Area 10
Asset Delivery
Maintenance and Response Contract

Contract Data Part 1

CONTENTS AMENDMENT SHEET

Amend. No.	Revision No.	Amendments	Initials	Date
0	0	Tender Issue	SOS	19/02/18
1	0.1	“Resolving and avoiding disputes” section – added Senior Representative of the Client	AN	09/03/2018

CONTRACT DATA

Part one – Data provided by the *Client*

1. General

- The *conditions of contract* are the core clauses and the clauses for main Options A (for Lump Sum Duties and the duties in Sections B and C of the Price List) and E (for Cost Reimbursable Duties), dispute resolution Option W2 and secondary Options X1, X2, X10, X11, X18, X24, Y(UK)1, Y(UK)2, Y(UK)3 and Z of the NEC4 Term Service Contract (June 2017).
- The *service* is **the provision of Maintenance and Response services in relation to the Strategic Road Network in Highways England Area 10.**
- The *Client* is

Name	**Highways England Company Limited**
Address for communications	**Bridge House** **1 Walnut Tree Close** **Guildford** **Surrey** **GU1 4LZ**

Address for electronic communications: info@highwaysengland.co.uk

- The *Service Manager* is

Name	**Andy Withington**
Address for communications	**Piccadilly Gate** **Store Street** **Manchester** **M1 2WD**

Address for electronic communications:
andy.Withington@highwaysengland.co.uk

- The Affected Property is **Highways England Area 10, more particularly described in the Network Information**
- The Network Information is in the document entitled **Area 10 M&R – Network Information**
- The Scope is in the document entitled **Area 10 M&R Scope**
- The *language of this contract* is **English**
- The *law of the contract* is the **law of England and Wales, subject to the jurisdiction of the Courts of England and Wales**
- The *period for reply* is **two** weeks
- The following matters will be included in the Early Warning Register:
    - Provision of an effective severe weather service

- Provision of an effective incident response service including SMART Motorway schemes and the provision of all necessary information to the Client and others
- Supporting the Client to demonstrate a defence under Section 58 of the Highways Act 1980
- Understanding the Affected Property, its condition, traffic using the network and maintenance requirements
- Operating as integrated team through the Area 10 Community
- Understand and develop appropriate risk assessments and method statements for working with Critical National Infrastructure Assets identified within the Affected Property. Information regarding CNIA will be provided to the Contractor following mobilisation.
- Support the Traffic Officer Service by ensuring the availability of an experienced capable resource to respond to requests to overlay Emergency Traffic Management
- Develop an effective maintenance plan that maximises network occupancy including shared opportunities with others.
- Provide traffic management for the Regional Technology Maintenance Contractor (RTMC) to enable the RTMC to meet its performance requirements for those activities that require more than a “short stop” as defined in Chapter 9 and IAM 115.
- Support relevant stakeholders in the implementation of agreed network closure plans i.e. Thelwall Viaduct and M56.
- Provision of effective communication with Highways England’s control room, traffic officers, Contractors, emergency services and other stakeholders
- Support as required the implementation of the SMART Motorway programme.

- Early warning meetings are to be held at intervals no longer than Monthly

2. The *Contractor*’s main responsibilities

- The *Contractor* prepares forecasts of the total Defined Cost for the Cost Reimbursable Duties at intervals no longer than Annually

3. Time

- The *starting date* is **1 October 2018**
- The *access date* is **1 April 2019** The *service period* is **fifteen years commencing on the *access date***
- The period within which the Contractor is to submit a Task Order programme for acceptance is 2 weeks

4. Quality management

- The period after the Contract Date within which the Contractor is to submit a quality policy statement and quality plan is as stated in the Scope.

5. Payment

- The first assessment date is 6th November 2018
- The *assessment interval* is **one calendar month**
- The *currency of this contract* is **Pounds Sterling (£)**
- The *interest rate* is, unless the provisions of the Late Payment of Commercial Debts (Interest) Act 1998 otherwise require, **3**% per annum above the Bank of England base rate in force from time to time
- The *exchange rates* are those published in the Financial Times on the assessment date when the payment in another currency is included in the Price for Services Provided to Date

6. Compensation events

- The *value engineering percentage* is **50%**
- These are additional compensation events

(19) The *Contractor* is required to modify its systems or methods of Providing the Service as a result of a change in the *Client*'s reference documents in Annex 3 to the Scope (not resulting from an Enhancement or a change in law occurring after the Contract Date) and the Defined Cost of carrying out the relevant operation (taking into account all associated costs incurred or savings made by the *Contractor* as a result of the change) is increased or decreased by more than 5% as a result. In determining whether a compensation event has occurred, the effect of each change is considered separately and is not aggregated with the effect of any other change. The first 5% of the increase or decrease in the Defined Cost of carrying out an operation is ignored when assessing a compensation event (but not when determining whether a compensation event has occurred).

(20) The actual number of Interventions which the *Contractor* is instructed to perform in relation to any Sub-Asset Type in a Financial Year is greater or less than the planned number stated in the Price List (in this sub-clause meaning the price list or the Price List as adjusted pursuant to clause Z40.2 at the start of the relevant Financial Year and not as later changed for compensation events) by more than the relevant variance stated in Schedule A to the Price List.

(21) An adjustment to the Price List agreed at the start of any Financial Year pursuant to clause Z40.2.

(22) A Smart Motorway Scheme is handed over for maintenance by the *Contractor*.

(23) A change in the use of the Premises that adversely affects the *Contractor*'s ability to Provide the Service in relation to, or from, the Premises.

(24) The *Service Manager* gives an instruction for dealing with an object of value or of historical or other interest found on, in or under the Affected Property.

(25) The *Service Manager* unreasonably refuses to authorise the replacement of an item of Client's Stocks when requested to do so by the *Contractor*.

(26) The Secretary of State issues additional directions or guidance to the *Client* under section 6 of the Infrastructure Act 2015 or changes any directions or guidance previously issued (including directions or guidance contained in the Licence).

(27) The *Service Manager* gives the *Contractor* an instruction to provide the Service (or parts of the *service*) in relation to highway assets outside the Affected Property.

8. Liabilities and insurance

- These are additional *Client's* liabilities

(1) Loss of or damage to any part of the Affected Property (excluding the Premises) due to theft

(2) Loss of or wear or damage to any part of the Affected Property by any other cause, except loss, wear or damage which is due to any act, omission, default or breach of this contract on the part of the *Contractor*

Resolving and avoiding disputes

- The *Senior Representatives* of the *Client* are

Name (1) Martyn Gannicot

Address for communications The Cube
199, Wharfside street
Birmingham B1 1RN

Address for electronic communications:

Martyn.Gannicott@highwaysengland.co.uk

Name (2) TBC

Address for communications …….
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…….

Address for electronic communications: ……..

- The *Adjudicator* is **the person chosen by the Parties from an agreed list of Adjudicators published by the Institution of Civil Engineers**
- The *Adjudicator nominating body* is **the Institution of Civil Engineers**

- The *tribunal* is **arbitration**
- The *arbitration procedure* is **the Institution of Civil Engineers Arbitration Procedure (April 2012)**
- The place where arbitration is to be held is **London**
- The person or organization 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 President of the Institution of Civil Engineers or their nominee**

Option X1: Price adjustment for inflation

- The proportion used to calculate the Price Adjustment Factor is 100%
- The *base date* for the index is 01st May 2018 until the first Service Review Date and thereafter six months before the most recent Service Review Date
- The *inflation adjustment dates* are 1st April of each year
- The index is the **Price Adjustment Formulae Indices Series 4 - Highways Maintenance, 4/HM/WC/01 Routine, Cyclic and Time Charge Works** published by the Building Cost Information Service of the Royal Institution of Chartered Surveyors

Option X10: Information modelling

- The period within which the *Contractor* is to submit a first information execution plan for acceptance is specified in the Scope.

Option X18: Limitation of liability

- The *Contractor*'s liability to the *Client* for indirect and consequential loss is limited to £50,000,000
- For any one event, the *Contractor*'s liability to the *Client* for loss of or damage to the *Client*'s property is limited to £25,000,000
- The *Contractor*'s liability for Defects due to its design of an item of Equipment is limited to £25,000,000
- The *Contractor*'s total liability to the *Client* for all matters arising under or in connection with the contract, other than excluded matters, is limited to £25,000,000
- The *end of liability date* is 12 years after the end of the Service Period.

Option X24: The *accounting periods*

- The *accounting periods* are each Financial Year falling wholly or partly within the Service Period.

Option Y(UK)1: Project Bank Account

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

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

- The first *invoice date* is **20th November 2018** Later *invoice dates* occur on the 20th of each calendar month after the first *invoice date* until all amounts due to the *Contractor* under the contract have been paid

Option Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

- term — *beneficiary*
  - The provisions of Option Y(UK)1 — Named Suppliers
  - Clauses Z12.9 and Z39.3 — An Incoming Contractor

Option Z: *Additional conditions of contract*

- The *quality table* is in **Annex 16 to the Scope**
- The *additional conditions of contract* are in the document entitled Area 10 M&R Z Clauses