



Highways England Company Limited

Archaeology Framework

NEC4 Professional Service Short Contract

(June 2017 with amendments January 2019)

Z Clauses

(To be used with Time Charge Orders only)

in relation to a *service* for

[insert contract name here and date]

CONTENTS AMENDMENT SHEET

Issue	Revision	Amendment	Initials	Date
1	0	Tender release.	RE	07/07/2020

Z CLAUSES (NEC4 Professional Service Short Contract - TCOs)

Z Clause Contents	
Number	Title
MANDATORY CLAUSES	
Z1	See Framework Contract Z Clauses
Z1H	Changes to Core clauses
Z2	See Framework Contract Z Clauses
Z3 – 4	Not used
Z5 – 6	See Framework Contract Z Clauses
Z7	Not used
Z8H	Conflict of interest
Z9 - 11	Not used
Z12 – 13	See Framework Contract Z Clauses
Z14	Not used
Z15 - 19	See Framework Contract Z Clauses
Z20 – 21	Not used
Z22	See Framework Contract Z Clauses
Z23	Not used
Z24 – 25	See Framework Contract Z Clauses
Z26	Not used
Z27	See Framework Contract Z Clauses
Z27H	Termination – PCRs, Regulation 73
Z28H	Termination and removal of <i>service</i>
Z29 – 32	Not used
Z33	See Framework Contract Z Clauses
Z33H	Joint ventures
Z34	See Framework Contract Z Clauses
Z35 - 71	Not used
Z72	See Framework Contract Z Clauses
Z73	Not used

MANDATORY Z CLAUSES

Clause Z1H Changes to Core Clauses

11 Identified and defined terms

11.2 In clause 11.2 of the *conditions of contract*, insert new defined terms

- (12) Client's Premises is any premise provided by the *Client* and used by the *Consultant* to Provide the Service.
- (13) Consultant Overhead is the amount calculated by applying the *consultant's office overhead percentage* to the sum of time expended on work which has been completed multiplied by the appropriate People Rates.
- (14) Consultant's Premises is any premise (that is not a domestic property) leased, rented or owned by the *Consultant* or a Subcontractor and used to Provide the Service.

50 Assessing the amount due

50.3 Delete clause 50.3 of the *conditions of contract* and replace it with

"50.3 If the *Consultant* submits an invoice for payment before the *assessment day*, the amount due at the *assessment day* is

- the Price for each lump sum item in the Price List which the *Consultant* has completed,
- where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the *Consultant* has completed by the rate,
- the amount of the expenses stated in the Price List properly spent by the *Consultant*,
- but excluding any cost incurred in complying with
 - Scope Annex 9, section 2.4 and
 - Scope Annex 15, section 1.22,
- for work carried out on a time charge basis in the Consultant's Premises, the sum of time expended on work which has been completed multiplied by the appropriate People Rates and Consultant Overhead plus the Fee,
- for work carried out on a time charge basis in the Client's Premises or a domestic property, the time expended on work which has been completed,
- plus other amounts to be paid to the *Consultant*,

- less amounts to be paid by or retained from the *Consultant*.”

83 Insurance cover

- 83.1 Delete clause 83.1 of the *conditions of contract* and replace it with
“The *Client* and the *Consultant* provide the insurances stated in, and to comply with the requirements set out in, the Scope.”
- 83.2 Delete clause 83.2 of the *conditions of contract*.

Clause Z8H	Conflict of interest
-------------------	-----------------------------

- Z8H.1 Clause 60.1(3) is amended by adding the following words 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”.

Clause Z27H	Termination – PCRs, Regulation 73
--------------------	--

- Z27H.1 The *Client* may terminate 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 *starting date*. This is treated as termination for a default by the *Consultant*.
- Z27H.2 The *Client* may terminate the *Consultant's* obligation to Provide the Service if
- the contract has been subject to a substantial modification which would have been required a new procurement procedure pursuant to regulation 72 of the Public Contract Regulations 2015 or
 - the Court of Justice of the European Union declares, in a procedure under Article 258 of the Treaty on the Functioning of the European Union, that a serious infringement of the obligations under the European Union Treaties and the Public Contracts Directive has occurred.

Clause Z28H	Termination and removal of service
--------------------	---

- Z28H.1 The *Client* may terminate the *Consultant's* obligation to Provide the Service for a reason not stated in the contract by notifying the *Consultant*.

Z28H.2 The following are treated as a substantial failure by the *Consultant* to comply with its obligations

- the *Consultant* substantially or repeatedly breaks a requirement of environmental legislation,
- the *Consultant* persistently or materially fails to comply with the Quality Statement or to meet any of the Performance Requirements or
- a key resource needed by the *Consultant* to Provide the Service is no longer available and the *Consultant* does not propose an alternative resource acceptable to the *Client*.

Clause Z33H Joint Ventures

Z33H.1 Where two or more Consortium Members comprise the *Consultant*, clauses 90.1 and 90.2 of the *conditions of contract* is amended by inserting after “the other Party” in the second place where it appears the words “(or, in the case of the *Consultant*, any Consortium Member)”.