

 **Engineering and Construction**

Short Contract

A contract between **THE COAL AUTHORITY**
and **QUANTUM GEOTECHNICAL LIMITED**



for **GROUND INVESTIGATION WORKS AT ALDERMOOR WAY,
LONGWELL GREEN, BRISTOL**

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Notes about this contract are printed in boxes like this one. They are not part of the contract.

Contract Data

The Employer is

Name THE COAL AUTHORITY

Address 200 LICHFIELD LANE, MANSFIELD, NOTTS, NG18 4RG

Telephone 01623 637000

Fax 01623 622072

E-mail address

The works are GROUND INVESTIGATION WORKS

The site is ALDERMOOR WAY, BRISTOL

The starting date is TBC

The completion date is TBC

The period for reply is 2 weeks.

The defects date is 52 weeks after Completion.

The defect correction period is 4 WEEKS weeks.

The delay damages are NOT APPLICABLE per day.

The assessment day is the 28TH DAY of each month.

The retention is 0 %.

Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply?

Yes / ~~No~~ (delete as appropriate)

The Adjudicator is

Name

Address

.....

Telephone Fax

E-mail address

Contract Data

The interest rate on late payment is 2 % per annum above the base lending rate of the National Westminster Bank.

Insert a rate only if a rate less than 0.5% per week of delay has been agreed.

The *Employer* provides this insurance

Only enter details here if the *Employer* is to provide insurance.

THE EMPLOYER PROVIDES NO INSURANCE

The minimum amount of cover for the third insurance stated in the

Insurance Table is £5M IN RESPECT OF EACH CLAIM, WITHOUT LIMIT TO THE NUMBER OF CLAIMS

The minimum amount of cover for the fourth insurance stated in the

Insurance Table is £5M IN RESPECT OF EACH CLAIM, WITHOUT LIMIT TO THE NUMBER OF CLAIMS

The *Adjudicator nominating body* is

THE INSTITUTION OF CIVIL ENGINEERS

The *tribunal* is ADJUDICATION

If the *tribunal* is arbitration, the arbitration procedure is NA

The *conditions of contract* are the NEC3 Engineering and Construction Short Contract April 2013 and the following additional conditions

Only enter details here if additional conditions are required.

CLAUSES Z1 TO Z27 ENCLOSED.

Contract Data

The Contractor's Offer

The Contractor is
Name **QUANTUM GEOTECHNICAL LIMITED**
Address **TY BERWIG, BYNEA**
LLANELLI, CARMARTHENSHIRE
Telephone **01554 744880** Fax **01554 776150**
E-mail address

The percentage for overheads and profit added to the Defined Cost for people is **20%**.

The percentage for overheads and profit added to other Defined Cost is **20%**.

The Contractor offers to Provide the Works in accordance with the *conditions of contract* for an amount to be determined in accordance with the *conditions of contract*.

The offered total of the Prices is 15,649.00

Enter the total of the Prices from the Price List.

Signed on behalf of the Contractor

Name
Position **CONTRACT MANAGER**
Signature Date **05/10/15**

The Employer's Acceptance

The Employer accepts the Contractor's Offer to Provide the Works

Signed on behalf of the Employer

Name
Position **PROJECT ENGINEER**
Signature Date **29/10/15**

Contract Data

Works Information

1 Description of the works

PHASE 1 GROUND INVESTIGATION WORKS TO COMPRISE UP TO 6NO. EXPLORATORY HOLES (SEE DRAWING REF I-348923-002). HOLES TO EXTEND A MINIMUM OF 1M INTO SOLID GEOLOGY. IT IS ANTICIPATED THAT ROCK HEAD WILL BE ENCOUNTERED AT AROUND 1M DEPTH. THE DRIFT DEPOSITS ARE EXPECTED TO COMPRISE SAND AND MADE GROUND. THE AREA TO BE INVESTIGATED HAS SUFFERED FROM A COLLAPSE AND AS SUCH BROKEN GROUND SHOULD BE ANTICIPATED. THE COLLAPSE HAS BEEN TEMPORARILY STABILISED WITH FOAMED CONCRETE TO A DEPTH OF 2.5M. IT IS KNOWN THAT BELL PITS WERE SUNK TO ACCESS COAL WITHIN THE AREA. THE WORKS ARE INTENDED TO ESTABLISH THE EXTENTS OF THE COLLAPSE AND ASSIST IN DETERMINING THE LIKELY CAUSE. 2NO. OF THE EXPLORATORY HOLES TO BE ADVANCED OUTSIDE OF THE COLLAPSE TO DETERMINE THE NATURE AND EXTENT OF DRIFT DEPOSITS, THESE SHOULD EXTEND 3M INTO SOLID GEOLOGY. SPT's AT 2M DEPTH INTERVALS WITHIN DRIFT DEPOSITS ARE REQUIRED UNTIL REFUSAL ON COMPETENT SOLID GEOLOGY. BULK AND DISTURBED SAMPLES TO BE TAKEN FOR APPROPRIATE CLASSIFICATION AND WAC TESTING. THE EMPLOYER WILL SCHEDULE ALL LABORATORY TESTING REQUIREMENTS ON RECEIPT OF DRAFT ENGINEERS LOGS.

IT IS RECOMMENDED THAT ALL HOLES ARE ADVANCED USING A DYNAMIC SAMPLING RIG CAPABLE OF ROTARY OPEN HOLING / CORING – A CAMMACHIO 205 RIG OR SIMILAR WE BELIEVE WOULD BE IDEAL FOR THIS WORK. SERVICE INFORMATION HAS BEEN OBTAINED AND IS SUPPLIED WITHIN THE SITE INFORMATION. A SUITABLY DESIGNED DRILING PLATFORM WILL BE REQUIRED TO SAFELY UNDERTAKE THE WORKS AND IS REQUIRED TO SPAN THE POTENTIAL ZONE OF COLLAPSE. DUE TO THE ANTICIPATED SHALLOW DEPTH TO ROCKHEAD, A PLATFORM OF MINIMUM LENGTH 9M SHOULD BE EMPLOYED. THE PLATFORM SHOULD BE NO WIDER THAN 3M TO ALLOW ONE LANE OF THE CARRIAGEWAY TO REMAIN OPEN FOR THE DURATION OF THE WORKS AND SHOULD IT BE POSITIONED TO ALLOW 24HR ACCESS TO THE ADJACENT HOMEBASE STORE - MATERIALS AND EQUIPMENT REQUIRED TO UNDERTAKE THE WORKS SHOULD ALSO BE POSITIONED TO ALLOW THIS REQUIREMENT.

3 NO COMPRESSION TESTS (UCS) AND POINT LOAD TESTS SHOULD BE UNDERTAKEN ON THE ROCK CORES, WITHIN COMPETENT ROCK STRATA (NOT WITHIN WEATHERED OR BROKEN ROCK).

THE POSITIONS OF EXPLORATORY HOLES ARE SHOWN ON THE DRAWING AND WILL BE SET-OUT AND AGREED WITH THE EMPLOYER ON SITE.

THE CONTRACTORS SITE SUPERVISOR SHALL HAVE A DEGREE IN CIVIL ENGINEERING, ENGINEERING GEOLOGY OR GEOLOGY AND HAVE ADEQUATE KNOWLEDGE AND EXPERIENCE OF THE TECHNICAL DIRECTION AND OUTPUT REQUIRED FOR THE SITE OPERATIONS TO ACHIEVE THE ABOVE AND RUN SAFELY. CVS OF PROPOSED SITE STAFF SHALL BE SUBMITTED WITH THE CONTRACTOR'S OFFER FOR ACCEPTANCE BY THE EMPLOYER.

REINSTATEMENT OF HOLES SHALL COMPRISE FILLING WITH BENTONITE UP TO FORMATION LEVEL OF THE FOOTWAY/CARRIAGEWAY AND TEMPORARILY TOPPING UP TO UNDERSIDE OF SURFACING COURSE WITH WELL GRADED CLEAN NATURAL CRUSHED STONE FOLLOWED BY 40mm THICKNESS OF BITMAC TO SURFACE LEVEL. PERMANENT REINSTATEMENT OF FLEXIBLE PAVEMENTS TO FOOTWAYS AND CARRIAGEWAYS IN ACCORDANCE WITH THE HIGHWAY AUTHORITY'S STANDARD DETAILS SHALL BE UNDERTAKEN BY OTHERS ON COMPLETION OF THESE WORKS. ACCESS ROUTES SHALL BE CLEARED OF ALL MATERIALS, EQUIPMENT AND PLANT ON COMPLETION AND CLEANED TO THE SATISFACTION OF THE EMPLOYER. THE CONTRACTOR IS TO CONDUCT ALL ACTIVITIES IN PROVIDING THE WORKS WITH THE UTMOST CONSIDERATION TO ADJACENT USERS OF THE HIGHWAY ESPECIALLY IN RESPECT TO ENSURING THEIR SAFETY FROM OPERATIONS IN CONNECTION WITH THE WORKS AND LIMITING DISRUPTIONS, NOISE, DUST AND CONSTRUCTION DEBRIS. ALL DRILLERS SHALL HAVE NVQ LEVEL 2 LEAD LAND DRILLER AND BE BDA AUDITED. NO SUB-CONTRACTORS SHALL BE USED WITHOUT PRIOR APPROVAL/AGREEMENT WITH THE EMPLOYER.

EXPLORATORY HOLE LOCATIONS ARE TO BE SURVEYED WITH EASTINGS, NORTHINGS AND ELEVATIONS CLEARLY MARKED ON THE ENGINEERS LOGS. A GROUND INVESTIGATION REPORT DETAILING THE FIELD WORK AND LABORATORY TESTINGS UNDERTAKEN IS TO BE PREPARED WITH 1NO. HARD COPY AND AN ELECTRONIC

COPY IN .PDF FORMAT PROVIDED. DRILLERS LOGS ARE TO BE HANDED TO THE EMPLOYERS REGIONAL PROJECT MANAGER PRIOR TO WORK COMMENCING THE FOLLOWING DAY OR AT TIME AGREED WITH BY THE REGIONAL PROJECT MANAGER.

6

Contract Data

Works Information

2 Drawings

| Drawing number | Revision | Title |
|----------------|----------|------------------|
| I-348923-002 | P1 | GI LOCATION PLAN |

3 Specifications

| Title | Date or revision | Tick if publicly available |
|---|------------------|----------------------------|
| 'UK SPECIFICATION FOR GROUND INVESTIGATION', PUBLISHED BY ICE PUBLISHING. | 2nd EDITION | ✓ |

COAL AUTHORITY AMENDMENTS AND ADDITIONS TO CLAUSES 3.5 (MANAGEMENT, SUPERINTENDENCE AND PROFESSIONAL ATTENDANCE), 3.8 (GENERAL SAFETY REQUIREMENTS), 3.16 (WORKING AREAS) AND 9 (GEOPHYSICAL TESTING), OF THE ABOVE DOCUMENT.

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Contract Data

Works Information

4 Constraints on how the *Contractor* Provides the Works

4.1 - WORKING HOURS ARE TO BE MONDAY TO FRIDAY 0800HRS TO 1800HRS

4.2 - ONLY WATER FLUSH IS TO BE USED AND SHOULD BE RECYCLED WHEREVER POSSIBLE

5 Requirements for the programme

5.1 - CONTRACTOR TO CONFIRM START DATE AT LEAST 7 DAYS PRIOR TO WORKS COMMENCING AND HAVE THE CONSTRUCTION PHASE PLAN ACCEPTED BY THE EMPLOYER NO SOONER THAN 5 DAYS PRIOR TO COMMENCING

6 Services and other things provided by the *Employer*

| Item | Date by which it will be provided |
|------|-----------------------------------|
|------|-----------------------------------|

| | |
|------|--|
| NONE | |
|------|--|

7 Completion

7.1 - AS CLAUSE 11.2(1).

7.2 - THE *Contractor* IS REQUIRED TO PROVIDE THE *Employer* WITH INFORMATION ON MATERIALS, QUANTITIES AND SUPPLIERS USED IN COMPLETING THE *works* FOR INCLUSION WITHIN THE HEALTH & SAFETY FILE.

8 Management of the works

8.1 - THE COAL AUTHORITY WILL BE *Employer* AND IS THE APPOINTED PRINCIPAL DESIGNER; THE *Contractor* WILL BE RESPONSIBLE FOR THE MANAGEMENT OF HEALTH & SAFETY IN DELIVERY OF THE *works* THROUGHOUT THE CONSTRUCTION PHASE. RISK ASSESSMENTS AND METHOD STATEMENTS ARE TO BE SUBMITTED TO THE *Employer* FOR THEIR APPROVAL IN ADVANCE OF ACTIVITIES COMMENCING.

8.2 - NEC3:ECSC STANDARD COMMUNICATION FORMS PREPARED BY NEC3 ARE TO BE USED FOR ALL COMMUNICATIONS.

9 Working with the *Employer* and Others

9.1 - THE *Contractor* WILL PROVIDE ALL NECESSARY WELFARE, OFFICES AND SECURE STORAGE FACILITIES REQUIRED TO UNDERTAKE THE *works* AND THESE WILL BE IN PLACE FOR THE *starting date* AND REMAIN UNTIL THE *completion date*, THIS INCLUDES TEMPORARY SECURITY BOUNDARY FENCING AROUND THE WORKING AREAS AND LOCKABLE GATES.

Contract Data

Works Information

9 Working with the *Employer* and *Others* (cont'd)

9.2 – WORKING AREAS WITHIN THE SITE REQUIRED TO COMPLETE THE *works* ARE TO BE AGREED WITH THE *Employer* PRIOR TO SUBMISSION OF THE *Offer*. THE EXTENT OF THE AGREED WORKING AREAS IS TO BE INCLUDED WITHIN THE *Offer*.

10 Health & safety

10.1 - THE CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2015 APPLY TO THE *works*. THE CLIENT AND PRINCIPAL DESIGNER IS THE COAL AUTHORITY OF MANSFIELD.

10.2 - LIFTING OF PLANT AND MATERIALS IS ENVISAGED, THEREFORE LIFT PLANS WILL BE REQUIRED TO BE SUBMITTED TO THE *Employer* FOR APPROVAL AND COMMENT AT LEAST TWO WORKING DAYS IN ADVANCE OF THE LIFT TAKING PLACE. ANY TEMPORARY PLATFORMS REQUIRED FOR CRANES ARE TO BE DESIGNED AND CONSTRUCTED BY THE *Contractor*.

10.3 - TEMPORARY WORKS – THE *Contractor* IS TO PRODUCE A TEMPORARY WORKS REGISTER AND EACH TEMPORARY WORKS ELEMENT IS TO BE CERTIFIED FOR CONSTRUCTION BY A PROFESSIONALLY QUALIFIED TEMPORARY WORKS DESIGNER REPRESENTING THE *Contractor*. THE TEMPORARY WORKS DESIGNER IS TO PROVIDE A SIGNED CERTIFICATE FOR EACH ELEMENT IDENTIFIED ON THE REGISTER AND THIS IS TO BE SUBMITTED TO THE *Employer* PRIOR TO INSTALLATION, USE AND / OR ENTRY.

10.4 – PERSONAL GAS ALARMS ARE TO BE PROVIDED BY THE *Contractor* FOR HIS PERSONNEL AND WORN AT ALL TIMES WHILST ACTIVITIES ARE BEING UNDERTAKEN. THE PERSONAL GAS ALARMS SHOULD BE MSA ALTAIR 4X OR SIMILAR APPROVED AND AS A MINIMUM SHOULD BE CAPABLE OF ALARMING WHEN THERE IS AN EXCESS OR A DEFICIENCY IN THE FOLLOWING GASES: OXYGEN, HYDROGEN SULPHIDE, CARBON MONOXIDE AND EXPLOSIVITY/COMBUSTION/L.E.L. GAS READINGS WITHIN EACH WORKING AREA ARE TO BE RECORDED EVERY 2HRS AFTER ENTRY HAS BEEN PERMITTED, AND AT THE END OF EACH WORKING DAY. RECORDS ARE TO BE AVAILABLE FOR THE *Employer* TO INSPECT AT ALL TIMES THROUGHOUT THE WORKS AND BE COLLATED AND SUBMITTED TO THE *Employer* ON COMPLETION. .

Contract Data

Site Information

THE SITE IS LOCATED AT APPROXIMATE MAP REFERENCE NS 365365 171675, ALDERMOOR WAY, LONGWELL GREEN, BRISTOL.

THE SITE IS LOCATED WITHIN AN ADOPTED HIGHWAY WHICH IS OWNED AND MAINTAINED BY BRISTOL COUNCIL. THE COLLAPSE IS CURRENTLY FENCED WITH HERAS STYLE PANELS. THE WESTBOUND CARRIAGEWAY HAS BEEN CLOSED SINCE THE COLLAPSE OCCURRED AND THE AREA IS SECURED BY THE HERAS STYLE FENCING – THE EASTBOUND CARRIAGEWAY MUST REMAIN OPEN THROUGHOUT THE *works* TO ALLOW ACCESS TO INDUSTRIAL UNITS. THE ACCESS TO THE HOMEBASE STORE ADJACENT TO THE COLLAPSE MUST ALSO REMAIN OPEN THROUGHOUT THE *works*.

THE FOLLOWING ASSESSMENT OF THE GEOLOGY OF THE SITE AND GROUND CONDITIONS HAS BEEN INFERRED FROM AVAILABLE INFORMATION. NO ASSURANCE IS GIVEN TO ITS ACCURACY. FROM EXAMINATION OF DEVELOPMENT PLANS, HISTORICAL MINING RECORDS AND EXAMINATION OF THE GEOLOGICAL MAPS FOR THE AREA THE DRIFT DEPOSITS ARE ANTICIPATED TO BE SAND OVERLYING SANDSTONE. DRIFT DEPOSITS ARE ANTICIPATED TO BE 1M THICK. IT IS UNDERSTOOD THAT THERE ARE UNRECORDED SHALLOW COAL WORKINGS WITHIN THE AREA, WITH ADJACENT LAND BEING GROUTED TO FACILITATE ITS DEVELOPMENT. THERE IS ALSO EVIDENCE OF BELL PITS IN THE LOCALITY. IT IS KNOWN THAT A NUMBER OF COAL SEAMS OUTCROP IN THE AREA – WHILST IT IS NOT ANTICIPATED THAT THESE WILL BE ENCOUNTERED AS PART OF THIS INVESTIGATION, THERE IS A LARGE AMOUNT OF FAULTING IN THE LOCALITY SO THIS SHOULD NOT BE DISCOUNTED.

THE INVESTIGATION WORKS ARE TO DETERMINE THE NATURE AND EXTENT OF A COLLAPSE WITHIN ALDERMOOR WAY AND THE DRIFT DEPOSITS. THE COLLAPSE WAS RECORDED AS BEING 2M X 3X PLAN AND 2.6M DEEP. TO ENSURE THE STABILITY OF THE CARRIAGEWAY, THE COLLAPSE HAS BEEN TEMPORARILY FILLED WITH FOAMED CONCRETE TO THE CARRIAGEWAY SURFACE.

SERVICE PLANS ARE AVAILABLE FOR THE SITE AND ARE ENCLOSED.



ADDITIONAL CONDITIONS OF CONTRACT

The conditions of contract are the clauses of the NEC3 Framework Contract (April 2013), and NEC3 Engineering and Construction Short Contract (April 2013) as appropriate and amended as detailed below.

| | | |
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| Additional conditions of Contract | Z1 | <p>Z1.1 The additional conditions of contract stated below are part of this contract. Where these additional conditions alter or amend the published NEC3 Framework Contract (April 2013) they prevail over the published conditions.</p> <p>Z1.2 In the event of a conflict between any of these additional conditions and their use in conjunction with the NEC3 Engineering and Construction Short Contract (April 2013) (as may be further amended under any Work Package Order), the additional conditions of contract will take precedence.</p> |
| Terminology | Z2 | <p>Z2.1 The additional conditions of contract stated below refer to the <i>Supplier</i>, in line with the terminology of the NEC Framework Contract.</p> <p>Z2.2 Where such terms as “Contract” are used within the tender documents, it shall have the meaning defined as “Framework Agreement”.</p> <p>Z2.3 Where the additional conditions of contract stated below apply to the Engineering and Construction Short Contract, <i>Supplier</i> means <i>Contractor</i>.</p> <p>Z2.4 Where such terms as "Coal Authority" "the Authority", "Client", "Project Manager" or "Engineer" are used within the tender documents, they shall have the meaning defined as <i>Employer</i> in the NEC Framework Contract or the Engineering and Construction Short Contract.</p> |
| Change in Supplier's Business | Z3 | <p>The <i>Supplier</i> will inform the <i>Employer</i> in writing of any contemplated change of legal status or re-organisation or restructuring of the <i>Supplier's</i> business or practice not less than one month prior to such event taking place. In the event of such a change, unless the <i>Employer</i> otherwise agrees in writing, the <i>Supplier</i> and its constituent members will have the same liability as if no such change of legal status or re-organisation or restructuring of the <i>Supplier's</i> business or practice had taken place.</p> |



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| Commercial Interests | Z4 | The <i>Supplier</i> will inform the <i>Employer</i> in writing of any commercial interests in companies held by the <i>Supplier</i> or a Partner, Principal or Director of the <i>Supplier</i> or of any other interests held which are likely to conflict with the <i>Supplier's</i> works and services under this Framework. Such information will be given to the <i>Employer</i> immediately the <i>Supplier</i> becomes aware of such conflict of interest if it arises during the term of the Framework. |
| Insolvency or Change of Control | Z5 | If the <i>Supplier</i> ceases or threatens to cease to carry on business or there is at any time a material change in the management, ownership or control of the <i>Supplier</i> or if the <i>Supplier</i> (being a body corporate) enters into liquidation whether compulsorily or voluntarily (other than for the purposes of amalgamation or re-construction) or compounds with its creditors or has a receiver, manager or administrator appointed over all or any part of its assets or if the <i>Supplier</i> (being a firm) or a partner in the <i>Supplier</i> becomes bankrupt (or in Scotland becomes notarised bankrupt) or insolvent or enters into any arrangement or composition with creditors, the <i>Employer</i> may terminate either in whole or in part the Contract forthwith by notice to the <i>Supplier</i> (or to the liquidator, receiver, manager or administrator) and act as provided for within the Contract. |
| Assignment | Z6 | The <i>Supplier</i> shall not assign the whole or any part of the Contract or any interest in it without the prior written consent of the <i>Employer</i> . |
| Exchange of information | Z7 | The <i>Supplier</i> shall notify the <i>Employer</i> of any prosecution or intended prosecution and/or of any notification of breach of Statutory Requirements or common law duties, which affects or may affect the performance of the Contract, immediately the <i>Supplier</i> becomes aware of any such instance and shall further allow the <i>Employer</i> to inspect any records, other documentation, either electronic or paper, required under any Statutory Requirements. |



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| Bribery and Corruption | Z8 | If the <i>Supplier</i> or a person employed by him or acting on his behalf (whether with or without the knowledge of the <i>Supplier</i>) corruptly offers, gives or agrees to give to any person a gift or consideration of any kind as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any action in relation to the obtaining or execution of the Contract, or any other contract with the <i>Employer</i> , or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the <i>Employer</i> , or if in relation to any contract with the <i>Employer</i> the <i>Supplier</i> or a person employed by him or acting on his behalf (whether with or without the knowledge of the <i>Supplier</i>) commits an offence under the Prevention of Corruption Acts 1889-1916, the <i>Employer</i> shall be entitled to terminate the Contract and the provisions of Core Clause 9, Clauses 90 to 94 as appropriate, shall apply to such termination. |
| Entire Agreement | Z9 | Each party acknowledges that it does not enter into the Contract in reliance on any warranty, representation or undertaking other than those contained in the Contract provided that this shall not exclude any liability which either party would otherwise have to the other party in respect of any statements made fraudulently by that party prior to the date of the Contract. |
| Illegality | Z10 | If any provision or term of the Contract shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or <i>Employer</i> having jurisdiction over the parties or the Contract such terms or provisions shall be divisible from the Contract and shall be deemed to be deleted from the Contract provided always that if any such deletion substantially affects or alters the commercial basis of the Contract the parties shall negotiate in good faith to amend and modify the provisions and terms of the Contract as may be necessary or desirable in the circumstances. |
| Advertising and Confidentiality | Z11 | Z11.1 The <i>Supplier</i> shall not, without the prior written consent of the <i>Employer</i> , publicly announce or advertise in any form that he is a <i>Supplier</i> of the <i>Employer</i> . |



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| | | <p>Z11.2 The <i>Supplier</i> undertakes to the <i>Employer</i> that it shall not (and it shall procure that the employee shall not) whether during the continuance of the Contract (except in the proper performance of its duties under the Contract) or at any time after it shall have been terminated make use of or divulge or communicate to any person any Confidential Information of the <i>Employer</i>.</p> |
| Intellectual Property | Z12 | <p>Definition: "Intellectual Property" means any know-how, copyright, registered or unregistered trade marks, registered or unregistered patents or designs or similar rights or applications for any of the foregoing.</p> <p>Z12.1 If the <i>Supplier</i> shall during the continuance of the Contract create, make or discover any work, invention or design or make any addition, modification improvement or development to or derivation from any existing work, invention or design whether or not the same has or is capable of having Intellectual Property protection and whether alone or in conjunction with an Employee or any other person, he shall treat such work, invention or design as confidential and shall immediately disclose them to the <i>Employer</i> whereupon such Intellectual Property and all Intellectual Property rights or other rights therein and the benefit thereof will be the sole and absolute property of the <i>Employer</i>. The <i>Supplier</i> shall notwithstanding any prior termination of the Contract, at the <i>Employer's</i> request and expense do all such acts and execute all such documents as may be necessary to vest all rights in or relating to any such work, invention, design or improvement in the name of the <i>Employer</i> to the intent that all such rights and any such works, inventions, designs or improvements shall become the absolute property of the <i>Employer</i>. Nothing contained in this provision shall limit any statutory or other right of the <i>Employer</i> in relation to any such work, invention, design or other right.</p> <p>Z12.2 The <i>Supplier</i> shall whether during or after termination of the Contract at the request and cost of the <i>Employer</i> sign, execute and do all such deeds and documents, acts and things as the <i>Employer</i> or its authorised agents may reasonably require to defend any proceedings in respect of any Intellectual Property works, inventions, designs or similar rights to which Clause Z12.1 applies and any opposition proceeding or petitions or applications for revocation of such rights and to assist the <i>Employer</i> in relation to any litigation, arbitration or other proceedings relating to any such rights.</p> |



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| | <p>Z12.3 The <i>Supplier</i> shall indemnify the <i>Employer</i> against any costs, damages, expenses, losses or royalties arising out of proceedings brought against the <i>Employer</i> by any third party in respect of any Intellectual Property used or provided by the <i>Supplier</i> in connection with the performance of its duties under the Contract, and the <i>Supplier</i> shall, at its own expense, provide all such assistance and execute all such deeds and documents as the <i>Employer</i> or its authorised agents may reasonably require in order to defend such proceedings.</p> <p>Z12.4 If, at any time during the continuance of the Contract, the <i>Supplier</i> (whether alone or in conjunction with any other person or persons) creates any copyright work, the <i>Supplier</i> shall, at the request of the <i>Employer</i>, and in recognition of the provisions of Condition Z12.1 above, indicate the <i>Employer's</i> ownership of the copyright in the work by means of the inclusion of one or both of the following copyright notices: © Coal Authority [DATE] OR "No part of this publication may be re-produced or transmitted in any form or by any means, or stored in any retrievable system of any nature without prior written permission, except according to permitted fair dealing under the Copyright Designs and Patents Act 1988, or in accordance with the terms of a licence issued by the Copyright Licensing Agency in respect of photocopying and/or reprographic re-production. Application for permission for other use of copyright material shall be made to the Coal Authority. Full acknowledgement of author, publisher and source must be given".</p> <p>Z12.5 All documents (including copies) in electronic or paper format held by the <i>Supplier</i> (or by any employee) containing or referring to Confidential Information or relating to the affairs or business of the <i>Employer</i> whether or not the same were prepared by the <i>Supplier</i> or the employee or were supplied by the <i>Employer</i> shall belong to the <i>Employer</i> and shall:</p> <ul style="list-style-type: none">• be kept by the <i>Supplier</i> in a safe and secure manner in accordance with a disaster recovery/risk management policy, the terms of which have been agreed between the <i>Employer</i> and the <i>Supplier</i>;• be delivered by the <i>Supplier</i> to the <i>Employer</i> (without copies of the same having been retained by either the <i>Supplier</i> or the employee) forthwith upon request by |
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| | | <p>the <i>Employer</i> and in any event upon the termination of the Contract (howsoever arising).</p> <p>Z12.6 Any drawings, documents, and data prepared by the <i>Supplier</i> in connection with the works and services shall become the property and copyright of the <i>Employer</i>. The <i>Supplier</i> shall not be entitled either directly or indirectly to make use of such drawings, documents, or data without prior approval of the <i>Employer</i>, which approval shall not unreasonably be withheld.</p> <p>Z12.7 All information held in respect of the works and services will be returned to the <i>Employer</i> within three months of completion of the works and services.</p> |
| Interpretation of the NEC3 Contracts | Z13 | <p>In the event that there is a difference of opinion in the interpretation of the NEC3 Contracts, the issue will be referred to the NEC Users Group Helpdesk for advice. The <i>Employer</i> and the <i>Supplier</i> will abide by the advice and interpretation provided by the Users Group.</p> |
| Resolution Procedure | Z14 | <p>If the <i>Supplier</i> disagrees with a decision of the <i>Employer</i>, made in accordance with the contract, he may refer the matter to the <i>Resolution Panel</i> for a determination, or proceed with the resolution of the issue in accordance with Step 2 (below) prior to following the procedure set out in the contract.</p> <p>If any party refers any such matter to the <i>Resolution Panel</i> for determination, the <i>Resolution Panel</i> will respond within 20 working days. The <i>Resolution Panel</i> gives its decision in writing to both <i>the Supplier and the Employer</i>.</p> <p>Any decision given by the <i>Resolution Panel</i> will be binding on the parties.</p> <p>Z14.1 Notwithstanding the contract provisions for adjudication either party may propose that a dispute or matter is dealt with in accordance with this procedure. The Parties to this contract will use their best endeavours to resolve in good faith any dispute or difference which may arise between them in accordance with the dispute resolution procedures ("the Procedure") set out below. The Parties must first use their respective best endeavours to consult and negotiate with each other, in good faith and, recognising their mutual interests, attempt to reach a just and equitable settlement of the Dispute satisfactory to both Parties.</p> <p>Step 1: Defining the Dispute or Difference</p> <p>A dispute or difference will be deemed to arise when one Party notifies the other in writing of its grievance, dispute</p> |



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| | <p>or claim of whatever nature arising out of, or in connection with the contract ("the Dispute")</p> <p>Step 2: Negotiation</p> <p>If the parties cannot reach an agreement by the provision in the contract then the Dispute should be referred to the Framework Managers and if the Framework Managers do not reach such a settlement within a period of a further 20 working days or such extended period as the parties may agree, the Dispute can be referred to the <i>Resolution Panel</i>.</p> <p>Z14.2 Constitution of the Resolution Panel The Resolution Panel will be appointed upon the execution of the Contract and will comprise of Directors of a senior position with decision making powers from the <i>Employer</i>, and the <i>Supplier</i>.</p> <p>Z14.3 Timetable of Events & Procedure Details of the Dispute must be presented in writing to the Resolution Panel within 20 working days of the referral following non agreement through the procedures identified above. The Resolution Panel will first decide when to conduct a first meeting and for an urgent matter will meet at its earliest convenience.</p> <p>At the first meeting each party will be given full opportunity to present its views. After each party has made a presentation, the Resolution Panel will consider the Parties' positions. The Resolution Panel may schedule additional meetings with the Parties, if it deems appropriate.</p> <p>Z14.4 Decisions & Recommendations Following the final meeting the Resolution Panel must, within 20 working days, issue its decision or make its recommendations in writing for the appropriate method to resolve the Dispute to both Parties. In exceptionally difficult cases, this time may be extended by agreement of the Parties.</p> <p>The Resolution Panel may if they think fit seek advice from an expert. The expert must be neutral and disclose to each of the Parties any circumstances which are likely to affect his or her impartiality, including any bias or any financial or personal interest in the result of the Dispute resolution process or any past or present relationships with the Parties or their representatives.</p> <p>The Resolution Panel must strive for consensus and</p> |
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| | | <p>unanimity in its decision making. If such is unattainable, separate written recommendations may be made as majority or minority reports.</p> <p>Z14.5 Costs Unless the Parties otherwise agree, the fees and expenses of the Resolution Panel will be borne by the Parties in equal shares. Each Party will also pay its own costs of individual representation at the Resolution Panel.</p> |
| Application of TUPE on Termination | Z15 | Not applicable. |
| Freedom of Information | Z16 | <p>Definition: "FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.</p> <p>Z16.1 The <i>Supplier</i> acknowledges that the Employer is subject to the requirements of the Code of Practice on Access to Government Information, the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Employer (at the <i>Suppliers</i> expense) to enable the Employer to comply with these Information disclosure requirements.</p> <p>Z16.2 The <i>Supplier</i> shall and shall procure that its sub-consultants shall:</p> <p>Z16.2.1 transfer the Request for Information to the Employer as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;</p> <p>Z16.2.2 provide the Employer with a copy of all Information in its possession or power in the form that the Employer requires within five Working Days (or such other period as the Employer may specify) of the Employer requesting that Information; and</p> <p>Z16.2.3 provide all necessary assistance as reasonably requested by the Employer to enable the Employer to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation</p> |



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| | | <p>5 of the Environmental Information Regulations.</p> <p>Z16.3 The <i>Employer</i> shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:</p> <p>Z16.3.1 is exempt from disclosure in accordance with the provisions of the Code of Practice on Access to Government Information, the FOIA or the Environmental Information Regulations;</p> <p>Z16.3.2 is to be disclosed in response to a Request for Information, and in no event shall the <i>Supplier</i> respond directly to a Request for Information unless expressly authorised to do so by the <i>Employer</i>.</p> <p>Z16.4 The <i>Supplier</i> acknowledges that the <i>Employer</i> may, acting in accordance with the Department of Constitutional Affairs' Codes of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000, be obliged under the Code of Practice on Access to Government Information, the FOIA, or the Environmental Information Regulations to disclose Information:-</p> <p>Z16.4.1 without consulting with the <i>Supplier</i>, or</p> <p>Z16.4.2 following consultation with the <i>Supplier</i> and having taken its views into account.</p> <p>Z16.5 The <i>Supplier</i> shall ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the <i>Employer</i> to inspect such records as requested from time to time.</p> <p>Z16.6 The <i>Supplier</i> acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the <i>Employer</i> may nevertheless be obliged to disclose Confidential Information in accordance with Condition Z16.4.</p> |
| Right of Audit | Z17 | <p>For the purpose of the examination and certification of the Coal Authority accounts, or any 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 Coal Authority has used its resources, the <i>Supplier</i> shall agree that the Comptroller</p> |



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| | | and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the <i>Supplier</i> and may require the <i>Supplier</i> to produce such oral or written explanations as he considers necessary. For the avoidance of doubt it is hereby declared that the carrying out of an examination under Section 6(3)(d) of the National Audit Act 1983 or any re-enactment thereof in relation to the <i>Supplier</i> is not a function exercise under the Contract. The <i>Supplier</i> shall agree that the <i>Employer</i> , or it's appointed agent shall be allowed to examine such documents as required to ensure that the works and services are being performed correctly and the protection of the <i>Employer's</i> interest. |
| Recovery of Sums due from the <i>Supplier</i> | Z18 | Whenever under the Contract a sum of money is recoverable by the <i>Employer</i> from, or payable by the <i>Employer</i> to the <i>Supplier</i> , the sum may be deducted from, or reduced by, the amount of any sum then due (or which may at any time afterwards become due) to, or from, the <i>Supplier</i> under the Contract or any other dealing with the <i>Employer</i> . |
| Sub Contractors Payments | Z19 | <p>In respect of any part of the sub-contracted works, the <i>Employer</i> shall be entitled, upon serving notice to that effect upon the <i>Supplier</i>, to make payment direct to the sub-contractor.</p> <p>Where notice has been served upon the <i>Supplier</i> in accordance with this Clause the <i>Supplier</i> shall, if so requested by the <i>Employer</i>, inform the <i>Employer</i> as to the amount claimed as due by the sub-contractor to whom the notice applies.</p> <p>Any payments made to a sub-contractor in accordance with this Clause shall be notified by the <i>Employer</i> to the <i>Supplier</i> and may be deducted from any sum payable to the <i>Supplier</i> under the Contract.</p> <p>Notwithstanding direct payment by the <i>Employer</i> under this Clause, no contractual relationship shall be implied or inferred between the <i>Employer</i> and any sub-contractor nor shall the <i>Supplier</i> be relieved of any liability to the <i>Employer</i> in respect of the sub-contracted works.</p> |
| Framework Termination | Z20 | Clause Z20 supersedes Clause 90.1. Either party may terminate their obligations under the Framework Contract at any time by providing 6 months notice. |
| Confidentiality | Z21 | Definition: "Confidential Information" means all information (whether recorded or not and, if recorded, in whatever |



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| | <p>form or on whatever media and by whomsoever recorded), relating to the <i>Employer's</i> affairs which is marked secret or confidential or sensitive or which is treated as such by the <i>Employer</i> or would be deemed to be such by a reasonable person. All personal data within the meaning of the Data Protection Act 1998 and commercially sensitive information.</p> <p>Z21.1 The <i>Supplier</i> undertakes to the <i>Employer</i> that it shall not (and it shall procure that the employees shall not) whether during the continuance of the contract (except in the proper performance of its or their duties under the contract) or at any time after it shall have been terminated (howsoever arising) make use of or divulge or communicate to any person any of the Confidential Information or information of the <i>Employer</i> which may have come to its knowledge during the period of the contract provided that the said undertaking shall not apply in relation to any of the said Confidential Information which comes into the public domain other than by reason of any breach of the contract by the <i>Supplier</i> (or by the employee) or which the <i>Supplier</i> (or the employee) is required to disclose by statute or any legislative or judicial order or decree, to the extent so required.</p> <p>Z21.2 Each Party:-</p> <p>Z21.2.1 shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly; and</p> <p>Z21.2.2 shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the contract or except where disclosure is otherwise expressly permitted by the provisions of this contract.</p> <p>Z21.3 The <i>Supplier</i> shall take all necessary precautions to ensure that all Confidential Information obtained from the <i>Employer</i> under or in connection with the contract:-</p> <p>Z21.3.1 is given only to such of the Employees and professional advisors or consultants engaged to advise it in connection with the contract as is strictly necessary for the performance of the contract and only to the extent</p> |
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| | <p>necessary for the performance of the contract;</p> <p>Z21.3.2 is treated as confidential and not disclosed (without prior Approval) or used by any employees or such professional advisors or consultants otherwise than for the purposes of the contract.</p> <p>Z21.4 Where it is considered necessary in the opinion of the <i>Employer</i> the <i>Supplier</i> shall ensure that employees or such professional advisors or consultants sign a confidentiality undertaking before commencing in connection with the contract. The <i>Supplier</i> shall ensure that staff or its professional advisors or consultants are aware of the <i>Supplier's</i> Confidentiality obligations under this contract.</p> <p>Z21.5 The <i>Supplier</i> shall not use any Confidential Information it receives from the <i>Employer</i> otherwise than for the purposes of the contract.</p> <p>Z21.6 The Provisions of Conditions Z21.1 to Z21.5 shall not apply to any Confidential Information received by one Party from the other:-</p> <p>Z21.6.1 which is or becomes public knowledge (otherwise than by breach of this Condition);</p> <p>Z21.6.2 which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;</p> <p>Z21.6.3 which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;</p> <p>Z21.6.4 is independently developed without access to the Confidential Information; or</p> <p>Z21.6.5 which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, the Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Condition Z16 (Freedom of Information).</p> <p>Z21.7 Nothing in this Condition shall prevent the Employer:-</p> |
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| | | <p>Z21.7.1 disclosing any Confidential Information for the purpose of:-</p> <p>Z21.7.1.1 the examination and certification of the Employer’s accounts; or</p> <p>Z21.7.1.2 any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Employer has used its resources; or</p> <p>Z21.7.2 disclosing any Confidential Information obtained from the <i>Supplier</i>:-</p> <p>Z21.7.2.1 to any governing department or any other Contracting Authority. All government departments or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or</p> <p>Z21.7.2.2 to any person engaged in providing any services to the <i>Employer</i> for any purpose relating to or ancillary to the contract; provided that in disclosing information under sub-paragraph (Z21.7.2) the <i>Employer</i> discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.</p> <p>Z21.8 In the event that the <i>Supplier</i> fails to comply with this Condition Z21, the <i>Employer</i> reserves the right to terminate the contract by notice in writing with immediate effect.</p> |
| <p>Ownership of the Employer Drawings & Documents</p> | <p>Z22</p> | <p>Z22.1 All information, written or otherwise, provided by the <i>Employer</i> in connection with the contract shall be treated by the <i>Supplier</i> as confidential. Except so far as confidential disclosure to agents, sub-contractors or suppliers is necessary for the performance of the contract, the use of all information shall be confined to the <i>Supplier's</i> Employees properly engaged in the execution of the contract and for the purposes of the contract. The Supplier shall ensure that such employees, agents, Sub-</p> |



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| | | <p>contractors, or suppliers are subject to like obligations of confidentiality as bind the <i>Supplier</i>.</p> <p>Z22.2 All documents (including drawings, plans photographs, specifications and computer programs), and all copies thereof, held by the <i>Supplier</i> (or by any employee) relating to the affairs or business of the <i>Employer</i> whether or not the same were prepared by the <i>Supplier</i> or the employee or were supplied by the <i>Employer</i>, shall be delivered up by the <i>Supplier</i> (or the employee) forthwith upon request by the <i>Employer</i> and in any event upon the termination of the contract (howsoever arising).</p> |
| CDM 2015 Regulations – Health & Safety File | Z23 | <p>CDM Regulations are applicable to all Work Packages. The <i>Supplier</i> will be required to undertake the roles of Contractor and/or Principal Contractor in accordance with the regulations.</p> |
| Completion of Work Packages after the Contract End Date | Z24 | <p>Any Work Packages instructed before the Contract end date, 31 July 2019 (or any such agreed end date), which has a completion date after the Contract end date, the <i>Supplier</i> shall complete the Work Package to the rates and prices in the Schedules of Rates and Contract Data.</p> |
| Non Performance of SHE Key Performance Indicators | Z25 | <p>Should a <i>Supplier</i> fail to achieve the SHE KPI audit scores detailed in at Section 2.3.2 of the Framework Information document, the <i>Employer</i> reserves the right to terminate the Contract by giving 3 months written notice.</p> |
| Transparency | Z26 | <p>Z26.1 <i>Supplier's Confidential Information</i>:- Any information, which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the <i>Supplier</i>, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;</p> |



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| | | <p>Z26.2 Commercially Sensitive Information:- Means the information (i) listed in the Commercially Sensitive Information Schedule; or (ii) notified to the <i>Employer</i> in writing (prior to the commencement of this Contract) which has been clearly marked as Commercially Sensitive Information comprised of information: (a) which is provided by the <i>Supplier</i> to the <i>Employer</i> in confidence for the period set out in that Schedule or notification; and / or (b) that constitutes a trade secret.</p> <p>Z26.3 Right to Publish:- The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act (FOIA), the content of this Contract is not Confidential Information. The <i>Employer</i> shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.</p> <p>Z26.3.1 Notwithstanding any other term of this Contract, the <i>Supplier</i> hereby gives his consent for the <i>Employer</i> to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.</p> <p>Z26.3.2 The <i>Employer</i> may consult with the <i>Supplier</i> to inform its decision regarding any exemptions but the <i>Employer</i> shall have the final decision in its absolute discretion.</p> <p>Z26.3.3 The <i>Supplier</i> shall assist and cooperate with the <i>Employer</i> to enable the <i>Employer</i> to publish this Contract.</p> |
| <p>Sustainability</p> | <p>Z27</p> | <p>Z27.1 The <i>Employer</i> requires the <i>Supplier</i> to cooperate with the <i>Employer</i> on his initiatives on sustainability at every opportunity within Work Packages instructed through this Framework. Such initiatives include but are not limited to the following:</p> <ul style="list-style-type: none"> • Use of suitable recycled products • Use of energy efficient plant and equipment • Waste generation reduction • Plant and vehicle movements on and off site • Locally sourced labour where possible |



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| | <p>Z27.2 The <i>Supplier</i> is to provide data and records as requested by the <i>Employer</i> to meet its 'green' and 'government' targets on sustainability. All data and recordings are to be reported at Framework Meetings for the previous 6 month period.</p> <p>Z27.3 The <i>Supplier</i>, through the framework meeting will work collaboratively with the <i>Employer</i> and any of its partners, to seek ways to continually improve sustainability in the <i>Employer's</i> activities. The group will meet twice a year.</p> <p>Z27.4 The framework meeting will consider, but is not limited to, the following, together with any further aspects that become evident during the contract:</p> <ul style="list-style-type: none">a type of concrete or other materials;b renewable opportunities;c community impacts;d biodiversity opportunities; ande water management. <p>Z27.5 In delivering the service, the <i>Supplier</i> will ensure it considers:</p> <ul style="list-style-type: none">a the impact of greenhouse gas emissions for the activities (in tonnes CO₂e per Ml) and for all business travel in providing the service (in tonnes CO₂e per 100,000km) as the <i>Employer</i> has a target to reduce emissions in pursuance of their corporate environment objectives;b reduce travel where practicable;c only FSC timber or equivalent is used;d secondary aggregates are used in preference to primary, wherever technically feasible; and,e zero waste to landfill. <p>Z27.6 Where any of the following occur:</p> <ul style="list-style-type: none">a an act or omission by the <i>Supplier</i> leading to prosecution;b persistent breaches of legislation leading to increased risk of prosecution or defamation of the reputation of the <i>Employer</i>, or,c failings in the <i>Supplier's</i> management systems where intervention is required by the <i>Employer</i> to prevent the above, an investigation will be |
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| | | <p>instigated by the <i>Employer's</i> SHE team and a report issued to the <i>Supplier</i>.</p> <p>Z27.7 Within 2 weeks of receipt of the <i>Employer's</i> report, the <i>Supplier</i> shall issue an action plan for the <i>Employer's</i> acceptance, which shall detail the <i>Supplier's</i> proposals and programme to address the failings.</p> |
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