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**National Highways Consumables Contract 2023\_24**

**Scope**

**Form of Novation**

**(Old Supplier to New Supplier)**

**Annex 08**

**CONTENTS AMENDMENT SHEET**

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| --- | --- | --- | --- | --- |
| **Issue**  **No.** | **Revision No.** | **Amendments** | **Initials** | **Date** |
| 01 | 0 | Tender issue |  | March 23 |
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**DATED [●]**

|  |
| --- |
| NATIONAL HIGHWAYS LIMITED  as Purchaser  [●]  as New Supplier  [●]  as Old Supplier |
| DEED OF NOVATION  relating to a [●] contract for the supply of consumable items to National Highways |

DATED [●]

PARTIES

1. **NATIONAL HIGHWAYS LIMITED** (company no 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ (the “**Purchaser**”)
2. [●] (company no [●]) whose registered office is at [●] (the “**Old** **Supplier**”)
3. [●] (company no [●]) whose registered office is at [●] (the “**New** **Supplier**”)

BACKGROUND

1. By the Contract, the Purchaser has employed the Old Supplier to provide the Works.
2. The Old Supplier has agreed (with the consent of the Client) to transfer all its rights and obligations under the Contract to the New Supplier and the Client has agreed to accept the liability of the New Supplier in place of the liability of the Old Supplier under the Contract upon and subject to the terms of this deed, which is supplemental to the Contract.
3. Definitions and interpretation
   1. Unless the contrary intention appears, the following definitions apply:
4. “Contract” means the contract dated [●] between the Purchaser (1) and the Old Supplier (2) (including any further agreement varying or supplementing the Contract) under which the Old Supplier has agreed to provide the Works.
5. “Works” means the works and services to be provided by the Old Supplier pursuant to the Contract.
   1. The clause and paragraph headings in this deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
   2. Words in this deed denoting the singular include the plural meaning and vice versa.
   3. References in this deed to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it.
   4. Words in this deed importing one gender include both other genders and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and vice versa.
6. Novation
   1. The Old Supplier and the Purchaser release and discharge each other from the performance of their respective obligations under the Contract and the Purchaser acknowledges and accepts the liability of the New Supplier in place of the liability of the Old Supplier under the Contract.
   2. The New Supplier undertakes to be bound to the Purchaser by the terms of the Contract in every way as if the New Supplier was and always had been a party to the Contract in place of the Old Supplier.
7. New SUPPLIER’S undertaking
   1. Subject to Clause 4.1 below, the New Supplier undertakes to be bound to the Purchaser by the terms of the Contract and to perform the obligations on the part of the Supplier under the Contract in every way as if the New Supplier was and always had been a party to the Contract in place of the Old Supplier.
8. Payment of sums due
   1. The New Supplier acknowledges that any payment made by the Purchaser to the Old Supplier in respect of the Works (whether before or after the date of this deed) shall be treated as having been made to the New Supplier and that the Purchaser’s payment obligation under the Contract shall to that extent be treated as discharged.
9. Notices
   1. Any notice or other communication required under this deed shall be given in writing and is to be delivered personally (which includes delivery by courier) or sent by pre-paid recorded or special delivery post to the party concerned at its address set out in this deed or to such other addresses as may be notified by such party for the purposes of this clause.
   2. Any notice given pursuant to this clause will be deemed to have been served as follows:
      1. if delivered personally, at the time of delivery; and
      2. if sent by recorded or special delivery post, 48 hours after being delivered into the custody of the postal authorities but excluding Saturdays, Sundays and public and bank holidays in England.
   3. In proving service, it will be sufficient to prove that personal delivery was made or that the envelope containing the notice was properly addressed and delivered into the custody of the postal authorities as a pre-paid recorded or special delivery letter.
10. Governing law and disputes
    1. This deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law.
    2. The parties agree that the courts of England shall have exclusive jurisdiction to determine any dispute arising out of or in connection with this deed, including (without limitation) in relation to any non-contractual obligations. The parties irrevocably submit to the jurisdiction of those courts.

This Deed has been executed as a deed and delivered on the date stated at the beginning of this Deed.

|  |  |
| --- | --- |
| OPTION 1a [execution by National Highways under seal]  Executed as a deed by **NATIONAL HIGHWAYS LIMITED** by affixing its common seal in the presence of: | ) ) ) |
|  |  |
|  | Director |
|  |  |
|  | Director/Secretary |
|  |  |
| OPTION 1b [execution by National Highways under seal]  Executed as a deed by **NATIONAL HIGHWAYS LIMITED** by affixing its common seal in the presence of: | ) ) ) |
|  |  |
|  | Authorised Signatory |
|  |  |
|  | Authorised Signatory |
|  |  |
| OPTION 2a Executed as a deed by **NATIONAL HIGHWAYS LIMITED** acting by: | ) ) ) |
|  |  |
|  | Director |
|  |  |
|  | Director/Secretary |
|  |  |
| OPTION 2b Executed as a deed by **NATIONAL HIGHWAYS LIMITED** acting by: | ) ) ) |
|  |  |
|  | Authorised Signatory |
|  |  |
|  | Authorised Signatory |
|  |  |
| Executed as a deed by **[OLD SUPPLIER]** in the presence of: | ) ) |
|  |  |
|  | Authorised Signatory |
|  |  |
|  | Authorised Signatory |
|  |  |
| Executed as a deed by **[NEW SUPPLIER]** in the presence of: | ) ) |
|  |  |
|  | Director |
|  |  |
|  | Director/Secretary |