



National Highways Limited

NEC4 Professional Service Short Contract

June 2017 (with amendments January 2019 and October 2020)

Contract Data

in relation to a *service* for

Efficiency Programme Delivery Partner
February 2025

Version No.	Amendments	Initials	Date
1.0	Tender Issue	JM	20 May 2024
1.1	<ul style="list-style-type: none"> Z1 (37) – clarification of definition of Maximum People Rate per tender query B41 Z100 - Confirmation of price adjustment index as EARN03 per tender query C21 	JM	22 Jun 2024
1.2	<ul style="list-style-type: none"> Consultant's total liability amended to be based on financial years per tender query A72 	JM	25 Jun 2024
1.3	<ul style="list-style-type: none"> Change of contract name from "Transformation Delivery Partnership" to "Efficiency Programme Delivery Partner" Merge Part 1 and Part 2 into a single document 	JM	20 Feb 2025
1.4	<ul style="list-style-type: none"> Key persons identified in the Consultant's contract data have been recorded in a separate key persons schedule 	JM	06 Mar 2025
1.5	<ul style="list-style-type: none"> Insurance table – replace 12 year indemnity period for professionals providing services with 6 years to align with the limitation period of this simple contract Remove name of the project bank and the named suppliers for the project bank account as an exemption from the project bank account process has been granted. Replace "inc." with "Inc." in consultant's contract data (Z9) per request from McKinsey Z1 11.2 (16) remove "but excluding IPRs owned by the Consultant and subsisting in the Consultant Software or by any third party in Third Party Software" as this refers to undefined terms for software. Software is not part of the contract, so stating software matters are excluded is not relevant. 	JM	27 Mar 2025

The *Client's* Contract Data

The *Client* is

National Highways Limited

Bridge House,
1 Walnut Tree Close
Guildford
Surrey GU1 4LZ
Registered number 09346363

Redacted per Freedom of Information Act 2000, S40(2)

Provision of transformation and change services supporting the development, implementation, embedment and realisation of benefits of National Highways change and transformation programme.

Volume 2 Scope

The Contract Date

3 years after the Contract Date

per day

England, subject to the exclusive jurisdiction of the Courts of England

2 weeks

The *defects date* is weeks after Completion

The *assessment day* is the of each month

Work is not to be carried out on a time charge basis.

The United Kingdom's Housing Grants, Construction and Regeneration Act (1996) does not apply.

The *Adjudicator* is

Name

Address for communications

Address for electronic communications

The interest rate on late payments is % per complete week of delay

52

The Bank of England's base rate is the base rate at the date on which the payment should have been made.

For any one event, the liability of the *Consultant* to the *Client* for the loss of or damage to the *Client's* property within the service other than excluded matters in clause 84 of the *conditions of contract*, is limited to

£5,000,000

The *Client* provides this insurance

None

The *Consultant* provides the insurances from the Insurance Table below and in accordance with the requirements in Annex 03 of the Scope.

The minimum amount of cover and the periods for which the *Consultant* maintains insurance are:

Event	Minimum amount of cover	Period following completion of the whole of the service or termination
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The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the service	A limit of indemnity of not less than £1,000,000 in respect of any one claim and in the aggregate per annum.	Six (6) years
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Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> Providing the Service	A limit of indemnity of not less than £5,000,000 in respect of any one occurrence without limit to the number of occurrences in any annual policy period, but £5,000,000 in respect of any one occurrence and in the aggregate per annum in respect of liability arising out of products and pollution or contamination liability (to the extent insured by the relevant policy).	None
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Death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	Not less than ten million pounds (£10,000,000) (or such greater amount as is required by the applicable law for the duration of the contract) in respect of any one occurrence, the number of occurrences being unlimited during any annual period of insurance or such greater period as is required by law.	None
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The *Consultant's* liability to the *Client* for indirect and consequential loss is limited to

£0

The *Consultant's* total liability to the *Client* for all matters arising under or in connection with the contract, other than excluded matters listed in clause 84 of the *conditions of contract*

For each financial year of the contract, the greater of £5,000,000 or 150% of the value of the Services delivered

The *Adjudicator nominating body* is

The Chartered Institute of Arbitrators

The *tribunal* is

Arbitration

The arbitration procedure is

Chartered Institution of Arbitrators'
Arbitration Rules (2000)

Z14 - Project Bank Account

Option Y(UK)1 of the NEC4 Professional Service Contract (June 2017 with amendments January 2019 and October 2020) applies to the contract.

The *account holder* is the *Consultant*

The *Consultant* is to pay any charges made and to be paid any interest paid by the *project bank*.

Z54 - Extension to the Completion Date

The *extension period* is

2.5 years

The *conditions of contract* are the NEC4 Professional Service Short Contract June 2017 (with amendments January 2019 and October 2020) and the *additional conditions of contract* clauses Z1 to Z102.

Z100 – Indexation

The *index* is

EARN03

The *Consultant's* Contract Data

Completion of the data in full is essential to create a complete contract.

The *Consultant* is

Name	McKinsey & Company, Inc. United Kingdom
Address for communications	The Post Building 100 Museum Street London WC1A 1PB
Address for electronic communications	tenderadmin@mckinsey.com

The *quality submission* is in

Quality Question 1 response
Quality Question 2 response
Quality Question 3 response
Quality Question 4 response
Quality Question 5 response
Quality Question 6 response
Quality Question 7 response
Quality Question 8 response
Quality Tender Commitment Register
Social Value Tender Commitment Register

The Price List is in

The Commercial Workbook (file named "CLIENT_NationalHighways_Commercial_MASTER_vF_Rev 1 McKinsey.xlsx")

The <i>fee percentage</i> is	Redacted per Freedom of Information Act 2000, S43(2)	%
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The *key persons* are the 9 individuals recorded in Volume 1 EPDP Key Person Schedule v1.0

Contract Data entry relating to Data Protection Legislation

The contact details of the *Consultant's* Data Protection officer or Data Protection nominated lead are

Redacted per Freedom of Information Act 2000, S40(2)
Information Security Officer
Redacted per Freedom of Information Act 2000, S40(2)

Contract Data entries relating to Z Clauses

Z9 - Change of Control and financial distress

The *credit ratings* at the Contract Date and rating agencies issuing them are

party	rating agency	credit rating
Consultant	Redacted per Freedom of Information Act 2000, S43(2)	Redacted per Freedom of Information Act 2000, S43(2)
Consortium Member	Not applicable	Not applicable
Guarantor	Redacted per Freedom of Information Act 2000, S43(2)	Redacted per Freedom of Information Act 2000, S43(2)

Z14 - Project Bank Account

The *project bank* is

Not named at contract award as an exemption from the project bank account process has been granted. The requirement to use a project bank account may be reinstated during the contract period at National Highways' discretion.

named suppliers are

Not named at contract award as an exemption from the project bank account process has been granted. The requirement to use a project bank account may be reinstated during the contract period at National Highways' discretion.

All known Tier 2 and 3 suppliers must be listed as *named suppliers*.

Z Clause Contents	
Number	Title
Z1	Changes to Core clauses
Z2	Interpretation
Z3	Recovery of sums due from the <i>Consultant</i> .
Z4	Assignment and transfer
Z5	Not Used
Z6	Adjudication
Z7	Termination – Public Contract Regulations 2015
Z8	Subcontracting
Z9	Change of Control and financial distress
Z10	Joint ventures
Z11	Parent Company Guarantee
Z12	Discrimination, Bullying, Harassment and Modern Slavery
Z13	Intellectual Property Rights (IPRs)
Z14	Project Bank Account
Z15	Tax Non – Compliance
Z16	Value Added Tax (VAT) Recovery
Z17	Termination and removal of part of the <i>service</i>
Z18	Corruption or loss of data
Z19	Conflict of Interest
Z20 – Z53	Not Used
Z54	Extension to the Completion Date
Z55 – Z56	Not Used
Z57	Infrastructure Act 2015
Z58	Revisions to Quality Submission
Z59	Not Used
Z60	Tax Arrangements of appointees
Z61	Not Used
Z62	Third Party Rights
Z63 – Z99	Not Used
Z100	Indexation
Z101	Not Used
Z102	Tasks

Z1 Changes to core & Secondary Option clauses

11 Identified and defined terms

11.2 Add the following defined terms:

- (12) Alternative Guarantee is an alternative form of guarantee or security to a Parent Company Guarantee agreed by the *Client* or *Service Manager*.
- (13) Associated Company is any of
 - a Consortium Member or
 - any company, corporation, partnership, joint venture or other entity which directly or indirectly Controls, is under the Control of or is under common Control with the *Consultant* or a Consortium Member
- (14) Change of Control is an event where any single person, or group of persons acting in concert, acquires Control of the *Consultant* or a Consortium Member or acquires a direct or indirect interest in the relevant share capital of the *Consultant* or a Consortium Member, as a result of which that person or group of persons holds or controls the largest direct or indirect interest in (and in any event more than 25% of) the relevant share capital of the *Consultant* or a Consortium Member.
- (15) Consortium Member is an organisation which is a member of the group of economic operators comprising the *Consultant*, whether as a participant in a non-integrated joint venture or a shareholder in a joint venture company.
- (16) Consultant Background IPR is IPR owned by the *Consultant* or a third party before the *starting date* or created by the *Consultant* or a third party independently of the contract, which is, or will be, used before or after the *defects date* for, Providing the Service (including its design, testing, implementation), its maintenance operation and improvement.
- (17) Contract Date is the date when the contract came into existence.
- (18) Control has the meaning set out in section 1124 of the Corporation Tax Act 2010.
- (19) Controller is the single person (or group of persons acting in concert) that
 - has Control of the *Consultant* or a Consortium Member or
 - holds or controls the largest direct or indirect interest in the relevant share capital of the *Consultant* or a Consortium Member.
- (20) Corrective Action has the meaning given in BS EN ISO 9000:2015.
- (21) Credit Rating is the *credit rating* or any revised long term credit rating issued by a rating agency accepted by the *Client* in respect of the *Consultant*, a Consortium Member or any Guarantor.

- (22) The Data Protection Legislation is
- the General Data Protection Regulation (the retained EU law version of the General Data Protection Regulation (EU2016/679)),
 - the LED (Law Enforcement Directive (Directive (EU) 2016/680)),
 - the Data Protection Act 2018,
 - the Privacy and Electronic Communications (EC Directive) Regulations 2003, and
 - any other data protection laws and regulations applicable in England.
- (23) The Discrimination Acts are the Equality Act 2010 and any provisions of any earlier statutes that are expressly preserved in force by that Act.
- (24) DOTAS are the Disclosure of Tax Avoidance Schemes rules contained in Part 7 of the Finance Act 2004 and in secondary legislation made pursuant to it, as extended to National Insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012 (SI 2012/1868).
- (25) Eligible Contract is a contract entered into by a subcontractor with the *Consultant* which relates to the *services* irrespective of whether such contract is entered into prior to, on, or after the *starting date* (and including any contract which provides for call-off services, works or supply of Plant and Materials which are used in relation to the *service*).
- (26) Enforcement Action is enforcement action brought by a regulatory authority against the *Consultant*, an Associated Company or a subcontractor at any stage of remoteness from the *Client*) under any health and safety or environmental legislation, including a successful prosecution or the issue of a prohibition or improvement notice under any contract.
- (27) EU Reference is any European Union
- regulation,
 - decision,
 - tertiary legislation or
 - provision of the European Economic Area agreement.
- (28) Exit Day is the exit day as defined in section 20 of the European Union (Withdrawal) Act 2018, as amended.
- (29) Financial Standing Test is the financial test for the *Consultant*, a Consortium Member or a proposed guarantor used in the selection stage of the competition for the contract.
- (30) General Anti-Abuse Rule is
- the legislation in Part 5 of the Finance Act 2013 and

- any future legislation introduced to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions.
- (31) Guarantor is a person who gives a Parent Company Guarantee to the *Client*.
- (32) Halifax Abuse Principle is the principle explained in the Court of Justice European Union case C-255/02 Halifax and others.
- (33) Health, Safety and Wellbeing Plans are
- a completed Supply Chain Maturity Matrix (SCMM) for the *Consultant* or each Consortium Member in the form required by the *Client*, recording the level of safety maturity within the organisation at the date of the SCMM and
 - an implementation plan, setting out the specific actions to be taken under the contract by the *Consultant* and its subcontractors (at any stage of remoteness from the *Client*) in order to support delivery of the improvements identified.
- (34) Information Systems are the systems specified in the Scope for the collection and storage of information regarding the *service* or any revised systems introduced by the *Client* from time to time.
- (35) Intellectual Property Rights or IPRs are copyright and related rights, database rights, design rights, patents, inventions, trade marks (and goodwill attaching to those trade marks), domain names, applications for and the right to apply for any of the foregoing, moral rights, confidential information and any other intellectual or industrial property rights, whether or not registered or capable of registration, whether subsisting now or in future in any part of the world.
- (36) Licence is the document entitled “Highways England: Licence” dated April 2015 listed in Annex 02 to the Scope.
- (37) Maximum People Rate is the rate per grade calculated in the Commercial Workbook. When calculating the lump sum price for a Task Order, the Consultant must use their actual costs as the basis of calculation, except that where those actual costs exceed the Maximum People Rate (as adjusted per clause Z100), the Maximum People Rate must be used as the basis of calculation.
- (38) Parent Company Guarantee is a guarantee of the *Consultant’s* performance in the form set out in the Scope.
- (39) Performance Requirement is the required standard for performance of each element of the *service* as specified in the Scope.
- (40) Personal Data is any data relating to an identified or identifiable natural individual that is within the scope of protection as “personal data” under the Data Protection Acts.
- (41) Quality Plan is the quality plan produced in accordance with

- BS EN ISO 9001:2015,
 - the Scope.
- (42) Quality Submission is the document entitled *quality submission* unless later changed in accordance with the contract.
- (43) Related Dispute is a dispute under or in connection with a contract between a Party and others relating to this contract.
- (44) Related Dispute Adjudicator is an adjudicator appointed to determine a Related Dispute.
- (45) Relevant Tax Authority is His Majesty's Revenue and Customs or, if the *Consultant* established in another jurisdiction, the tax authority in that jurisdiction.
- (46) RIDDOR Incident is an incident occurring under any contract between
- the *Consultant*, an Associated Company or subcontractor (at any stage of remoteness from the *Client*) and
 - the *Client* or any other person
- which results in death or serious injury to any worker or non-worker and for which the *Consultant*, an Associated Company or subcontractor (at any stage of remoteness from the *Client*) is responsible under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (see link in Scope **Annex 02**) (or any replacement of it) or equivalent laws outside England applicable to such a contract.
- (47) The Secretary of State is the Secretary of State for Transport.
- (48) Staff are persons employed or engaged by the *Consultant*, an Associated Company or any subcontractor (at any stage of remoteness from the *Client*) to Provide the Service at any time.
- (49) Supply Chain Leadership Group (SCSLG) is a group formed to give focus to improving safety performance across the *Client's* strategic road network through collaborative working across the supply chain where common risks exist and provide a unified voice of the sector.
- (50) Supply Chain Maturity Matrix (SCMM) is the document formed by completing the "Supply Chain Maturity Matrix (SCMM)" template in **Annex 02** and is about measuring suppliers' safety maturity.
- (51) Tax Non-Compliance is where a tax return submitted by the *Consultant* or a Consortium Member to a Relevant Tax Authority on or after 1 October 2012
- is found on or after 1 April 2013 to be incorrect as a result of a Relevant Tax Authority successfully challenging the *Consultant* or a Consortium Member under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rule or legislation with similar effect or

- the failure of an avoidance scheme in which the *Consultant* or a Consortium Member was involved which was (or should have been) notified to a Relevant Tax Authority under the DOTAS or a similar regime or
- gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax-related offences which is not spent at the date of award of this contract or to a civil penalty for fraud or evasion.

(52) Tender Commitments are the tender commitments contained in the Tender Commitments Register within the Quality Submission.

(53) Tier Two Suppliers are all subcontractors who have been accepted in accordance with clause Z8 (Subcontracting) and have entered into an Eligible Contract with the *Consultant*.

Amend the following terms

11.2 (5) Defined Cost

After final bullet point add “The following costs are excluded”

- implementation of any modifications or enhancements to the *Consultant's* data collection systems (or those of a subcontractor, at any stage of remoteness from the *Client*) to meet the *Client's* requirements as stated in the Scope,
- replacement of a person (and any associated costs),
- compliance with paragraphs
 - S 545.16 (Alcohol and Substance Abuse)
 - S 526.3 (Customer Maturity Assessment and Customer Centric Plan) and
 - S 429.21.1 (Security)of the Scope and resulting costs and
- taxes and registration requirements arising in the country where the *Consultant* or a Consortium Member is registered through the execution or delivery of the contract or through the enforcement of any claims by or against the *Consultant*.”

12 Interpretation and the law

12.2 Delete & replace clause with

The contract is governed by the *law of the contract*. In the contract, unless the context otherwise requires, any reference which immediately before Exit Day is a reference to (as it has effect from time to time)

- any EU References which are to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 (see link in **Annex 02** of the Scope) and are read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time and
- any European Union

- institution,
- authority or
- other such body

is read on and after Exit Day as a reference to the United Kingdom institution, authority or body to which its functions are transferred.

20 The *Consultant's* main responsibilities

Providing the Service

20.2 Delete existing clause and replace it with

“20.2 The *Consultant's* obligation is to use the skill and care expected of a qualified, experienced and competent member of its profession providing professional services in connection with services of equivalent type size and complexity to the *service*.”

50 Assessing the amount due

50.1 insert after the first sentence:

“A reference to invoice means an “electronic invoice” where an invoice has been issued transmitted and received in a structured electronic format which allows for its automatic and electronic processing. The invoice is an electronic invoice if it complies with the standard on electronic invoicing. An electronic invoice complies with the standard on electronic invoicing where it complies with the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870 any variation, amendment or future legislation (see link in Scope **Annex 02**).”

Insert in clause 50.2 before the full stop:

“and is in the form stated in the Scope”.

60 Compensation events

Delete clause 60.1(1) and replace with new clause 60.1(1)

60.1(1) The *Client* gives an instruction changing the Scope unless the change is

- made in order to make a Defect acceptable,
- a change to the
 - Information Systems or the introduction of a new Information System,
 - method of or requirements for performance measurement or
- a change which is stated elsewhere in these *conditions of contract* not to be a compensation event.

60.1 (3) Insert at the end (before the full stop)

“unless the instruction relates to a notification from the *Consultant* that a conflict of interest may exist or arise”

83 Insurance Cover

Delete clauses 83.2, 83.3 and the Insurance Table and insert new clause 83.2

“83.2 The *Consultant* provides the insurances as stated in the Contract Data.”

84 Limitation of liability

Delete clause 84.1 of the *conditions of contract* and replace it with

“84.1 The *Consultant's* total liability to the *Client* for all matters arising under or in connection with the contract, other than the excluded matters, is limited to the amount stated in the Contract Data and applies in contract, tort or delict and otherwise to the extent allowed under the law of the country where the *service* is being provided.”

The excluded matters are amounts payable by the *Consultant* as stated in the contract for

- loss of or damage to the *Client's* property,
- delay damages,
- fraud or fraudulent misrepresentation,
- infringement of an intellectual property right,
- loss or damage
 - to third party property or
 - due to pollution,
- loss arising from breach of
 - confidentiality or data protection obligations or
 - anti-bribery or anti-corruption obligations,
- interest on debt,
- losses caused by the *Consultant's* illegal acts, deliberate default, deliberate abandonment, wilful misconduct or reckless misconduct,
- death of or bodily injury to a person other than an employee of the *Consultant* and
- other events for which the contract requires the *Consultant* to insure (but excluded only up to the required level for each type of insurance stated in the Contract Data).”

Z2 Interpretation

Z2.1 In the contract, except where the context shows otherwise

- references to a document include any revision made to it in accordance with the contract,
- references to a statute or statutory instrument include any amendment or re-enactment of it from time to time and any subordinate legislation or code of practice made under it,
- references to a British, European or International standard include any current relevant standard that replaces it,
- references to persons or organisations include bodies corporate, unincorporated associations, partnerships and any other legal entity, and
- the words “includes” or “including” are construed without limitation.

Z3 Recovery of sums due from the *Consultant*.

Z3.1 Where, under the contract a sum of money is recoverable from or payable by the *Consultant*, such sum may be deducted from or reduced by the amount of

any sum or sums then due or which at any time after may become due to the *Consultant* under the contract or any other contract with the *Client*.

Z4 Assignment and transfer

Z4.1 The *Consultant* does not assign, transfer or charge the benefit of the contract or any part of it or any benefit or interest under it without the prior agreement of the *Client*.

Z4.2 If requested by the *Client*, the *Consultant* executes a novation agreement in the form specified in the Scope (or such other form as the *Client* may reasonably require), transferring the benefit and burden of the contract to

- a replacement organisation established to take over the *Client's* functions or part of it,
- another public body exercising similar functions,
- a Department or Office of His Majesty's Government or
- a local authority.

Z4.3 If the *Consultant* wishes to transfer the benefit and burden of the contract to a new consultant, it seeks the *Client's* agreement to do so. The *Consultant*

- explains the reasons for the proposed transfer and
- provides any further information requested by the *Client*.

If the *Client* (in its absolute discretion) agrees to the proposed transfer, the Parties and the new consultant execute a novation in the relevant form set out in the Scope or such other form as the *Client* may reasonably require.

Z6 Adjudication

Z6.1 The NEC4 Dispute Resolution Service Contract (June 2017) includes the following additional condition of contract:

Any information concerning the contract obtained by either the *Adjudicator* or any person advising or aiding the *Adjudicator* is confidential, and is not used or disclosed by the *Adjudicator* or any such person except for the purposes of this Agreement. The *Adjudicator* complies, and takes all reasonable steps to ensure that any persons advising or aiding the *Adjudicator* comply, with the Official Secrets Acts 1911 to 1989.

Z6.2 If a dispute under the contract raises issues that are substantially the same as or connected with issues in a Related Dispute and the Related Dispute has been referred to adjudication, the dispute under the contract is referred to the Related Dispute Adjudicator and the Related Dispute Adjudicator becomes the *Adjudicator*.

Z7 Termination - Public Contract Regulations 2015

Z7.1 The *Client* may terminate if the *Consultant's* obligation to Provide the Service if one of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applied to the *Consultant* at the award date of the contract.

- Z7.2 The *Client* may terminate the *Consultant's* obligation to Provide the Service with immediate effect if the contract has been subject to a substantial modification which would have required a new procurement procedure pursuant to regulation 72 of the Public Contracts Regulations 2015.
- Z7.3 The procedure and amount due on termination are the same as for
- Reason 2 if the modification or infringement was due to a default by the *Consultant*,
 - Reason 5 if the modification or infringement was due to a default by the *Client* and
 - Reason 8 if the modification or infringement was due to any other reason.

Z8 Subcontracting

- Z8.1 The *Consultant* assesses the amount due to a Subcontractor without taking into account the amount assessed under the contract.
- Z8.2 If the *Consultant* subcontracts work to an Associated Company, the Defined Cost of the work subcontracted is assessed as if the work had not been subcontracted.
- Z8.3 The *Client* may, having stated the reasons, instruct the *Consultant* to remove a subcontractor (at any stage of remoteness from the *Client*). The *Consultant* then arranges the removal of the subcontractor (at any stage of remoteness from the *Client*) and the appointment of a replacement in accordance with the contract.
- Z8.4 Not Used.
- Z8.5 Before
- appointing a proposed subcontractor or
 - allowing a subcontractor to appoint a proposed subsubcontractor
- the *Consultant* submits to the *Client* for acceptance
- either
 - a Single Procurement Document (as described in regulation 59 of the “Public Contracts Regulations 2015”) in respect of the proposed subcontractor or subsubcontractor or
 - other means of proof (as specified in regulations 60(4) and 60(5) of the Public Contracts Regulations 2015 that none of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applies to the proposed subcontractor or subsubcontractor and
 - details of any RIDDOR Incident under any contract for which the proposed Subcontractor or subsubcontractor is responsible and of any Enforcement Action brought against the proposed subcontractor or subsubcontractor.

- Z8.6 The *Consultant* does not appoint the proposed subcontractor (or allow the subcontractor to appoint the proposed subsubcontractor) until the *Client* has accepted the submission. A reason for not accepting the submission is that
- it shows that there are grounds for excluding the proposed subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015 or
 - the *Client* is not satisfied that the proposed subcontractor or subsubcontractor has put in place adequate measures to ensure that similar matters to the RIDDOR Incident or event giving rise to Enforcement Action will not occur.
- Z8.7 If requested by the *Client*, the *Consultant* provides further information to support, update or clarify a submission under clause Z8.5.
- Z8.8 If, following the acceptance of a submission under clause Z8.6, it is found that
- one of the grounds for excluding the subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015 applies or
 - the subcontractor or subsubcontractor has not put in place adequate measures to ensure that similar matters to the RIDDOR Incident or event giving rise to Enforcement Action will not occur
- the *Client* may instruct the *Consultant* to
- replace the subcontractor or
 - require the subcontractor to replace the subsubcontractor.
- Z8.9 The *Consultant* submits the name of each proposed subcontractor to the *Client* for acceptance. A reason for not accepting the subcontractor is that
- its appointment does not allow the *Consultant* to Provide the Service.
- The *Consultant* does not appoint a proposed subcontractor until the *Client* has accepted it.
- Z8.10 The *Consultant* submits the proposed conditions of contract for each subcontract to the *Client* for acceptance unless the *Client* has agreed that no submission is required.
- Z8.11 The *Consultant* does not appoint a subcontractor on the proposed subcontract conditions submitted until the *Client* has accepted them. A reason for not accepting them is that they do not
- allow the *Consultant* to Provide the Service or
 - include a statement that the parties to the subcontract are to act in a spirit of mutual trust and co-operation.
- Z8.12 If option Y(UK)1 is used, the *Consultant* provides and keeps up to date a project bank account tracker in accordance with S 1600.1 of the Scope which identifies
- all Tier Two Suppliers and subcontractors (at any stage of remoteness from the *Client*),

- which Tier Two Suppliers and subcontractors (at any stage of remoteness from the *Client*) are beneficiaries of any Project Bank Account and
- if a Tier Two Supplier is not a Named Supplier the reason why and the date of the *Client's* agreement in accordance with clause Y1.5A

and allows the *Client* to inspect and provide a copy of the project bank account tracker immediately upon demand and provides a copy of the project bank account tracker with each application for payment.

Z9 Change of Control and financial distress

- Z9.1 The *Consultant* notifies the *Client* immediately if a Change of Control has occurred.
- Z9.2 If a Change of Control occurs without the *Client's* prior consent or will not allow the *Consultant* to Provide the Service, the *Client* may terminate the *Consultant's* obligation to Provide the Service with immediate effect. In the event of a termination under this clause, the termination procedures followed are those in clauses 91 and the amount due on termination is set out in clause 92.1 and 92.2 of the *conditions of contract*.
- Z9.3 The *Consultant* notifies the *Client* immediately of any material change in
- the direct or indirect legal or beneficial ownership of any shareholding in the *Consultant* (or a Consortium Member). A change is material if it relates directly or indirectly to a change of 3% or more of the issued share capital of the *Consultant* (or a Consortium Member), or
 - the composition of the *Consultant* or a Consortium Member. A change is material if it directly or indirectly affects the performance of this contract by the *Consultant* or is considered substantial in accordance with Regulation 72(8)(e) of the Public Contracts Regulations 2015.
- Z9.4 The *Consultant* notifies the *Client* immediately of any change or proposed change in the name or status of the *Consultant* or a Consortium Member.
- Z9.5 The *Consultant* notifies the *Client* immediately if
- any of the following events occurs in relation to the *Consultant*, a Consortium Member or a Guarantor
 - its Credit Rating falls below the relevant *credit rating*,
 - there is a further fall in its Credit Rating below the relevant *credit rating*,
 - it issues a profits warning to a stock exchange or makes any other public announcement about a material deterioration in its financial position or prospects,
 - it is subject to a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety,

- it commits a material breach of its covenants to its lenders or
- its financial position or prospects deteriorate to such an extent that had it been part of the original assessment of Financial Standing Test would have been a failure or
- any Parent Company Guarantee or any Alternative Guarantee becomes invalid or unenforceable for any reason.

Z9.6 If a Change of Control occurs and is likely to give rise to an actual or potential conflict of interest, the *Consultant* and the *Client* meet within one week to discuss the actions to be taken by either Party in order to overcome or mitigate the conflict. If the Parties do not agree and implement the actions needed to overcome or mitigate the conflict, the *Client* may terminate the *Consultant's* obligation to Provide the Service with immediate effect. In the event of a termination under this clause, the termination procedures followed are set out in clause 91 and the amounts due on termination are in clause 92.1 and 92.2 of the *conditions of contract*.

Z9.7 If a Change of Control occurs, the *Consultant* provides to the *Client*

- certified copies of the audited consolidated accounts of the Controller for the last three financial years,
- a certified copy of a board minute of the Controller confirming that it will give to the *Client* a Parent Company Guarantee if so required by the *Client*,
- any other information required by the *Client* in order to determine whether the Controller meets the Financial Standing Test and such inclusion would not have resulted in the outcome of the Financial Standing Test being a failure and
- any other information requested by the *Client*.

Z9.8 If a Change of Control or any of the events listed in clauses Z9.3 to Z9.5 occurs, the *Client* may require the *Consultant* to give to the *Client*

- a Parent Company Guarantee from the relevant Controller or (if the Controller had been part of the original Financial Standing Test and the outcome of the Financial Standing Test would have been a failure) an alternative guarantor proposed by the *Consultant* and accepted by the *Client* or
- an alternative form of bond or security agreed by the *Client* from an alternative guarantor proposed by the *Consultant* and accepted by the *Client*
 - if there is no Controller, or
 - if agreed by the *Client* and the *Consultant* or relevant Consortium Member.

The *Consultant* provides the *Client* with the information listed in clause Z9.7 and the credit ratings for the proposed alternative guarantor (unless agreed otherwise by the *Client*) and any further information requested by the *Client* concerning the alternative guarantor.

- Z9.9 A reason for not accepting an alternative guarantor proposed by the *Consultant* is that it
- had it been included in the original Financial Standing Test, the outcome of the Financial Standing Test would have been a failure,
 - does not provide the legal opinion required in clause Z9.13 or
 - does not have a Credit Rating at least equal to the credit rating for the person to whom the event listed in clause Z9.5 has occurred.
- Z9.10 If so required by the *Client*, the *Consultant* within four weeks after the *Client* notifies the requirement gives to the *Client*
- a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Client* or
 - an alternative form of bond agreed by the *Client* for the *Consultant* or relevant Consortium Member the notification refers to.
- Z9.11 The *Client* may accept a Parent Company Guarantee from the Controller or an alternative guarantor proposed by the *Consultant* who does not meet the Financial Standing Test if the *Consultant* gives to the *Client* an assurance that the Controller or the alternative guarantor will meet the Financial Standing Test within 18 months of the *Client*'s acceptance. If so, the Parties agree a process for reviewing the financial standing of the Controller or the alternative guarantor during that period in order to demonstrate to the *Client* that it will meet the Financial Standing Test by the end of that period.
- Z9.12 If
- the *Consultant* fails to notify the *Client* that an event listed in clause Z9.4 has occurred,
 - neither the Controller nor any alternative guarantor proposed by the *Consultant* complies with the Financial Standing Test within the timescale stated in this clause Z9.12 or fails to provide the legal opinion required by clause Z9.13,
 - the *Consultant* does not give to the *Client* a
 - Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Client* within four weeks of a request from the *Client* to do so or
 - an alternative form of bond agreed by the *Client*
- within four weeks of a request from the *Client* to do so or
- the *Consultant* fails to demonstrate to the *Client* that the Controller or the alternative guarantor accepted by the *Client* will meet the Financial Standing Test within eighteen (18) months of the *Client*'s acceptance
- the *Client* may treat such failure as a substantial failure by the *Consultant* to comply with the contract.

- Z9.13 If the *Consultant*, a Consortium Member, a Guarantor or an alternative guarantor proposed by the *Consultant* (in this clause referred to as a “relevant entity”) is not a company incorporated in and subject to the laws of England and Wales, the *Consultant* provides a legal opinion from a lawyer or law firm which is
- qualified and registered to practise in the jurisdiction in which the relevant entity is incorporated and
 - agreed by the *Client*.
- The legal opinion is addressed to the *Client* on a full reliance basis and the liability of the lawyer or law firm giving the opinion is not subject to any financial limitation unless otherwise agreed by the *Client*.
- The legal opinion confirms that the method of execution of the Parent Company Guarantee is valid and binding under applicable local law and in particular covers the matters listed in the Scope.
- Z9.14 If accepted by the *Client*, the alternative guarantor becomes the Guarantor for the *Consultant* or the relevant Consortium Member and the credit ratings become the *credit rating* for the Guarantor.
- Z9.15 A failure to comply with this clause Z9 is treated as a substantial failure by the *Consultant* to comply with the contract.

Z10 Joint ventures

- Z10.1 This clause applies if the *Consultant* is an unincorporated joint venture.
- Z10.2 Each Consortium Member is jointly and severally liable to the *Client* for the performance of the *Consultant's* obligations under this contract.
- Z10.3 The *Consultant* nominates the representative named in the Contract Data for the purposes of the contract and for the giving and receiving of all notices, certificates, instructions and other communications under it. The *Consultant* acknowledges that receipt of a communication by the *Consultant's* nominated representative constitutes receipt by all the Consortium Members. The *Consultant* notifies the *Client* in advance of any change to the identity of the *Consultant's* nominated representative.
- Z10.4 The *Consultant* acknowledges that any payment made by the *Client* to a Consortium Member under the contract to that extent discharges the *Client's* liability to make payment to the *Consultant*.
- Z10.5 A Consortium Member gives not less than four weeks' notice to the *Client* of any proposed termination of the joint venture arrangement.
- Z10.6 Termination of the joint venture arrangement for any reason is treated as a substantial failure to comply with the contract by the *Consultant*.
- Z10.7 Where two or more Consortium Members comprise the *Consultant*, clause 90.1 and 90.2 of the conditions of contract are amended by inserting after “the other Party” the words “or in the case of the *Consultant*, any Consortium Member”.

Z11 Parent Company Guarantee

Z11.1 If required by the *Client* under the terms of the Contract, the *Consultant* gives to the *Client* a Parent Company Guarantee. If a Parent Company Guarantee was not given by the date of award of the contract, it is given to the *Client* within four weeks of the date of award of the contract, or of the *Client's* request, whichever is later.

Parent Company Guarantees are given by

- for a standalone company – from the Controller,
- an unincorporated joint venture (“more than one party”) – the Controller of each Consortium Member or
- an incorporated joint venture - the Controller of each Consortium Member.

In all cases it is for the *Client* to decide (in its discretion) whether it will accept a Parent Company Guarantee from a company other than the Controller.

Z11.2 If

- the Controller or
- an alternative guarantor (including any bank or surety provider) proposed by the *Consultant* and agreed by the *Client*

(in this clause referred to as a “relevant entity”) is not a company incorporated in and subject to the laws of England and Wales, the *Consultant* provides a legal opinion is given signed and issued by an independent regulated legal firm which is

- independent from the *Consultant*, Consortium Members, Guarantors and alternative guarantors,
- qualified and registered to practise in the jurisdiction in which the relevant entity is incorporated and
- agreed by the *Client*.

The legal opinion is addressed to the *Client* and is on standard terms and conditions acceptable to the *Client*.

The legal opinion confirms that the method of execution of the Parent Company Guarantee (or any alternative guarantee agreed by the *Client*) is valid and binding under applicable local law and covers the matters listed in the Scope, section S 1102 (Legal Opinion).

Z11.3 A breach of clause Z11 is treated as the *Consultant* having substantially hindered the *Client* or others.

Z12 Discrimination, Bullying & Harassment and Modern Slavery

Z12.1 The *Consultant* indemnifies the *Client* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Client* arising out of or in connection with

- any investigation or proceedings under the Discrimination Acts or
- an allegation of bullying or harassment

resulting from any act or omission of the *Consultant* in connection with the

contract.

Z13 Intellectual Property Rights (IPRs)

- Z13.1 The *Client* owns (or will own) all IPRs in material prepared in connection with the contract, except as stated otherwise in the Scope. To the extent that these IPRs do not automatically belong to the *Client*, the *Consultant* enters into such documents and does such acts as the *Client* requests to transfer the IPRs to the *Client*, and procures that its subcontractors (at any stage of remoteness from the *Client*) do the same. The *Consultant* provides to the *Client*, the documents which transfer these IPRs to the *Client*.
- Z13.2 The *Consultant* waives or procures a waiver of any moral rights in any copyright works assigned to the *Client* under the contract.
- Z13.3 The *Consultant* obtains perpetual, royalty-free, non-exclusive, assignable and irrevocable licences (capable of being sub-licensed to a third party, who shall also have the right to grant further sub-licences) of other IPRs for the *Client* as stated in the Scope. Any licence granted under this clause survives the termination or expiry of the contract and cannot be terminated by the *Consultant* or its assignees or any third party. The *Consultant* provides to the *Client* the documents which license these IPRs to the *Client*.
- The *Consultant's* or third party licensor's exclusive remedies for any breach by the *Client*, or any sub-licensee, of any licence granted under this clause, are damages and equitable relief.
- Z13.4 The *Consultant* ensures that any subcontract (at any stage of remoteness from the *Client*) contains a right for the *Client* (enforceable in accordance with the Contracts (Rights of Third Parties) Act 1999) to enforce the obligations in this clause.

Z14 Project Bank Account

- Z14.1 If so stated in the Contract Data, Option Y(UK)1 of the NEC4 Professional Services Short Contract (June 2017 with amendments January 2019, October 2020 and January 2023)) applies to the contract, with appropriate changes and as amended below.

The *Client* may at any time notify the *Consultant* that payments under the contract are no longer to be made using the Project Bank Account. This notice is a compensation event. Within one week of the *Client's* notice, the *Consultant* notifies the *named suppliers* that the Project Bank Account is no longer to be used and proposes an alternative method to ensure that the *named suppliers* receive payments in accordance with its contracts.

Z15 Tax Non – Compliance

- Z15.1 The *Consultant* warrants that it has notified the *Client* of any Tax Non-Compliance or any litigation in which the *Consultant* (or a Consortium Member) is involved relating to any Tax Non-Compliance prior to the date of award of the contract.

- Z15.2 The *Consultant* notifies the *Client* within one week of any Tax Non-Compliance occurring after the date of award of the contract and provides details of
- the steps the *Consultant* is taking to address the Tax Non-Compliance and to prevent a recurrence,
 - any mitigating factors that it considers relevant and
 - any other information requested by the *Client*.

- Z15.3 The *Consultant* is treated as having substantially failed to comply with its obligations if the
- warranty given by the *Consultant* under clause Z15.1 is untrue,
 - *Consultant* fails to notify the *Client* of a Tax Non-Compliance or
 - *Client* decides that any mitigating factors notified by the *Consultant* are unacceptable.

Z16 Value Added Tax (VAT) Recovery

- Z16.1 An amount due under the contract calculated by reference to a sum incurred by any person includes value added tax (VAT) only to the extent that it is not recoverable as input tax by that person (or a member of the same tax group).

Z17 Termination and removal of part of the service

- Z17.1 The *Client* may at any time instruct the *Consultant* that
- part of the *service* is to be permanently removed from the Scope or
 - for urgent reasons of health and safety, part of the *service* is to be temporarily removed from the Scope.

In either case the *Consultant* acknowledges that the *Client* may itself, or may appoint another supplier in place of the *Consultant* to provide services similar to the removed *service* (or part of it).

- Z17.2 An instruction given under clause Z17.1 is assessed as a compensation event, except that if the instruction is given for one of the reasons Reason 1, Reason 2, Reason 3, Reason 4 or Reason 8, the assessment includes a deduction of the forecast of the additional cost to the *Client* of completing the removed *service*, and if all of the remaining *service* is to be permanently removed, the *Consultant* agrees that it is not entitled to any loss of profit or any other form of compensation including if the *Client* appoints another consultant to complete the *service* or any part of it.

- Z17.3 If the *Consultant's* obligation to Provide the Service is terminated for any reason, the *Consultant* if instructed by the *Client*
- completes the performance of any part of the *service* started prior to the date of termination and
 - co-operates with the *Client* or any Incoming Consultant to ensure a smooth transfer of functions.

Z18 Corruption or loss of data

- Z18.1 If any data of the *Client* is corrupted, lost, stolen or sufficiently degraded as a result of the *Consultants* default so as to be unusable, the *Consultant* immediately reports this to the *Client* and
- the *Client* may instruct the *Consultant* to restore the data in accordance with the *Client's* requirements (and any cost incurred by the *Consultant* in doing so is excluded from Defined Cost) or
 - the *Client* may itself restore the data (and the *Consultant* pays to the *Client* any reasonable expenses which the *Client* incurs in so doing).

Z19 Conflict of Interest

- Z19.1 Any steps taken in accordance with paragraph S 508.1 in the Scope is not a compensation event.
- Z19.2 A failure to comply with paragraph S 508.1 in the Scope is treated as a substantial failure by the *Consultant* to comply with the contract.

Z20 – Z49 Not Used

Z50 Health and Safety Plans

- Z50.1 The *Client* may terminate the contract if the *Consultant* has not produced all the Health, Safety and Wellbeing Plans in the form which the contract requires within six weeks after the date of contract award. This is treated as a termination because of a substantial failure of the *Consultant* to comply with its obligations.
- Z50.2 The period for producing the Health, Safety and Wellbeing Plans may be extended by not more than four weeks if the *Client* and the *Consultant* agree to the extension before the Health, Safety and Wellbeing Plans are due. The *Client* notifies the extension that has been agreed to the *Consultant*.
- Z50.3 If the *Client* does not terminate, one quarter of the Price for Service Provided to Date is retained in assessments of the amount due until the *Consultant* has produced all the Health, Safety and Wellbeing Plans in the form which the contract requires.

Z51 – Z53 Not Used

Z54 Extension to the Completion Date

- Z54.1 The *Client* may notify the *Consultant* that the Completion Date is to be extended by the extension period or such lesser period as the *Client* may specify.
- Z54.2 If the Completion Date is extended by less than the extension period, the *Client* may further extend the Completion Date so that the total period of extension does not exceed the extension period as calculated from the Completion Date set out at the Contract Date.
- Z54.3 The *Client* does not notify the *Consultant* of any extension or further extension to the Completion Date later than 2 months before the expiry of the Completion

Z55 – Z56 Not Used

Z57 Infrastructure Act 2015

- Z57.1 The *Consultant* Provides the Service in compliance with, and so as not to put the *Client* in breach of
- the Licence and
 - any other directions and guidance issued by the Secretary of State to the *Client* under section 6 of the Infrastructure Act 2015 (and notified by the *Client* to the *Consultant*).
- Z57.2 The *Client* notifies the *Consultant* of any notice issued by the Office of Rail and Road to the *Client* under section 11(2)(a) of the Infrastructure Act 2015 that relates to the service. The *Consultant* complies with the terms of any such notice and indemnifies the *Client* against any associated fine imposed on the *Client* under section 11(2)(b) of that Act where the fine results from an act or omission of the *Consultant*.

Z58 Revisions to Quality Submission

- Z58.1 The *Consultant* may submit to the *Client* proposed revisions to the Quality Submission for acceptance within the *period for reply*. A reason for not accepting the proposed revision is that
- it does not enable the *Consultant* to meet a Performance Requirement,
 - it unacceptably increases the risk of failure to meet a Performance Requirement,
 - it does not enable the *Consultant* to achieve the level of performance specified in the Quality Submission,
 - it unacceptably increases the risk of failure to achieve the level of performance specified in the Quality Submission or
 - it constitutes a substantial modification of the contract within the meaning of regulation 72 of the Public Contract Regulations 2015.
- Z58.2 A revision to the Quality Submission accepted by the *Client* is not a compensation event.
- Z58.3 The *Client* may instruct the *Consultant* to amend the Quality Submission where it is not compliant with the Scope provided by the *Client*. This instruction is not a compensation event.

Z59 Not Used

Z60 Tax Arrangements of public appointees

- Z60.1 Where any Staff are liable to be taxed in the United Kingdom in respect of consideration received under this contract, the *Consultant* complies, and procures that the Staff comply, with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

- Z60.2 Where any Staff are liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, the *Consultant* complies, and procures that the Staff comply, with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
- Z60.3 The *Client* may, at any time during the term of this contract, request the *Consultant* to provide information to demonstrate either how any member of Staff is complying with clauses Z60.1 and Z60.2 or why those clauses do not apply to it.
- Z60.4 If the *Consultant* fails to provide information in response to a request under clause Z60.3
- within the period for reply or
 - which adequately demonstrates either how any member of Staff is complying with clauses Z60.1 and Z60.2 or why those clauses do not apply to it
- the *Client* may
- treat such failure as a substantial failure by the *Consultant* to comply with its obligations or
 - instruct the *Consultant* to replace the relevant member of Staff.
- Z60.5 If the *Client* receives or identifies information through any means which demonstrates that a member of Staff is not complying with clauses Z60.1 and Z60.2, the *Client* may treat such non-compliance as a substantial failure by the *Consultant* to comply with its obligations.
- Z60.6 The *Consultant* acknowledges that the *Client* may
- supply any information which it receives under clauses Z60.3 or Z60.5 or
 - advise the non-supply of information
- to the Commissioners of His Majesty's Revenue & Customs or Revenue Scotland for the purpose of the collection and management of revenue for which they are responsible.

Z61 Not Used

Z62 Third Party Rights

- Z62.1 A subcontractor and subsubcontractor have the right to enforce the terms of clause Z8 Subcontracting and section S 827 (Prompt payment) of the Scope
- Z62.2 A *named supplier* has the right to enforce clause Z14 (Project Bank Account)
- Z62.3 Otherwise a person or organisation who is not a Party has no right to enforce any term of this contract under the Contracts (Rights of Third Parties) Act 1999.

Z100 Indexation

Z100.1 On each anniversary of the Contract Date, the *Consultant* calculates a price adjustment factor (PAF) (rounded to three decimal places), equal to $(L-B)/B$, where

- L is the last published firm values/confirmed value of the *index* and
- B is the last firm values/confirmed value of the *index* published before the Contract Date.

The price adjustment factor calculated at the Completion Date for the whole of the *service* is used for calculating adjustments after this date.

Z100.2 After each anniversary of the Contract Date, the *Consultant* calculates each proposed revised Maximum People Rate as

$\text{proposed Maximum People Rate} = \text{maximum people rate} \times (1 + \text{PAF})$
rounded to the nearest penny.

Z100.3 The *Consultant* submits the calculation of the PAF and each proposed Maximum People Rate to the *Client* for acceptance.

A reason for not accepting any proposed Maximum People Rate is

- the value of the *index* used is not the correct value,
- the PAF value is incorrect to 3 decimal places or
- any proposed Maximum People Rate is incorrect.

If the *Client* accepts any proposed Maximum People Rate, the relevant Maximum People Rate is adjusted to the relevant proposed Maximum People Rate and is used on and after the relevant anniversary of the Contract Date,

Z101 Not Used

Z102 Tasks

Z102.1 **11.2 Identified and defined terms**

add the following defined terms.

(54) A Task is work within the *service* which the *Client* may instruct the *Consultant* to carry out within a stated period of time.

- (55)
- Task Completion is when the *Consultant* has completed the Task which the Task Order requires it to do by the Task Completion Date, and corrected Defects which would have prevented the *Client* or Others from using the *service*; and/or
 - Others from doing their work.

- (56) Task Completion Date is the date for completion stated in the Task Order unless later changed in accordance with the contract.
- (57) A Task Order is the *Client's* instruction to carry out a Task and includes
- a detailed description of the Task
 - a priced list of the items of work in the Task
 - the Task starting date and Task Completion Date.

30 Starting and Completion

- 30.1 Delete clause and replace with
- “The *Consultant* submits a forecast of the date of
- Completion and
 - for each Task Order, Task Completion
- to the *Client* each week from the *starting date* until Completion.”
- 30.2 Delete clause and replace with
- The *Client* decides the date of
- Completion and
 - for each Task Order, Task Completion
- and certifies it to the *Consultant* within one week of the date.”

40 Quality

- 42.1 Delete clause and insert
- “The *Consultant* and the *Client* may each propose to the other that the Scope should be changed so that a Defect does not have to be corrected. If the *Consultant* and the *Client* are prepared to consider the change, the *Consultant* submits a quotation for reduced Prices or an earlier Completion Date, or where relevant an earlier Task Completion Date or all three to the *Client* for acceptance. If the *Client* accepts the quotation, it changes the Scope, the Prices, the relevant Task Completion Date and the Completion Date accordingly.”

60 Compensation events

- 60.1 The following are compensation events.
- (10) The *Client* issues an instruction changing a Task Order. If the effect of a compensation event which is an instruction changing a Task Order is to reduce the Task's work, the Prices are reduced.
- (11) The *Consultant* receives the Task Order after the starting date stated in the Task Order.
- (12) A Task Completion Date is later than the Completion Date.

61 Notifying compensation events

Insert new clause 61.5

- 61.5 For any Task which has achieved Task Completion, a compensation event is not notified by the *Client* or *Consultant* after four weeks after the relevant Task Completion.

63 Assessing compensation events

Insert new clause 63.11

- 63.11 A delay to the Task Completion Date is assessed as the length of time that due to the compensation event, planned Task Completion is delayed. If the Task Completion Date is not later than the Completion Date, the Completion Date is not amended.

Insert new clause 63.12

- 63.12 If the effect of a compensation event is to reduce the Task and the event is
- a change to the Task or
 - a correction of an assumption stated by the *Client* for assessing an earlier compensation event,
- the Prices are reduced.

- Z102.2 Between the *starting date* and the Completion Date, the *Client* may issue a proposed Task Order to the *Consultant*. The *Client* consults the *Consultant* regarding the contents of a proposed Task Order, developing the scope of works collaboratively, before finalizing and issuing it. The proposed Task Order includes

- a detailed description of the Task,
- details of any Tender Commitments to be delivered and
- the Task starting date and Task Completion Date.

- Z102.3 Not Used.

- Z102.4 The *Consultant* prices each proposed Task Order using the rates and prices from the Price List which becomes the Task price list. Prices for work not included in the Price List are assessed in the same way as compensation events. The *Consultant* submits its assessment in response to the proposed Task Order to the *Client* for acceptance and such assessment includes the Task price list. The *Client* replies within one week of the submission. The reply is

- acceptance of the assessment and the issue of the Task Order,
- an instruction to submit a revised assessment,
- that the *Client* will be making the assessment or
- a notification that the Task will not be instructed.

- Z102.5 The *Client* instructs the *Consultant* to submit a revised assessment only after explaining the reasons for doing so to the *Consultant*. The *Consultant* submits the revised assessment within one week of being instructed to do so and the

process set out in clause Z102.4 applies to the revised assessment.

Z102.6 The *Client* extends the time allowed for

- the *Consultant* to submit an assessment of a Task or
- the *Client* to reply to an assessment submission

if the *Client* and the *Consultant* agree to the extension before the submission or reply is due. The *Client* informs the *Consultant* of the extension which has been agreed.

Z102.7 The *Client* assesses the pricing for the Task if

- the *Consultant* has not submitted a detailed assessment within the time allowed or
- the *Client* decides that the *Consultant* has not assessed the Task correctly and has not instructed the *Consultant* to submit a revised assessment of the Task.

The *Client* notifies the *Consultant* of the assessment of the pricing for a Task, gives details of the assessment and issues the Task Order within the period allowed for the *Consultant's* submission of its assessment for the same Task. This period starts when the need for the *Client's* assessment becomes apparent.

Z102.8 When a Task Order is issued

- the Task price list is inserted in the Price List and
- the work involved is added to the Scope.

The issue of a Task is not a compensation event.

Z102.9 The *Consultant* does not start any work included in the Task until it has received the Task Order, and does the work so that Task Completion is on or before the Task Completion Date. No Task Order is issued after the Completion Date.

Z102.10 The *Consultant* provides information which shows how each item included in a Task relates to the operations on each programme which it submits for acceptance.

Z102.11 Mobilisation and removal of part of the *service* are instructed via Task Order.