the *Contractor* agrees that it will make such documentation available for use by the Comptroller and/or Auditor General in exercising their statutory duties and functions. |
| Z7.4 | 1. Where appropriate, the *Client* discusses the outcome of the audit findings with the *Contractor*. In such circumstances, the *Contractor* maintains records of the audit findings together with details of any corrective action taken as a result of such audit findings. |
| Z7.5 | 1. During any inspection or audit of the *Contractor*’s site or facilities the *Contractor* (on request) makes available suitable office accommodation for the purposes of the audit. |
| Z7.6 | 1. The *Client*, the Authority and any Authority Agent shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the *Contractor* or delay the provision of the *service,* goods and/or services. The *Contractor* shall not be excused from performance of any aspect of its obligations under this contract for any period of time during which the *Client*, the *Client*’s employees and agents, the Authority, the Authority’s employees and agents and/or the Comptroller and Auditor General are exercising their respective rights under this clause Z7. |
| **Z8** | 1. **Anti-bribery and corruption** |
| Z8.1 | 1. In this clause Bribery Act means the Bribery Act 2010 together with any subordinate Laws (all as amended or re-enacted from time-to-time). |
| Z8.2 | 1. The *Contractor* warrants that no offence under the Bribery Act has been or will be committed by:  * the *Contractor*; or * any person associated with the *Contractor*, including any subcontractor of the *Contractor*;  1. in connection with the procurement or implementation of (or the provision of any services or goods pursuant to) this contract. |
| Z8.3 | 1. For the purposes of and without derogation from clause Z8.2, an offence is committed under any provision of the Bribery Act before such provision is in force, if such offence would have been committed, had such provision then been in force. |
| Z8.4 | 1. For the purposes of clause Z8.2, Z8.6, Z8.8 and Z8.9, the meaning of “**associated person**” in section 8 of the Bribery Act applies. |
| Z8.5 | 1. If at any time the *Contractor* has knowledge of or has reasonable grounds to suspect the occurrence of, a breach of the warranty in clause Z8.2, the *Contractor* shall promptly notify the *Client* in writing of such matters within its knowledge, or of such grounds for suspicion, and shall co-operate with the *Client* at the *Client*'s own cost, in the investigation of such breach or suspected breach of warranty. |
| Z8.6 | 1. If at any time:  * the *Contractor* becomes the subject of any investigation in connection with the Bribery Act; or * becomes the subject of any other investigation in respect of any (or any suspected) wrong doing or impropriety; or * becomes aware of any equivalent investigation (as falls within clause Z8.1 and Z8.2) in respect of its employees, or subcontractors or any other associated person,  1. the *Contractor* shall (unless prohibited by Law) promptly notify the *Client* in writing. |
| Z8.7 | 1. Similarly, the *Contractor* shall promptly inform the *Client* of any genuine and substantiated allegations, serious complaint or verifiable information in respect of any Corruption Related Offence (relating, in some way, to this contract or any order placed hereunder). |
| Z8.8 | 1. The *Client* may terminate this contract by written notice with immediate effect if the *Contractor* or any associated person (in all cases whether or not acting with the *Contractor*’s knowledge) breaches clause Z8.1. |
| Z8.9 | 1. In addition to the rights and remedies provided by the foregoing provisions of this clause Z8, if the *Contractor* or any associated person (in all cases whether or not acting with the *Contractor*’s knowledge) breaches clause Z8.1 the *Client* may: |
|  | * if the breach was committed by a subcontractor, require the *Contractor* to terminate the relevant Subcontract and to procure the performance of the part of the *service* in which the relevant subcontractor was engaged by others; or |
|  | * if the breach was caused by the act or omission of an employee of the *Contractor* or a subcontractor, require the *Contractor* to replace or procure the replacement of that person. |
| Z8.10 | Notwithstanding any other provision of this contract, the *Contractor* is not entitled to any relief from its obligations or additional payment by reason of the exercise by the *Client* of its rights pursuant to this clause Z8. |
| Z8.11 | Clauses Z8.5, and Z8.6 and Z8.7 shall survive the termination (for any reason) of this contract. |
| Z9 | **Confidential Information** |
| Z9.1 | Subject to the following provisions of this clause Z9, each party shall hold in confidence all documents, materials and other information, whether technical or commercial, supplied by or on behalf of the other Party (including all documents and information supplied in the course of Legal Proceedings commenced in accordance with this contract) and all documents, materials and other information of any nature relating to a third party which it may acquire or have access to directly or indirectly as a consequence of negotiating, entering into or operating this contract and shall not, except with the written authority of the party supplying such documents materials or other information, publish or otherwise disclose the same. |
| Z9.2 | The *Client*, may, save for information which is judged by ONR (CNS) to be security sensitive and marked as such (unless the recipient of confidential information pursuant to this clause Z9.3 holds all relevant security clearances), disclose any and all information acquired by the *Client* under or pursuant to this contract (the "Information"):   * to the Authority; * to the Regulators; * to the Parliamentary Commissioner for Administration, a Minister of the Crown, any department of the government of the United Kingdom, the United Kingdom Parliament, the Scottish Parliament, the National Assembly of Wales, the Mayor of London, Greater London Authority or any department, officer, agent, representative, employee, consultant or adviser of any of them; * to the extent required by applicable Law or pursuant to an order of any court of competent jurisdiction or under the Dispute Resolution Procedure; * to bidders who have pre-qualified to participate in any relevant forthcoming tender process, upon obtaining an undertaking of confidentiality equivalent to that contained in clause Z9.1; * to insurers, upon obtaining an undertaking of confidentiality equivalent to that contained in clause Z9.1; * to professional advisers, upon obtaining an undertaking of confidentiality equivalent to that contained in clause Z9.1; * to consultees under the Energy Act; and/or * to the National Audit Office. |
| Z9.3 | So far as is practicable, the *Client* gives the *Contractor* reasonable notice of any proposed disclosure pursuant to clause Z9.2. |
| Z9.4 | Notwithstanding the provisions of clause Z9.1, the *Client* may, with the consent of the *Contractor* such consent not to be unreasonably withheld or delayed, further disclose the Information to persons not referred to in clause Z9.2. |
| Z9.5 | Any determination as to whether it is reasonable for the *Contractor* to withhold its consent to disclosure under clause Z9.4 shall have regard to:   * compliance with the *Client*’s and/or the Authority's statutory functions and duties, including in particular the promotion of effective competition and value for money; * relevant Government policy; * the requirement to maintain security; * the public interest; and * the requirement to maintain openness and transparency. |
| Z9.6 | For the purpose of performing its obligations under this contract or as required by applicable Law, the Regulators or pursuant to an order or any court of competent jurisdiction and to the extent reasonably required to do so, the *Contractor* may, subject to clause Z11, disclose without the consent of the *Client*, any and all information acquired by it under or pursuant to this contract save for information which is judged by ONR (CNS) to be security sensitive and marked as such (unless the recipient of the information pursuant to this clause Z9.6 holds all relevant security clearances) to:   * the Regulators; * the persons identified pursuant to the order of such court or the Dispute Resolution Procedure; * insurers, upon obtaining an undertaking of confidentiality equivalent to that contained in clause Z9.1; * professional advisors, upon obtaining an undertaking of confidentiality equivalent to that contained in clause Z9.1; * the *Contractor’s* subcontractors, upon obtaining an undertaking of confidentiality to that contained in clause Z9.1,   subject, in any case where the entity in question would be required to provide an undertaking of confidentiality equivalent to that contained in clause Z9.1, to obtaining such an undertaking of confidentiality. |
| Z9.7 | Within sixty (60) days after the termination or expiry of the *Contractor’s* engagement under this contract, the *Contractor* shall return or procure the return to the *Client* of all documents, materials and information and any and all equipment, facilities, plant and premises used in connection with this contract belonging to the *Client* or the Authority. |
| Z9.8 | Without prejudice to any other rights or remedies the *Client* may have, the Parties acknowledge and agree that damages alone would not be an adequate remedy for any breach by the *Contractor* of this clause Z9 and that the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this clause Z9 by the *Contractor* are also appropriate remedies. |
| Z10 | **Force Majeure** |
| Z10.1 | If either party is affected by a Force Majeure Event (the “**Affected Party**”) it shall, as soon as it becomes aware of a Force Majeure Event, notify the other Party in writing of:   * the nature of the Force Majeure Event; * the estimated effect of the Force Majeure Event on the Affected Party's ability to perform its obligations under this contract; and * the period for which it is estimated the Force Majeure Event will continue. |
| Z10.2 | Both Parties shall use all reasonable endeavours to mitigate the severity and effect(s) of the Force Majeure Event on the performance of its obligations under this contract. |
| Z10.3 | The *Client* shall be entitled to give reasonable instructions to the *Contractor* as to how the *Contractor* should respond to the Force Majeure Event. |
| Z10.4 | The *Client* may ask the *Contractor* to submit proposals as to how it should respond and may postpone issuing any instructions pursuant to clause Z10.3 above until it has received the *Contractor*’s proposals. |
| Z10.5 | Save to the extent stipulated in this clause Z10, neither Party shall be released from any of its obligations under this contract as a result of a Force Majeure Event. |
| Z10.6 | The *Client* shall not be treated as being in default or otherwise be liable to the *Contractor* for any failure or delay in performing all or any of its obligations under this contract to the extent caused by a Force Majeure Event. |
| Z10.7 | Subject to clauses Z10.8 and Z10.10, where the *Contractor* is delayed in completing its obligations under this contract by reason of a Force Majeure Event, the *Contractor* shall be entitled to an extension of time for such a period as the Force Majeure Event remains to be an issue or for such other time as agreed by the *Client* acting reasonably, and the Accepted Plan and/or relevant Task Order programme shall be revised accordingly to reflect any changes. |
| Z10.8 | The *Contractor* shall not be entitled to an extension of time for a Force Majeure Event pursuant to clause Z10.7 if the *Contractor*’s obligations could have been reasonably avoided or mitigated by the maintenance of business continuity and disaster recovery plans consistent with ISO/IEC 17799 and Good Industry Practice, or otherwise required under this contract and the implementation of such plans. |
| Z10.9 | As soon as the Force Majeure Event has ended and subject to the provisions of clause Z10.1, the Affected Party shall notify the other Party in writing that the Force Majeure Event has ended, and it shall resume the full performance of its obligations under this contract. |
| Z10.10 | In relation to a Force Majeure Event affecting the *Contractor*, if performance by the *Contractor* of substantially all of its obligations under this contract is materially prevented, hindered or delayed by reason of a Force Majeure Event for a period of more than sixty (60) consecutive days (“**Long Term Force Majeure**”), the *Client* may terminate this contract with immediate effect by notice to the *Contractor* on or at any time after the expiry of such sixty (60) day period. |
| Z10.11 | Notwithstanding the foregoing, in the case of a Category A Force Majeure Event:   * the *Contractor* shall comply with the *Client*’s instructions requiring use of best endeavours to mitigate the consequences of the Category A Force Majeure Event; and * the *Client* shall, for as long as the Category A Force Majeure Event subsists, the *Client* is entitled to terminate this contract immediately on notice to the *Contractor*. |
| Z10.12 | To the extent that any Force Majeure Event is also a compensation event, any suspension of obligations in accordance with this contract that results from that Force Majeure Event is taken into account in assessment of a delay to any date in the Accepted Plan and/or relevant Task Order programme. |
| Z10.13 | Where a Force Majeure Event is not also a compensation event:   * a delay to the performance of the *service* is assessed by the *Service Manager* as the length of time that, due to any suspension of obligations in accordance with this contract that results from that Force Majeure Event, planned completion of the *service* is later than planned completion of the *service* as shown on the Accepted Plan and/or relevant Task Order programme; * the Prices for the relevant Task are not changed.   The *Service Manager* notifies the *Contractor* of its assessment. |
| Z11 | **Data Protection** |
| Z11.1 | The Parties shall comply with their respective obligations in Appendix 3 to this Option Z. |
| Z12 | **Agreements with trade unions or other bodies representing employee** |
| Z12.1 | The *Contractor* shall comply with the terms of all agreements which the *Contractor* has entered into with trade unions or other bodies representing the employees of the *Contractor* which relate to those employees of the *Contractor*. |
| Z12.2 | The *Contractor* shall at all times keep the Client informed on any matter likely to affect industrial relations at any Service Area or at such other site or place where the *service* or any part thereof are executed. |
| Z12.3 | The *Contractor* shall work with the *Client* (to the extent it is legally permitted to do so) to resolve any matter likely to affect industrial relations and/or any industrial disputes. |
| Z13 | **Quality Management System** |
| Z13.1 | The *Contractor* procures that all aspects of its performance of this contract are the subject of proper quality management systems and in accordance with Good Industry Practice. |
| Z13.2 | The *Contractor* ensures that its quality management systems are accredited to ISO 9001 standard or its internationally accepted equivalent. the *Contractor* maintains and ensures compliance with those quality management systems throughout the duration of this contract. |
| Z13.3 | The *Contractor* monitors, reviews and updates its quality management systems from time to time as necessary to comply with Good Industry Practice and to ensure continued compliance. |
| Z13.4 | The *Contractor* submits any changes it considers necessary to its quality management systems to The *Client* for approval if such a change will affect (or is likely to affect) or will lead (or is likely to lead) to the loss of the *Contractor*’s accreditation. The *Client* may only withhold its consent to such a change if, in its reasonable opinion, the proposed change does not comply with:   * internationally accepted quality management systems or Good Industry Practice at the time of the request; or * any other obligations in relation to quality management systems placed on the *Contractor* under this contract. |
| Z13.5 | When responding to any request from the *Contractor* for approval of changes to the *Contractor*'s quality management systems, the *Client*:   * responds in writing and without unreasonable delay; and * provides reasons for any determination that the *Contractor*'s proposed changes to its quality management systems are unsuitable. |
| Z14 | **Collateral Warranties** |
| Z14.1 | Within three weeks of entering into a Subcontract in respect of which a deed of collateral warranty may be required under this contract, the *Contractor* provides the *Client* with a certified copy of that Subcontract. The *Contractor* does not alter, waive, vary, or depart from any terms of that Subcontract without the *Service Manager*’s prior written consent. |
| Z14.2 | Within three weeks of receipt of notice from the *Client* identifying the relevant subcontractor, the *Contractor* procures the execution and delivery by that subcontractor of a deed of collateral warranty in favour of the *Client*. Subject to compliance with all relevant requirements of this contract, that deed of collateral warranty is:   * substantially in the form prescribed by the Scope; or (if no such form is prescribed) * in a form reasonably required by the *Client,* with any amendments proposed by the relevant subcontractor and approved by both the *Contractor* and the *Client,* such approvals not to be unreasonably withheld or delayed. |
| Z14.3 | The *Contractor*'s obligations to procure or provide collateral warranties in accordance with this contract continue notwithstanding any termination of this contract or termination of the *Contractor*’s obligation to Provide the Service, in either case for any reason whatsoever including (without limitation) breach by the *Client.* |
| Z14.4 | Save to the extent the *Client* expressly agrees otherwise in writing, the *Contractor* procures that each subcontractor enters into a deed of collateral warranty in favour of the *Client* in relation to the *service* provided under the Subcontract. Each deed of collateral warranty complies with any requirement of this contract relating to use of a prescribed form or otherwise relating to the terms of that deed of collateral warranty, provided that the following provisions are included (whether or not included in any such prescribed form or terms).   * An obligation on the *Contractor’s* subcontractor to maintain professional indemnity insurance at a level no less than the maximum fee which could be paid under the Subcontract for a period starting with the commencement date of the Subcontract and ending six (6) years after completion of the *service* provided under the Subcontract. * Warranties from the *Contractor’s* subcontractor in favour of the *Client* that such subcontractor:   + has exercised and will continue to exercise the level of reasonable skill, care and diligence which would be expected of a subcontractor holding itself out as competent in Providing the Service in relation to schemes of similar nature, scope and size to the *service* which are the subject matter of the Subcontract; and   + has complied and will continue to comply in all material respects with the terms of the Subcontract, provided that such subcontractor shall owe no greater duty or liability to the *Client* than it would have owed to the Subcontract counter-party under the terms of the Subcontract; * *Client* step in rights, such that such subcontractor shall not be permitted to terminate the Subcontract as a result of a breach of contract by the Subcontract counter-party without first giving the *Client* the option to step in and adopt the counter-party’s rights and undertake to perform the counter-party’s obligations under the Subcontract. |
| Z15 | **Health and safety / CDM** |
| Z15.1 | The *Contractor* shall (and shall ensure that all subcontractors shall) comply with any statutory duties to which it may be subject under the CDM Regulations and any code of practice for the time being approved by the Health and Safety Executive pursuant to the Health and Safety at Work etc. Act 1974 in connection with the CDM Regulations and fully co-operate with the principal designer and principal contractor and other relevant duty holders under the CDM Regulations. |
| Z15.2 | The *Contractor* warrants and undertakes that it has the skills, knowledge, experience and organisational capability necessary to comply with the separate duties of designer, and principal designer and/or principal contractor if it is appointed to fulfil the role of principal designer and/or principal contractor under the CDM Regulations (as confirmed by a Task Order) and that it has allocated and will continue to allocate during the carrying out of the *service* adequate, suitably qualified and experienced resources to comply with the duties and obligations imposed on it by the CDM Regulations, and provide all such information to the *Client* as the CDM Regulations require. The *Contractor* shall advise the *Client* should the *Contractor* become aware at any stage that it no longer has the requisite competence or resources to comply with the requirements of the CDM Regulations. |
| Z15.3 | The *Client* is the client for the purposes of the CDM Regulations. |
| Z16 | **Reporting and record management** |
| Z16.1 | The *Contractor* shall keep contemporaneous records in relation to the carrying out and completion ofthe *service* at all times. |
| Z16.1 | The *Contractor* complies with and procures that its subcontractors comply with any record management policies issued by the Authority and/or the *Client* from time to time. |
| Z16.2 | The *Contractor* reports on its performance under this contract (including that of its subcontractors) in such format and detail and at such frequency, being no less frequent than monthly, as the *Client* may reasonably require. Without limitation to the foregoing, the *Contractor* provides and procures that its subcontractors provide such reports and information relating to this contract and the *service* as may be required by the *Client* to enable the *Client* to comply with its reporting obligations to the Authority and other Regulators. |
| Z16.3 | If the *Contractor* considers that any report submitted under this contract contains a material error, the *Contractor* notifies the *Client* of such error immediately. |
| Z16.4 | Ownership of all records and any IPR Materials (including any life time records) produced by or on behalf of the *Contractor* under this contract passes to the *Client* on receipt by the *Client*. |
| Z16.5 | The *Contractor* uses all reasonable endeavours to manage, and procures that its subcontractors use all reasonable endeavours, to manage all records under or in connection with this contract in accordance with, and so as to enable the *Client* to comply with, BS ISO 15489-1:2016 or any replacement or modification of that standard. |
| Z17 | **Non-discrimination equality and human rights**  The *Contractor* shallcomply with and use all reasonable endeavours to ensure that subcontractors comply with the following: |
|  | * Human Rights Act 1998; * Employment Rights Act 1996; * Equality Act 2010; and * any other legal or statutory requirement, modification or re-enactment relating to discrimination in employment. |
| Z18 | **Staff and employees** |
|  | In respect of the provision of the *service*, the *Contractor* ensures that when it replaces any of its employees engaged in work under this contract, the replacement has the necessary level of skills and experience which:   * is at least broadly comparable to that of the employee that they are replacing; or * if more appropriate depending on the relevant job position, matches the necessary skills and experience required for that job position. |
| Z19 | **Construction Industry Scheme** |
| Z19.1 | The *Contractor* provides the *Client* with such information as the *Client* may reasonably require to enable the *Client* to comply with its obligations under the Finance Act 2004 (Chapter 3 Part 3) and the Income Tax (Construction Industry Scheme) Regulations 2005 (SI 2005/2045) and any successor obligations. In clauses Z19.2 to Z19.5, "**CI Scheme**" means the construction industry scheme provided for by Chapter 3 of Part 3 Finance Act 2004, any regulations made under section 73 of the Finance Act 2004, the Income Tax (Construction Industry Scheme) Regulations 2005 (SI 2005/2045), the Income Tax (Construction Industry Scheme) (Amendment) Regulations 2007 (SI 2007/672) and any other legislation relating to the construction industry scheme as from time to time modified or replaced whether before or after the date of this agreement (such legislation, regulations and subordinate legislation being the "**CIS Legislation**"). |
| Z19.2 | The *Client* and the *Contractor* shall comply with their respective obligations in respect of the CI Scheme under the CIS Legislation (in force from time to time). |
| Z19.3 | The *Client* shall be entitled to make statutory deductions from any payment otherwise due to the *Contractor*, in accordance with the CIS Legislation. |
| Z19.4 | The *Contractor* shall provide the *Client* with all information and assistance which the *Client* may require in respect of the CI Scheme including, but not limited to, the *Contractor*'s unique taxpayer reference, the *Contractor*'s national insurance number (if applicable) and/or such other information as may be required under Regulation 6 of SI 2005/2045 in sufficient time to enable the *Client* to comply with its obligations (in respect of the CI Scheme and generally). |
| Z19.5 | If compliance with clauses Z19.1 to Z19.4 involves the *Client* or the *Contractor* not complying with any other term of this contract then the provisions of such clauses will prevail. Without prejudice to the generality of the foregoing, interest shall not be payable against any deductions made pursuant to the CIS Legislation. |
| Z19.6 | Where any under deduction or omission has occurred in calculating or making a statutory deduction, the *Contractor* shall correct that error or omission by payment of the sum under deducted to the *Client* within 5 (five) days of identification of the error by the *Client* or the *Contractor*. |
| Z20 | **Intellectual Property** |
| Z20.1 | For the purpose of this clause Z20 the following defined terms shall have the following meanings: |
|  | "Background IP" means any IP:  (a) which a Party owns or Controls either as at the date of this contract or which is created or acquired other than in the course of such Party performing its obligations or exercising its right under this contract;  and which  (b) relates to the deliverables under this contract; and/or  (c) is to be used in the performance of this contract; and/or  and which could be reasonably judged necessary for the Authority, the other Party or any licensee of the Authority or the other Party to use or exploit the Foreground IP;  "Control" means, with respect to any Intellectual Property right, possession of the right, whether directly or indirectly, and whether by ownership, licence or otherwise, to assign, grant a licence, sub-licence or other right to or under, such Intellectual Property and "Controlled" shall be construed accordingly; and  "Foreground IP" means any IP created by or on behalf of a Party and/or subcontractors in the course of the performance of the obligations or exercise of rights under this contract. |
|  | **Background IP** |
| Z20.2 | Background IP owned or Controlled by a Party shall remain vested in and the property of that Party or, where applicable, the third party from whom the right to use the Background IP has derived. |
| Z20.3 | In relation to the *service*, the *Contractor* shall, as soon as possible, identify and declare to the *Client* all Background IP owned or licensed to it which will or may be used in relation to the performance of the *service* and/or its obligations under this contract and/or that is necessary for the exploitation of the Foreground IP licensed to it, such information shall include, without limitation:  (a) any limitations or restriction on the *Contractor*'s right to use such Background IP;  (b) any charges or levies which may attach to the *Contractor*'s right to use such Background IP;  (c) any limitations or restriction on the *Contractor*'s right to grant licences to the *Client* or the Authority in relation to such Background IP; and/or  (d) any charges or levies which may attach to the *Client*'s or the Authority’s rights to use such Background IP.  The provision of such information does not indicate the *Client*'s acceptance of or agreement to such limits, restrictions, charges or levies but the *Client* recognises that such licensed Background IP may not be capable of use for the *service* if such limits, restrictions and/or charges as required by such licence are not accepted. |
| Z20.4 | | Should the *Contractor* consider during the performance of the *service* that any other Background IP not declared under Clause Z20.3 above would benefit *Client* or the exploitation of the Foreground IP, it shall declare this to the *Client* and identify any terms and limitations that will apply to its use before utilising it in the performance of the *service*. The *Client* will have absolute discretion as to whether to allow such Background IP to be utilised in the performance of the *service* and the *Contractor* shall not introduce or utilise any such Background IP without the prior written consent of the *Service Manager.* |
| Z20.5 | | The *Contractor* shall make the Background IP and IPR Materials available to the Authority and the *Client.* |
| Z20.6 | | The *Contractor* hereby grants to the *Client* a non-exclusive, perpetual, irrevocable, royalty-free, fully paid-up, transferable licence under the *Contractor*'s Background IP:   * where such Background IP is necessary for the Client to fully exploit its rights under any Foreground IP; and/or * for any purpose relating to this contract, and/or each individual Task Order and/or for the completed service, including its design, procurement, construction, commissioning, operation, maintenance, repair, refurbishment, renewal, replacement, decommissioning or demolition,   together with the right to sub-license such Background IP: (a) to any of its contractors; and (b) to the Authority and any of the Authority’s contractors, in either case without the consent of the *Contractor* forsuch purposes (excluding sub-licences of Background IP to entities which are significant competitors of the *Contractor* in the marketplace and which perform services akin to the *service* performed by the *Contractor* under this contract, as such entities are identified in the Scope). |
| Z20.7 | | The *Contractor* warrants that the use, licensing and sub-licensing in accordance with this contract of any Background IP created by or on behalf of the *Contractor* shall not infringe the IP rights of any third party. |
| Z20.8 | | Save as provided for in clause Z20.8A, the *Client* shall (and shall use reasonable endeavours to procure that the Authority shall) grant to the *Contractor* a non-exclusive royalty-free licence to use its Background IP for purposes relating solely to the performance of the *Contractor*’s obligations under this contract and permits the *Contractor* to further sub-license its rights under any such licence to any of its subcontractors without the consent of the Authority or the *Client* solely for any purposes relating to the carrying out and completion of the *service* and/or of this contract. |
| Z20.8A | | To the extent that the use or grant of sub-licence of any Background IP of the *Client*, the Authority or its or their licensors is necessary for the *Contractor* to exploit its rights under any Foreground IP for commercial purposes, the *Contractor* obtains the *Client’s* prior written consent to such use, such consent being at the *Client’s* absolute discretion. |
| Z20.9 | | Any usage by the *Contractor* of Background IP belonging to the Authority, the *Client* or its licensors is limited to activities necessary for the *Contractor* to discharge its obligations under this contract (save where prior written consent to other usage has been granted by the *Service Manager*) and the right to use the Background IP will terminate when no longer required for this purpose. When no longer required for such purpose any documents or other records embodying the *Client*’s or the Authority’s IP will be destroyed or returned to the *Client* unless otherwise agreed. |
|  | | **Foreground IP – General Position** |
| Z20.10 | | Subject to Clauses Z20.14 and Z20.15, the *Contractor* shall not be required to transfer ownership of any Foreground IP created by or on behalf of the *Contractor* to the *Client* and/or the Authority. |
| Z20.11 | | The *Contractor* hereby grants to the Authority and the *Client* a non-exclusive, perpetual, irrevocable, royalty-free, transferrable licence under any and all of its Foreground IP and permits the *Client* and the Authority to sub-license its rights to any of its contractors and/or subcontractors without the consent of the *Contractor* for any purpose notwithstanding any patent or other rights owned or Controlled at any time by the *Contractor*. |
| Z20.12 | | The *Client* shall retain ownership of any Foreground IP created by the *Client*. The *Client* shall (and shall use reasonable endeavours to procure that the Authority shall) grant to the *Contractor* a non-exclusive royalty-free licence to use its Foreground IP for purposes relating solely to this contract and permits the *Contractor* to further sub-license its rights under any such licence to any of its subcontractors without the consent of the *Client* and/or the Authority solely for any purposes relating to the performance of the *service* and/or this contract. |
| Z20.13 | | The *Contractor* will take such steps as are necessary to discharge its obligations with regard to Foreground IP and that any Foreground IP that vests in the *Contractor* or any of its employees, agents or other associates will be licensed to the Authority or the *Client* (as applicable), pursuant to Clause Z20.11. |
| Z20.14 | | In the event of any creation of any material Foreground IP, each *Contractor* shall promptly notify the *Client* and the Authority, and the *Contractor* shall keep such Foreground IP secure. |
| Z20.15 | | The *Contractor* shall keep the *Client* informed of all matters relevant to the protection of the *Contractor's* Foreground IP and provide the *Client* with all assistance as it may reasonably require and request in the protection and maintenance of such Foreground IP. |
| Z20.16 | | The *Contractor* warrants to the *Client* and the Authority that no IP, IPR Materials or *service* undertaken by the *Contractor* pursuant to this contract shall infringe any IP right of any third party and undertakes to indemnify and keep indemnified the Authority and the *Client* from and against all costs, expenses, liabilities, direct and indirect and consequential losses (including pure economic loss, loss of profits, depletion of goodwill and like loss), demands, damages, claims, proceedings and legal costs (on a full indemnity basis) arising out of or in connection with any such infringement. This clause shall not apply:   * where any IP, Background IP or Foreground IP provided or prepared by or on behalf of the *Contractor* is used in contravention of any limitations, restrictions and/or conditions to which the same are subject (and which have been notified to the *Client* pursuant to Clause Z20.3) and/or where the same are used for purposes not permitted by this contract; or * where such infringement arises as a result of Background IP and/or Foreground IP provided or prepared by or on behalf of the *Client* and/or the Authority. |
| Z20.17 | | The *Client* warrants to the *Contractor* that no IP licensed by the *Client* to the *Contractor* pursuant to this contract shall infringe any Intellectual Property right of any third party. This clause shall not apply: (i) where any IP, Background IP or Foreground IP provided or prepared by or on behalf of the *Client* is used in contravention of any limitations, restrictions and/or conditions to which the same are subject (and which have been notified to the *Contractor*) and/or where the same are used for purposes not permitted by this contract; or (ii) where such infringement arises as a result of Background IP and/or Foreground IP provided or prepared by or on behalf of the *Contractor*. |
|  | | **Foreground IP – Special Circumstances** |
| Z20.18 | | Notwithstanding the provisions of Clauses Z20.10 to Z20.17, the *Client* shall have the right to have any Foreground IP assigned to the *Client* or to the Authority or for the *Client or* the Authority to be granted an exclusive, perpetual, irrevocable, royalty-free, transferrable licence under any and all Foreground IP owned or Controlled by the *Contractor*, where the *Client* or the Authority reasonably consider ownership of or exclusive licence under such Foreground IP to be necessary:   * + 1. to ensure long term continuity of supply;     2. for national security reasons;     3. where such Foreground IP has nuclear proliferation implications;     4. where there is a need for the *Client* or the Authority to access manufacturing processes for strategically important items or to use designs to procure spare components;     5. where required by the Authority for reasons of policy or to allow the *Client* to meet any contractual obligations to the Authority;     6. in the event such Foreground IP is capable of independent use by the Authority estate and relates to specific topics that complement the Authority’s operations; or     7. as required for legal or regulatory purposes.   Any relevant circumstances as identified in (a) – (g) above are identified in the relevant Task Order. |
| Z20.19 | | The right granted to the *Client* under clause Z20.18 shall be exercisable by the *Client* on a case by case basis during the term of this contract. Where such right is exercised by the *Client* :   * + 1. the *Contractor* shall assign or exclusively licence (as directed by the *Client*) to the Authority and/or the *Client* the Intellectual Property in all Foreground IP prepared by or on behalf of the *Contractor* under this contract (which may also be by way of future assignment) and the Authority or the *Client* (as applicable) shall have the right to make such use at its absolute discretion of such Foreground IP without further payment to the *Contractor*. The *Contractor* shall ensure that all IPR Materials containing Foreground IP prepared by or on behalf of the *Contractor* for the *Client* and/or the Authority, not already pre-printed to the effect that copyright belongs to the Authority, bear the wording on the cover and first page "Copyright in this [document] [drawing] [report] [etc] belongs to the [Authority] [or] [Sellafield Limited]" (as applicable);     2. the *Contractor* will take such steps as are necessary to discharge its obligations with regard to Foreground IP and that any Foreground IP that vests in the *Contractor* or any of its employees, agents or other associates by virtue of its creation under this contract shall automatically be assigned to the Authority or the *Client* (as applicable), which may include assignment by way of future assignment or is exclusively licensed to the *Client* and/or the Authority;     3. the *Client* grants or shall procure that the Authority grants to the *Contractor* a non-exclusive irrevocable royalty free licence to use, modify, develop and sublicense such Foreground IP on condition that such Foreground IP is contractually protected and clearly identified as belonging to the Authority or the *Client* (as applicable);     4. if any such Foreground IP is registrable the Authority and/or the *Client* shall have the right to apply for the filing and prosecution of applications for registration in its name in such countries as it considers appropriate at its own expense. The *Contractor* will cooperate in the provision of all necessary assistance in relation to such registrations but will not be obliged to contribute financially;     5. the *Contractor* shall execute such further documents and do such further acts as the *Client* requires to give full effect to the provisions of this clause Z20 and perfect the Authority’s and/or the *Client*'s title and/or rights (as applicable) in any such Foreground IP. |
| Z20.20 | | Each Party shall as soon as reasonably practicable give notice to the other Party of any actual, threatened or suspected infringement of any Background IP or Foreground IP of either Party and of any claim by a third party that any performance of an obligation or exercise of a right pursuant to this contract infringes any third party rights. |
| Z20.21 | | If any claim is made or action brought against *Client*, or the Authority arising out of the matters referred to in clause Z20.20 the *Contractor* shall be promptly notified and, with the written consent of the *Client,* shall promptly conduct all negotiations for the settlement of the same and any litigation that may arise. To the extent that the claim made, or action brought against the *Client* or the Authority relates to an alleged infringement by the *Client* and/or the Authority of any Background IP or Foreground IP, the *Client* shall at the request of the *Contractor* afford reasonable assistance for the purpose of any such claim or action. The *Contractor* shall conduct such negotiations and/or such litigation at its own expense and shall repay the *Client* any expenses incurred by the *Client* in providing assistance to the *Contractor* in respect of such negotiations and/or such litigation. |
| Z20.22 | | The *Contractor* warrants and represents to the *Client* that:   * + 1. it has and will have for the duration of its obligations under this contract, the legal capacity, right, power and authority to enter into such transfer, assignment or licence of the rights granted in this contract;     2. it is the legal and beneficial owner of the Background IP and the Foreground IP created by or on behalf of the *Contractor* and/or has theright to grant the rights granted in this contract relating to Background IP and Foreground IP (and each part thereof);     3. the rights granted by the *Contractor* under this contract do not infringe (and no part thereof infringes) any Intellectual Property of any third party in any jurisdiction;     4. subject to any limitations, restrictions and/or conditions to which the same are subject and which have been declared to the Client pursuant to clause Z20.3, it has not entered into any agreement or arrangement (whether or not legally enforceable) for the assignment or licensing or other use of the Intellectual Property rights granted by it under this contract (or any part thereof) which would in any way prevent restrict or otherwise inhibit the *Client*'s use and exploitation of such Intellectual Property rights granted under this contract or the IPR Materials (or any part thereof). |
| |  |  |  | | --- | --- | --- | | Z21 | **World Association of Nuclear Operators (WANO) Conduct of Work** | | |  | The *Client* is a member of the World Association of Nuclear Operators (WANO) and as such aspires to meet all of the WANO objectives. The *Contractor* works to meet the objectives of WANO, in particular but not exclusively with regard the following key objectives. | | |  | * Achieving professionalism and competence resulting in quality workmanship. | | |  | * Supervision of construction work by suitably qualified personnel. | | |  | * Seeking of guidance where uncertainties and unexpected events arise. | | |  | * Effective construction practices which are technically sound involving correct tool usage, procedural adherence, clean and orderly sites and equipment. | | |  | * Communication of daily priorities to affected personnel. | | |  | * Demonstration that resources have skills and knowledge to accomplish tasks. | | |  | * Clearly defined organisational structure and understood responsibilities. | | |  | * Routine monitoring, observation and assessment of work activities and conditions to reinforce standards of safety, engineering practice, training & qualification. | | |  | * Reinforcement of expected behaviours such as respect for nuclear safety systems, questioning attitudes and personal integrity. | | |  | * Support to plant outages for scope, efficient resource use, activity duration and maintenance of defence in depth approach. | | |  | * Engineering instructional aids that reflect procedures. | | |  | * Scheduling of work to achieve essential pre-job activities, e.g. work familiarisation. | | |  | * Establishment of a safety culture that recognises nuclear safety as the overriding priority over production and economic concerns. | | |  | * Job training and staff evaluation delivered and documented prior to independent task performance. | | |  | * Dose reduction programme to limit individual and collective dose to as low as reasonably practicable. | | |  | * Work planning detail, training, experience, skills and instruction related to complexity and safety significance of the activity. | | | Z22 | ***Contractor*'s Constitution** | | | Z22.1 | If under the *law of the contract* the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more parties:   * those parties are jointly and severally liable to the *Client* for the performance of this contract; * those parties notify the *Client* of their leader who has authority to bind the *Contractor* and each of those parties; * the *Contractor* agrees that either the leader notified in accordance with the above provisions or any one of the persons making up the joint venture, consortium or other unincorporated grouping of two or more parties gives good receipt for payment by the *Client* to the *Contractor*; and * the *Contractor* does not alter its composition or legal status without the prior consent of the *Client*. | | | Z22.2 | If under the *law of the contract*, the *Contractor* constitutes a joint venture, consortium or other unincorporated grouping of two or more parties, the *Contractor* shall provide to the *Client* a complete copy of the *Contractor*’s joint venture agreement or similar contractual arrangement regulating the relationship between the parties of such joint venture, consortium or other unincorporated grouping. | | | Z23 | **Restrictions on the Contractor’s Rights to Advertise and Use Media** | | | Z23.1 | The *Contractor* shall not itself or permit, acquiesce to or otherwise encourage the placing of any placards or signage, or permit, acquiesce to or otherwise encourage any of its subcontractors to place any placards or signage, whether such placards or signage refers (directly or indirectly) to the *Contractor's* (or the *Contractor’s* subcontractors’) organisation, group or otherwise, on or at the Site or any Service Area, provided always that the *Contractor* and any of its subcontractors shall be permitted to place placards and/or signage as may be required directly to comply with applicable safety laws or regulations. | | | Z23.2 | The *Contractor* hereby expressly recognises and agrees that contravention of any of the restrictions set out in this Clause Z23 by the *Contractor* could result in severe loss and or damage to the *Client*. The *Contractor* shall indemnify and hold the *Client* harmless and indemnified and continue to do so for any and all losses, liabilities, costs, claims, proceedings, damages, demands or expenses caused by or arising therefrom whether direct or indirect, consequential or economic or for any loss of profits or opportunity whatsoever or howsoever. | | | Z23.3 | Except as may be required by law or as may be legitimately required in order only to fulfil the terms of this contract, the *Contractor* shall not use and shall procure that none of the *Contractor's* subcontractors use, in any way whatsoever and in any forum or media whatsoever (including without limitation technical or industry journals, publications, conferences or symposiums), any information ascertained, whether directly or indirectly in respect of the *works* hereunder. In particular, the *Contractor* shall not refer to any commercial, technical or operational information directly or indirectly associated with the *service* for any reason whatsoever or howsoever (unless approved in writing by the *Client* prior to any such use). Such information shall include (without limitation) any designs, drawings, graphics art work, technical specifications, documents, whether in paper form or any other form or otherwise. In the event that the *Contractor* (or the *Contractor's* subcontractors, consultants, suppliers or agents) wishes to divulge any such information, no disclosure shall occur without the express prior written consent of the *Client*. | | | Z23.4 | The *Contractor* shall not itself take or permit, acquiesce to or otherwise encourage the taking of any photographs or any other form or manner of image recording of, or permit, acquiesce to or otherwise encourage any of the *Contractor's* subcontractors to take any photographs or such other form of image recording of the works, any project on the Site or the Site provided always that the *Contractor* may take such photographs or image recordings as may be legitimately required in order only to fulfil the terms of this contract and with the prior consent of the *Service Manager*. | | | Z24 | **Civil Nuclear Security Requirements** | | | | | Z24.1 | In this clause Z24:  “Sensitive Nuclear Information” or “SNI” means any information connected with or arising out of the execution of this contract or the *service* which is or may hereafter by notice in writing given by the *Client* to the *Contractor*, be designated “OFFICIAL – SENSITIVE”, “SECRET” or “TOP SECRET”.  "Employee" includes any employee, agent, officer, director or secretary of the *Contractor*. | | | | | Z24.2 | The *Contractor* acknowledges that it may have access to and/or hold SNI in connection with, or for purposes of complying with, its obligations under this contract and that the *Client* will issue to it a "Security Aspects Letter" (**SAL**) in respect of such SNI. The *Contractor* acknowledges that the *Client* may update, amend and reissue the SAL from time to time. As a precondition to any obligation of the *Client* (including payment) under this contract, the *Contractor* must execute the SAL (and any updated SAL) and return it to the *Client*. | | | | | Z24.3 | The *Contractor* complies at all times with the Official Secrets Acts 1911-1989, Nuclear Industries Security Regulations (NISR) 2003 and Section 79 (offence to intentionally or recklessly disclose) of the Anti-Terrorism, Crime and Security Act 2001 in connection with this contract. The *Contractor* acknowledges the importance of safeguarding SNI from disclosure, which could prejudice the security of nuclear sites and nuclear material on sites or in transportation (and that such disclosure could assist terrorists or others with malicious intent to attack or sabotage nuclear facilities or steal nuclear material) and understands the potentially serious consequences for its employees and subcontractors if they fail to ensure compliance by the *Contractor* with these requirements. The *Contractor* ensures that all its employees and subcontractors engaged in the performance of this contract are given notice of the relevance of this legislation and the potentially serious consequences of failure to comply with it. If directed by the *Client*, the *Contractor* ensures that any employee and subcontractors signs a statement that they understand their obligations and are complying and will comply with them. | | | | | Z24.4 | The *Contractor* implements and operates the procedures, policies and standards and all other requirements set out in the SAL (and any updated and amended SAL), including applying the required levels of Protective Security in respect of all SNI as defined in the SAL. The *Contractor* ensures that all documents, files and records are protected in accordance with the security related provisions of this contract and in accordance with the SAL. | | | | | Z24.5 | The *Contractor* complies at all times with all aspects of the Office for Nuclear Regulation (ONR) Security Policy Framework (SPF), as set out in the SAL. | | | | | Z24.6 | In complying with its obligations under this contract, the *Contractor* at all times (including after each Task Completion and after issue of each Task Defect Certificate), complies with NISR 2003. As part of this obligation the *Contractor*:   * ensures that all its employees and personnel engaged in the performance of this contract are given notice of NISR 2003; and * reports any breach or suspected breach of security (including any loss or compromise of SNI) to the *Client* in accordance with the terms of the SAL. | | | | | Z24.7 | The *Contractor* prevents any loss or compromise of SNI and protects all SNI from deliberate or opportunist attack. The *Contractor* does not, without the written consent of the *Client* (which may be withheld in the relevant person’s absolute discretion), disclose this contract or any SNI to any person. | | | | | Z24.8 | If the *Contractor* discovers or suspects that an unauthorised person is seeking or has sought to obtain information concerning any SNI, the *Contractor* forthwith notifies the *Client*. | | | | | Z24.9 | The *Contractor* acknowledges and agrees that the *Client,* the Authority and ONR may at any time have access to and review and take copies of all information and/or documentation relating to the management of this contract (including standards, procedures and associated records), particularly those aspects relating to the security of SNI. This includes the *Contractor* ensuring the *Client* and the Authority can enter and inspect and have access to the assets and premises of the *Contractor* and subcontractors, wherever located, if they are used for the purposes of or in connection with the performance of obligations under this contract. The *Contractor* acknowledges that there is no limit on such access or reviews, whether in terms of frequency, duration or otherwise, and the *Contractor* fully co-operates in connection with such access and reviews. | | | | | Z24.10 | The *Contractor* appoints a security manager to take responsibility for all aspects of its obligations under this contract which relate to security, including SNI (the "**Security Manager**"). Prior to commencing performance of its obligations under this contract, the *Contractor* notifies the *Client* of the name, qualifications and experience of the proposed Security Manager. The *Client* (in the *Client’s* absolute discretion) prior to contract award approves or otherwise the Security Manager. The *Contractor* does not change an approved Security Manager without the prior written consent of the *Client* (such consent being in the *Client’s* absolute discretion). The *Contractor* ensures that the Security Manager implements and maintains an effective security regime to cover access, transmission, processing, storage and destruction of SNI. | | | | | Z24.11 | The *Client* may at any time request from the *Contractor* or any employee or subcontractor a "Statement of Compliance" in respect of the provisions of this contract (or any Subcontract), which relate to security of SNI and compliance with all aspects of the SAL. The *Contractor* provides or procures from its employees and subcontractors (as requested) a statement in the form set out in the SAL within two weeks of the *Client*'s request. | | | | | Z24.12 | The *Contractor* does not:   * subject to clause Z9, disclose the terms and conditions of this contract to any Third Party without the prior written consent of the *Client* (which may be withheld in the relevant person’s absolute discretion). Communication of SNI within the *Contractor*'s organisation must be only where the recipient is authorised pursuant to the SAL, has not been expressly prohibited by the *Client*, is an Employee and in each case needs to know that information for the performance of this contract; * publicise its involvement with the *Client* or this contract (including in any publicity literature or website or through the media or exhibition or symposium, or through scientific or technical papers or at any event attended by the public (whether organised by the *Client*, a government body, or otherwise) without the prior written consent of the *Client* (which may be withheld in the *Client*'s absolute discretion); * take any photographs or copies of SNI except to the extent necessary to comply with this contract. | | | | | Z24.13 | The *Contractor* does not subcontract any aspect of its obligations under this contract (or communicate with any potential subcontractor relating to a potential Subcontract) without the prior written consent of the *Client* (in the *Client*'s absolute discretion). Where the *Contractor* wishes to obtain the *Client*'s consent to subcontracting of its obligations under this contract (or communicating with a potential subcontractor), the *Contractor* must notify the *Client* of:   * the identity of the proposed subcontractor; * the proposed terms of Subcontract, which as a minimum, will require all subcontractors at all levels of subcontracting to agree to terms equivalent to the terms of this clause Z24.13; * the scope of obligations proposed to be subcontracted; * the arrangements for ensuring that all aspects of the *Contractor*'s obligations relating to security of SNI and all requirements of the SAL will continue to be observed and maintained notwithstanding such subcontracting arrangements; and * any other details required by the *Client*. | | | | | Z24.14 | The *Client* may grant or withhold its consent to such subcontracting (or communication) on any basis and may attach conditions to any granted consent (including the execution of a SAL by any of the *Contractor’s* subcontractors), in its absolute discretion. | | | | | Z24.15 | 1. In the event that the *Contractor* is in breach of its obligations under this contract relating to security of SNI or its obligations under the SAL or any secrecy or security obligation owed to the Crown or any other government body, the *Client* may take any action it considers appropriate or necessary, including:  * notification of the appropriate authorities, including the ONR, the police or any other security agency; * immediate suspension of the whole or any part of the contract obligations and recommencement of such obligations; * a requirement that specific persons or subcontractors connected with such breach be removed from their involvement with the project and cease to have any access to the SNI; * the return and/or evidenced destruction of SNI; * the implementation of measures to protect and secure SNI; * termination of the *Contractor*'s engagement under this contract in whole or in part.   The *Client* has no liability to the *Contractor* for any action taken pursuant to this clause Z24.16 and all consequences of such action shall be at the *Contractor*'s cost. | | | | | Z24.16 | All property, assets and information provided to the *Contractor* pursuant to this contract shall at all times remain the property of the *Client*. Upon completion of its obligations under this contract, or at any other time on request of the *Client*, the *Contractor* returns all such property, assets, information and SNI to the *Client* or in the case of SNI, to the extent specified by the *Client*, provides evidence to the *Client* that all SNI has been destroyed, in each case in a manner that does not contravene the requirements of this contract which relate to security (including security of that SNI) and does not contravene the SAL. To the extent any security related equipment has been loaned or used by the *Contractor*, the *Contractor* ensures the safe return of such equipment in the condition specified by this contract. | | | | | Z24.17 | The *Contractor* shall ensure that SNI created by or originating from the *Contractor* or any of its subcontractors in connection with the performance of the *Contractor*'s obligations under this contract becomes and remains the property of the *Client* and is not subject to any restriction or otherwise. The *Contractor* shall (and shall ensure that is subcontractors shall) take all steps and execute all documentation to ensure that the *Client* can enjoy the full benefit of this clause Z24.17. Any samples, pattern, specifications, plans, drawings or any other documents issued by or on behalf of the *Client* to the *Contractor* for the purposes of this contract shall remain the property of the *Client*. | | | | | Z24.18 | The *Contractor* provides to the *Client*, upon request, records of which Employees have had access to SNI. | | | | | Z24.19 | The *Contractor* does not permit any change to the entities controlling it or subcontractors or any change to key Employees or subcontractor key personnel without the prior written consent of the *Client*. The *Contractor* notifies the *Client* of any changes in the behavioural or personal circumstances of Employees or personnel of subcontractors, to the extent relevant to the matters set out in these terms and conditions and/or the requirements of the SAL. If such changes are likely to occur the *Contractor* informs the *Client* at its earliest opportunity. The *Client*, each in their absolute discretion, determines whether or not such change has an impact on the matters set out in these terms and conditions and/or the requirements of the SAL. If the *Client* determines that there is such an adverse impact the *Client* may exercise any of the powers set out in clause Z24.15. | | | | | Z25 | **Cyber Security** | | | | | Z25.1 | As a minimum, the *Contractor* shall, and shall procure that each of its subcontractors and supply chain members performing works, services and/or supplying goods in connection with the service shall, obtain and maintain for the duration of the performance of its obligations under this contract, a Cyber Essentials Certificate (or equivalent certification and/or ISO 27001). | | | | | Z25.2 | Where a subcontractor or supply chain member is unable to obtain or maintain a Cyber Essentials Certificate, or it is not appropriate to require a Cyber Essentials Certificate in light of the scope of *service* to be provided, the *Contractor* must demonstrate to the satisfaction of the *Client* that such subcontractor or supply chain member is otherwise able to meet the Cyber Hygiene Requirements (through technically competent independent verification) and shall maintain compliance with such Cyber Hygiene Requirements for the duration of the performance of the relevant obligations under this contract. | | | | | Z25.3 | Prior to the commencement of the service and, in any event, within 30 Business Days of the Contract Date, the *Contractor* shall provide to the *Client* a Cyber Essentials Declaration for the *Contractor* signed by a director of the *Contractor*. | | | | | Z25.4 | Prior, and as a pre-condition, to the performance of any part of the *service* by a subcontractor, the *Contractor* shall provide to the *Client* a copy of a Cyber Essentials Declaration for such subcontractor signed by a director of such subcontractor. Notwithstanding any other provision of the contract, the *Contractor* shall not appoint any subcontractor in connection with the contract that has not provided a Cyber Essentials Declaration. | | | | | Z25.5 | On each anniversary of the first Cyber Essentials Declarations provided to the *Client* pursuant to Clause Z25.1, the *Contractor* shall deliver to the *Client* a renewed Cyber Essentials Declaration for the *Contractor* and, save where otherwise agreed by the *Client* in its absolute discretion in accordance with Clause Z25.2, for each subcontractor and all supply chain members performing the service at the relevant time on each anniversary of the first applicable Cyber Essentials Declaration given by the *Contractor* under Clause Z25.3 and/or the relevant subcontractor under its Subcontract. | | | | | Z25.6 | If, following delivery of a Cyber Essentials Declaration by the *Contractor* and/or any of the *Contractor’s* subcontractors in respect of certification obtained in accordance with Clause Z25.1, the *Contractor* and/or such subcontractor subsequently fail to maintain such certification, the *Contractor* shall re-certify and/or shall procure that the *Contractor’s* subcontractor re-certifies  and the *Contractor* and/or the relevant subcontractor shall deliver to the *Client* a further Cyber Essentials Declaration in respect of its re-certification, signed by a director of the *Contractor* and/or relevant subcontractor (as appropriate) prior to the commencement of the relevant part of the *service*. | | | | | Z25.7 | The *Client* may, from time to time (acting reasonably), instruct the *Contractor* to provide, in respect of the *Contractor* itself, or to procure that a subcontractor or other supply chain member that is performing the *service* at the relevant time undertakes, a renewed Cyber Essentials Declaration. The *Contractor* shall comply with such instruction within a reasonable period and shall provide the renewed Cyber Essentials Declaration to the *Client*. | | | | | Z25.8 | If the *Contractor* fails to comply with any of this Clause Z25 the *Client* may take any actions it considers appropriate or necessary, including any or all of the following:   * + - immediate suspension of the whole or any part of the *Contractor's* obligations and recommencement of such obligations;     - a requirement that specific subcontractors connected with such breach be removed from their involvement with the provision of the service and cease to have any access to the Official Sensitive Information;     - the withholding of and/or the requirement of the return and/or evidenced destruction of Official Sensitive Information;     - the implementation of measures to protect and secure Official Sensitive Information; and/or     - termination of the Contractor’s engagement under the contract in whole or in part in accordance with Clauses 90 to 93 immediately upon written notice to the Contractor. The procedures and amount due upon any such termination of the Contractor’s engagement under the contract shall be P1, P2 and P3 and A1 and A3. | | | | | Z25.9 | It shall be a condition precedent to the entitlement of the *Contractor* to receive any payment (or any further payment where a Cyber Essentials Certificate (or equivalent certification under ISO 27001) has expired and not been renewed) from the *Client* under the contract, that the *Contractor* shall obtain and maintain a valid Cyber Essentials Certificate (or equivalent certification and/or ISO 27001) for the duration of the performance of its obligations under the contract. | | | | | Z26 | **As built information** | | Z26.1 | In this clause Z26.1 “As Built Information” means full drawings, documents and information as necessary to show and describe the *service* or a Task as built, together with manuals and such other information as is necessary to explain the operation and maintenance of the *service* or a Task, and includes any other information identified as the As Built Information in this contract. | | Z26.2 | The *Contractor* supplies to the *Client* the As Built Information at least 4 (four) weeks prior to either Task Completion (in relation to a Task) or the end of the Service Period(in relation to *service* not constituting a Task). | | Z26.3 | The As Built Information is supplied in 3 (three) copies, or in such other number as is stated in this contract, in the form and medium stated in this contract, or approved by the *Service Manager*. | | Z27 | **Deleterious Materials** | | | | Z27.1 | The *Contractor* shall (using Good Industry Practice) not specify or introduce for use in the *service* any Deleterious materials except where no safer alternative materials are suitable for the purpose of the *service*. The *Contractor* shall (using Good Industry Practice) specify and/or use any Deleterious materials in accordance with Law, Regulatory Requirements, codes of practice, industry guidelines and the *Client*’s directions. | | | | Z27.2 | Notwithstanding clause Z27.1, the *Contractor* shall (using Good Industry Practice) not introduce for use in the *service* any Deleterious materials that are expressly prohibited by Law including without limitation those contained in Regulation 4 and Schedule 2 of the Control of Substances Hazardous to Health Regulations 2002 and the Asbestos (Prohibitions) Regulations 1992, as amended. | | | | **Z28** | **Dispute Resolution** | | | | Z28.1 | In the event a Dispute (as defined in Appendix 1 to this Option Z) arises the parties resolve the Dispute in accordance with the provisions of Appendix 1 (Dispute Resolution Procedure). | | | | **Z29** | **Prevention of the Facilitation of Tax Evasion** | | | | Z29.1 | The *Contractor* shall: | | | | Z29.1.1 | comply with all applicable laws, statutes, regulations, guidance, recognised practice, and codes relating to taxation, the prevention of tax evasion and the prevention of the facilitation of tax evasion (whether within, or outside of, the United Kingdom) including but not limited to the Criminal Finances Act 2017 ("**CFA 17**") ("**Relevant Tax Requirements**"); | | | | Z29.1.2 | not engage in any activity, practice or conduct which: | | | |  | a) would constitute: | | | |  | (i) a UK tax evasion offence within the meaning of section 45(4) of the CFA 17 ("**UK Tax Evasion Offence**"); or | | | |  | (ii) a foreign tax evasion offence within the meaning of sections 46(5) of the CFA 17 ("**Foreign Tax Evasion Offence**"); | | | |  | (b) which would facilitate a UK Tax Evasion Offence or Foreign Tax Evasion Offence (together, a "**Tax Evasion Offence**"); or | | | |  | (c) which would fail to prevent the facilitation of a Tax Evasion Offence; | | | | Z29.1.3 | comply with the *Client*'s tax compliance and/or anti-tax evasion policies and any relevant industry code, guidance, or accepted practice relating to tax evasion or preventing a Tax Evasion Offence, in each case as the *Client* or the relevant industry body may update them from time to time ("**Relevant Tax Policies**"); | | | | Z29.1.4 | have and shall maintain in place throughout the term of this contract its own policies and procedures, including prevention procedures under the CFA 17, to ensure compliance with the Relevant Tax Requirements, the Relevant Tax Policies and clause Z29.1.2, and will enforce them where appropriate; | | | | Z29.1.5 | promptly report to the *Client* any fact or circumstance which indicates that the *Contractor*, or any person associated with the *Contractor* under clause Z29.2, is or could be involved in tax evasion or the facilitation of a Tax Evasion Offence in connection with the performance of this contract; and | | | | Z29.1.6 | upon the request of the *Client*, certify to the *Client* in writing signed by an officer of the *Contractor*, compliance with clause Z29 by the *Contractor* and all persons associated with it under clause Z29.2. The *Contractor* shall provide such supporting evidence of compliance as the *Client* may reasonably request. | | | | Z29.2 | The *Contractor* shall ensure that any person associated with the *Contractor* who is performing services in connection with this contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the *Contractor* in this Clause Z29 ("**Relevant Tax Terms"**). The *Contracto*r shall be responsible for the observance and performance by such persons of the Relevant Tax Terms, and shall be directly liable to the *Client* for any breach by such persons of any of the Relevant Tax Terms. | | | | Z29.3 | Breach of this Clause Z29 shall be deemed a material breach. | | | | Z29.4 | For the purpose of this Clause Z29, the meaning of prevention procedures and whether a person is associated with another person shall be determined in accordance with sections 44(4), 44(5), 45(3) and 46(4), as applicable of the CFA 17 (and any guidance issued under section 47 of that Act). For the purposes of this Clause Z29, a person associated with the *Contracto*r includes any subcontractor of the *Contractor*. | | | | **Z30** | **Asbestos Licence** | | | | Z30.1 | Any aspect of the *service* which deals with asbestos and its management and/or removal will be carried out under the *Contractor*’s asbestos licence. The *Contractor* shall be responsible for making any notifications to the Health and Safety Executive (HSE) in accordance with its licence conditions. | | | | Z30.2 | The *Contractor* is required to maintain a current and up to date asbestos licence to cover the scope of the *service* at all times during the term of this contract. | | | | Z30.3 | The *service* shall at all times be carried out to the standards as prescribed by The Control of Asbestos Regulations 2012 and any relevant guidance or codes of practice issued by the Health and Safety Executive or other Regulator and shall be compliant with any relevant guidelines issued by the Health and Safety Executive regarding the removal of asbestos and insulation as may be in force from time to time. | | | |  | | | | | | |

**Appendix 1 to Option Z**

**Dispute Resolution Procedure**

1. **Interpretation and construction** 
   1. Defined terms in this Dispute Resolution Procedure shall have the meanings given to them in this contract except for the following terms which shall have the meanings given below solely for the purposes of this Dispute Resolution Procedure:
      * 1. **“Agreement”** means any contract into which this Dispute Resolution Procedure has been incorporated;
        2. **“Date of Appointment”** has the meaning given in Rule 4.3;
        3. **“Date of Referral”** has the meaning given in Rule 4.5;
        4. **“Dispute”** means any dispute or difference or claim arising out of or in connection with an Agreement including, but not limited to, any question regarding its existence, interpretation, validity, construction or termination;
        5. **“Dispute Notice”** has the meaning given in Rule 3.1;
        6. **“Dispute Resolution Procedure”** means the dispute resolution procedure contained within this Appendix;
        7. **“HGCRA”** means the Housing Grants Construction and Regeneration Act 1996 (as amended);
        8. **“Notice of Intention to seek Adjudication”** has the meaning given in Rule 4.1;
        9. **“Party”** means a party to an Agreement and the expression “Parties” shall be construed accordingly;
        10. **“Related Dispute”** means any Dispute or third party claim in which issues of fact or law arise which are substantially the same as or connected with one or more issues of fact or law which arise in another Dispute;
        11. **“Rule”** means any paragraph set out in this Dispute Resolution Procedure and the expression “Rules” shall be construed accordingly;
        12. **“Senior Representative”** means the designated senior representative of a Party who has authority to meet with other Parties’ Senior Representatives in accordance with the Dispute Resolution Procedure and the expression “Senior Representatives” shall be construed accordingly;
        13. **“Senior Representative Settlement Agreement“** has the meaning given in Rule 3.3;
        14. **“Subcontract Dispute”** means a dispute where the subject matter of the Dispute is a Subcontract;
        15. **“TeCSA”** means the Technology and Construction Solicitors Association;
        16. **“Tribunal”** means a single Arbitrator or a tribunal of three Arbitrators appointed in accordance with Rule 6.
   2. Unless otherwise stated, reference to a Rule is a reference to a Rule in this Appendix 1.
2. **Outline of the Dispute Resolution Process**
   1. Save as otherwise expressly provided in an Agreement in the event a Dispute arises:
      * 1. the Parties to the Dispute shall seek to resolve the Dispute by convening a meeting of the Senior Representatives of the Parties to the Dispute in accordance with Rule 3;
        2. if the Senior Representatives are unable to resolve the Dispute in accordance with Rule 3:

(i) the Parties may at any time refer the Dispute to mediation in accordance with Rule 5;

(ii) any Party may at any time before the Dispute is finally settled by arbitration refer

the Dispute to adjudication in accordance with Rule 4; and/or

(iii) in the event that the Dispute is not otherwise settled, compromised or resolved in accordance with these Rules, any Party may refer the Dispute to arbitration in accordance with Rule 6;

2.2 Notwithstanding any other provision of these Rules, any Party may at any time:

1. invoke a statutory right to adjudicate pursuant to the Housing Grants, Construction and Regeneration Act 1996, in which case the adjudication procedure set out in Rule 4 shall apply;
2. apply to or bring a claim in the English Courts for
   * + - 1. an order restraining a Party from doing any act or compelling a Party to do any act,
         2. a judgment to enforce a Senior Representative Settlement Agreement, the decision of an adjudicator, or an arbitral award, or
         3. for judicial review; and/or

(c) serve a notice of arbitration so as to prevent the expiry of any applicable limitation period.

**3 Senior Representatives**

3.1 Any Party may refer any Dispute to the Dispute Resolution Procedure by notice in writing to all other Parties to the Dispute (a “**Dispute Notice**”). The Dispute Notice shall include the following details;

* + - 1. the subject matter of the Dispute and the issues to be resolved;
      2. the position the referring Party believes is correct and the referring Party’s reasons for that position;
      3. the identity of the other Parties to the Dispute;
      4. the identity of the referring Party’s Senior Representative;
      5. copies of any documents in the referring Party’s possession which the referring Party considers to be important and relevant; and
      6. a statement of the determination, remedy or recourse which the referring Party seeks.

3.2 The Parties to the Dispute shall procure that the Senior Representative of each Party to the Dispute shall meet during the period within fifteen (15) working days from date of service of the Dispute Notice, and if necessary shall meet more than once to seek to resolve the Dispute by agreement.

3.3 Any agreement reached by the Senior Representatives which resolves the Dispute must be in writing and signed by the Senior Representative of each Party to the Dispute (the “**Senior Representative Settlement Agreement**”).

3.4 If the Senior Representatives of the Parties to the Dispute are unable to resolve the Dispute within fifteen (15) working days of the date of service of the Dispute Notice (or within such further time as the Senior Representatives of the Parties to the Dispute may agree in writing) then any Party to the Dispute may refer the Dispute to adjudication and/or arbitration in accordance with these Rules and/or the Parties may agree to refer the Dispute to mediation in accordance with these Rules.

3.5 Unless the Parties to the Dispute otherwise agree in writing, referring expressly to this Rule 3.5, all Senior Representatives meetings shall be held on a without prejudice basis and all documents disclosed and all matters discussed and any concessions, waivers or agreements (other than a Senior Representative Settlement Agreement) made by a Party in the course of discussions pursuant to this Rule 3 shall be privileged and shall not be disclosable or raised by the Parties in any subsequent Legal Proceedings.

**4 Adjudication**

4.1 Any Party to a Dispute may notify the other Parties to the Dispute of its intention to refer the Dispute, whether a construction dispute for the purposes of HGCRA or not, to an adjudicator by written notice (a “Notice of Intention to seek Adjudication”), at the same time indicating in writing whether it considers the dispute to be a construction dispute for the purposes of the HGCRA. The Notice of Intention to seek Adjudication shall include:

* + - 1. the nature and a brief description of the Dispute and the Parties involved (including as appropriate their addresses for service of any notices);
      2. details of where and when the Dispute has arisen;
      3. the nature of the redress sought;
      4. the identity and terms of appointment of any proposed Adjudicator.

4.2 The Party or Parties receiving the notice (the “Respondent(s)”) shall notify in writing the Party giving the notice (the “Claimant”) within two (2) calendar days of service of the Notice of Intention to seek Adjudication, whether or not the appointment of the proposed Adjudicator is agreed, and in default of agreement with the Respondent(s) shall propose an alternative person to act as Adjudicator. If the identity and terms of appointment of the Adjudicator are not agreed within three (3) calendar days of service of the Notice of Intention to seek Adjudication, the Claimant shall apply in writing to TeCSA to nominate and determine the terms of appointment of an Adjudicator within two (2) calendar days of the matter being referred to TeCSA and in accordance with these Rules.

4.3 The Adjudicator shall within one (1) working day of receipt of the proposed appointment or nomination confirm its appointment (the “**Date of Appointment**”) in writing to the Parties to the Dispute stating:

1. his willingness and availability to act;
2. that it has no interest in the Dispute; and
3. that it does not have a conflict of interests with any of the Parties.

4.4 Within seven (7) calendar days of service of the Notice of Intention to seek Adjudication, the Claimant shall send a submission to the Adjudicator which shall include the following;

1. the subject matter of the Dispute and the issues to be resolved;
2. a detailed statement of the facts, including relevant dates, names of personnel involved (if any) and references to specific part of relevant documents;
3. the position the Claimant believes is correct and the Claimant’s reasons for that position;
4. copies of all the documents which the Claimant considers to be important and relevant; and
5. a statement of the determination, remedy or recourse which the Claimant seeks.

4.5 Under these Rules the date on which the Adjudicator and the other Parties receive the Claimant’s submission shall be the date on which the Dispute is referred to the Adjudicator (“**Date of Referral**”).

4.6 The Respondent(s) shall be entitled (but not obliged) to submit a written response to the Adjudicator and copies of any documents the Respondent(s) intend(s) to rely on within fourteen (14) calendar days of service of the Notice of Intention to seek Adjudication.

4.7 Any communication or submission between a Party and the Adjudicator shall be communicated contemporaneously also to all other Parties to the Dispute.

4.8 The Adjudicator shall reach a decision within twenty eight (28) calendar days of the Date of Referral. This period of 28 days may be extended by up to fourteen (14) days by the Adjudicator with the consent of the Claimant or longer if agreed by all Parties to the adjudication.

4.9 The Adjudicator shall:

1. act fairly and impartially;
2. establish the timetable and procedure for the adjudication;
3. reach its decision in accordance with the applicable law in relation to the Dispute referred to him;
4. if requested by one of the Parties to the Dispute, provide reasons for its decision, which shall be communicated to all Parties to the adjudication;
5. have the power to decide the Parties’ liability for costs arising out of or in connection with the adjudication and to make an award of costs in favour of any Party; and
6. render its decision as an adjudicator for the purposes of the HGCRA and the Arbitration Act 1996 (or any re-enactment or amendment thereof) and the law relating to arbitrators and arbitrations shall not apply to the Adjudicator or its decision or the procedure by which it reaches its decision.

4.10 In determining any Dispute referred to them for a decision the Adjudicator shall at its absolute discretion take the initiative in ascertaining the facts and the law as it considers necessary in respect of the referral which may include:

1. considering any written representations, statements and expert’s reports submitted to them by the Parties;
2. if requested by any Party affording the Parties the opportunity to address them in a meeting or meetings at which all Parties to the Dispute referred to them must be present;
3. requiring the Parties to produce to them and to all other Parties to the Dispute copies of any documents relevant to the Dispute (save any which would be privileged from production in Court proceedings);
4. instructing an expert and/or taking counsel’s opinion as to any matter raised in the adjudication, but it shall not be entitled to delegate any decision to such expert or counsel; and
5. open up, review and revise any opinion certificate, instruction, determination or decision of whatsoever nature given or made under an Agreement.

4.11 If a Party, without showing sufficient cause, fails to comply with any request, direction or timetable of the Adjudicator made in accordance with its powers, or fails to produce any document or written statement requested by the Adjudicator, or fails to comply with any procedural requirement relating to the adjudication, the Adjudicator may:

1. continue the adjudication in the absence of that Party or of the document or written statement requested;
2. draw such inferences from that failure to comply as circumstances may, in the Adjudicator’s opinion, justify; and
3. make a decision on the basis of the information before them attaching such weight as it thinks fit to any evidence submitted to them outside any period it may have requested or directed.

4.12 The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of its functions as Adjudicator unless such act or omission is in bad faith, and any employee, agent or adviser of the Adjudicator is similarly protected from liability.

4.13 The Adjudicator may resign at any time on giving notice in writing to the Parties to the Dispute. The Adjudicator must resign where the Dispute is the same or substantially the same as one which has previously been referred to adjudication, and a decision has been taken in that adjudication. Where the Adjudicator ceases to act under this Rule or where the Adjudicator is unwilling to act or continue to act:

1. the claimant may serve a fresh Notice of Intention to seek Adjudication and request an Adjudicator to act in accordance with this Rule 4; and
2. if requested by the new Adjudicator and insofar as is reasonably practicable, the Parties shall supply them with copies of all document which they had made available to the previous Adjudicator.

4.14 Any decision of the Adjudicator is binding upon the Parties to the Dispute unless and until the Dispute to which it relates is finally determined by Arbitration in accordance with Rule 6, or by written agreement of the Parties.

4.15 The Adjudicator shall be permitted to correct its decision so as to remove a clerical or typographical error arising by accident or omission.

4.16 If any Party does not comply with the decision of the Adjudicator any other Party to the adjudication shall be entitled to take proceedings in the English Courts to secure enforcement of the decision pending any final determination of the Dispute.

4.17 Each Party to the adjudication shall be liable for such proportion of the fees and reasonable expenses of the Adjudicator, and those of any person employed or engaged by the Adjudicator to assist them in the adjudication, as the Adjudicator shall in its absolute discretion direct.

**5 Mediation**

5.1 Subject to Rule 2, the Parties to the Dispute may at any time agree to seek settlement of that Dispute by mediation in accordance with the LCIA Mediation Procedure current at the time of the referral to mediation, which Procedure is deemed to be incorporated by reference into this Rule.

**6 Arbitration**

6.1 Subject to Rule 2, a Party may not refer a Dispute to arbitration unless that Dispute has first been referred to the Parties’ Senior Representatives in accordance with Rule 3.

6.2 Subject to Rule 2, any Dispute shall be referred to and finally resolved by arbitration under the LCIA Rules (the “**LCIA Rules**”), which are deemed to be incorporated by reference into this Rule.

6.3 There shall be either one or three arbitrators. The number of arbitrators for a Dispute shall be agreed by the Senior Representatives during the period set aside for their meetings or, failing such agreement, shall be determined by the LCIA Court, which shall take account of the value and complexity of the Dispute and any Related Dispute and the number of Parties to the dispute and any Related Dispute.

6.4 The seat, or legal place, of arbitration shall be London.

6.5 The language to be used in the arbitral proceedings shall be English.

6.6 The Parties shall not be entitled to call any individual who was previously appointed as an Adjudicator or Mediator in connection with any aspect of the Dispute, in accordance with Rules 4 or 5, to act as witness in the arbitration.

**7 Joinder and consolidation**

7.1 A Request for Arbitration by a Party under these Rules may be in respect of a Dispute and/or a Related Dispute.

7.2 A Party served with a request for arbitration may at any time before the Tribunal is appointed, serve a request for arbitration in respect of any Related Dispute. In that case the arbitration of the Related Dispute shall be referred to the same Tribunal and consolidated with the arbitration of the Dispute in the original request for arbitration.

7.3 After a Tribunal has been appointed, any Party to the arbitration may serve a further request for arbitration in respect of any Related Dispute referring it to the same Tribunal as that appointed for the arbitration of the Dispute in the original Request for Arbitration. In that case the Tribunal shall have discretion as to whether the Related Dispute is consolidated with the arbitration of the Dispute in the original request for arbitration. In exercising its discretion the Tribunal shall consider:

1. whether any evidentiary hearing on the merits of the Dispute in the original request for arbitration has begun;
2. whether the Dispute in the original request for arbitration has already been finally determined as to liability; and
3. any written representations made in accordance with Rule 7.4.

7.4 Any Party to the Related Dispute or to the Dispute in the original request for arbitration, shall be entitled to make a written representation to the Tribunal as to whether any evidentiary hearing on the merits of the Dispute in the original request for arbitration has begun and/or as to whether the Dispute in the original request for arbitration has already been finally determined as to liability, within seven (7) calendar days of the referral of the Related Dispute to the Tribunal.

7.5 If following seven (7) calendar days of the referral of the Related Dispute to the Tribunal, the Tribunal considers in its absolute discretion that:

1. any evidentiary hearing on the merits of the Dispute in the original request for arbitration has not begun; and/or
2. the Dispute in the original request for arbitration has not already been finally determined as to liability;

it may order the consolidation of the Related Dispute with the arbitration of the Dispute in the original Request for Arbitration.

* 1. A Party that receives more than one Request for Arbitration for Disputes which constitute Related Disputes may give notice requiring that they be referred to the same Tribunal and consolidated in accordance with Rule 7. The *Client* shall exercise this right if requested to do so by the Authority following service by the Authority of a request for arbitration where the *Client* has also received a Request for Arbitration in a Dispute in respect of an Agreement in accordance with this Dispute Resolution Procedure.

**Appendix 2 to Option Z**

**Controlled Area Working [Note: Appropriate version and content of this Appendix to be confirmed]**

**Part 1**

**General**

1. These Special Supplementary Conditions, which shall take precedence over any other provision of this contract with which they may conflict, shall apply to Work with Ionising Radiation including work within Controlled and Supervised Areas as defined by the Ionising Radiations Regulations 2017. They are for the protection of persons employed and are mandatory.

2. Every order for work to be performed in a Controlled or Supervised Area will be clearly endorsed either:

SUPERVISED AREA

or CONTROLLED AREA

or CONTROLLED AREA (CONTAMINATION)

3. These Special Supplementary Conditions consist of these General Conditions and those in two Parts. The General Conditions apply to all relevant work. The Conditions in Part 1 shall apply if the Contract is endorsed ‘SUPERVISED AREA’ or ‘CONTROLLED AREA’. If the Contract is endorsed ‘CONTROLLED AREA (CONTAMINATION)’ the Conditions in Parts 1 and 2 shall apply. Where Part 2 applies, references in Part 1 to Controlled Areas also refer to Controlled Areas (Contamination).

**Statutory Requirements**

4. Statutory provisions made for the protection of persons exposed to ionising radiations apply to the work carried out under the contract and the *Contractor* and its employees shall fully comply with such requirements. These Supplementary Conditions do not relieve the *Contractor* of any of its obligations under statutory provisions. In particular, the *Contractor* is responsible, as an employer, for understanding and complying with the requirements of the Ionising Radiations Regulations 2017

## The Regulations

5. Conditions to “the Regulations” or to specific Regulations are to the Ionising Radiations Regulations 2017.

**Superintending Officer**

6. The “Superintending Officer” (herein referred to as the “SO”) is responsible for arranging the necessary guidance to be given to the *Contractor* on health and safety matters connected with the contract for communications, as necessary, to its employees.

**General Responsibilities of the *Contractor***

7. (a) The *Contractor* is responsible for the health and safety of any of its employees who may be exposed to radiation from:

(i) sources of ionising radiation under its control;

(ii) sources of radiation under the control of another employer.

(b) Before commencement of the work the *Contractor* shall provide the SO with particulars of previous employment of its employees on ionising radiation work, as required by the Regulations. The Health and Safety Executive has agreed simplified arrangements for the *Client’s* site with respect to these Regulations and these may be applicable to this contract. The *Contractor* will be advised by the SO if this is the case.

(c) Without prejudice to the generality of Supplementary Condition 4, the *Contractor* shall observe the following requirements of the Regulations:

(i) before work commences appoint one or more of its employees as radiation protection supervisors (Regulation 18);

(ii) where required to do so, designate appropriate employees as classified persons who have been certified fit in the health record by the Relevant Doctor (Regulation 21);

(iii) ensure dose limits are not exceeded (Regulation 12);

(iv) for work at the *Client’s* site, the *Contractor* shall Register (Regulation 6) with the Office for Nuclear Regulation prior to commencement of work; and where required, apply for consent to carry out specified practices (Regulation 7) prior to commencing work.

(v) before commencing a new activity involving work with ionising radiations, make a suitable and sufficient assessment of the risk to any employee and other person (Regulation 8);

(vi) ensure adequate medical surveillance (Regulation 25);

(vii) maintain records relating to the above responsibilities (Regulation 22).

1. In addition to its responsibilities under the Ionising Radiations Regulations 2017, the *Contractor* is responsible for complying with all relevant Sellafield Ltd Company Health and Safety Standards, Requirements and Codes of Practice and with Sellafield Ltd’s local rules and other relevant documentation such as relevant risk assessments, on the site where the work is being undertaken. The *Contractor* shall obtain a copy of these local rules and other relevant documents when it tenders for the work.

(e) In addition to the requirement at Clause (c) (iii) of this Condition the *Contractor* shall take steps to ensure that all the radiation doses to its work force are “as low as reasonably practicable”. In addition, the *Contractor* shall apply the following dose restrictions to its employees:

(i) exposures to employees for work on *Client* sites will not normally exceed 15 mSv per annum for any individual.

(ii) Planned individual exposures in excess of 12 mSv per annum for work on *Client’s* sites must be specifically agreed in writing with the SO.

(iii) No individual employee with a total annual exposure exceeding 20 mSv will be permitted to undertake work with radiation on a *Client* site.

The *Contractor* is reminded that a dose of 15 mSv in a year constitutes the maximum Company dose investigation level. The *Contractor* is recommended to take local management action to temporarily withdraw any individual whose dose approaches this level (Regulation 9(8)).

**General Responsibilities of the *Client***

8. (a) The *Client* will notify the *Contractor* as to whether the work involves Work with Ionising Radiation and/or work in Controlled or Supervised Areas and will specify any personal protective equipment, warning or monitoring devices to be worn.

(b) The *Client* may assist the *Contractor* to comply with the following requirements of the Regulations:-

(i) the obligations to consult and appoint a radiation protection adviser (Regulation 14) including the Sellafield Ltd Radiation Protection Adviser (RPA) for Contractors;

(ii) ensure that assessments are made of doses of ionising radiation received by each of its employees, and for that purpose make arrangements with a Health and Safety Executive approved dosimetry service (Regulation 22);

(iii) ensure that levels of ionising radiations in areas are adequately monitored (Regulation 20);

(iv) ensure that the equipment it provides for carrying out the monitoring of the levels of ionising radiations in Controlled or Supervised Areas is examined and tested before being brought into use and at intervals of not less than twelve months thereafter by, or under the immediate supervision of, a duly appointed qualified person (Regulation 20).

**Joint Responsibility of the *Contractor* and the *Client***

9. (a) Where work with ionising radiation undertaken by the *Client* or by the *Contractor* is likely to give rise to exposure to ionising radiation of the other’s employees, the *Contractor* and the *Client* shall co-operate by the exchange of information or otherwise to the extent requisite to ensure that the *Client* and the *Contractor* are enabled to comply with the requirements of the Ionising Radiations Regulations 2017 insofar as their ability to comply depends upon such co-operation (Regulation 16).

(b) The *Contractor* and the *Client* shall co-operate to meet the following requirements of the Regulations:-

(i) investigate case of employees receiving doses exceeding 15 mSv for the first time in any calendar year (Regulation 9(8))

(ii) investigate cases of suspected over-exposure (Regulation 26);

(iii) ensure employees receive such information, instruction and training as will enable them to conduct their work in accordance with the Regulations (Regulation 15) and that the training and information is repeated at an appropriate intervals and documented.

**Access to Controlled Areas (Regulation 19)**

10. Access to a Controlled Area will be permitted only to those employees from time to time approved by the *Client*. The *Client’s* approval may be withdrawn at any time without prior notice and without any reason or explanation being given.

**Safety Precautions**

11. (a) Before the *Contractor’s* employees, agents or subcontractors commence work in a Controlled Supervised Area the *Contractor* must report to the SO who will give instructions and any guidance necessary on the precautions to be taken, define the boundaries of the area in which permission has been given for the work, and indicate action to be taken in case of emergency.

(b) It is the *Contractor’s* responsibility to ensure that safety precautions are observed. The *Contractor’s* employees, agents or subcontractors must comply with any safety instructions given to them by either the SO or the *Contractor’s* line management.

**Personal Dose Monitoring (Regulation 22)**

12. (a) Personal monitoring devices must be worn in Controlled or Supervised Areas as required by the *Client’s* local rules and other relevant documents. The *Contractor* must make arrangements with a Dosimetry Service approved by the Health and Safety Executive for the supply and assay of dose monitoring devices. This service may be provided by the *Client* at the *Contractor’s* request.

(b) In the case of dose monitoring devices issued by the *Client*, the *Contractor* shall be responsible for their issue, collection and return to the Sellafield Ltd Approved Dosimetry Service as directed.

(c) It may occasionally, in exceptional circumstances, be necessary for the employees of the *Contractor* to provide special biological samples or undergo other tests. The SO will explain the purpose and manner of obtaining the samples or making the tests.

**Plant, Tools and Equipment**

13. (a) Unless the *Client* otherwise decides, plant, tools and equipment necessary for the performance of the contract shall be provided by the *Contractor*. If, after the contract is made, it is decided that the *Client* will provide the necessary plant, tools and equipment and appropriate adjustment of the contract price or the hourly rates will be negotiated.

(b) It is strictly forbidden to bring into any area occupied by the *Client*, any plant, tool or equipment which contains a radioactive substance or any other source of ionising radiation, without the written permission of the SO.

**Liability for Radiation Injuries and/or Damage to Property**

14. The *Client* is statutorily liable to secure that no ionising radiations from anything on any premises occupied by them or from any waste discharged (in whatever form) on or from any premises occupied by them, cause any injury to any person or any damage to any property, whether they are or it is on any such premises or elsewhere. The amount of compensation payable to or in respect of any person, for such injury or damage, may be reduced to the extent that the causing of that injury or damage was attributable to any act of that person committed with the intention of causing harm or with reckless disregard for the consequences of its act.

**Subcontractors and Agents**

15. The *Contractor* shall include these Special Supplementary Conditions of Contract in any Subcontract or agreement which it may make requiring work to be executed in any Controlled or Supervised Area for the purpose of this contract, substituting for the word “*Contractor*”, wherever it appears, the word “sub-contractor” or “agent” as may be appropriate.

**Breach**

1. Any breach of these Special Supplementary Conditions by the *Contractor* or any of its subcontractors or agents shall entitle the *Client*:
2. to determine the contract without compensation;
3. to determine the contract without notice;
4. to suspend work under the contract without notice and / or compensation;   
   and / or
5. to recover from the *Contractor* any loss and expense arising as a consequence of the determination or suspension of the contract.

Such rights are without prejudice to any obligations upon the *Contractor* under the contract which shall survive any such determination or suspension.

**Part 2**

Additional Special Supplementary Conditions applicable where, in addition to External Radiation, Radioactive Contamination may be present in Controlled Areas.

**Piece-work**

17. In order to ensure that no employee may be tempted to avoid compliance with the required safety precautions, the *Contractor* must not, without the prior concurrence of the *Client*, pay its employees at piecework rates or adopt any form of payment-by-results scheme for work to be carried out in areas including Controlled or Supervised Areas.

**Radiological Protective Clothing and Equipment**

18. (a) Personnel working in certain Controlled Areas (Contamination) or other designated locations may be required to wear radiological protective clothing or other radiological protective equipment. They must make full and proper use of such clothing and equipment so supplied, and report any defects (Regulation 10).

(b) If the *Client* requires radiological protective clothing or other radiological protective equipment to be worn by personnel performing obligations under this contract, the *Client* will provide it free of charge and be responsible for laundering or repair.

**Health Precautions**

19. The *Contractor* shall ensure, in respect of work under the contract, that:-

(a) no person with a skin cut, wound, burn, skin rash or similar condition enters a Controlled Area (Contamination) without permission from the *Client* relevant doctor or its nominee at the site where the work is to be carried out; and

(b) personnel must report to the *Client’s* relevant doctor or its nominee if any skin cut, wound, burn, rash or similar condition is sustained while working in a Controlled Area (Contamination) or elsewhere.

**Eating, Drinking, Smoking etc. (Regulation 19)**

20. Eating, drinking, smoking, or similar activity likely to result in the ingestion of a radioactive substance are prohibited in a Supervised or Controlled Area or any other area where it is reasonable to believe may be contaminated.

**Monitoring when Leaving Controlled Areas**

21. Before leaving a Controlled Area (Contamination), personnel of the *Contractor* must follow the procedures listed in the local rules e.g. check their hands and clothing with the aid of monitoring equipment provided by the *Client*. The SO will explain the purpose and manner of using the equipment and the action to be taken in the event of contamination being detected.

**Plant, Tools and Equipment in Controlled Areas**

22. (a) Plant, tools and equipment brought by the *Contractor* into a Controlled Area (Contamination) shall not be removed until written clearance by a Sellafield Ltd Radiation Protection Adviser or its nominee has been given to the *Contractor* by the SO. If a Sellafield Ltd Radiation Protection Adviser or its nominee is not able to give clearance for the removal of such plant, tools and equipment from a Controlled Area (Contamination) the *Client* will at its discretion either arrange for their decontamination at the *Client’s* expense or will purchase them at a fair and reasonable price.

(b) The *Contractor* shall not remove from a Controlled Area (Contamination) any plant, tools and equipment which have been provided by the *Client*.

**Materials etc.**

23. (a) If materials required for incorporation in works in a Controlled Area (Contamination) are provided by the *Contractor*, any surplus remaining at the end of the job shall not be removed from the Controlled Area (Contamination) until written clearance by a Sellafield Ltd Radiation Protection Adviser or its nominee has been given to the *Contractor* by the SO and shall be stored or stacked as the SO may direct.

(b) Provided that the quantity of the materials taken into the Controlled Areas (Contamination) is not in the opinion of the SO, unreasonable or premature, the *Client* will take over from the *Contractor* at a fair and reasonable price, surplus materials which they require the *Contractor* to leave in a Controlled Area (Contamination).

(c) No spoil or scrap shall be removed from a Controlled Area (Contamination) until written clearance by a Sellafield Ltd Radiation Protection Adviser or its nominee has been given to the *Contractor* by the SO. Any spoil or scrap shall be disposed of in accordance with the SO’s instructions.

**Vehicles**

24. The *Contractor’s* vehicles may not enter or leave a Controlled Area (Contamination) until written clearance by a Sellafield Ltd Radiation Protection Adviser or its nominee has been given to the *Contractor* via the SO.

**Appendix 3 to Option Z**

**Data Protection**

[To be inserted in due course]

**Appendix 4 to Option Z**

**Form of Cyber Essentials Declaration**

**Cyber Essentials Declaration Form**

I confirm that [insert supplier] (“**Service Provider**”) complies with the following with regard to the provision of the Works and Services:

1. Are compliant with the Cyber Hygiene Requirements
2. Are accredited Cyber Essentials / Cyber Essentials Plus in respect of the Service Provider's business activities that were agreed with Sellafield in advance of obtaining such accreditation
3. Are accredited with an equivalent scheme to Cyber Essentials and have received approval from Sellafield that the equivalent accreditation is acceptable
4. Has received a copy of and complies fully with all details given in the NDA's "Cyber Essentials in the NDA" and "Service Provider's working in non-NDA locations" policy documents (Ref: IPPR01 – TAC0711 as may be updated from time to time)
5. All personnel will only be using business issued devices covered by the Cyber Hygiene Requirements confirmation and Cyber Essentials certificate approved equivalent accreditation

Please attach the following:

* Details of the measures you take to comply with the Cyber Hygiene Requirements
* Copy of your Cyber Essentials Certificate or Cyber Essentials Plus Certificate or approved equivalent accreditation (together with written approval of the equivalent accreditation by Sellafield)
* If the Cyber Hygiene Requirements confirmation, Cyber Essentials Certificate, Cyber Essentials Plus or approved equivalent accreditation does not cover the whole company, confirmation that it will cover all who are working / will be working on the provision of the Services
* Details of the disk encryption software installed on the computers

Signed:

Signature: ……………………………………………..

For and on behalf of:

………………………………………………………….   
[insert name of Service Provider]

Full Name: ………………………….………………….

Date: ……………………

**ANNEX 2**

**CONTRACT DATA PART ONE**

DATA PROVIDED BY THE *CLIENT*

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

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **1 General** | | | | | | | |
| The conditions of contract are the core clauses and the clauses for the Main Option applicable to each Task Order, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Term Service Contract June 2017 (with amendments January 2019, October 2020, and January 2023) as amended by Annex 1 to the Form of Agreement | | | | | | | |
| Main Option | See Task Order | Option for resolving and avoiding disputes | | | | See Appendix 1 to Option Z |
|  | | | | | | | |
| Secondary Options | X2, X11, X15, X18, X20 X23, Y(UK)2 and Z | | | | | | |
|  | | | | | | | |
| The *service* is |  | | | | | | |
|  | | | | | | | |
| The *Client* is | | | | | | | |
|  | | | | | | | |
| Name | Sellafield Limited | | | | | | |
|  | | | | | | | |
| Address for communications | Hinton House, Birchwood Park Avenue, Risley, Warrington, Cheshire, WA3 6GR | | | | | | |
|  | | | | | | | |
| Address for electronic communications |  | | | | | | |
|  | | | | | | | |
| The *Service Manager* is | | | | | | | |
|  | | | | | | | |
| Name |  | | | | | | |
|  | | | | | | | |
| Address for communications |  | | | | | | |
|  | | | | | | | |
| Address for electronic communications |  | | | | | | |
|  | | | | | | | |
| The Affected Property is | [ ] and/or as may be supplemented by a Task Order | | | | | | |
|  | | | | | | | |
| The Scope is in |  | | | | | | |
|  | | | | | | | |
| The *shared services* which may be carried out outside the Service Areas are |  | | | | | |
|  | | | | | | | |
| The *language of the contract* is | English | | | | | | |
|  | | | | | | | |
| The *law of the contract* is the law of | England and Wales | | | | | | |
|  | | | | | | | |
| The *period for reply* is |  | | | | except that | | |
|  | | | | | | | |
| The *period for reply* for |  | | | is |  | | |
|  | | | | | | | |
| The *period for reply* for |  | | | is |  | | |
| The following matters will be included in the Early Warning Register | | | | | | | |
|  | | | | | | | |
|  | | | | | | | |
| Early warning meetings are to be held at intervals no longer than | | |  | | | | |

|  |  |  |
| --- | --- | --- |
| **2 The *Contractor's* main responsibilities** | | |
|  | | |
| If Option C or E is used | The *Contractor* prepares forecasts of the total Defined Cost for the whole of the *service* at intervals no longer than |  |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| **3 Time** | | | |
|  | | | |
|  | The *starting* date is |  |  |
|  | | | |
|  | The *service period* is |  | The period beginning on the Contract Date and expiring on (1) the date that is 6 years after the Contract Date, or, if later, the date of Task Completion of the Task Order with the latest planned Task Completion. |
|  | | | |
|  | The *Contractor* submits revised plans at intervals no longer than |  |  |
|  |
|  | | | |
|  | The period within which the *Contractor* is to submit a Task Order programme for acceptance is |  |  |
|  |
|  | | | |
| If no plan is identified in part two of the Contract Data | The period after the Contract Date within which the *Contractor* is to submit a first plan for acceptance is |  |  |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| **4 Quality management** | | | |
|  |  |  |  |
|  | The period after the Contract Date within which the *Contractor* is to submit a quality policy statement and quality plan is |  |  |
|  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **5 Payment** | | | | | |
|  | The *currency of the contract* is the | | | Pounds Sterling (£) | |
|  | | | | | |
|  | The *assessment interval* is | | | A minimum of 4 weeks (but not more than 5 weeks) in accordance with the *Client*’s accounting calendar | |
|  | | | | | |
|  | The *interest rate* is | [2] | % per annum (not less than 2) above the | | |
|  |  |  |  | |  |
|  | lending | rate of the | National Westminster | | bank |
|  | | | | | |
| If the period in which payments are made is not three weeks and Y(UK)2 is not used | The period within which payments are made is | | |  | |
|  | |
|  | | | | | |
| If the period for certifying a final assessment is not thirteen weeks | The period for certifying a final assessment is | | |  | |
|  | |
|  | | | | | |

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| --- | --- |
| **6 Compensation events** | |
|  | |
| If there are additional compensation events |  |
|  |
|  |

|  |  |  |
| --- | --- | --- |
| **8 Liabilities and insurance** | | |
|  | | |
| If there are additional *Client's* liabilities |  | These are additional *Client's* liabilities |
|  | | |
|  | (1) |  |
|  | | |
|  | (2) |  |
|  | | |
|  | (3) |  |
|  | | |

|  |  |
| --- | --- |
| **The *Client’s* Insurance** | |
| The Authority has arranged an owner controlled Construction Insurance facility. Coverage shall be in accordance with the terms and conditions and exclusions of the policy. The cost of compliance with policy conditions or warranties shall be for the account of the *Contractor*. The terms detailed below are a summary of the policy conditions only. The policy does not cover the *Contractor’s* constructional plant and equipment. | |
| **Construction Insurance** |  |
| INSURED: | **CONTRACT WORKS**   1. The Principal - The Nuclear Decommissioning Authority and/or Associated and/or Subsidiary Companies 2. The Site Licenced Companies and their Parent Body Organisations 3. All contractors and/or subcontractors of any tier and others engaged to provide goods or services in connection with the Contracts insured hereunder. 4. Professional consultants and/or engineers and/or other members of any project team in respect of site activities 5. Including all such parties, whether named hereunder or not, or whether appointed prior to inception of the Policy or subsequently.   Each for their respective rights and interests |
| PERIOD OF INSURANCE: | **CONTRACT WORKS**  Whole of the Period of the Contract |
| PROPERTY INSURED: | **CONTRACT WORKS**  All permanent works, materials (including those supplied free to the Contract by or on behalf of the Principal and/or the Site Licence Company and/or the Parent Body Organisation), Temporary Works, equipment, machinery, supplies, and all other property used for or in connection with the Contract but excluding *Contractors*’ constructional plant tools and equipment temporary buildings and their contents, camps and their contents (unless for nuclear damage).  **CONTRACT WORKS**  The estimated reinstatement value of the Property Insured   |  |  |  | | --- | --- | --- | | **ADDITIONAL LIMITS** |  |  | | Memorandum 1 | Temporary Off Site Storage | GBP10,000,000 | | Memorandum 3 | Professional Fees | GBP 5,000,000 | | Memorandum 5 | Debris Removal | GBP 10% of the loss, max GBP 10,000,000 | | Memorandum 6 | Escalation | 130% | | Memorandum 7 | Expediting Expenses | 30% of the repair / reinstatement max GBP 1,000,000 | | Memorandum 8 | Re-writing of records | GBP 500,000 | | Memorandum 12 | Loss Minimisation | GBP 1,000,000 | | Memorandum 16 | Transit by Roll on roll off ferry | GBP 5,000,000 | | Memorandum 22 | Temporary Repairs | GBP 1,000,000 | | All of the above Additional Limits, are payable in addition to the Sum Insured and shall apply to each Occurrence | | | |
| INSURED’S RETAINED LIABILITY: | All amounts to 100%  **CONTRACT WORKS**  Contracts up to GBP 75,000,000 at inception of the Contract – GBP 25,000 each and every Occurrence  Contracts over GBP 75,000,000 at inception of the Contract – GBP 50,000 each and every Occurrence |
| GEORGRAPHIC LIMITS: | Anywhere in the United Kingdom (other than premises of manufacturers and suppliers) including whilst in transit (other than by sea or air) but including Channel Tunnel and Roll-on, Roll-off vessels, temporary off-site storage anywhere within mainland Europe |
| CONDITIONS: | **Exclusions**   1. i) In respect of civil and building works DE3 (1995) ii) In respect of electrical and mechanical works LEG 2/96 2. Unexplained shortage 3. Money 4. Consequential loss 5. Wear, tear, corrosion and erosion 6. Vehicles 7. Aircraft or waterborne vessels 8. Personal effects and tools 9. Existing Property 10. War and Civil War 11. Explosive nuclear assembly 12. Insured’s Retained Liability 13. Wilful acts 14. *Contractors’* constructional plant and equipment 15. Terrorism   **Memoranda**   1. Temporary offsite storage 2. Extended Maintenance 3. Professional Fees 4. Marine/Non Marine Loss Sharing (50/50 Clause) 5. Debris Removal 6. Escalation 130% 7. Expediting Expense 8. Re-writing or re-drawing of plans or other documents 9. Testing and Commissioning 10. Free Issue Materials 11. Automatic Reinstatement 12. Loss Minimisation Clause 13. Public Authorities 14. 72 Hours clause 15. Due Allowance 16. Transit 17. VAT to be included in the contract value 18. Making Safe and Decontamination 19. Coolant Loss 20. Munitions 21. Cross Liability Clause 22. Temporary Repairs 23. Tunnelling Risks (Munich Re Endorsement 101) -150% (sub limit: value of underground works not exceeding GBP 10m any one contract) 24. Wet Works (sub limit: value of wet works not exceeding GBP 25m any one contract)   **General Memoranda**  Multiple Insureds Clause |
| **The *Contractor’s* Insurance** | |
| * + - 1. **Employer’sLiability** | |
| INSURED: | The *Contractor*. |
| COVERAGE: | Legal liability for death of or injury to, or illness of, an employee, including the associated medical expenses while in the course of employment with the insured and while at work in connection with the Project in accordance with the requirements of the appropriate UK Laws and regulations and any other applicable jurisdiction. |
| MINIMUM LIMIT OF LIABILITY: | As required by the relevant jurisdiction |
| PERIOD OF INSURANCE: | Annual renewable period but for the entire period of the Project. |
| CONDITIONS: | Indemnity to NDA, SLC or Subsidiary |
| * + - 1. **Automotive Liability Insurance** | |
| INSURED: | The *Contractor*. |
| COVERAGE: | Liability in respect of bodily injury, death or property damage arising out of the use or possession of the automobile by the insured as required in accordance with the Laws and regulations of the UK. |
| MINIMUM LIMIT OF LIABILITY: | As required by the relevant jurisdiction |
| PERIOD OF INSURANCE: | Annual renewable period but for the entire period of the Project. |
| CONDITIONS: | Principals’ Indemnity protecting SLC or Subsidiary and Nuclear Decommissioning Authority |
| * + - 1. **Third Party Liability** | |
| RISKS INSURED: | Legal liability to third parties for death or bodily injury or loss or damage to their property arising out of all activities of the insured parties arising in connection with the execution of the Contract |
| INSURED: | The *Contractor*. |
| PERIOD OF INSURANCE: | For the full duration of the Contract. |
| MINIMUM LIMIT OF LIABILITY: | £10,000,000 (ten million pounds) any one occurrence |
| GEORGRAPHICAL/ JURISDICTION LIMIT: | Worldwide excluding USA/Canada |
| COVERAGES & EXTENSIONS: | Cross liability  Legal cost & expense |
| DEDUCTIBLE: | £[ ][[2]](#footnote-2) any one occurrence for loss or damage to property damage only |
| PRINCIPAL EXCLUSIONS: | Director’s & Officer’s liability;  Professional indemnity  Aircraft/watercraft liability;  Liquidated Damages or penalties;  Gradual Pollution liability  Care, custody & control  Employer’s Liability  Motor vehicle |
| CONDITIONS: | Principals’ Indemnity protecting SLC or Subsidiary and Nuclear Decommissioning Authority |
| * + - 1. **Professional Indemnity Insurance** | |
| INSURED: | The *Contractor* |
| COVERAGE: | All its professional liability under this contract |
| MINIMUM LIMIT OF LIABILITY: | £[ to be confirmed] each and every claim in each period of insurance |
| PERIOD OF INSURANCE: | A period beginning not later than the Contract Date and ending 6 (six) years after Completion of the whole of the *service* or the termination of the *Contractor*’s obligation to Provide the Service. |

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| --- | --- | --- |
| **Resolving and avoiding disputes** | | |
|  | | |
|  | The *tribunal* is | Arbitration |
|  | | |
| If the *tribunal* is arbitration | The *arbitration* *procedure* is | as prescribed in the Dispute Resolution Procedure (see paragraph 6 of Appendix 1 to Option Z) |
|  | | |
|  | The place where arbitration is to be held is | London |
|  | | |
|  | The person or organisation who will choose an arbitrator if the Parties cannot agree a choice or if the *arbitration procedure* does not state who selects an arbitrator is | |
|  | The *Senior Representatives* of the *Client* are | |
|  | | |
|  | Name (1) |  |
|  | | |
|  | Address for communications |  |
|  |
|  |
|  | | |
|  | Address for electronic communications |  |
|  | | |
|  | | |
|  | Name (2) |  |
|  | | |
|  | Address for communications |  |
|  |
|  |
|  | | |
|  | Address for electronic communications |  |
|  | | |
|  | The *Adjudicator* is as agreed by the parties or otherwise determined in accordance with the Dispute Resolution Procedure (see paragraph 4 of Appendix 1 to Option Z) | |
|  | | |
|  | Name |  |
|  | | |
|  | Address for communications |  |
|  |
|  |
|  | | |
|  | Address for electronic communications |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **X18: Limitation of liability** | | | |
| If Option X18 is used |  | For any one event, the *Contractor’s* liability to the *Client* for loss of or damage to the *Client’s* property is limited to |  |
|  |  | The *Contractor’s* liability for Defects due to its design is limited to |  |
|  |  | 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 |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **X20: Key Performance Indicators** | | | |
| If Option X20 is used |  | The incentive schedule for Key Performance Indicators is in |  |
|  |  | A report of performance against each Key Performance Indicator is provided at intervals of | [ ] months |

|  |  |  |  |
| --- | --- | --- | --- |
| **X23: Extending the Service Period** | | | |
| If Option X23 is used | The *maximum service period* is |  | years after the *starting date* |
|  |  |  |  |
|  | The *periods for extension* are |  | |
|  |  | | |
|  | Order | period for extension (months) | notice date |
|  | First |  |  |
|  | Second |  |  |
|  | Third |  |  |
|  | Fourth |  |  |
|  |  |  |  |
| If these are *criteria for extension* | The *criteria for extension* are |  |  |
|  |  | | |
|  |  | | |
|  |  | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996** | | | | |
|  | | | | |
| If Y(UK)2 is used and the date on which the final payment becomes due is not fourteen weeks after the end of the *accounting period* or Service Period |  | The period is |  | weeks |
|  | |  |
|  | | | | |
| If Y(UK)2 is used and the final date for payment is not fourteen days after the date on which payment becomes due |  | The period for payment is |  | days after the date on which payment becomes due |
|  |
|  | |  |

|  |  |  |
| --- | --- | --- |
| **Z: *Additional conditions of contract*** | | |
|  | | |
| If Option Z is used |  | The *additional conditions of contract* are those clauses with the prefix “Z” detailed in Option Z. |
|  |  |  |
|  |  |
|  |  |
|  |  |
|  |  |

**ANNEX 2**

**CONTRACT DATA 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 |  | |
|  | | | |
|  | Address for communications |  | |
|  |
|  |
|  | | | |
|  | Address for electronic communications |  | |
|  | | | |
|  | The *fee percentage* is |  | % |
|  | | | |
|  | The *service areas* are |  | |
|  | | | |
|  | The *key persons* are |  | |
|  | Name (1) |  | |
|  | | | |
|  | Job |  | |
|  | | | |
|  | Responsibilities |  | |
|  | | | |
|  | Qualifications |  | |
|  | | | |
|  | Experience |  | |
|  | | | |
|  | Name (2) |  | |
|  | | | |
|  | Job |  | |
|  | | | |
|  | Responsibilities |  | |
|  | | | |
|  | Qualifications |  | |
|  | | | |
|  | Experience |  | |
|  | | | |
|  | The following matters will be included in the Early Warning Register | | |
|  |  | | |
|  |
|  |
|  |

|  |  |  |
| --- | --- | --- |
| **2 The *Contractor's* main responsibilities** | | |
|  | | |
| If the *Contractor* is to provide Scope for its plan | The Scope provided by the *Contractor* for its plan is in |  |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| **3 Time** | | | |
|  |  |  |  |
| If a plan is to be identified in the Contract Data |  | The plan identified in the Contract Data is |  |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| **5 Payment** | | | |
|  | | | |
| If Option A or C is used |  | The tendered total of the Prices is | set out in the relevant Task Order |

|  |  |  |
| --- | --- | --- |
| **Resolving and avoiding disputes** | | |
|  | | |
|  | The *Senior Representatives* of the *Contractor* are | |
|  | | |
|  | Name (1) |  |
|  | | |
|  | Address for communications |  |
|  |
|  |
|  | | |
|  | Address for electronic communications |  |
|  | | |
|  | Name (2) |  |
|  | | |
|  | Address for communications |  |
|  |
|  |
|  | | |
|  | Address for electronic communications |  |

|  |  |
| --- | --- |
| **Data for the Schedule of Cost Components (used only with Options C or E)[[3]](#footnote-3)** | |
|  | The listed items of Equipment purchased for work on the contract, with an on cost charge are   |  |  |  | | --- | --- | --- | | Equipment | time-related on cost charge | Per time period | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |
|  | |
|  | The rates for special Equipment are   |  |  | | --- | --- | | Equipment | rate | |  |  | |  |  | |  |  | |  |  | |
|  | |
|  | The rates for Defined Cost of manufacture and fabrication outside the Service Areas by the *Contractor* are   |  |  | | --- | --- | | category of person | rate | |  |  | |  |  | |  |  | |  |  | |
|  | |
|  | The rates for people providing *shared* *services* outside the Service Areas are   |  |  |  | | --- | --- | --- | | *shared service* | category of person | rate | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |

|  |  |
| --- | --- |
| **Data for the Short Schedule of Cost Components (used only with Option A)[[4]](#footnote-4)** | |
|  | The people rates are   |  |  |  | | --- | --- | --- | | category of person | unit | rate | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |
|  | |
|  | The published list of Equipment is the edition current at the Contract Date of the list published by [ ] |
|  | |
|  | The percentage for adjustment for Equipment in the published list is [ ]% (state plus or minus). |
|  | |
|  | The rates for other Equipment are   |  |  | | --- | --- | | Equipment | rate | |  |  | |  |  | |  |  | |  |  | |
|  | |
|  | The rates for Defined Cost of manufacture and fabrication outside of the Service Areas by the *Contractor* are   |  |  | | --- | --- | | category of person | rate | |  |  | |  |  | |  |  | |  |  | |
|  | The rates for people providing *shared* *services* outside the Service Areas are   |  |  |  | | --- | --- | --- | | *shared service* | category of person | rate | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |

**ANNEX 4**

**TASK ORDER TEMPLATE**

[**Purpose of the Guidance Notes:** the purpose of the guidance notes is to assist in completing the Task Orders; the guidance notes do not form part of the contract, nor should they be used for legal interpretation of the meaning / intent of the contract.]

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Task Order Title:** |  | | | |
| To:  Cc: | [*Insert Name of Contractor*] | | Workstream Name: | [ ] |
| Contract Number: | [ ] | |  |  |
| *Service Manager*: | Name: |  | | |
| Address: |  | | |
| Telephone number: |  | | |
| Email address: |  | | |
| *Service Manager*’s Delegate: |  | | | |
| **Section 1 - General** | | | | |
| The Main Option is  (Delete as applicable) | [Option A / Option C / Option E] | | | |
| Secondary Options in addition to those stated in the Contract Data Part One | [X5, X6, X7] | | | |
| The Task is | [*describe the part of the service to be provided in this Task*] | | | |
| The Scope is in | the documents that the Contract Data Part One states it is in and the Schedule to this Task Order] | | | |
| The following matters will be included in the Early Warning Register | [ ] | | | |
| The *period for retention* is | 6 years after Task Completion | | | |
| The Service Areas are | [ ] | | | |
| The Affected Property is in | [the documents that the Contract Data states it is in / [and] [set out specific Affected Property for this Task Order]] | | | |
| **Section 2 – The *Contractor’s* main responsibilities** | | | | |
| If the *Contractor* is undertaking design as part of the *works*, the *Contractor* integrates and co-ordinates it’s design with [*clause 20.2*] | [insert any parties which will require the *Contractor* to integrate and co-ordinate its design with] | | | |
| The Client’s Consents (in addition to any included in the Scope) for this Task Order are | [ ] | | | |
| It is agreed that the *Contractor* subcontracts the whole of this Task to | [ ] | | | |
| **Section 3 - Time** | | | | |
| The Task Completion Date is | [ ] | | | |
| Task Completion is achieved | [When the conditions set out in the Scope are achieved / [set out specific conditions for this Task Order]] | | | |
| If a programme is to be identified in the Task Order | The programme identified in the Task Order is [insert reference] | | | |
| **Section 4 – Quality Management** | | | | |
| The *defects date* is | [ ] weeks after Task Completion for this Task is acheived | | | |
| The *defects correction period* is | [ ] weeks | | | |
| **Section 5 - Payment** | | | | |
| The *Contractor* should keep the following additional records in respect of Defined cost [*clause 52.1 – final bullet point*] | [ ] | | | |
| If Main Option A or C is used, the *activity schedule* is | [ ] | | | |
| If Main Option A or C is used, the total of the Prices are | [ ] | | | |
| If Main Option E is used, the total of the forecast Prices are | [N.B. include a build up as to how the total forecast Prices have been calculated, include a reference to the Schedule to this Task Order to evidence that] | | | |
| If Main Option C or E is used | The *exchange rates* are those published in [ ] on [ ] (date) | | | |
| If Main Option C is used | The *Contractor’s* *share percentages* and the *share ranges* are   |  |  | | --- | --- | | *share range* | *Contractor’s share percentage* | | [ ]% | [ ] | | [ ]% | [ ] | | [ ]% | [ ] | | | | |
| **Section 6 – Compensation Events** | | | | |
| If Main Option A is used | The *value engineering percentage* is 50%, unless another percentage is stated here, in which case it is [ ]% | | | |
| If there are additional compensation events for this Task Order | These are additional compensation events for this Task Order  [ ] | | | |
| **Section 8 – Liabilities and Insurance** | | | | |
| Insurance | The insurances and/or level of insurances required to be provided and maintained by the *Contractor* is [as set out in the Insurance Table and/or the Contract Data / amended as follows]  If insurance certificates are not available, brokers letters showing such insurance is in place have been received by the *Service Manager* [YES/NO] | | | |
| *Client’s* liabilities | Additional *Client’s* liabilities are: [ ] / [N/A] | | | |
| **Secondary Options** | | | | |
| **X5: Sectional Completion** | | | | |
| If Option X5 is used | The *completion date* for each section of the Task is   |  |  |  | | --- | --- | --- | | *section* | description | *completion date* | | (1) | [ ] | [ ] | | (2) | [ ] | [ ] | | (3) | [ ] | [ ] | | (4) | [ ] | [ ] | | | | |
| **X6: Bonus for early Completion** | | | | |
| If Option X6 is used without Option X5 | The bonus for the whole of the Task is [ ] per day | | | |
| If Option X6 is used with Option X5 | The bonus for each section of the Task is   |  |  |  | | --- | --- | --- | | *section* | description | *amount per day* | | (1) | [ ] | [ ] | | (2) | [ ] | [ ] | | (3) | [ ] | [ ] | | (4) | [ ] | [ ] |   The bonus for the remainder of the *works* is [ ] | | | |
| **X7: Delay Damages** | | | | |
| If Option X7 is used without Option X5 | Delay damages for Task Completion of the whole of the Task is [ ] per day | | | |
| If Option X7 is used with Option X5 | Delay damages for each section of the Task are   |  |  |  | | --- | --- | --- | | *section* | description | *amount per day* | | (1) | [ ] | [£- per day] | | (2) | [ ] | [£- per day] | | (3) | [ ] | [£- per day] | | (4) | [ ] | [£- per day] |   The delay damages for the remainder of the Task are [£- per day] | | | |
| If Option X7 is used | The total liability for delay damages for the Task is [£Amount to be Stated]. | | | |
| **Option Z** | | | | |
| Clause Z20.18 (Foreground IPR – Special Circumstances) | The relevant circumstances for the purposes of Clause Z20.18 are [ ] / [N/A] | | | |

|  |  |  |
| --- | --- | --- |
| Instructed by the *Service Manager*: |  |  |
| PRINT NAME | SIGNATURE | DATE |

**THE SCHEDULE**

[Insert a list of relevant documents and/or the documents themselves – e.g. specific Scope, Build-up of the forecast Prices and refer to these in the relevant entries above.]

1. NOTE: Appropriate version and content of documentation to be confirmed [↑](#footnote-ref-1)
2. To be added for preferred bidder prior to contract signature [↑](#footnote-ref-2)
3. Note: Commercial model is under review and details will be confirmed in due course [↑](#footnote-ref-3)
4. Note: Commercial model is under review and details will be confirmed in due course [↑](#footnote-ref-4)