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nec4

Professional Service Contract

# Contract Data Forms

**June 2017**
**(with amendments January 2019)**

## Contract Execution

This agreement is made between the *Client*, the *Consultant* and the Named Suppliers.

Terms in this agreement have the meanings given to them in the contract between the Environment Agency and WSP UK Limited for consultancy services (the *service*).

The Consultant offers to Provide the Services in accordance with these conditions of contract for an amount to be determined in accordance with these conditions of contract.

The Consultant was appointed to the framework and executed the framework agreement (with reference number RM6165) [redacted]

**Executed under hand** by [redacted] (NAME)

For and on behalf of **Environment Agency**

Title: [redacted]

Date: [redacted]

Signed by **WSP UK Limited** by [redacted]

# Contract Data

## PART ONE – DATA PROVIDED BY THE CLIENT

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

### 1 General

The *conditions of contract* are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Professional Service Contract June 2017 (with amendments January 2019)

| | | | |
|---|---|---|---|
| Main Option | E | Option for resolving and avoiding disputes | W2 |

| | |
|---|---|
| Secondary Options | X2, X9, X11, X18, Y(UK)2, Z1, Z2, Z3, Z5, Z8, Z9, Z12, Z125, Z130, Z131 |
| The *service* is | To provide PM 1, 2 & 3 services to a number of projects within the North West Delivery Hub of the Environment Agency as per the Scope; NW Hub Provision of BiS Project Management Services 2024Dated 24/07/2024.<br>***This [the contract] is for an initial period of 12 months. The parties can agree to extend [the contract] through a single extension or multiple extensions for an additional period of up to 12 months or a period of time that allows for services to be procured under a new Environment Agency or alternative framework, which ever may be the later date.*** |

The *Client* is

| | |
|---|---|
| Name | Environment Agency |
| Address for communications | Horizon House<br>Deanery Road<br>Bristol<br>BS1 5AH |
| Address for electronic communications | [redacted] |

The *Service Manager* is

| | |
|---|---|
| Name | [redacted] |
| Address for communications | |
| Address for electronic communications | |

| | |
|---|---|
| The Scope is in | NW Hub Provision of BiS Project Management Services 2024 |

The *language of the 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 | 2 weeks | except that

- The *period for reply* for | n/a | is | n/a
- The *period for reply* for | n/a | is | n/a

The *period for retention* is | 6 | year(s) following Completion or earlier termination

The following matters will be included in the Early Warning Register

None

Early warning meetings are to be held at intervals no longer than | 4 weeks

## 2 The *Consultant's* main responsibilities

If the *Client* has identified work which is set to meet a stated *condition* by a *key date*

The *key dates* and *conditions* to be met are

| | *condition* to be met | *key date* |
|---|---|---|
| (1) | | |
| (2) | | |
| (3) | | |

If Option A is used

The *Consultant* prepares forecasts of the total *expenses* at intervals no longer than | 4 weeks

If Option C or E is used

The *Consultant* prepares forecasts of the total Defined Cost plus Fee and *expenses* at intervals no longer than | 4 weeks

## 3 Time

The *starting date* is | 19 October 2024

The *Client* provides access to the following persons, places and things

| | access | *access date* |
|---|---|---|
| (1) | All technology, documents, applications and places for the fulfillment of the role | 19 October 2024 |
| (2) | | |
| (3) | | |

The *Consultant* submits revised programmes at intervals no longer than: 4 weeks

If the *Client* has decided the *completion date* for the whole of the *service*

The *completion date* for the whole of the *service* is: 18th october 2025

If no programme is identified in part two of the Contract Data

The period after the Contract Date within which the *Consultant* is to submit a first programme for acceptance is: 2 weeks

## 4 Quality management

The period after the Contract Date within which the *Consultant* is to submit a quality policy statement and quality plan is: 4 weeks, if not previously provided by the *Consultant*

The period between Completion of the whole of the *service* and the *defects date* is: 26 weeks

## 5 Payment

The *currency of the contract* is the: £ sterling

The *assessment interval* is: Monthly

If the *Client* states any *expenses*

The *expenses* stated by the *Client* are

| item | amount |
|---|---|
| | |
| | |

The *interest rate* is 2 % per annum (not less than 2) above the Base rate of the Bank of England bank

If the period in which payments are made is not three weeks and Y(UK)2 is not used

The period within which payments are made is: 1 Month

If Option C or E is used and the *Client* states any locations

The locations for which the *Consultant* provides a charge for the cost of support people and office overhead are: All UK offices

If Option C is used

The *Consultant's share percentages* and the *share ranges* are

| *share range* | | | | *Consultant's share percentage* |
|---|---|---|---|---|
| less than | | % | | % |
| from | % to | % | | % |
| from | % to | % | | % |
| greater than | | % | | % |

If Option C or E is used

The *exchange rates* are those published in Financial Times

on *XX/XX/XXXX*

## 6 Compensation events

If there are additional

These are additional compensation events

None

## 8 Liabilities and insurance

If there are additional *Client's* liabilities

These are additional *Client's* liabilities

(1)

(2)

(3)

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 |
|---|---|---|
| The *Consultant's* failure to use the skill and care normally used by professionals providing services similar to the *service* | £1 million in respect of each claim, without limit to the number of claims | 6 years following Completion of the whole works or earlier termination |
| Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the *Consultant*) arising from or in connection with the *Consultant* Providing the Service | Whichever is greater of £5 million or the amount required by law in respect of each event, without limit to the number of events | 12 months |
| Death of or bodily injury to employees of the *Consultant* arising out of and in the course of their employment in connection with the contract | Whichever is greater of £5 million or the amount required by law in respect of each event, without limit to the number of events | For the period required by law |

The *Consultant* provides these additional insurances

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| | |
|---|---|
| (1) Insurance against | n/a |
| Minimum amount of cover is | n/a |
| Th | n/a |

| | |
|---|---|
| (2) Insurance against | n/a |
| Minimum amount of cover is | n/a |
| The deductibles are | n/a |
| (3) Insurance against | n/a |
| Minimum amount of cover is | n/a |
| The deductibles are | n/a |

| | |
|---|---|
| The *Consultant's* total liability to the *Client* for all matters arising under or in connection with the contract, other than the excluded matter is limited to | £1 million |

## Resolving and avoiding disputes

The *tribunal* is: Litigation in the courts

If the *tribunal* is arbitration

The *arbitration procedure* is: n/a

The place where arbitration is to be held is: n/a

The person or organisation 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 *Senior Representatives* of the *Client* are Name (1)

Address for communications

Address for electronic communications

Name (2)

Address for communications

Address for electronic communications

The *Adjudicator* is

Name: 'to be confirmed'

Address for communications: 'to be confirmed'

Address for electronic communications: 'to be confirmed'

The *Adjudicator nominating body is*: Institution of Civil Engineers

## X2: Changes in the law

If Option X2 is used — The *law of the project* is: The law of England and Wales, subject to the jurisdiction of the courts of England and Wales

## ~~X5: Sectional Completion~~

If Option X5 is used — The *completion date* for each section of the *service* is

| *section* | description | *completion date* |
|---|---|---|
| (1) | | |
| (2) | | |
| (3) | | |
| (4) | | |

## ~~X7: Delay damages~~

If Option X7 is used without Option X5 — Delay damages for Completion of the whole of the *service* are _____ per day

If Option X7 is used with Option X5 — Delay damages for each *section* of the *service* are

| *section* | description | amount per day |
|---|---|---|
| (1) | | |
| (2) | | |
| (3) | | |
| (4) | | |

The delay damages for the remainder of the *service* are _____

## ~~X8: Undertakings to Others~~

If Option X8 is used — The *undertakings to Others* are provided to

_____

_____

## X9: Transfer of Intellectual Property Rights

## ~~X10: Information modelling~~

If Option X10 is used

If no *information execution plan* is identified in part two of the Contract Data — The period after the Contract Date within which the *Consultant* is to submit a first Information Execution Plan for acceptance is: 2 weeks

## ~~X10: Information modelling~~

If Option X10 is used

If no *information execution plan* is identified in part two of the Contract Data

## X11: Termination by the Client

## ~~X13: Performance bond~~

If Option X13 is used The amount of the performance bond is

## X18: Limitation of liability

If Option X18 is used

The *Consultant's* liability to the *Client* for indirect or consequential loss is limited to £1 million

The *Consultant's* liability to the *Client* for Defects that are not found until after the *defects date* is limited to £1 million

The *end of liability date* is 6 years after the Completion of the whole of the *service*

## ~~X20: Key Performance Indicators (not used with Option X12)~~

If Option X20 is used

The *incentive schedule* for Key Performance Indicators is in

A report of performance against each Key Performance Indicator is provided at intervals of months

## ~~Y(UK)1: Project Bank Account~~

| | |
|---|---|
| Charges made and interest the paid by the *project bank* | The *Consultant* **is / is not** to pay any charges made and to be paid any interest paid by *project bank* (Delete as applicable) |

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

| | |
|---|---|
| If Option Y(UK)2 is used and the final date for payment is not fourteen days after the date on which payment becomes due | The period for payment is 14 days after the date on which payment becomes due |

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

If Option Y(UK)3 is used

| term | *beneficiary* |
|---|---|
| | |
| | |
| | |
| | |

If Y(UK)3 is used with Y(UK)1 the following entry is added to the table for Y(UK)3

| term | *beneficiary* |
|---|---|
| N/a | N/a |

## Z: *Additional conditions of contract*

If Option Z is used The *additional conditions of contract* are

**Z1 Disputes**
Option W2 subclause W2.1(4) is deleted. The Parties agree that adjudication under Clause option W2 should only commence if the dispute resolution procedure has been exhausted and that the dispute resolution procedure in the Scope, takes precedence over Option W2.

**Z2 Prevention**
The text of clause 18 Prevention is deleted.
Delete the text of clause 60.1(12) and replace with:
The service is affected by any of the following events
• War, civil war, rebellion, revolution, insurrection, military or usurped power;
• Strikes, riots and civil commotion not confined to the employees of the *Consultant* and sub consultants,
• Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel,
• Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
• Natural disaster,
• Fire and explosion,
• Impact by aircraft or other aerial device or thing dropped from them.

**Z3 Disallowed Costs**
In second bullet of 11.2 (18) add:
(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken).
Add the following additional bullets after 'and the cost of ' :
• Mistakes or delays caused by the *Consultant's* failure to follow standards in Scopes/quality plans.
• Reorganisation of the *Consultant's* project team.
• Additional costs or delays incurred due to *Consultant's* failure to comply with published and known guidance or document formats.
• Exceeding the Scope without prior instruction that leads to abortive cost
• Re-working of documents due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design errors.
• Production or preparation of self-promotional material.
• Excessive charges for project management time on a commission for secondments or full time appointments (greater than 5% of commission value)
• Any hours exceeding 8 per day unless with prior written agreement of the *Service Manager*
• Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with the Service Manager
• Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the *Service Manager*
• Costs associated with the attendance at additional meetings after programmed Completion, if delay is due to *Consultant* performance.
• Costs associated with rectifications that are due to *Consultant* error or omission.
• Costs associated with the identification of opportunities to improve our processes and procedures for project delivery through the *Consultant's* involvement
• Was incurred due to a breach of safety requirements, or due additional work to comply with safety requirements

~~**Z4 Share on Termination**~~
~~Delete existing clause 93.3 and 93.4 and replace with:~~
~~93.3 In the event of termination in respect of a contract relating to services there is no *Consultant's share.*~~

**Z5 Secondments**
When appointing Consultants on a secondment basis only:

Add clause 19
19.1 The *Client* will from starting date to Completion Date indemnify the *Consultant* against any and all liabilities, proceedings, costs, losses, claims and demands whatsoever arising directly or indirectly out of the activities of the *Consultant* in providing the services save where such claims, in the reasonable opinion of the *Client*, arise from or are contributed to by:

19.1.1 Misrepresentation or negligence by or on behalf of the Consultant;
or
19.1.2 The *Consultant* has acted contrary to the *Service Manager's* reasonable instructions or wholly outside the scope of the *Consultant's* duties as defined by the *Service Manager.*

~~**Z7 Linked contracts**~~
~~Issues requiring redesign or rework on this contract due to a fault or error of the *Consultant* under this contract or a previous contract will neither be an allowable cost under this contract or any subsequent contract, nor will it be a Compensation event under this contract or any subsequent contract under this project or programme.~~

**Z8 Requirement for Invoice**

Insert the following sentence at the end of clause 51.1:
The Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week of the Service Manager's certificate.
Delete existing clause 51.2 and insert the following:
51.2 Each certified payment is made by the later of
• one week after the paying Party receives an invoice from the other Party and
• three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period stated.
If a certified payment is late, or if a payment is late because the *Service Manager* has not issued a certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made.

**Z9 Conflict of Interest**

The Consultant immediately notifies the *Client* of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the *Consultant* (including without limitation its reputation and standing) and/or the *Client* of which it is aware or which it anticipates may justify the Client taking action to protect its interests. Should the Parties be unable to remove the conflict of interest to the satisfaction of the *Client,* the *Client*, in its sole discretion, may terminate this Contract.

**Z12 Waiver**

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party by the *Service Manager* in writing in accordance with the Contract, and with express reference to Clause Z12. The failure of either party to insist upon strict performance of the Contract, or any failure or delay in exercising any right or remedy shall not constitute a waiver or diminution of the obligations established by the Contract.

~~**Z125 Limitation of Liability**~~
~~Under clause 87.1; after the fourth bullet point; insert the additional bullet points:~~
~~• loss of or damage to the *Client's* property, to the sum of £5m.~~
~~• death of or bodily injury to employees of the *Consultant* arising out of and in the course of their employment in connection with the contract, to the sum that the *Consultant* is required to insure under the contract in respect of such death or bodily injury.~~

**Z 130 Rate adjustment**

Z130.1 The Defined Cost for People Rates shall be increased by the same proportion and on the same date as the appropriate *Framework Prices*.

Z130.2 (Option C ONLY) The Prices are adjusted for the outstanding portion of the Prices for the amendment to rates in Z130.1.

**Z 131 Change to the Schedule of Cost Components**

Add clause 11.2(19) The People Rates are the *people rates* unless later changed in accordance with the contract and provided that at all times and under any circumstance howsoever arising the People Rates do not exceed the equivalent and directly comparable Framework Price as set out in Crown Commercial Services (CCS) Construction Professional Services Framework RM6165.

In the Schedule of Cost Components delete the section titled **People** and replace with:
**People**

1 The following components of the cost of people.

11 Amounts calculated by multiplying each of the People Rates by the total time appropriate to that rate properly spent on work on the contract.

## PART TWO – DATA PROVIDED BY THE *CONSULTANT*

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

### 1 General

The *Consultant* is

| | |
|---|---|
| Name | WSP UK Ltd |
| Address for communications | [redacted] |
| Address for electronic communications | |

The *fee percentage* is 0 %

The *key persons* are

| name | service |
|---|---|
| [redacted] | |
| | |
| | |
| | |
| | |
| | |
| | |

The following matters will be included in the Early Warning Register

## 2 The *Consultant's* main responsibilities

If the *Consultant* is to provide Scope

The Scope provided by the *Consultant* is in

## 5 Payment

If the *Consultant* states *expenses*

The *expenses* stated by the *Consultant* are any

| item | amount |
|---|---|
| | |
| | |
| | |

If Option A or C is used

The *activity schedule* is

If Option E is used

The forecast of the prices is

£175,081.35

## Resolving and avoiding disputes

The *Senior Representatives* of the *Consultant* are

Name (1)

Address for communications

Address for electronic communications

Name (2)

Address for communications

Address for electronic communications

[redacted]

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## X10: Information modelling

If Option X10 is used

| | |
|---|---|
| If an *information execution plan* is to be identified in the Contract Data | The *information execution plan* identified in the Contract Data is |

## ~~Y(UK)1: Project Bank Account~~

If Option Y(UK)1 is used

The *project bank* is

*named suppliers* are

## Data for the Schedule of Cost Components (used only with Options C or E)

The *overhead percentages* for the cost of support people and office overhead are

| location | *overhead percentage* | |
|---|---|---|
| | | % |
| | | % |
| | | % |

## ~~Data for the Short Schedule of Cost Components (used only with Option A)~~

The *people rates* are

| category of person | unit | rate |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

## Data for the Schedule of Cost Components (used only with Options C and E)

The *people rates* are

| category of person | unit | rate |
|---|---|---|
| [redacted] | | |