



A303 Amesbury to Berwick Down (Stonehenge)

Volume 2 – Scope

Part 1 – General Requirements

July 2022

Doc Ref: A303-MW-CoD-003-V2-P1 Gen Req

Table of Contents

Section	Page
Table of Contents	1
S 100 Description of the Works	7
S 101 Identified and Defined Terms	7
S 105 Project Objectives.....	7
S 110 General Description of the works	7
S 115 Development Consent Order	8
S 200 General constraints on how the Contractor Provides the Works	8
S 201 Development Consent Order and direction of the Project Manager.....	8
S 205 General constraints.....	9
S 206 Energy Efficiency Directive	10
S 207 General Environmental Requirements.....	11
S 208 Site Waste Management Plan.....	12
S 209 Sustainable development requirements	12
S 210 Confidentiality	13
S 211 Insurance	13
S 212 Transparency	13
S 213 Conflict of interest.....	14
S 214 Client's Codes of Conduct.....	14
S 215 Security and protection of the Site.....	15
S 216 Security Management Plan and Trespass on to the Site and Working Areas	15
S 220 Security and identification of people	18
S 225 Protection of existing structures and services.....	18
S 226 Official Secrets Acts.....	19
S 227 Data Protection.....	19
S 228 Information Security and Client's data handling requirements.....	24
S 229 Discrimination, bullying and harassment	24
S 230 Protection of the works	25
S 235 Cleanliness of roads	25
S 240 Temporary Traffic management.....	25
S 245 Condition survey.....	26
S 250 Considerate Constructors Scheme.....	26
S 251 Customer.....	26
S 252 Customer Focus	27
S 253 People Strategy	28
S 255 Project Control Framework	40

S 260	Control of works.....	41
S 265	Site cleanliness.....	41
S 270	Waste materials.....	41
S 275	Plant and Materials.....	41
S 285	Category Management (CM).....	41
S 290	Scheme recovery services.....	43
S 295	Behaviours	43
S 296	Strategic Alignment.....	44
S 297	Investigation, removal or disposal of any object of value or of historical or other interest...	45
S 298	Access to the Site and Working Areas for the Archaeologists.....	45
S 299	Novation of the Contract to a replacement contractor	45
S300	Contractor's Design	46
S 305	Design responsibility.....	46
S 306	Mobilisation Phase Deliverables	46
S 310	Design Review and Certification	46
S 315	Design approvals from Others.....	47
S 320	Client's requirements (for the parts of the works to be designed by the Contractor)	47
S 325	Design co-ordination.....	47
S 326	Alternative Design	47
S 330	Requirements of Others.....	47
S 335	Using the Contractor's design	47
S 340	Client's requirements (for the design of Equipment)	47
S 345	Access to information following Completion	48
S 400	Completion	48
S 405	Completion definition	48
S 410	Sectional Completion definition	49
S 415	Training	51
S 420	Final clean.....	51
S 425	Security	51
S 430	Correcting Defects (and other nonconformities) after Completion.	51
S 435	Pre-Completion arrangements	51
S 440	Use of the works.....	51
S 445	Documents	52
S 450	Handover between contractors	52
S 500	Programme	52
S 505	Programme requirements	52
S 510	Methodology statement.....	53
S 515	Work of the Client and Others.....	53

S 520	Information required.....	53
S 525	Revised programme	53
S 600	Quality management	53
S 605	Quality management system.....	53
S 610	Quality Policy Statement and Quality Plan	54
S 615	Samples	55
S 620	Standards and procedures.....	55
S 660	Audit, nonconformities (including “defects”) and performance management	55
S 665	Performance Management Points	57
S 670	Performance measurement.....	58
S 675	Continual Improvement / LEAN.....	59
S 680	Training and competence of Contractor’s Staff.....	59
S 700	Tests and inspections	59
S 710	Samples	60
S 715	Management of tests and inspections and provision of samples.....	60
S 720	Covering up completed work.....	61
S 725	Supervisor’s procedures for inspection and watching tests	61
S 730	Defects (in relation to Tests and Inspections & cross referenced with S430 and S660). 61	
S 800	Management of the works	61
S 805	Project team – Others.....	61
S 810	Communication systems.....	61
S 815	Management procedures	61
S 820	Contractor’s application for payment	62
S 825	Commissioning report.....	62
S 830	Provision of cost information	62
S 831	Provision of Price Information	62
S 835	Data collection system.....	63
S 836	Provision of electronic documents and data	63
S 837	Information systems.....	63
S 838	Disclosure of information	64
S 840	Microsoft Dynamics 365.....	65
S 841	CEMAR	65
S 845	Software Training	65
S 850	Meetings.....	65
S 855	Records and Reporting	67
S 856	Records and reporting for Small Medium Enterprises	67
S 865	Communications.....	67
S 900	Working with the Client and others	67
S 905	Sharing the Working Areas with others	67

S 910	Co-operation and Co-ordination	68
S 920	Authorities and utilities providers	68
S 925	Deed of Novation	68
S 1000	Services and other things to be provided	68
S 1005	Services and other things provided by the Contractor for the use by the Client, Project Manager, Supervisor or Others	68
S 1010	Services and other things provided by the Client	69
S 1100	Health, Safety and Wellbeing	69
S 1101	Health, Safety and Wellbeing Implementation Plan	69
S 1102	Management of health and safety	70
S 1103	Medical fitness	70
S 1104	Health and safety charity-based incentive schemes	71
S 1105	Health assessment and control	71
S 1106	Health and safety culture	71
S 1107	Risk Assessments, Method Statements and Permits to Work	73
S 1108	CDM Compliance	74
S 1110	Health and safety inspections	74
S 1111	Incident Reporting	75
S 1112	Client assurance of Health & Safety	76
S 1113	Searches and authorised access to Site and Working Areas	76
S 1200	Subcontracting	77
S 1205	Restrictions of requirements for subcontracting	77
S 1206	Fair payment	79
S 1210	Acceptance procedures	80
S 1215	Contracts Finder	82
S 1216	Advertising Subcontracts in accordance with the Public Contract Regulations 2015	83
S 1220	Subcontracting Incentivisation	83
S 1230	Subcontracting Risk Allocation	83
S 1300	Title	84
S 1305	Marking	84
S 1310	Materials from excavation and demolition	85
S 1400	Acceptance or procurement procedure (Options C, D, E and F only)	85
S 1405	Procurement procedures	85
S 1410	Submission and acceptance procedures	85
S 1500	Accounts and records (Options C, D, E and F only)	85
S 1505	Additional records	85
S 1510	Cost verification	85
S 1520	Records and audit access	85

S 1600 Parent Company Guarantee	86
S 1700 Undertakings to the Client or Others (Option X8)	87
S 1800 Intellectual Property Rights	87
S 1805 Contractor's rights over material prepared for the design of the works	87
S 1810 Other rights to be obtained by the Contractor	87
S 1900 Information modelling (Option X10)	94
S 1905 Information Model Requirements	94
S 2000 Performance bond (Option X13)	95
S 2100 Advanced payment to the Contractor (Option X14)	95
S 2200 The Contractor's design (Options X15)	95
S 2205 Constraints on use of material	95
S 2300 Retention (Option X16)	95
S 2400 Low performance damages (Option X17)	95
S 2405 Key Performance Indicators (KPIs) (X20)	95
S 2500 Early Contractor Involvement (Option X22)	95
S 2600 Project Bank Account (PBA) (Option Y(UK)1)	95
S 2605 Adding a Named Supplier	96
S 2610 Project Bank Account Tracker	96
S 2700 Client's work specifications and drawings	97
S 2705 Client's work specification	97
S 2710 Drawings	98
S 2800 Designated funds	99
S 2805 Designated funds - Contractor's Proposals	99
S 2900 Organisational Maturity	99
S 2905 Leadership	100
S 2910 Project Execution	101
S 2915 Supply Chain	102
Annexes	103
Annex A: Hyperlinks to and locations of referenced documents	103
Annex B: Form of Parent Company Guarantee	106
Annex C: Client's personnel security procedures	120
Annex D: Certificates	143
Annex E: Continual improvement	144
Annex F: Deed of Novation (Old Client to New Client for the Contractor)	148
Annex G: Inclusion Action Plan	153
Annex H: Procurement through Category Purchase Agreements (excluding technology Category Suppliers)	156

Annex I: Procurement through Category Purchase Agreements – Technology Category Suppliers	158
Annex J: Insurance Table	160
Annex K: Key Persons Schedule	170
Annex L: Data Processing	172
Annex M: Declaration of Interests and Conflict of Interest form.....	174
Annex N: Quality Table	179
Annex O: Multi Party Collaboration / Partnering Information	180
Annex P: Additional Definitions Used in the Scope.....	181
Annex QA: Form of Novation (Old Contractor to New Contractor/Client for a subcontractor)...	182
Annex QB: Form of Novation (old Contractor to new Contractor).....	187
Annex R: Advertising Subcontracts in accordance with the Public Contracts Regulations 2015 192	
Annex S: Retention Bond.....	193
Annex T: Performance Bond.....	194
Annex U: Collateral Warranty.....	199
Annex V: Advanced Payment Bond	206
Annex W: Project Risk Register	212
Annex X: Form of Performance Surety.....	214
Annex Y: Software Confidentiality Agreement	215
Annex Z: Pensions	221

S 100 Description of the Works

S 101 Identified and Defined Terms

S 101.1 Defined terms not defined in the *conditions of contract* have the meaning given in Volume 2 Part 11 (Definitions and Acronyms) of the contract.

S 101.2 Unless otherwise stated, all sections in each of Parts 1-10 of Volume 2 – Scope, either

- specify and describe the requirements of the *Contractor* to Provide the Works or
- state any constraints on the *Contractor* to Provide the Works.

All Design Package submissions required by the Scope are subject to the review and certification procedures contained in Volume 2 Part 9 (Review and Certification) of the contract.

S 105 Project Objectives

S 105.1 The works forms part of a programme of improvements for upgrading the A303/A358 corridor. The programme includes upgrading remaining single carriageway sections on the corridor to dual carriageway, improving this vital connection between the South West and London and the South East.

Objectives for the *works* have been formulated to address identified problems and to take advantage of the opportunities that the new infrastructure would provide. The objectives are

- to create a high quality reliable route between the South East and the South West that meets the future needs of traffic,
- to enable growth in jobs and housing by providing a free flowing and reliable connection between the South East and the South West,
- to help conserve and enhance the World Heritage Site (WHS) and to make it easier to reach and explore and
- to improve biodiversity and provide a positive legacy for nearby communities.

S 110 General Description of the works

S 110.1 The *Client's* objective is to provide a high quality, two-lane dual carriageway on the A303 trunk road between Amesbury and Berwick Down in Wiltshire.

The works aim to resolve traffic problems and protect and enhance the WHS.

S 110.2 The works comprise the following key components

- a northern bypass of Winterbourne Stoke with a viaduct over the River Till valley,
- a new junction between the A303 and A360 to the west of and outside the WHS, replacing the existing Longbarrow roundabout,
- a twin-bore tunnel approximately 2 miles (3.3km) long through the WHS and
- a new junction between the A303 and A345 at the existing Countess junction.

S 115 Development Consent Order

- S 115.1 The *Contractor* does not prevent the *Client* from discharging their Obligations of the Development Consent Order (DCO) and assists the *Client* with discharging their defined obligations.

S 200 General constraints on how the *Contractor* Provides the Works

S 201 Development Consent Order and direction of the *Project Manager*

S201.0A	The <i>Project Manager</i> notifies the <i>Contractor</i> of the Development Consent Order.
S 201.1	<p>Subject to paragraphs S 201.2A and 2.1.2 of Volume 2 Part 2 (Design and Technical Requirements) of the Scope, the <i>Contractor</i> ensures</p> <ul style="list-style-type: none"> the <i>works</i> comply in Providing the Works, it complies <p>with the Development Consent Order.</p>
S 201.2	<p>Subject to paragraph S 201.2A below, if in Providing the Works either the <i>Project Manager</i> or the <i>Contractor</i> become aware of an ambiguity or inconsistency in or between the Development Consent Order and the Scope</p> <ul style="list-style-type: none"> it notifies the other as soon as either becomes aware and issues an early warning notification.
S 201.2A	<p>If in accordance with paragraph 2.1.2 of Volume 2 Part 2 (Design and Technical Requirements) of the Scope, the <i>Contractor</i> makes a proposal that is listed in the <i>non-material schedule</i>, but the <i>Project Manager</i> informs the <i>Contractor</i> that the <i>Client</i></p> <ul style="list-style-type: none"> does not wish to progress with such proposals or does not secure an amendment or revision to the DCO <p>then the <i>Project Manager</i></p> <ul style="list-style-type: none"> notifies the <i>Contractor</i> as soon it becomes aware and issues an early warning notification
S 201.3	<p>Within one week of the notification given under S 201.2 or S 201.1A unless agreed otherwise with the <i>Project Manager</i></p> <ul style="list-style-type: none"> the <i>Contractor</i> submits proposals to change the Scope and the Quality Statement to resolve the ambiguity or inconsistency to the <i>Project Manager</i> for agreement and the <i>Project Manager</i> and the <i>Contractor</i> meet to discuss the proposal.
S 201.4	<p>The <i>Contractor</i> revises the proposal within one week (or any longer period stated by the <i>Project Manager</i>) of the early warning meeting to reflect agreement or <i>Project Manager's</i> direction and submits it to the <i>Project Manager</i> for agreement.</p>
S 201.5	<p>If the <i>Project Manager</i> agrees with the proposal, the <i>Project Manager</i> gives an instruction changing the Scope. If the <i>Project Manager</i> does not agree with the proposal, the <i>Project Manager</i> gives an instruction changing the Scope in accordance with its direction.</p>

- S 201.6 Where in the Scope an agreement is required from the *Project Manager* or Others, if the *Contractor* and the *Project Manager* (or Others where relevant) do not reach an agreement within the *period for reply*, the *Contractor* complies with any direction of the *Project Manager*.

S 205 General constraints

- S 205.1 The *Client* has carried out a risk assessment of the project. A copy of the risk register containing significant scheme specific risks is included in [Annex W](#).
- S 205.2 Following the *starting date*, the *Project Manager* combines the risks contained in Contract Data part one with those in Contract Data part two to form the first Early Warning Register and issues this along with the date of the first early warning meeting to the *Contractor* within two weeks of the *starting date*. The *Contractor* attends the first early warning meeting.
- S 205.3 The risks set out in this Early Warning Register are reviewed by the *Project Manager* and the *Contractor* at the first early warning meeting within two weeks after the *starting date*.
- S 205.4 The *Client's* risk management policy and strategy ([see link at Annex A](#)) recognises that the management of risk is crucial to the successful delivery of its objectives.
- S 205.5 The *Client* has adopted the following definition for risk
“an uncertain event or set of circumstances that should it occur will affect (positively or negatively) the project objectives.”
- S 205.6 The *Client's* risk management approach aims to ensure that
- risks are systematically identified, understood, prioritised and managed by the correct parties and individuals in a consistent and efficient manner,
 - assurance is provided to the *Contractor*, *Project Manager*, *Client* and other stakeholders that risks are understood and managed and
 - all parties are fully aligned with and demonstrably meet the requirements of the *Client's* risk management framework.
- S 205.7 The information developed under this section S 205 does not replace the Early Warning Register referred to in the *conditions of contract* and maintained by the *Project Manager* in relation to the early warning process.
- S 205.8 The information developed under this section S 205 does not relinquish or replace the requirement of the *Contractor* or the *Project Manager* to notify early warnings and hold early warning meetings.
- S 205.9 The information developed under this section S 205 is not affected by, nor does it affect the requirements of, other risk assessments and risk-based processes required for the delivery of the *works*.
- S 205.10 Risk based processes outlined in paragraph S 205.9, may make use of the outputs developed under this section S 205, and moreover risks identified through such processes that may adversely affect the achievement of the project objectives are incorporated in the Early Warning Register.

- S 205.11 The requirements under this section S 205 apply at all PCF stages of the project lifecycle, as defined by the Project Control Framework (PCF).
- S 205.12 The *Contractor* identifies residual risks that may remain during operations to enable consideration by the Operations Directorate (OD).
- S 205.13 The *Contractor* complies with the risk management requirements described above and as contained in the
- Project Control Framework ([see link at Annex A](#)) and
 - Major Project Directorate Risk and Issue Management Manual ([see link at Annex A](#)).
- S 205.14 The *Contractor* ensures that risks that could impact on the project objectives are systematically identified, understood, prioritised and managed whilst being continually reviewed and communicated in a collaborative manner with the *Project Manager*.
- S 205.15 The *Client* has Xactium as its enterprise wide risk management system to record and update all risk data within the *Client's* organisation. The *Contractor* uses Xactium in accordance with the requirements contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract and complies with the Xactium user guide ([see link at Annex A](#)).
- S 205.16 The *Contractor* ensures that any submission aligns with any relevant *outline document*, as listed in Contract Data part two.
- S 205.17 Where the Scope specifies a minimum requirement, or that the *works* meet a minimum standard or be "at least" a certain measurement, the *Contractor* complies with the Scope if the relevant part of the *works* meets or exceeds that minimum requirement or standard or is at least the specified measurement. The *Contractor* is not under an obligation to provide any higher specification except where needed to comply with another part of the Scope.
- S 205.18 It is agreed that elements of the Quality Statements listed in the *client's requirement schedule* satisfies the *Client's* requirements listed, subject to the observations listed by the *Client*.
- S 205.19 The *Client* and the *Contractor* do not consider that the elements of the Quality Statement listed in the *non-material schedule* give rise to any materially new or materially different environmental effects in comparison with those reported in the Environmental Statement.

S 206 Energy Efficiency Directive

- S 206.1 The *Contractor*
- complies with the requirements of Procurement Policy Note 7/14 entitled "Implementing Article 6 of the Energy Efficiency Directive" ("PPN 7/14") ([see link at Annex A](#)) and any related supplementary Procurement Policy

Notes (e.g. “Implementing Energy Efficiency Directive article 6: further information(“PPN01/15”)), in Providing the Works,

- complies with the standard for products in Energy Efficiency Directive 2012/27/EU when purchasing any new products for use partly or wholly in Providing the Works ([see link at Annex A](#)),
- demonstrates efficiency in resource use, maximisation of re-use and recycling of materials to support the *Client*’s “circular economy” ambition as stated in the *Client*’s Sustainable Development Strategy ([see link at Annex A](#)),
- ensures that any new products purchased by a subcontractor for use partly or wholly in the performance of its obligations under its subcontract complies with the standard for products in Energy Efficiency Directive 2012/27/EU,
- ensures that subcontractors demonstrate to the *Contractor* how any new products purchased by the subcontractor for use partly or wholly in the performance of its obligations under a subcontract complies with the requirements of PPN 7/14 and
- includes requirements to the same effect in any sub-subcontract (at any stage of remoteness from the *Client*).

S 206.2 The *Contractor* demonstrates to the *Project Manager* how any new products purchased by it for use partly or wholly in Providing the Works comply with the requirements of PPN 7/14.

S 207 General Environmental Requirements

S 207.1 The *Contractor* demonstrates environmental improvements in leadership and culture through accountability and customer focused delivery.

S 207.2 The *Contractor* demonstrates that the electricity to Provide the Works is from sustainable sources by ensuring that the sources are REGO certified in accordance with Ofgem’s requirements.

S 207.3 The *Contractor* ensures that any goods purchased by the *Contractor* on behalf of the *Client* (or those which become the property of the *Client*) comply with the relevant minimum sustainable procurement standards specified in the Government Buying Standards ([see link at Annex A](#)).

S 207.4 The *Contractor* complies with the requirements contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract. Where digital format cannot be achieved, all printed output produced by the *Contractor* in connection with the contract complies with the relevant Government Buying Standards and is printed on both sides where appropriate.

S 207.5 The *Client*’s air quality strategy ([see link at Annex A](#)) sets out how it ‘will ensure that all activity on our roads is delivered in a way that not only minimises harm, but ultimately improves the environment including air quality’. This helps support Government as they work to improve air quality in the UK and deliver nitrogen dioxide compliance at the roadside in the shortest time possible. The *Client* explores ‘opportunities to promote the use of low emission vehicles by our supply chain’ to play its part in reducing harmful pollutants.

S 207.6 In support of the *Client*’s air quality strategy, the *Contractor*

- ensures that any new vehicles purchased by it for use partly or wholly in Providing the Works comply with the minimum mandatory standards (detailed for Central Government Departments) detailed in Government Buying Standards for Transport 2017, or its replacement, ([see link at Annex A](#)) and
- when requested, works in collaboration with the *Client* to prepare reports to identify how the best practice standards detailed in the Government Buying Standards for Transport 2017, or its replacement, can be achieved (Report findings help inform setting standards for future highways contracts and any subsequent action by the *Contractor* helps reduce emissions of harmful pollutants when Providing the Works).

S 208 Site Waste Management Plan

- S 208.1 The *Contractor* provides the Site Waste Management Plan to deliver the commitments of the Outline Environmental Management Plan (OEMP) in accordance with Volume 2 Part 2 (Design and Technical Requirements) of the contract.

S 209 Sustainable development requirements

- S 209.1 In Providing the Works the *Contractor* complies with the *Client's* Sustainable Development Strategy ([see link at Annex A](#)) and the circular economy vision and ambitions contained in the strategy which is to put sustainable development into practice by "...encouraging economic growth while protecting the environment and improving safety and quality of life".
- S 209.2 The *Contractor* demonstrates cost effective investments allowing for resilience to future climate changes.
- S 209.3 The *Contractor* minimises greenhouse gases in accordance with the requirements of DMRB GG 103 'Introduction and general requirements for sustainable development and design'.
- S 209.4 The *Contractor* contributes to the reduction of the *Client's* carbon footprint by actively managing and reducing its greenhouse gas emissions. The *Contractor* completes the *Client's* carbon tool in accordance with the requirements contained within the carbon tool guidance ([see link at Annex A](#)).
- S 209.5 To meet the *Client's* ambitions for responsible sourcing the *Contractor* demonstrates the environmental, social, safety and legal credentials of goods and services procured in an action plan for responsible sourcing which may be based on BES 6001. This includes
- measures for complete traceability and transparency,
 - legal origin,
 - zero tolerance for bribery and corruption and
 - reduced environmental and social impacts during manufacture, supply and use.

- S 209.6 The *Contractor* ensures that the *Client's* ambitions for a circular approach to the management of resources are reflected in the way in which material resources are
- sourced and managed (with a particular emphasis on maximising resource efficiency),
 - re-used and
 - re-utilised
- in as high a value function as possible.
- S 209.7 The *Contractor*
- works collaboratively with the *Client* in completing the project's CEEQUAL assessment (evidence-based sustainability assessment, rating and awards scheme for civil engineering), and
 - aims to meet the *Client's* aspirations to achieve a final award CEEQUAL rating of Excellent.

S 210 Confidentiality

- S 210.1 Within two weeks after the *defects date* or termination of the *Contractor's* obligation to Provide the Works, the *Contractor* returns to the *Project Manager* any confidential or proprietary information belonging to the *Client* in the *Contractor's* possession or control and deletes (and procures that any subcontractor (at any stage of remoteness from the *Client*) deletes) any electronic information or data held by the *Contractor* or any subcontractor (at any stage of remoteness from the *Client*) relating to the *Client* or the contract.

S 211 Insurance

- S 211.1 The *Contractor* complies with the insurance requirements contained in [Annex J](#) of this Volume 2 Part 1 (General Requirements).

S 212 Transparency

- S 212.1 All Central Government Departments and their Executive Agencies, Non-Departmental Public Bodies and arm length bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement - including ensuring value for money and related aspects of good procurement practice.
- S 212.2 For these purposes, the *Client* may disclose within Government any of the *Contractor's* materials including documents and information (including any that the *Contractor* considers to be confidential and commercially sensitive) submitted by the *Contractor* during the contract (including any dispute and dispute settlement).

S 213 Conflict of interest

- S 213.1 The *Contractor* does not take an action which causes a conflict of interest to arise in connection with the contract. The *Contractor* immediately notifies the *Project Manager* if it considers that a conflict of interest may exist or may arise.
- S 213.2 The *Contractor* notifies its employees and subcontractors (at any stage of remoteness from the *Client*) and procures that any subcontractor (at any stage of remoteness from the *Client*) notifies its employees, who are engaged in Providing the Works that they do not take an action which causes an actual or potential conflict of interest to arise in connection with the *works*.
- S 213.3 The *Contractor* ensures that Staff who are engaged in Providing the Works completes the declaration of interests and conflict of interest form, as set out in [Annex M](#). The *Contractor* issues to the *Project Manager* any completed forms.
- S 213.4 If there is any uncertainty about whether a conflict of interest may exist or arise, the *Contractor*
- immediately notifies the *Project Manager* and
 - procures that any subcontractor (at any stage of remoteness from the *Client*) immediately notifies the *Contractor*.
- S 213.5 Following a notification from the *Contractor*, the *Project Manager* may
- require the *Contractor* to stop Providing the Works until any conflict of interest is resolved or
 - require the *Contractor* to submit to the *Project Manager* for acceptance a proposal to remedy the actual or potential conflict of interest.
- S 213.6 A reason for not accepting a declaration of interests and conflict of interest proposal is that it does not resolve the conflict of interest.
- S 213.7 The *Contractor* amends the proposal in response to any comments from the *Project Manager* and resubmits it to the *Project Manager* for acceptance.
- S 213.8 The *Contractor* complies with the proposal once it has been accepted.
- S 213.9 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 214 Client's Codes of Conduct

- S 214.1 The *Contractor* complies (and ensures that any person employed by him or acting on its behalf complies) with the *Client's* Anti-Bribery Code of Conduct and Anti-Fraud Code of Conduct, collectively "the Codes" ([see link at Annex A](#)).
- S 214.2 The *Contractor* complies with the Codes until Completion and with
- paragraph 4 of the *Client's* Anti-Bribery Code of Conduct and
 - paragraph 3 of the *Client's* Anti-Fraud Code of Conduct
- for a period of twelve (12) years after Completion.

- S 214.3 The *Contractor* ensures that any subcontract (at any stage of remoteness from the *Client*) contains provisions to the same effect as this section S 214.
- S 214.4 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 215 Security and protection of the Site

- S 215.1 The *Contractor* provides security and protection of the Site in accordance with Appendix 1/1 of Volume 3 (Specification Appendices) of the contract.

S 216 Security Management Plan and Trespass on to the Site and Working Areas

- S 216.1 The *Contractor* provides a Security Management Plan no later than six months prior to the *access date* to *section 1* for the acceptance of the *Project Manager*.
- S 216.2 The Security Management Plan includes
- the *Contractor's* procedures for securing, including securing access to, the Site and Working Areas,
 - securing the Site and Working Areas from ingress of any Protestors and Trespassers,
 - preventing ingress of any Protestors and Trespassers to the Site and Working Areas,
 - securing access to and from the Site and Working Areas for
 - any Equipment,
 - any Plant and Materials,
 - subcontractors (at any stage of remoteness from the *Client*),
 - any *Contractor's* and subcontractor's (at any stage of remoteness from the *Client*) Staff needed to Provide the Works,
 - securing deliveries to and from suppliers and subcontractors (at any stage of remoteness from the *Client*) required to Provide the Works,
 - securing access to the Site and Working Areas for the *Project Manager*, the *Supervisor*, the *Client* and their staff,
 - measures to be taken by the *Contractor* to
 - remove any Protestors and Trespassers from the Site and Working Areas,
 - prevent damage to the *works*, Equipment and Plant and Materials within the Site and Working Areas and
 - prevent damage to
 - the *Client's* (and its staff) property,
 - *Project Manager* (and its staff) property and
 - *Supervisor* (and its staff) property,
 - measures to be taken by the *Contractor* to remove any Protestors and Trespassers preventing the unrestricted use of any access routes used by the *Contractor*, its suppliers and subcontractors (at any stage of remoteness from the *Client*) in Providing the Works
 - liaison procedures with the emergency services and

- measures to be taken by the *Contractor* to protect its suppliers and subcontractors (at any stage of remoteness from the *Client*) used to Provide the Works.
- S 216.2A The *Contractor* submits the Security Management Plan for the acceptance of the *Project Manager*. A reason for not accepting the plan is that does not provide details on all the measures to be taken.
- S 216.3 Once the Security Management Plan is accepted by the *Project Manager*, the *Contractor*
- complies with the Security Management Plan,
 - manages any Protester Action and Trespassers effectively and
 - keeps the Security Management Plan under review to ensure it is effective and responsive to any Protester Action and Trespasser.
- S 216.4 The *Contractor*
- prevents trespass onto the Site and Working Areas of any person or livestock not entitled to be there and
 - does not give directly or indirectly, or permit or suffer to be given, to any Protester or Trespasser any inducement, monetary or otherwise, with a view to avoiding, limiting or influencing the manner of protest activities by that Protester or Trespasser or by other Protesters or Trespassers.
- S 216.5 If
- any part of the Site and Working Areas is occupied by Protesters or Trespassers or
 - any Protester or Trespasser notifies the *Contractor* of their intention to enter any part of the Site and Working Areas
- the *Contractor*
- notifies the *Project Manager*,
 - takes any measures to prevent entry onto the Site and Working Areas by such Protesters or Trespassers in accordance with the Security Management Plan and
 - takes any measures and uses any legal remedies available to the *Contractor* to remove such Protesters or Trespassers.
- S 216.6 If it appears to the *Contractor* that the powers under any applicable law which are necessary to enable the *Contractor* to take the measures referred to in this section S 216 are
- vested in or available to the *Client* or
 - not vested in or available to either the *Contractor* or the *Client* and are vested in some other Relevant Authority
- then the *Contractor* gives notice to that effect to the *Project Manager*, specifying
- the relevant applicable law and
 - a request the *Project Manager* and *Client* to use reasonable endeavours to procure such assistance and co-operation of the Relevant Authority as is necessary for the effective pursuit by the *Contractor* of such measures.

- S 216.7 The *Contractor* supplies any further information requested by the *Project Manager* in respect to such a notice issued under paragraph S 216.6.
- S 216.8 The *Project Manager* confirms to the *Contractor* if the powers under any applicable law which are necessary to enable the *Contractor* to take the measures referred to in this section S 216 are vested in or available to the *Client*.
- S 216.9 Where the powers under any applicable law which are necessary to enable the *Contractor* to take the measures under section S 216 are not vested in, or available to the *Contractor*, but are vested in the *Client*, the *Contractor* gives notice to that effect to the *Project Manager*, specifying
- the relevant legal rights and
 - requesting authority for the *Contractor* to commence and conduct legal proceedings (including discontinuing or compromising the same) in the name or on behalf of the *Client*.
- S 216.10 The *Contractor* supplies any further information requested by the *Project Manager* in respect to such a notice issued under paragraph S 216.9.
- S 216.11 The *Client* considers any request made by the *Contractor* in accordance with paragraph S 216.9 and, in its absolute discretion, decides whether to grant such request. The *Project Manager* notifies the *Contractor* of the *Client's* decision and any authorization given by the *Client*. The grant of any authority by the *Client* to the *Contractor* in accordance with this paragraph does not preclude the *Client* from taking any action whether by way of proceedings or otherwise in connection with Protesters or Trespassers or any other matter.
- S 216.12 Where authority is granted by the *Client* in accordance with paragraph S 216.11, the *Contractor* in the name of and for and on behalf of the *Client* takes the measures which have been authorised, subject always to paragraph S 216.13 and to the following provisions
- the *Contractor* in doing anything in the name of or on behalf of the *Client*, acts in accordance with the terms of the Relevant Authority and in accordance with all applicable law and all in a manner so as not to cause the *Client* to be in breach of any such requirement or any duty upon it,
 - the *Contractor* keeps the *Project Manager* fully informed of the progress of all measures being planned or taken by the *Contractor* pursuant to this section S 216, and promptly provides the *Project Manager* with all information (including copies of any documents or evidence of any kind) requested by the *Project Manager* concerning such measures and proposed measures,
 - the *Contractor* gives at least five (5) days' notice to the *Project Manager* (or, in the case of urgency, such shorter period as is reasonably practicable) of any action which has been planned in advance to remove Protesters or Trespassers from the Site and Working Areas or otherwise to deal with Protester and Trespasser action and
 - the *Contractor* liaises fully with the emergency services taking action against Protesters and Trespassers and, whenever there is reasonable cause to anticipate disorder or violence, the *Contractor* informs the emergency services, giving (so far as practicable) sufficient notice to enable the emergency services to attend the anticipated incident in such numbers as the emergency services deem appropriate.

- S 216.13 The *Client* may, at any time in its absolute discretion, revoke (in whole or in part including as to any specific proceedings) any *Client* authority granted in accordance with paragraph S 216.11 by the *Project Manager* giving notice to that effect to the *Contractor* and thereupon in respect of the relevant measures
- the authority of the *Contractor* to continue taking the measures in the name of or on behalf of the *Client* ceases,
 - the *Client* takes over the conduct of any relevant legal proceedings or other matter being conducted in its name or on its behalf and is entitled to conduct, compromise or discontinue the same as it sees fit in its absolute discretion and
 - the *Contractor* promptly takes all steps necessary to transfer the conduct of such matter to the *Project Manager* and gives to the *Project Manager* all documents in the *Contractor's* possession relating to any such legal proceedings or the enforcement of any law or court order and provides such further assistance as the *Project Manager and Client* require to effect an orderly transfer of the conduct of such matters to the *Client*.

- S 216.14 The *Contractor* ensures that there

- are regular meetings,
- exchange of information,
- co-ordination and
- co-operation

between the *Contractor*, the *Project Manager*, the emergency services, other Relevant Authorities and others as appropriate in connection with the activities of and measures being taken to deal with Protesters and Trespassers. The *Contractor* takes into account any comments made by

- the *Project Manager*,
- the emergency services,
- Relevant Authorities,
- Wiltshire Council and
- others

concerning Protesters and Trespassers.

S 220 Security and identification of people

- S 220.1 If requested by the *Project Manager*, the *Contractor* carries out basic security checks on its Staff before they are involved in Providing the Works. The checks are carried out in accordance with the *Client's* procedures included in [Annex C](#).

S 225 Protection of existing structures and services

- S 225.1 The *Contractor* provides protection of existing structures in accordance with Volume 2 Part 2 (Design and Technical Requirements) of the contract.
- S 225.2 The *Contractor* provides protection of services in accordance with Appendix 1/16 of Volume 3 (Specification Appendices) of the contract.
- S 225.3 The *Contractor* protects existing heritage assets in accordance with the requirements of the Outline Environmental Management Plan (OEMP).

S 226 Official Secrets Acts

- S 226.1 The Official Secrets Act 1989 applies to the contract from the *starting date* until the *defects date*.
- S 226.2 The *Contractor* notifies its Staff of their duties under the Official Secrets Act 1989.
- S 226.3 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 227 Data Protection

- S 227.1 Definitions, for the purposes of this section S 227 only
- **Data** is all Personal Data collected, generated or otherwise processed by the *Contractor* in the course of Providing the Works.
 - **Data Loss Event** is any event that results, or may result, in unauthorised access to Personal Data held by the Processor for the purposes of the contract, and/or actual or potential and/destruction of Personal Data in breach of the contract, including any Personal Data breach.
 - **Data Protection Impact Assessment** is an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
 - **Data Protection Legislation** is
 - the General Data Protection Regulation (EU2016/679),
 - the LED (Law Enforcement Directive (Directive (EU) 2016/680),
 - the Data Protection Act 2018 and
 - any other data protection laws and regulations applicable in Englandand references to “Controller”, “data protection officer”, “Personal Data breach”, “process”, “processed”, “processing” and “Processor” have the meanings set out in, and will be interpreted in accordance with, such laws, rules, policies, guidance, recommendations, codes of conduct and guidelines.
 - **Data Subject Request** is a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
 - **Data Subject** is an individual who is the subject of Personal Data.
 - **EEA** is the European Economic Area.
 - **Joint Controllers** means where two or more Controllers jointly determine the purposes and means of processing.
 - **Personal Data** is any data relating to an identified or identifiable individual that is within the scope of protection as “personal data” under the Data Protection Legislation.
 - **Protective Measures** are appropriate, technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly

assessing and evaluating the effectiveness of such measures adopted by it including those outlined in PPN 02/18.

- **Security Incident** is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Data.
- **Sub-Processor** is a third party (including Associated Company) engaged by the *Contractor* to process Data.
- **Supervisory Authority** is any regulatory, supervisory, governmental or other competent authority with jurisdiction or oversight over the Data Protection Legislation.

- S 227.2 For the purposes of the contract, Data Protection Legislation and this section S 227 only
- the *Client* is the Controller
 - the *Contractor* is the Processor (unless otherwise specified in [Annex L](#)) and
 - this section and [Annex L](#) together constitute a data processing agreement where required by the Data Protection Legislation.
- S 227.3 The *Contractor* processes the Data in accordance with the Data Protection Legislation and only to the extent necessary for the purpose of Providing the Works.
- S 227.4 The *Contractor* complies with the requirements of Procurement Policy Note 02/18 entitled 'Changes to Data Protection Legislation & General Data Protection Regulation' ('**PPN 02/18**') or any later revision ([see link at Annex A](#)) and any related supplementary Procurement Policy Notes in Providing the Works.
- S 227.5 The *Contractor* does not knowingly do anything or permit anything to be done which might lead to a breach of the Data Protection Legislation by either Party.
- S 227.6 The *Contractor* obtains and maintains until Completion all registrations and notifications that it is obliged to obtain and maintain pursuant to the Data Protection Legislation in respect of Providing the Works.
- S 227.7 The *Contractor* only processes Data to the extent it relates to
- the types of Data,
 - the categories of Data Subject and
 - the nature and purpose
- as set out in [Annex L](#) and only for the duration specified in [Annex L](#).
- S 227.8 Without prejudice to paragraph S227.3 the *Contractor* processes the Data only in accordance with the instructions of the *Project Manager*, unless the *Contractor* is required to process Data for other reasons under the laws of the European Union (or a member state of the EEA) to which the *Contractor* is subject. If the *Contractor* is required to process the Data for these other reasons, it informs the *Project Manager* before carrying out the processing, unless prohibited by relevant law.

- S 227.9 The *Contractor* immediately informs the *Project Manager* if it believes that an instruction infringes the Data Protection Legislation or any other applicable law.
- S 227.10 The *Contractor* has in place and maintains in accordance with then good industry practice for as long as it holds any Data taking into account the state of the art, the costs of implementing, the harm that might result from a Data Loss Event and the nature, scope, context and purposes of processing
- appropriate technical and organisational measures to protect the Data against accidental, unauthorised or unlawful processing, destruction, loss, damage, alteration or disclosure and
 - adequate security programmes and procedures to ensure that unauthorised persons do not have access to the Data or to any equipment used to process the Data
- in each case to ensure that the *Contractor's* processing is in accordance with the Data Protection Legislation and protects the rights of Data Subjects.
- S 227.11 The *Contractor* submits details of its Protective Measures to the *Project Manager* for acceptance. A reason for not accepting them is that they are not appropriate to protect against a Data Loss Event.
- Acceptance (or a failure to withhold acceptance) by the *Project Manager* does not amount to approval by the Controller of the adequacy of the Protective Measure.
- S 227.12 The *Contractor* ensures that all persons authorised to process Data are bound by obligations equivalent to those set out in clause Z5 (Confidentiality) and this section S 227 and are aware of the *Contractor* obligations under the contract and the Data Protection Legislation.
- S 227.13 The *Contractor* ensures access to the Data is limited to those persons who need access in order for the *Contractor* to Provide the Works and (in each case) to such parts of the Data as are strictly necessary for performance of that person's duties.
- S 227.14 Where the *Contractor* obtains or collects Personal Data on behalf of the *Client*, the *Contractor*
- provides to Data Subjects a data protection notice in a form agreed (or directed if the *Contractor* and the *Project Manager* do not agree) by the *Project Manager*, informing the Data Subject of the identity of the *Client*, the identify of any data protection representative it may have appointed, the purpose or purposes for which their Personal Data will be processed and any other information which is necessary having regard to the specific circumstances in which the Personal Data is, or is to be, processed to enable processing in respect of the Data Subject to be fair and
 - where applicable, obtains all necessary consents for the processing of Data.

- S 227.15 On request, the *Contractor*, takes all necessary actions and provides the *Project Manager* with all reasonable assistance necessary for the *Client* to comply with a Data Subject Request, including
- the provision of access to, and information relating to, Data,
 - the rectification of inaccurate Data,
 - the permanent erasure of Data,
 - the restriction of processing of Data,
 - the provision of a copy of Data in machine readable format and
 - the transfer of Data to a third party.
- S 227.16 The *Contractor* immediately notifies the *Project Manager* if it receives
- a Data Subject Request (or purported Data Subject Request),
 - a complaint or request relating to the *Client's* obligations under the Data Protection Legislation or
 - a request from any Supervisory Authority for assistance or information, unless provided by relevant law.
- S 227.17 The *Contractor* assists and co-operates with the *Project Manager* in relation to any complaint or request received, including
- providing full details of the complaint or request,
 - complying with the request within the time limits set out in the Data Protection Legislation and in accordance with the instructions of the *Project Manager* and
 - promptly providing the *Client* with any Personal Data and any other information requested by it to enable it to respond to the request.
- S 227.18 The *Contractor* does not process the Data outside the EEA (other than in the United Kingdom) without the agreement of the *Project Manager*. Where the *Project Manager* agrees, the *Contractor*
- provides evidence (acceptable to the *Project Manager*) of appropriate safeguards as required by the Data Protection Legislation and
 - complies with the instructions of the *Project Manager*.
- S 227.19 The *Contractor* complies with the requirements of the *Client* in relation to the storage, dispatch and disposal of Data in any form or medium. Any requirement for the *Contractor* to destroy or delete copies of the Data is subject to any law of the European Union (or a member state of the EEA) to which the *Contractor* is subject that requires Data to be retained.
- S 227.20 The *Contractor* notifies the *Project Manager* within twenty-four (24) hours of becoming aware of a Security Incident or any other breach of this section. The notification includes, as far as possible
- a description of the nature of the Security Incident, including the categories and approximate number of Data Subjects concerned,
 - the likely consequences of the breach and
 - the Protective Measures taken, or to be taken, to address the breach, including measures taken to mitigate any possible adverse effects including those outlined in PPN 02/18.

- S 227.21 In the event of a Security Incident, the *Contractor* provides the *Project Manager* with full co-operation and assistance in dealing with the Security Incident, in particular in notifying individuals affected by the Security Incident or a Supervisory Authority as required by the Data Protection Legislation.
- S 227.22 The *Contractor* promptly provides assistance and information requested by any Supervisory Authority or required by the *Project Manager* in order for the *Client* to ensure compliance with its obligations under the Data Protection Legislation, including in relation to
- security of processing,
 - preparation of any necessary Data Protection Impact Assessments and
 - undertaking any necessary data protection consultations.
- S 227.23 The *Contractor* maintains electronic records of all processing activities carried out on behalf of the *Client*, including
- the information described in paragraph S227.5 of this section,
 - the different types of processing being carried out (if applicable),
 - any transfers of Data outside the EEA or the United Kingdom, identifying the relevant country or international organisations and any documentation required to demonstrate suitable safeguards and
 - a description of the technical and organisation security measures referred to in paragraph S 227.8 of this section.
- The *Contractor* makes these records available to the *Project Manager* promptly on request.
- S 227.24 The *Contractor* does not engage any Sub-Processor without the prior consent of the *Project Manager*.
- S 227.25 Before allowing any Sub-Processor to process any Personal Data related to the contract, the Processor
- notifies the Controller of the intended Sub-Processor and processing,
 - obtains the consent of the Controller,
 - enters into a written agreement with the Sub-Processor which give effect to the terms set out in this section S 227 such that they apply to the Sub-Processor and
 - provides the Controller with such information regarding the Sub-Processor as the Controller may require.
- S 227.26 The Processor remains fully liable for all acts or omissions of any of its Sub-Processors.
- S 227.27 The Controller may, at any time on not less than thirty (30) Working Days' notice, revise this section S 227 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which applies when incorporated by attachment to the contract).
- S 227.28 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than thirty (30) Working Days' notice to the Processor amend the contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

- S 227.29 Each Party designate its own data protection officer if required by the Data Protection Legislation.
- S 227.30 If it is or becomes a requirement that, under the Data Protection Legislation or other applicable laws, this section S 227 is governed by the laws of a member state of the European Union, and the *law of the contract* does not or ceases to satisfy this requirement, this section is governed by and construed in accordance with the laws of Ireland.
- S 227.31 On request the *Contractor* provides to the *Project Manager* all necessary information to demonstrate the *Contractor's* compliance with this section.
- S 227.32 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 228 Information Security and *Client's* data handling requirements

- S 228.1 The *Contractor* complies with the Information Security and *Client's* data handling requirements contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract.

S 229 Discrimination, bullying and harassment

- S 229.1 The *Contractor* does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Discrimination Acts.
- S 229.2 In Providing the Works, the *Contractor* co-operates with and assists the *Client* to satisfy its duty under the Discrimination Acts to
- eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Discrimination Acts,
 - advance equality of opportunity between people who share a protected characteristic and people who do not and
 - foster good relations between people who share a protected characteristic and people who do not.
- S 229.3 Where Staff is required to carry out any activity on the *Client's* premises or alongside the *Client's* employees on any other premises, the *Contractor* ensures that Staff complies with the requirements of the Discrimination Acts and with the *Client's* employment policies and codes of practice relating to discrimination and equal opportunities ([see link at Annex A](#)).
- S 229.4 The *Contractor* notifies the *Project Manager* as soon as it becomes aware of any investigation or proceedings brought against the *Contractor* under the Discrimination Acts in connection with the contract and
- provides any information requested by the investigating body, court or tribunal in the timescale allotted,
 - attends (and permits a representative from the *Client* to attend) any associated meetings,
 - promptly allows access to any relevant documents and information and
 - co-operates fully and promptly with the investigatory body, court or tribunal.

- S 229.5 The *Contractor*
- complies with all applicable human rights and employment laws in the jurisdictions in which they work,
 - ensures it has a robust means of ensuring that the subcontractors (at any stage of remoteness) also comply and
 - complies with the provisions of the Modern Slavery Act 2015 including the production of an annual transparency statement which sets out the steps the *Contractor* has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains or any part of its business.
- S 229.6 The *Contractor* carries out an annual audit to monitor its compliance with the Modern Slavery Act. The *Contractor* prepares and delivers to the *Client* no later than 31st March each year, an annual slavery and human trafficking report containing the audit and setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.
- S 229.7 The *Contractor* ensures that any subcontract (at any stage of remoteness from the *Client*) contains provisions to the same effect as this section.
- S 229.8 The *Contractor* complies (and ensures that any subcontractor (at any stage of remoteness from the *Client*) complies) with the *Client*'s policies relating to bullying and harassment. If the *Project Manager* considers that the presence or conduct of any of the Staff at any location relevant to the performance of the Works is undesirable or in breach of the *Client*'s policies, the *Project Manager* instructs the *Contractor* to implement corrective action.
- S 229.9 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 230 Protection of the *works*

- S 230.1 The *Contractor* protects the *works*, as a minimum in accordance with the Security Management Plan (S 216).

S 235 Cleanliness of roads

- S 235.1 The *Contractor* protects and cleans roads and access roads to the Site and Working Areas in accordance with clause 127AR of Volume 3 (Specification Appendices) of the contract.

S 240 Temporary Traffic management

- S 240.1 The *Contractor* implements temporary traffic management measures in accordance with the DCO and Appendix 1/17 of Volume 3 (Specification Appendices) of the contract.

S 245 Condition survey

- S 245.1 The *Contractor* carries out appraisals, surveys and risk assessments of the effects the design and construction of the *works* (temporary and permanent) may have on the structural integrity of adjacent roads, buildings, structures and the like. This includes any survey works to inform the design development which has the potential to affect fields, access roads and the like.
- S 245.2 As a minimum requirement, such roads, buildings, structures, fields, access roads and the like require surveys to determine their condition before and after the *works* are complete.
- S 245.3 The *Contractor* does not enter land or property, or contact the land or property owner, without prior agreement of the *Project Manager*. The *Contractor* has no authority to commit the *Client* to any payment for land/property entry. The *Contractor* coordinates all access requirements, and submits the survey scope, methods, etc. for acceptance by the *Project Manager*.
- S 245.4 Unless otherwise agreed with the *Project Manager*, the *Contractor* records, all survey arrangements and submits a copy of this correspondence to the *Project Manager*, no later than forty-eight (48) hours prior to taking access.
- S 245.5 The *Contractor* undertakes structural appraisals of existing structures, including condition surveys, in accordance with Volume 2 Part 2 (Design and Technical Requirements) of the contract.

S 250 Considerate Constructors Scheme

- S 250.1 The *Contractor*
- registers the site, as an Ultra Site under the Considerate Constructors Scheme (CCS) prior to the *access date* for *section 1*,
 - maintains the Ultra Site standard in accordance with the CCS's code of considerate practice for the duration of the *works*,
 - notifies the *Project Manager* of CCS site visits and advisory meetings and
 - submits copies of all reports and compliance certificates to the *Project Manager*.

S 251 Customer

- S 251.1 The customer is any person or organisation that uses or is affected by the *works*, including
- road users,
 - communities and community groups,
 - tenants and persons and organisations that lease from the *Client* and
 - the public who use the *works*.
- S 251.2 Within twelve (12) weeks after the *starting date*, the *Contractor* submits to the *Project Manager* for acceptance a customer delivery plan which demonstrates how the requirements of the A303 customer plan ([see link at Annex A](#)) will be achieved.

- S 251.2A The *Contractor* identifies to the *Project Manager* a named person responsible for the delivery of the customer delivery plan.
- S 251.3 A reason for not accepting the customer delivery plan is that it does not demonstrate how the requirements of the A303 customer plan will be achieved.
- S 251.4 The *Client* has published an overarching Customer Service Strategic Plan ([see link at Annex A](#)), which sets out the approach to improving works and services provided to its customers. The *Contractor* collaborates with the *Client* to support the successful delivery of this strategy through the delivery of the accepted customer delivery plan.
- S 251.5 The *Contractor* notifies the *Project Manager* of any customer service issues and provides support in the mitigation of any negative consequences that could affect the delivery of the works or services or achievement of the aims and objectives in the Customer Service Strategic Plan.
- S 251.6 The *Contractor* complies with the requirements contained in Volume 2 Part 7 (Communications, Stakeholder and Community Engagement Requirements) of the contract regarding correspondence and complaints.
- S 251.7 The *Contractor* complies with Customer Service Standards ([see link at Annex A](#)) current at the *tender date* in Providing the Works.

S 252 Customer Focus

- S 252.1 The *Contractor* embeds throughout its Staff an understanding of the *Client's* imperatives, values, culture, strategy, objectives and customer focus. This will include education and assessment through the following
- onboarding and inductions,
 - performance reviews,
 - project meetings and
 - delivery of learning and development opportunity including any *Client* provided e-learning.
- S 252.2 Within twelve (12) weeks of the *starting date*, the *Contractor* develops a customer liaison process and embeds it in place for any liaising with customers whom Staff come into direct contact with.
- S 252.3 The *Contractor* ensures that
- any Staff with a customer-facing role receives customer service training and
 - all Staff are aware of the *Contractor's* process for dealing with customers.

S 253 People Strategy

EDI

- S 253.1 The *Contractor* assists the *Client* in the achievement of its equality, diversity and inclusion (EDI) objectives. The *Client*'s objective is to embed principles of equality, diversity and inclusion into all areas of its business, driving real change in how it works with its customers and communities, its supply chain and its employees. The *Contractor* assists the *Client* in working collaboratively with its partners so that its workplaces are inclusive and the strategic road network is accessible and integrated for both its users and communities affected by works to the strategic road network.
- S 253.2 Within three months of the *starting date*, the *Contractor* submits an Inclusion Action Plan (IAP) in accordance with [Annex G](#) to demonstrate how it develops an iterative approach to supporting the *Client* in meeting its equality, diversity and inclusion objectives through the life of the contract to the *Project Manager* for acceptance.
- S 253.3 A reason for the *Project Manager* not accepting the IAP is that
- it does not demonstrate how the requirements pass down to subcontractors (at any stage of remoteness from the *Client*),
 - it does not meet or evidence how the *Contractor*
 - ensures the working culture, practice and environment is inclusive,
 - supports the *Client* in meeting its responsibilities as signatories of the Armed Forces Covenant ([see link at Annex A](#)) and the Care Leavers Covenant ([see link at Annex A](#)),
 - addresses the needs of Staff with caring responsibilities,
 - considers and understands the diverse needs of customers and neighbouring communities,
 - holds itself and subcontractors (at any stage of remoteness from the *Client*) to account in delivering the plan and
 - monitors and evidences year on year improvements or
 - it does not meet the aims of the equality duties contained within the Discrimination Acts and set out in section S 229 (Discrimination, bullying and harassment) above.
- S 253.4 The *Contractor* amends the IAP in response to any comments from the *Project Manager* and resubmits it for acceptance by the *Project Manager*. The *Contractor* complies with the IAP once it has been accepted.

- S 253.5 The IAP includes the following requirements
- where an applicant indicates that they are a military or care leaver, if they meet the requirements of the job description, they receive a guaranteed interview, limited to five (5) guaranteed interview slots for any role available, with the applicants with the strongest match to the job requirements receiving the slots, or if all are equal, on a first come first served basis, based on date of the submission of their application,
 - for jobs or training with good transferability from military contexts, opportunities are
 - developed with military recruitment bodies (e.g. Career Transition Partnership (CTP), careers fairs etc),
 - advertised in a way that makes them suitable for military candidates (e.g. 'or equivalent' for qualifications, or 'relevant and transferrable skills and experience also accepted') and
 - the scheme Should actively promote the employment of reservists and
 - for jobs or training with good alignment with the needs of military partners or dependents, opportunities are
 - shared with military communities, for example, using garrison 'newsletter' or careers fairs and 'forces friendly' recruitment organisations,
 - advertised in a way that makes them suitable for military partners (e.g. 'or equivalent' for qualifications, or 'relevant and transferrable skills and experience also accepted') and
 - the scheme Should actively promote the employment of military partners and dependents.
- S 253.6 The IAP names an individual from the *Contractor* to act as the EDI lead to
- be responsible for ensuring the implementation and on-going development of the IAP,
 - ensure quarterly reports and information are provided as required,
 - facilitate continuous improvement reviews and
 - act as a single point of contact on all matters concerning EDI.
- S 253.6A The *Contractor* proposes to the *Project Manager* for acceptance reporting metrics for the IAP. The reporting metrics are
- to reflect
 - national metrics,
 - the *Client's* standard reporting metrics and
 - additional metrics targeted at the specific aims of the IAP.
- A reason for not accepting the reporting metrics is that

- it does not reflect
 - national metrics or
 - the *Client's* standard reporting metrics or
 - it does not include reporting metrics targeted at all the specific aims of the IAP.
- S 253.7 Each quarter, the *Contractor* provides the *Project Manager* with a report of progress against the IAP including reporting metrics.
- S 253.8 The *Contractor* demonstrates how it develops inclusive recruitment capability, including how the *Contractor*
- ensures a consistent approach and application by any Consortium Members,
 - proposes to review attraction and recruitment policies and procedures
 - ensure the eradication of practices that are discriminatory,
 - do not create unfair conditions of employment or
 - do not create unequal rates of pay that cannot be justified,
 - proposes to identify and remove existing and potential barriers, as outlined in 'Recruiting for Success' ([see link at Annex A](#)), which result in disproportionate impacts at different stages of the recruitment process (job design, role descriptions, job adverts, application, shortlisting, interview and hire) whether by the *Contractor* or its supply chain (including recruitment/labour agencies),
 - proposes to deliver inclusive recruitment and train Staff with hiring responsibilities in order to implement the inclusive recruitment policies, including, for example, with regard to the transferability of skills across different sectors,
 - proposes to engage in outreach activity and publicise vacancies to encourage applicants from a diverse range of groups. This includes how the *Contractor* analyses the local demographic and works with relevant partners to ensure that employment opportunities contribute as effectively as possible to local economic growth and that the workforce used to Provide the Works becomes increasingly reflective of the diverse communities served by the works. It also includes how the *Contractor* promotes careers in the construction industry specifically with under-represented groups,
 - proposes to quantitatively and qualitatively monitor and report on the effectiveness of its attraction, recruitment and promotion activity by protected characteristics,
 - proposes to gain external verification from a recognised inclusive recruitment specialist of the inclusiveness of its recruitment practice,
 - proposes to review and support each of its subcontractors (at any stage of remoteness from the *Client*) to adopt and implement an inclusive attraction and recruitment policy and action plan in respect of its respective workforces engaged in the performance of the contract and
 - collaborates with the *Client* and other suppliers to effectively share good practice, learn and improve efficiency and performance in attracting and recruiting a workforce that reflects the diverse communities served by the works.

Employment and skills

- S 253.8A From the *starting date* until Completion the *Contractor* identifies
- the skills needed to Provide the Works,
 - the scope for meeting those skills needed by the development of apprentices,
 - retains any apprentices for the full period of their apprenticeship unless agreed otherwise with the *Project Manager* and
 - takes reasonable steps to retain those apprentices on the works after completion of their apprenticeship unless agreed otherwise with the *Project Manager*.
- S 253.9 The *Contractor* assists the *Client* in the achievement of the *Client's* requirements and objectives for skills and training, including
- the Transport and Infrastructure Skills Strategy (TISS),
 - Construction Industry Training Board (CITB),
 - National Skills Academy for Construction (NSAfc),
 - apprentices and trainees,
 - graduates,
 - undergraduate and post-graduate academic placements and
 - Overcoming Barriers to Employment.
- S 253.10 Within three months of the *starting date* the *Contractor* submits an Employment and Skills Plan (ESP) to the *Project Manager* for acceptance.
- S 253.10A If any conflict exists between the CITB guidance and the *Client's* guidance, the *Contractor* uses the *Client's* guidance in the development of its ESP unless agreed otherwise with the *Project Manager*.
- S 253.11 A reason for the *Project Manager* not accepting the ESP is that
- it does not comply with the Scope,
 - it does not contain sufficient detail for the *Project Manager* to understand the *Contractor* proposals,
 - it does not demonstrate how the *Contractor* addresses supply and demand capacity and capability needed to Provide the Works for each of the Contract Years,
 - it does not demonstrate how the requirements pass down to and are included in to subcontracts (at any stage of remoteness from the *Client*) or
 - it does not meet or evidence how the *Contractor*
 - assists the *Client* in the achievement of its requirements and objectives for skills and training in the Scope,
 - meets the minimum requirements as outlined in S 253.13,
 - aims to achieve the stretch targets as outlined in S 253.13,
 - complies with guidance from the *Client* or from the CITB,
 - addresses any conflict exists between the CITB guidance in accordance with the Scope,
 - obtains and maintains suitable accreditations including for Staff,
 - implements the ESP or
 - monitors the ESP.

S 253.12 The *Contractor* amends the ESP in response to any comments from the *Project Manager* and resubmits it for acceptance by the *Project Manager*.

S 253.12A The *Contractor*

- complies with the ESP once it has been accepted and
- updates it on each anniversary of the *starting date* and submits it to the *Project Manager* for acceptance.

S 253.12B The ESP nominates an individual as employment and skills lead to

- be responsible for ensuring the implementation and on-going development of the ESP,
- ensure quarterly reports and information are provided as required,
- facilitate continuous improvement reviews and
- act as a single point of contact on all matters concerning employment and skills for the *works*.

S 253.12C The structure and contents of the ESP are as stated in the below sections (S 253.15 – S 253.20).

Minimum Requirements and Stretch Targets

S 253.12D The *Contractor* ensures that each subcontract (at any stage of remoteness from the *Client*) identifies the Defined Cost of Staff calculated in accordance with section 1 people of the Schedule of Cost Components. The *Contractor* reports to the *Project Manager* at each assessment date

- the actual Defined Cost of Staff (calculated in accordance with section 1 of the Schedule of Cost Components) for people costs incurred up to the previous assessment date and
- the forecast Defined Cost of Staff (calculated in accordance with section 1 of the Schedule of Cost Components) for people costs incurred up to current assessment date.

- S 253.13 The ESP includes details of how the *Contractor* meets the minimum requirements and aims to achieve the stretch targets shown in Table 1 (*Minimum requirement and stretch targets*) below.

Table 1: Minimum requirement and stretch targets

	minimum requirement	stretch target
total National Skills Academy 'basket' approach headcount	1 per £2m of the Defined Cost of people for all Staff ¹	1 per £4m of the total of the Prices
of which, apprentices	1 per £3m of the Defined Cost of people for all Staff ¹	1 per £2m of the Defined Cost of people for all Staff ¹
educational/career engagement	25 units (1 unit = 10 events / workshops / presentations)	
work placements	36 units in total	
targeted placements	30 units in total	
training weeks	120 weeks/year	200 weeks/year
qualifications achieved	115 in total	
Note: ¹ in accordance with paragraph S 253.12D		

Definitions

S 253.14

• Apprenticeships

- apprenticeship start is
 - a new member of Staff of the *Contractor* and its subcontractors (at any stage of remoteness from the *Client*) throughout the tiers recruited as an apprentice into the workforce and enrolled on an accepted apprenticeship standard relevant to the delivery of the works.
- existing apprenticeship is
 - an existing member of Staff who is enrolled onto an accepted apprenticeship standard in order to up skill the workforce.

Table 2: Description of apprenticeship levels

Apprenticeship type	National qualification level	National qualification equivalent	Higher education equivalent
	Entry	Entry level certificate	
	1	GCSE (grade D to G)	
Intermediate	2	GCSE (A* to C)	
Advanced	3	AS and A level NVQ level 3	
Higher	4	Certificate of Higher Education NVQ level 4	Certificate of Higher Education Higher National certificate
	5	Higher National Diploma NVQ Level 4	Higher National Diploma Foundation degree
	6	NVQ level 4	Bachelor's Degree
	7	Postgraduate Diploma NVQ Level 5	Master's degree
	8	NVQ level 5	PhD

• Educational / Career Support

- work placement position is
 - a position intended to enable an individual to learn, develop or enhance their knowledge and skills in an industry or job role by providing a short work experience placement and
 - for work placements defined as one (1) unit equals
 - ten (10) consecutive Working Days for one (1) individual or five (5) consecutive Working Days for two (2) individuals or
 - ten (10) non-consecutive Working Days for one (1) individual or five (5) non-consecutive Working Days for two (2) individuals

with work placement positions being part of a day release programme

unless otherwise agreed with the *Project Manager*.

- targeted work placement position is
 - a position intended to enable an individual to learn, develop or enhance their knowledge and skills in an industry or job role by providing a short work experience placement. This specifically targets individuals that can be identified in the definition of improving social mobility, and individuals who are underrepresented in the sector, including women, people with a disability, people from a BAME background and Worklessness,
 - a position that develops or enhances their knowledge and skills. A placement position could be paid or unpaid.
 - a placement that could, for example, be provided as part of the 'Overcoming Barriers to Employment' programme and
 - for targeted work placements defined as one (1) unit equals
 - five (5) consecutive Working Days for one (1) individual or
 - five (5) non-consecutive Working Days for one (1) individual with work placement positions being part of a day release programme

unless otherwise agreed with the *Project Manager*.

- professional status attainment is
 - the number of individuals supported to attain professional registration and status in agreed critical skills shortage disciplines at no cost to the individual. This includes registration at technician, incorporated and chartered levels.
- school engagement is
 - education activities that enhance the reputation of the sector and support schools and school students by raising awareness of and interest in the educational and employment opportunities in the industry.

- **Job creation**

- a new job start for an individual recruited as a result of the contract. This could include a graduate job start (non workless).

- **NSA Basket Approach**

- the *Contractor* meets the minimum requirements and aims for the stretch targets as specified in the Table 1 (*Minimum requirement and stretch targets*) in paragraph S 253.13. The NSA basket requirement can be met through a combination of apprentices, trainees, undergraduates, graduates and post-graduates as long as they are on

a suitably accredited scheme, and the position was created as part of the scheme. For example

- an apprenticeship in HGV driving,
- a traineeship in customer service,
- an undergraduate sandwich year in civil engineering,
- a graduate on an IStructE training programme or
- a post-graduate ecology field placement.

- **Qualification received**

- the number of individuals supported to attain technical or occupational skills relevant to the delivery of the works at no cost to the individual. This includes NVQs, Health and Safety qualifications and leadership qualifications.

- **Traineeships**

- a traineeship is a course that includes a work placement. It can last from six (6) weeks up to six (6) months.
 - Traineeships help 16 to 24 year olds - or 25 year olds with an education, health and care (EHC) plan - get ready for an apprenticeship or job if they don't have the appropriate skills or experience.
- <https://www.gov.uk/guidance/traineeship-information-for-employers>

- **Worklessness**

- workless job start (26 weeks sustained) is
 - a new job start, sustained for at least 26 weeks, where the candidate was previously workless prior to being employed.
 - workless graduate job start is
 - a graduate job start where the candidate was previously workless.

Content of Employment and Skills Plan

S 253.15 The ESP includes the following requirements

- accreditation as a National Skills Academy for Construction within 6 months of the starting date (unless agreed otherwise with the *Project Manager*),
- consideration of a sustainable legacy of skills, balancing the project needs and the requirements of the SWLEPs Industrial Strategy,
- a viable and sustainable apprenticeship programme, which includes
 - opportunities for local people,
 - suitable apprenticeship accreditation,
 - a clear plan for identifying local apprentices,
 - a clear strategy for ensuring apprenticeship completions and
 - a clear strategy for delivering a programme with higher numbers of starters and completers than the minimum requirement and
- a viable and sustainable 'Overcoming Barriers to Employment' programme, which includes an intensive programme for a small number of individuals, working in partnership with other bodies such as Wiltshire Council, the Probation Service and the Princes Trust, providing a holistic package of overcoming more significant barriers to employment and

engagement in wider society (for example, ex-offenders, long-term unemployed, physical, mental or learning disabilities).

- S 253.16 The ESP comprises at least four sections, including
- section i - workforce planning and development data,
 - section ii - methodology including a statement of outputs,
 - section iii - implementation plan and
 - section iv - monitoring and management plan.
- S 253.17 Section i (workforce planning and development data) of the ESP includes as a minimum, analysis and reports on workforce planning and development data for Providing the Works at a time and on a template issued by the *Project Manager*. This analysis includes as a minimum
- an assessment of supply and demand capacity and capability needed to Provide the Works,
 - a forecast of annual gaps in capacity and capability for the duration of the works, with quarterly updates and identification of those gaps that are critical using the occupational descriptors ([see link at Annex A](#)),
 - a baseline workforce diversity profile,
 - an assessment of market intelligence and
 - preferred employment and skills solutions to address capacity and skills gaps.
- S 253.18 Section ii (methodology including a statement of outputs) of the ESP includes
- how the commitments in the Quality Statement will be delivered and built on and
 - how the subcontractors (at any stage of remoteness from the *Client*) have been engaged in the development and their support secured for subsequent delivery of the plan.
- S 253.19 Section iii (implementation plan) of the ESP includes
- what actions the *Contractor* plans to take to deliver on the objectives,
 - what the milestones are to complete these actions,
 - when these milestones will be delivered,
 - what outputs and outcomes it expects to achieve,
 - who is responsible for delivering each action and
 - the production of annual implementation plans, to be revised, reviewed and submitted to the *Client* for approval in the anniversary month of the start of works in each year.
- S 253.20 Section iv (monitoring and management plan) of the ESP includes
- how compliance will be supported, managed and monitored throughout the *Contractor* and its subcontractors (at any stage of remoteness from the *Client*),
 - how appropriate accreditations will be obtained and maintained, ensuring that its subcontractors (at any stage of remoteness from the *Client*)

- maintain and retain records relating to the employment and skills plan and their compliance with the contract,
- how the effectiveness of the ESP will be evaluated, lessons learned, captured and shared to improve employment and skills practice across the *Contractor* for the contract and for future contracts and
- how remedial steps will be identified and implemented if it becomes clear that the *Contractor* is not on track to meet the minimum requirements.

Reporting

- S 253.21 The *Contractor* within 30 days of, and on each anniversary of, the starting date submits an annual report and proposal for acceptance by the *Project Manager*
- recording progress against all the measures contained in the ESP,
 - recording the skills identified under paragraph S 253.17 above and how any shortfall in staff skills within the *Contractor* or any subcontractor (at any stage of remoteness from the *Client*) is met,
 - recording the skills to be developed by apprentices and how that development is achieved,
 - identifying the retention rate for and training delivered to, existing apprentices and
 - identifying the number and type of new apprenticeships to be commenced in the first or next Contract Year having regard to
 - Transport Infrastructure Skills Strategy: building sustainable skills ([see link at Annex A](#)),
 - the *Client*'s guidance on the types of apprenticeships for projects and
 - together with the planned start and completion dates of any proposed apprenticeships.
- S 253.22 The reporting includes
- the *Contractor*'s direct and indirect employees,
 - subcontractors' employees (at any stage of remoteness from the *Client*),
 - agency staff and
 - workers who are engaged in Providing the Works for more than four (4) days in any month of the Contract Year.
- S 253.22A A reason for not accepting the annual report and proposal is that it does not demonstrate how the *Contractor*
- complies with the Scope,
 - complies with any guidance issued by the *Client*,
 - supports the aims of the Transport Infrastructure Skills Strategy: building sustainable skills or
 - will successfully address any shortfall in staff skills within the *Contractor* or any subcontractor (at any stage of remoteness from the *Client*).
- S 253.22B The *Contractor* amends the annual report and proposal in response to any comments from the *Project Manager* and resubmits it for acceptance by the *Project Manager*. The *Contractor* complies with the annual report and proposal once it has been accepted.

- S 253.22C The *Contractor* ensures that the *Project Manager* is able to identify all apprentices individually appointed under the requirements of the contract and provides a rolling three-month monitoring report to the *Project Manager* within five (5) Working Days of the start of each calendar month detailing performance against the annual proposal in respect of each apprentice appointed or proposed to be appointed under the contract but who has not completed the apprenticeship, including
- number of apprenticeships to be started that month,
 - actual and planned start dates for existing and proposed apprenticeships,
 - postcode of workplace,
 - postcode of home address,
 - gender,
 - ethnicity,
 - level of apprenticeship (1 – 8) in accordance with Table 2 (*Description of apprenticeship levels*),
 - apprenticeship framework or standard,
 - occupation of apprenticeship (reported against the standard occupation classification (SOC) codes,
 - category of apprenticeship,
 - planned apprenticeship finish date,
 - whether the apprentice is still engaged on Providing the Works,
 - national insurance number,
 - the total number of apprentices that have been appointed in compliance with the contract and the total number of apprentices that are engaged in Providing the Works,
 - the total number of apprentices that have been appointed in compliance with the contract but are no longer engaged in Providing the Works and
 - the total number of apprentices that have been appointed in compliance with the contract but are no longer employed by the Contractor or a subcontractor (at any stage of remoteness from the Client).
- S 253.22D The *Contractor* provides a rolling three month monitoring report to the *Project Manager* within five (5) Working Days of the start of each calendar month detailing performance in respect of the following for each apprentice appointed under this contract who has completed the apprenticeship including
- postcode of workplace,
 - postcode of home address,
 - gender,
 - ethnicity,
 - level of apprenticeship (1 – 8) in accordance with Table 2 (*Description of apprenticeship levels*),
 - category of apprenticeship,
 - apprenticeship start date,
 - apprenticeship completion date,
 - whether the apprentice is still engaged in Providing the Works and
 - national insurance number.

- S 253.22E The *Contractor* completes and submits to the *Project Manager* within five (5) Working Days of the start of each calendar month the BEIS apprenticeship data collection form.
- S 253.22F From the *starting date*, the *Contractor* reports to the *Project Manager* at the end of each three (3) months the number of work placement positions and targeted work placement positions placed with UK residents and non-UK residents.
- S 253.23 The *Contractor* facilitates the *Project Manager* in undertaking continuous improvement reviews of any and all information regarding the *Contractor's* progress in delivering against the provisions of employment and skills requirements including
- granting or procuring the grant of access to any premises used by the *Contractor's* in Providing the Works whether the *Contractor's* own premises or otherwise,
 - equipment (including all computer hardware and software databases) used (whether exclusively or non-exclusively) in Providing the Works, wherever situated and whether the *Contractor's* own equipment or otherwise and
 - complying with the *Project Manager's* requests for access to senior personnel engaged in Providing the Works.

S 255 Project Control Framework

- S 255.1 The *Client* operates a Project Control Framework (PCF) ([see link at Annex A](#)) as part of its project management process. The PCF comprises a number of products relating to the life cycle of a project. These PCF products are produced, reviewed, updated or refined at various PCF stages of the project life cycle.
- S 255.2 In accordance with the A303 PCF product matrix ([see link at Annex A](#)), the *Contractor*
- produces, reviews, updates or refines the PCF products assigned to the *Contractor* and submits for *Project Manager* acceptance within the dates stated and
 - contributes to the PCF products owned by the *Client*.
- S 255.3 A reason for the *Project Manager* not accepting any PCF product produced, reviewed, updated or refined by the *Contractor* is that it does not comply with the Scope.
- S 255.4 PCF deliverables are developed in accordance with the current version of "The Project Control Framework Best Practice Planning and Consultation Process" ([see link at Annex A](#)). The *Contractor* ensures the product is proportional and meets the content and quality criteria specified in "The Project Control Framework Best Practice Planning and Consultation Process" guidance document prior to issue for review. The *Contractor* engages with the appropriate product owner/specialists in line with the "The Project Control Framework Best Practice Planning and Consultation Process".

- S 255.5 The *Contractor* liaises with the *Project Manager* to ensure that appropriate staff receive mandatory PCF training.
- S 255.6 The *Contractor* produces and manages a Project Control Framework tracker for the Project Control Framework deliverables. The tracker will be submitted to the *Project Manager* at intervals to be agreed with the *Project Manager*. The tracker will as a minimum detail: start date, finish date, and percentage complete against each Project Control Framework stage.
- S 255.7 The *Contractor* provides supporting information and resources, as required, to assist the *Project Manager* and *Client* with the relevant PCF Stage Gate Assessment Reviews (SGARs) and Investment Decision Committee (IDC) processes for the contract.

S 260 Control of works

- S 260.1 The *Contractor* obtains all necessary licences and permits required to Provide the Works.

S 265 Site cleanliness

- S 265.1 The *Contractor* maintains the Site and Working Areas in accordance with industry best practice.

S 270 Waste materials

- S 270.1 The *Contractor* manages waste materials in accordance with Appendix 1/1 of Volume 3 (Specification Appendices) of the contract.
- S 270.2 The *Contractor* manages waste materials in accordance with the Site Waste Management Plan.

S 275 Plant and Materials

- S 275.1 The *Contractor* removes excess or condemned Plant and Materials from the Working Areas if agreed with the *Project Manager*.

S 285 Category Management (CM)

- S 285.1 Where agreed with the *Project Manager*, the *Contractor* uses the *Client's* existing category management contracts, and any new category management contracts awarded during the term of the contract, to Provide the Works. If required by the *Project Manager*, the *Contractor* enters into a confidentiality agreement in relation to the operation of the category management contracts.
- S 285.2 Where agreed, the *Contractor* enters into a contract with a Category Supplier pursuant to a Category Purchase Agreement for the purchase of materials, works or services needed to Provide the Works where a Category Purchase Agreement exists.
- S 285.3 The conditions of contract between the *Contractor* and a Category Supplier are those set out in the Category Purchase Agreement and the *Contractor* does not change them unless the *Client* (via the *Project Manager*) agrees.

- S 285.4 The *Contractor* liaises with the *Project Manager* to identify and plan a programme that allows a Category Supplier's procurement and associated governance procedures to be incorporated within the Accepted Programme.
- S 285.5 The *Contractor* manages the process for entering into a contract with a Category Supplier in accordance with the category management guidance (see [Annex H & I](#)) - for the relevant Category Purchase Agreement.
- S 285.6 The *Contractor* provides full visibility to the *Project Manager* of the process for entering into a contract with a Category Supplier.
- S 285.7 The *Contractor* co-operates with the *Project Manager* and Others (any other suppliers who enter into contracts with a Category Supplier) in forecasting demand for materials, works or services related to a Category Purchase Agreement.
- S 285.8 The *Contractor* remains responsible for Providing the Works and for the quality of any materials, works or services supplied by a Category Supplier as if it had supplied them itself.
- S 285.9 The *Contractor* ensures that a subcontractor enters into a contract with a Category Supplier pursuant to a Category Purchase Agreement for the purchase of materials, works or services needed to Provide the Works.
- S 285.10 The *Contractor* ensures that the conditions of contract between the Subcontractor and the Category Supplier are those set out in the Category Purchase Agreement and that the Subcontractor does not change them unless the *Client* agrees.
- S 285.11 The *Contractor* provides feedback and advice to the *Client* to help maximise the value for money obtained from the *Client's* category management contracts and processes.
- S 285.12 The list of categories is contained in CM framework information (see [link at Annex A](#)).
- S 285.13 Technology equipment in scope of the Category Purchase Agreement can be found within the latest published revision of the Major Projects Instruction "Procurement of Roadside Technology" (refer to S 2705).
- S 285.14 Not Used.

S 290 Scheme recovery services

- S 290.1 The *Contractor* undertakes scheme recovery services in accordance with Volume 2 Part 3 (Maintenance and Operation Requirements during Construction) of the contract.

S 295 Behaviours

- S 295.1 The *Client* has identified 6 key areas to drive integrated working that aligned with the IBIP programme ([see link at Annex A](#)).
- decision making,
“We share information, openly and willingly, involve the right people in decisions, and take decisions in an effective, timely manner”.
 - accountability,
“We ensure commitments are clearly agreed and kept, and people hold themselves and others to account”.
 - constructive challenge,
“We are open to challenge and different ideas and speak our own minds even in difficult situations”.
 - communication and engagement,
“We communicate with each other in the best possible way to ensure understanding and engender commitment to deliver on our purpose”.
 - trust and respect and
“We recognise and encourage the contribution of others. We act with integrity in everything we do. We say what we do and we do what we say”.
 - improvement and innovation
“We challenge the status quo to find better ways of working and create an environment which allows this to happen without fear of failure”.
- S 295.2 The *Contractor* provides a Behaviour Maturity Plan (BMP) within 12 weeks of the *starting date* for acceptance by the *Project Manager*.
- The BMP provides details on how the *Contractor* will identify and embed positive behaviours across the project including
- the *Contractor's* approach to align itself with the 6 key areas stated in S 295.1,

- the *Contractor's* tools and techniques that will be used to identify, encourage and embed appropriate behaviours including
 - behaviour assessments,
 - personal profiling and
 - incorporation of behaviours into onboarding processes,
 - an outline plan of activities proposed during the Mobilisation Phase to
 - embed the behaviours in advance of notice to proceed and
 - demonstrate continuity of behaviours from the Mobilisation Phase into the Construction Phase and
 - an outline plan of activities proposed during the first 6 months of the Construction Phase.
- S 295.3 The *Contractor* submits the Behaviour Maturity Plan for acceptance of the *Project Manager*. A reason for not accepting the plan is that it does not provide details on all the approaches, tools and techniques to be implemented by the *Contractor*.
- S 295.4 Once the BMP is accepted by the *Project Manager*, the *Contractor*
- complies with the BMP and
 - keeps the BMP under review to ensure it is effective.
- S 295.5 As a minimum, on each anniversary of the *starting date*, the *Contractor* reviews and updates the BMP. The *Contractor* submits the updated BMP within 3 weeks of the relevant anniversary of the *starting date* to the *Project Manager* for acceptance.

S 296 Strategic Alignment

- S 296.1 In Providing the Works the *Contractor* develops and maintains strategic alignment with the *Client*, complying with the *Client's* strategic alignment assessment process. The current strategic alignment assessment process is StART 3 (see link at Annex A) addressing the six StART principles of
- leadership and collaboration,
 - health, safety and wellbeing,
 - supply chain,
 - efficiency and effectiveness,
 - equality, diversity and inclusion and
 - sustainability.
- S 296.2 Unless a StART 3 score has already been obtained, the *Contractor* (or, where the *Contractor* is an unincorporated joint venture, any Consortium Member) co-operates with the *Client* to enable the completion of the *Client's* strategic alignment assessment process within 6 months of the *starting date*.
- S 296.3 The *Contractor* embeds the strategic alignment principles into
- all subcontracts (at any stage of remoteness from the *Client*) unless agreed otherwise by the *Project Manager* and
 - relevant processes and procedures.

- S 296.4 The *Contractor*, in collaboration with the *Client*, prepares and submits a StART development plan to the *Project Manager* within 12 weeks of the *starting date* for acceptance.
- Where completion of the *Client's* strategic alignment assessment process is required in accordance with S 296.2, the *Contractor*, in collaboration with the *Client*, prepares and submits a StART development plan to the *Project Manager* within 8 weeks of completion of their strategic alignment assessment.
- S 296.5 A reason for not accepting the StART development plan is that it does not demonstrate how the *Contractor*
- supports the principles,
 - understands how the principles apply or
 - maximises the value added by the principles.
- S 296.6 The *Contractor* implements, operates and delivers the StART development plan once accepted by the *Project Manager*.
- S 296.7 As a minimum, on each anniversary of the *starting date*, the *Contractor* reviews and updates the StART development plan. The *Contractor* submits the updated StART development plan within 3 weeks of the relevant anniversary of the *starting date* to the *Project Manager* for acceptance.

S 297 Investigation, removal or disposal of any object of value or of historical or other interest

- S 297.1 The *Contractor* allows
- *Client* staff,
 - the Archaeologists and
 - Others
- nominated by the *Project Manager* to enter the Site and Working Areas for the purposes of investigation, removal or disposal of any object of value or of historical or other interest.
- S 297.2 The *Contractor* complies with additional heritage requirements as contained in Volume 2 Part 2 (Design and Technical Requirements) of the contract.

S 298 Access to the Site and Working Areas for the Archaeologists

- S 298.1 The *Contractor* complies with section 3 (Archaeology) of Volume 2 Part 2 (Design and Technical Requirements) of the contract for requirements in relation to access to the Site and Working Areas for the Archaeologists'.

S 299 Novation of the Contract to a replacement contractor

- S 299.1 If agreed by the *Client*, when the *Contractor* wishes to novate the contract to another contractor, it executes a novation agreement in the form specified in the Scope (or such other form as the *Client* may reasonably require).

S300 Contractor's Design

S 305 Design responsibility

- S 305.1 The *Contractor* designs all permanent and temporary works required to Provide the Works.
- S 305.2 The design includes all PCF products, plans and other deliverables stated in the Scope.

S 306 Mobilisation Phase design Deliverables

- S 306.1 Mobilisation Phase design Deliverables are those Deliverables which are required to be delivered by the *Contractor*, including any agreement or acceptance, within the Mobilisation Phase in order to satisfy clause Z118.
- S 306.1A For Mobilisation Phase design Deliverables, achieving the “accepted” or “accepted with comments” status, as indicated in Volume 2 Part 9 (Review and Certification) satisfies clause Z118.
- S 306.2 Mobilisation Phase design Deliverables are
- identified in Volume 2 Part 9 (Review and Certification),
 - Category 4 Design Packages, for those parts of the permanent and temporary works to be commenced in the first 12 months after the issue of the notice to proceed to the Construction Phase,
 - any other Structures AIP's and Geotechnical Reports required to Provide the Works,
 - the highway finished road level geometry,
 - the Stonehenge Tunnel structural of the main bores and structural elements of the cross passages and
 - all Stage 5 PCF Products owned by the *Contractor* as listed in the A303 PCF Product Matrix, Item 7_1_45, Volume 5 (Data Room).
- S 306.3 The *Contractor* delivers the Mobilisation Phase design Deliverables to the *Project Manager* in accordance with the timescales and review processes stated in Volume 2 Part 9 (Review and Certification) of the Scope to achieve the notice to proceed date to the Construction Phase on the accepted Mobilisation Phase programme unless otherwise agreed with the *Project Manager*.
- S 306.4 Not Used.
- S 306.5 Not Used.

S 310 Design Review and Certification

- S 310.1 The *Contractor* complies with the design review and certification procedures contained in Volume 2 Part 9 (Review and Certification) of the contract.

S 315 Design approvals from Others

- S 315.1 The *Contractor* obtains design approval from Others in accordance with the requirements contained in
- Volume 2 Part 2 (Design and Technical Requirements) of the contract and
 - Volume 2 Part 9 (Review and Certification) of the contract.

S 320 *Client's requirements (for the parts of the works to be designed by the Contractor)*

- S 320.1 The *Contractor* designs the *works* in accordance with the Scope.

S 325 Design co-ordination

- S 325.1 In Providing the Works, the *Contractor*
- co-ordinates with Others in the preparation of the *Contractor's* design and
 - has responsibility for identifying and co-ordinating designs completed by Others that may have an impact on the *works*.
- S 325.2 The *Contractor* undertakes a digital design review process in accordance with the requirements contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract.

S 326 Alternative Design

- S 326.1 Not used.

S 330 Requirements of Others

- S 330.1 The *Contractor* complies with the requirements of Others in accordance with the Scope.
- S 330.2 The *Contractor* complies with and does not put the *Client* in breach of the requirements of Southern Electric Power Distribution PLC in accordance with the agreement made between that party and the *Client*, dated 01 October 2019 ([see link at Annex A](#)).
- S 330.3 The *Contractor* complies with and does not put the *Client* in breach of the requirements of Southern Gas Networks PLC in accordance with the agreement between that party and the *Client*, dated 30 September 2019 ([see link at Annex A](#)).

S 335 Using the *Contractor's* design

- S 335.1 The *Client* may use and copy the *Contractors* design for any purpose connected with construction, use, alteration or demolition of the *works* or for any other business purpose.

S 340 *Client's requirements (for the design of Equipment)*

- S 340.1 The *Contractor* designs, manufactures, uses and removes all Equipment required to Provide the Works.

- S 340.2 The *Contractor* provides Equipment in accordance with Appendix 1/1 of Volume 3 (Specification Appendices) of the contract.

S 345 Access to information following Completion

- S 345.1 The *Contractor* provides the Project Information Model at defined intervals in accordance with the requirements contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract.

S 400 Completion

S 405 Completion definition

- S 405.1 The work to be done by the Completion Date for the whole of the *works* is all the work required by the contract.
- S 405.2 Completion is achieved once the *Contractor* has completed the whole of the *works* required under the Scope.
- S 405.3 Achieving Completion requires the activities and documents listed in S 445 (Documents) to be completed and accepted by the *Project Manager* in accordance with S 445.
- S 405.4 Traffic management measures which could cause traffic flows to be impeded or restricted are to be removed before Completion of the whole of the *works*.

S 410 Sectional Completion definition

S 410.1 The sections identified in Contract Data part one are defined in Table 3 (*Sectional Completion conditions*).

Table 3: Sectional Completion conditions

Section	Name	Definition of Section	Conditions to be achieved
1	Winterbourne Stoke Bypass	Western scheme limit to (and including) Longbarrow Junction	<ul style="list-style-type: none"> one lane open to traffic in each direction between the western scheme limit and Longbarrow Junction, Longbarrow Junction open to traffic with all movement links to the A360 and the existing A303, all materials as required by the contract accepted by the <i>Project Manager</i> and <i>Contractor</i> mobilised to commence <i>section 1A</i>.
1A	<i>section 1</i> works maintenance period		<ul style="list-style-type: none"> conditions of <i>section 3</i> have been achieved.
2	Countess Junction	East of Chainage 11600 to Eastern scheme limit	<ul style="list-style-type: none"> one lane open to traffic in each direction on the A303 Countess flyover between the eastern scheme limit and the A303 west of Countess Roundabout, all turning manoeuvres available to traffic at Countess Roundabout, all materials as required by the contract accepted by the <i>Project Manager</i> and <i>Contractor</i> mobilised to commence <i>section 2A</i>.
2A	<i>section 2</i> works maintenance period		<ul style="list-style-type: none"> conditions of <i>section 3</i> have been achieved.
3	A303 mainline and junctions' slip roads	Western scheme limit to Eastern scheme limit	<ul style="list-style-type: none"> all <i>works</i> complete and open to traffic without any traffic management in place on the A303 mainline and junctions' slip roads, all materials accepted by the <i>Project Manager</i> and <i>Client</i> and handed to the <i>Client</i> and Others. all testing, commissioning and handover completed in accordance with the Scope, population of all data onto the <i>Client's</i> and <i>Contractor's</i> asset management systems in accordance with the Scope, all <i>works</i> as contained in Volume 2 Part 4 (Maintenance Period Requirements) of the contract complete and <i>Contractor</i> mobilised to commence <i>section 3A</i>.
3A	de-trunking works	Whole of the de-trunking works	<ul style="list-style-type: none"> the relevant highway authority has taken over the de-trunked works and all materials as required by the Scope accepted by the <i>Project Manager</i>.
4	Landscaping Aftercare	Whole of the Landscaping works	<ul style="list-style-type: none"> conditions of the LEMP satisfied and HEMP accepted by the <i>Project Manager</i> and all materials as required by the contract accepted by the <i>Project Manager</i>.

5	Maintenance Period	Affected Property	<ul style="list-style-type: none">all <i>works</i> as contained in Volume 2 Part 4 (Maintenance Period Requirements) of the contract complete andall materials as required by the Scope accepted by the <i>Project Manager</i>.
---	--------------------	-------------------	--

S 415 Training

- S 415.1 The *Contractor* provides training and materials required for the *Client* in accordance with the requirements contained in Volume 2 Part 2 (Design and Technical Requirements) and Part 4 (Maintenance Period Requirements) of the contract.

S 420 Final clean

- S 420.1 The *Contractor* undertakes a final clean, removal of Equipment, temporary structures, materials, protection and tools prior to handover/takeover of each *section* of the *works*.

S 425 Security

- S 425.1 The *Contractor* provides security of the Site in accordance with the Scope.

S 430 Correcting Defects (and other nonconformities) after Completion.

- S 430.1 The *Contractor* requests that the *Project Manager* arranges for the *Client* to allow the *Contractor* access to and use of a part of the *works* that have been taken over if it is needed for correcting a Defect.
- S 430.2 The *Contractor* makes this request 4 weeks in advance of requiring access to undertake the defect correction works.

S 435 Pre-Completion arrangements

- S 435.1 The *Contractor* prepares a Detailed Local Operating Agreement (DLOA) which clearly defines the roles and responsibilities of the Parties and Others in accordance with Volume 2 Part 3 (Maintenance and Operation Requirements during Construction) of the contract.
- S 435.2 The *Contractor* complies with the pre-completion arrangements contained in Volume 2, Part 3 (Maintenance and Operation during Construction) and Part 4 (Maintenance Period Requirements) of the contract.
- S 435.3 When the *Contractor* considers that a *section* of the *works* is complete and ready to be taken over by the *Client*, the *Contractor* signs the statement on the taking over certificate attached at [Annex D](#), obtains the signature of the person responsible for the future operation of that *section* of the *works*, and submits it to the *Project Manager* for certification of take over.
- S 435.4 The *Contractor* provides a Construction Certificate for each *section* before Completion and submits it to the *Project Manager*.

S 440 Use of the *works*

- S 440.1 Not used.

S 445 Documents

- S 445.1 The *Contractor* provides the documents required for the *Client* to take over the *works* at the time required by and in accordance with the *Client's* procedures, including those as contained in
- section S 255 (Project Control Framework) of this Volume 2 Part 1 (General Requirements),
 - Volume 2 Part 2 (Design and Technical Requirements) of the contract and
 - Volume 2 Part 4 (Maintenance Period Requirements) of the contract.
- S 445.2 The *Contractor* delivers to the *Project Manager* on Completion the final 'deliverable' version of any data in the formats identified in the Asset Data Management Manual (ADMM) ([see link at Annex A](#)).
- S 445.3 The list of documents required to satisfy the delivery strategy for asset information and handover standards in order to achieve Completion are as identified in the *Client's* Employers Information Requirements (EIR) as referenced in Volume 2 Part 5 (Digital Construction Requirements) of the contract.
- S 445.4 A Defect list will be produced by the *Contractor* and provided to the *Project Manager* prior to completion of *sections* 3, 3A, 4 and 5. These lists will have been signed by the *Contractor*, the *Client*, *Project Manager* and *Client's* maintenance contractor (and Wiltshire Council with respect to *section* 3A) to confirm acceptance of the plan to address any outstanding issues.

S 450 Handover between contractors

- S 450.1 If required, the *Contractor* arranges for the receipt through the *Project Manager* of all information relating to the *works* from the contractor previously appointed for the delivery or procurement of the *works* or otherwise.
- S 450.2 If required, the *Contractor* arranges for the transfer through the *Project Manager* of all information relating to the *works* to the contractor subsequently appointed for the delivery or procurement of the *works* or otherwise.

S 500 Programme

S 505 Programme requirements

- S 505.1 The *Contractor* provides a programme in accordance with Contract Data part one and the requirements stated in Volume 2 Part 8 (Integrated Project Controls) of the contract for the acceptance of the *Project Manager*.

- S 505.2 The *Contractor* shows the Stage Gate Assessment Review (SGAR) dates (interim and full) on the programme as milestones. The dates shown in Table 4 (*SGAR indicative dates*) are indicative and actual dates will be advised by the *Project Manager*.

Table 4: SGAR indicative dates

stage gate	interim\full	indicative date
SGAR 5	full	august 2021
SGAR 6	interim (bi-annually)	march 2023 march 2025
SGAR 6	full	march 2027
SGAR 7	full	march 2032

S 510 Methodology statement

- S 510.1 The *Contractor* submits with each programme a narrative and additional information in accordance with requirements contained in Volume 2 Part 8 (Integrated Project Controls) of the contract.

S 515 Work of the *Client* and Others

- S 515.1 The *Contractor* complies with additional specific requirements and constraints for work of the *Client* and *Others* as stated within the Scope.

S 520 Information required

- S 520.1 Not used.

S 525 Revised programme

- S525.1 Not used.

S 600 Quality management

S 605 Quality management system

- S 605.1 The *Contractor* complies with and operates the following management systems
- health and safety management system complying with ISO 45001,
 - quality management system complying with ISO 9001 and CEN/TS 16880,
 - environmental management system complying with ISO 14001,
 - collaboration framework complying with ISO 44001,
 - information management system complying with ISO 19650 and
 - risk management system complying with ISO 31000.
- S 605.2 Where a body accredited by UKAS (or another equivalent European Accreditation body full member agreed by the *Project Manager*) certifies a management system, the *Contractor* obtains certification from the relevant body within 6 months of the *starting date* and submits to the *Project Manager* a copy of each certificate within one week after it is obtained.

S 605.3 The *Contractor* provides a Construction Quality Plan (CQP) outlining the approach to be adopted for maintaining quality during construction.

The CQP identifies procedures that include the following

- initiation and updating of the CQP,
- monitoring compliance with the CQP,
- adequacy of the quality records produced,
- arrangements for 'receiving' and 'in-process' testing,
- control of test laboratories,
- control of test, measuring and inspection equipment,
- arrangement for document control aligned with the *Client's* Document Control Procedure ([see link at Annex A](#)), including
 - identification, traceability requirements, control of document issues and status reporting and
 - verification review, approval, release and amendment of the works,
- arrangements for monitoring and recording the inspection, test and approval status of the constructed/installed work including identification of 'hold points' and
- arrangements for tests and inspections for the purpose of the *Contractor* certifying that prior to covering up, each part of the *works* is complete and conforms with the Scope.

The *Contractor* ensures these procedures identify the proforma and database to be used for recording

- the inspection and test results and
- the certification of compliance of all items of the *works* as authorised by the *Contractor*. Each submission is separately identified.

The *Contractor* makes copies of these procedures available to the *Project Manager* on request.

S 610 Quality Policy Statement and Quality Plan

S 610.1 The *Contractor* prepares the quality policy statement and quality plan within twelve weeks of the *starting date* and submits to the *Project Manager* for acceptance.

S 610.2 The quality plan

- incorporates the Quality Statement,
- demonstrates how the *Contractor* achieves each of the commitments in the Quality Statement,
- specifies the procedures and processes to be followed in Providing the Works and
- demonstrates how the *Client's* objectives for the contract are satisfied.

- S 610.3 The *Project Manager* notifies the *Contractor* if the quality plan does not comply with the requirements of the contract. Following such notification, the *Contractor* reviews the quality plan and reports to the *Project Manager* setting out its proposed changes. If the *Project Manager* accepts the proposals, the quality plan is changed. If the proposed changes are not accepted, the *Project Manager* informs the *Contractor* of the aspects of the quality plan that are not acceptable, and the *Contractor* updates the quality plan for acceptance within one week.
- S 610.3A A reason for not accepting the quality plan is
- it does not comply with the Scope and
 - it does not comply with the Quality Statement.
- S 610.4 The *Contractor* keeps a controlled version of the quality plan available for inspection at all times by the *Client*, the *Project Manager*, the *Supervisor* and their representatives.

S 615 Samples

- S 615.1 The *Contractor* provides samples in accordance with Appendix 1/6 of Volume 3 (Specification Appendices) of the contract.
- S 615.2 Materials are not included in the *works* unless the samples have been accepted by the *Project Manager*.
- S 615.3 Materials required for the site compounds are to be agreed with the *Project Manager* prior to notice to proceed.

S 620 Standards and procedures

- S 620.1 Except where otherwise directed, all materials, workmanship, designs and assessments are to comply with the *Client's* standards and procedures as stated in section S 2705.
- S 620.2 If a standard or procedure subsequently changes, the *Contractor* complies with the revised standard or procedure only if instructed by the *Project Manager*.

S 660 Audit, nonconformities (including “defects”) and performance management

- S 660.1 The *Contractor* complies with the requirements contained within the Performance Manual.
- S 660.2 The *Contractor* carries out a programme of internal audits in accordance with the requirements of ISO 9001.
- S 660.3 The *Project Manager* carries out audits of the *Contractor's* quality management system from time to time.

- S 660.4 The *Contractor* allows access at any time within working hours to any place where it or any subcontractor, (at any stage of remoteness from the *Contractor*), carries out any work that relates to the contract for the *Project Manager* to carry out audits, to inspect work and materials and generally to investigate whether the *Contractor* is Providing the Works in accordance with the contract including the quality plan.
- S 660.5 The *Contractor* provides all facilities and assistance necessary to allow such audits and inspections to be carried out.
- S 660.6 The *Project Manager* may instruct the *Contractor* to undertake additional audits of its quality management systems when the number of PMPs in effect exceeds the Threshold Level.
- S 660.7 The *Project Manager* decides the location, frequency and extent of additional audits having regard to the root causes for the accrual of PMPs.
- S 660.8 Following the notification of a Defect or other Nonconformity the *Contractor* submits within 2 weeks to the *Project Manager* for acceptance, a Corrective Action plan setting out the corrective and preventative action(s) that it proposes to take to address the Nonconformity.
- S 660.9 The *Contractor* does not begin any corrective or preventative action(s) to address the Nonconformity until the *Project Manager* has accepted the Corrective Action plan.
- S 660.10 Within one week of the *Contractor* submitting the Corrective Action plan for acceptance, the *Project Manager* either accepts the proposal or notifies the *Contractor* of its reason for not accepting it.
- A reason for not accepting the proposed Corrective Action plan is that
- it does not adequately specify actions required to ensure that nonconformities do not recur,
 - it does not comply with the contract,
 - the time for completing the corrective and preventative action is unreasonable or
 - it hinders the *Client* or Others.
- S 660.11 If the *Project Manager* does not accept the Corrective Action plan, the *Contractor* submits a revised Corrective Action plan to the *Project Manager* for acceptance within one week.
- S 660.12 The *Contractor* corrects Nonconformities and takes action to eliminate the causes of actual or potential Nonconformities within a time which minimises the adverse effect on the *Client* or Others and in any event before carrying out any operation the same or similar as that in respect of which the Nonconformity occurred.
- S 660.13 The *Contractor* notifies the *Project Manager* when the proposed actions have been taken and provides with his notification verification that the defective part of the *works* has been corrected.

- S 660.14 If the *Contractor* fails to comply with its quality management system, the *Contractor* accrues PMPs from the date when the failure occurred in accordance with the Table 3 of the *performance manual*.
- S 660.14A The number of PMPs is reduced in accordance with Table 3 of the *performance manual*.
- S 660.15 If the *Contractor* fails properly to accrue PMPs, the *Project Manager* instructs the *Contractor* to accrue the applicable number of PMPs calculated in accordance with Table 3 of the *performance manual*. The PMPs accrue on the date when the failure occurred.
- S 660.16 The *Contractor* maintains a register of the number of PMPs in effect, showing when PMPs accrue and are removed. The *Contractor* ensures that the register of the number of PMPs in effect is available for the *Project Manager* to inspect at any time.
- S 660.16A If the *Contractor* fails to deliver the scheme specific performance outcomes listed in in the section 4 of the *performance manual*, the *Contractor* accrues PMPs in accordance with Table 4 of the *performance manual*. The PMP remain in effect for the periods stated in Table 4 of the *performance manual*.
- S 660.16B The *Contractor* ensures that the register of the number of PMPs in effect is available for the *Project Manager* to inspect at any time.
- S 660.17 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 665 Performance Management Points

- S 665.1 If at any time the number of PMPs in effect under the contract is more than 25, the *Contractor* and the *Project Manager* meet within one week to consider ways of reducing the number of PMPs in effect to 25 or less and to avoid accruing further PMPs.
- S 665.2 The *Contractor* submits a report to the *Project Manager* within one week of the meeting setting out the actions agreed at the meeting and any other actions which the *Contractor* proposes to take immediately to reduce the number of PMPs in effect to 25 or less and to avoid accruing further PMPs.
- S 665.3 If the *Project Manager* does not accept the *Contractor's* proposals or the *Contractor* does not take the agreed actions, the *Project Manager* serves a quality warning notice on the *Contractor*. Within one week of receipt of the quality warning notice, the *Contractor* submits a report to the *Project Manager* setting out the actions which the *Contractor* has taken and what further or alternative actions they propose to take to reduce the number of PMPs in effect to 25 or less.
- S 665.4 Until the number of PMPs in effect is reduced to 25 or less, the *Contractor* takes the actions detailed in his reports and submits weekly update reports to the *Project Manager* setting out the actions taken, the results of those actions and the actions which are still to be taken by it.

- S 665.5 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 670 Performance measurement

- S 670.1 The *Contractor* undertakes performance measurement in accordance with the requirements contained within Performance Manual, including the CPF measures in the *performance manual* Appendix A.
- S 670.2 The *Project Manager* uses the current version of the Collaborative Performance Framework (CPF) ([see link at Annex A](#)) to actively measure the *Contractor's* performance and follows the processes set out in the CPF in relation to the use of performance scores to drive improved performance.
- S 670.3 The *Contractor* records performance against each of the indicators in the CPF and assists the *Client* in the development of this measurement framework by proposing and developing ways in which improvements can be made to the CPF. No changes are implemented unless agreed by the *Project Manager*.
- S 670.3A The scores recorded by the *Contractor* against
- each CPF indicator are submitted to the *Project Manager* and the *Client's* email inbox
(CommercialIntelligence@highwaysengland.co.uk)¹ or as advised by the *Project Manager*
 - the CPF measures in the *performance manual* Appendix A are submitted to the *Project Manager*
- no later than working day 7 for schemes up to and including PCF stage 5 and working day 10 for schemes in PCF stages 6 and 7. Working day 0 is the last working day of the month. The first CPF covers months 1-3 from the *starting date* and are thereafter they are submitted quarterly.
- S 670.4 The *Contractor's* performance will also be measured and incentivised against a set of Scheme Specific Performance Measures (SSPMs). For additional requirements see the *performance manual*.

Performance Review

- S 670.5 The *Contractor* undertakes a performance review addressing all aspects of performance on a quarterly basis, or as instructed by the *Project Manager*.
- S 670.6 The following is treated as a substantial failure by the *Contractor* to comply with his obligations
- the *Contractor's* performance as measured in accordance with the current edition of the *Client's* Collaborative Performance Framework (or any replacement for it) is below the *failure level*.

¹ Ongoing project to restructure email names from @highwaysengland.co.uk to @nationalhighways.co.uk

S 675 Continual Improvement / LEAN

- S 675.1 The *Contractor* operates processes for delivering innovation and continual improvement / lean following the guidance in ISO 9004 and set out in the continual improvement / lean method contained in [Annex E](#).
- S 675.2 The *Contractor* measures its adoption of a continual improvement / lean culture using the Highways England Lean Maturity Assessment (HELMA) tool (see [Annex E](#)).

S 680 Training and competence of *Contractor's* Staff

- S 680.1 The *Contractor* ensures that only competent Staff are used to Provide the Works.
- S 680.2 The *Contractor* submits to the *Project Manager* information about the *Contractor's* procedures for assuring competence of Staff when requested to do so by the *Project Manager*.
- S 680.3 The *Contractor* provides to the *Project Manager* records of training of Staff when requested to do so by the *Project Manager*.
- S 680.4 Before the *Contractor* or any subcontractor (at any stage of remoteness from the *Client*) commences any element of the *works*, the *Contractor* confirms to the *Project Manager* that the Staff Providing the Works for the relevant element are competent to Provide the Works or are adequately supervised whilst Providing the Works.
- S 680.5 The *Contractor* provides further such summary statements to the *Project Manager* as additional Staff are introduced.
- S 680.6 Staff are required to have Construction Skills Certification Scheme (CSCS) cards appropriate to the trade / position, with all site supervisors having Site Supervisors Safety Training Scheme (SSSTS) (or EU equivalent) certification.
- S 680.7 For those roles where no suitable recognised competence standards exist, the *Contractor* provides information on the selection criteria and method used to provide assurance of individual's competence. These may include reference to the selection process used prior to employment, any subsequent appraisals of performance/competence and any relevant training and experience.
- S 680.8 Through mentoring, coaching and training, the *Contractor* promotes individual improvement of Staff.
- S 680.9 The *Contractor* works with its Staff to set individual objectives and targets that are aligned with the requirements of the *works*.

S 700 Tests and inspections

- S 700.1 The *Contractor* compiles Appendix 1/5 of Volume 3 (Specification Appendices) of the contract and submits to the *Project Manager* for acceptance.

- S 700.2 A reason for not accepting Appendix 1/5 of Volume 3 (Specification Appendices) of the contract is that
- the frequency of testing does not comply with
 - the minimum recommended frequencies contained in the Manual of Contract Documents for Highway Works or
 - the relevant product or execution standard,
 - the mandatory tests required by the relevant product or execution standard are not identified,
 - the proposed testing would not demonstrate that the materials and workmanship would comply with the Scope,
 - the proposed testing does not permit the verification of assumptions made during the design or
 - the appendix is incomplete.
- S 700.3 The *Contractor* undertakes tests and inspections required to Provide the Works in accordance with the completed Appendix 1/5 of Volume 3 (Specification Appendices) of the contract.

S 710 Samples

- S 710.1 The *Contractor* provides samples in accordance with the Scope.

S 715 Management of tests and inspections and provision of samples

- S 715.1 The *Contractor* submits a test and inspection schedule for acceptance by the *Project Manager* no later than 12 weeks after the *starting date* which includes
- a list of test and inspection plans that will be prepared for the design of those sections of the permanent and temporary works to be commenced in the first 18 months after the notice to proceed (refer to S 306.4) and the relevant work activities and
 - timeframes for the preparation of test and inspection plans and for issue to the *Project Manager* for review.
- S 715.2 A reason for the *Project Manager* not accepting a test and inspection schedule is that it does not
- provide a full list of test and inspection plans that will be prepared for the design of those sections of the permanent and temporary works to be commenced in the first 18 months after the notice to proceed (refer to S 306.4) and the relevant work activities or
 - allow sufficient time allowances for *Project Manager* review in accordance with Volume 2 Part 9 (Review and Certification) of the contract and as required by the contract.
- S 715.3 Once the test and inspection schedule is accepted by the *Project Manager* the *Contractor* complies with it when Providing the Works.
- S 715.4 The *Contractor* reviews and updates the test and inspection schedule and submits it to the *Project Manager* for acceptance

- to incorporate test and inspection plans that have been submitted as part of each detailed Design Package and
- as a minimum, on each anniversary of the *starting date*.

S 715.5 The *Contractor* submits test and inspection plans for *Project Manager's* acceptance as part of each detailed Design Package in accordance with Volume 2 Part 9 (Review and Certification) of the contract.

S 715.6 A reason for not accepting a test and inspection plan is that it does not

- detail the level of inspection and testing regimes,
- set out who is responsible for facilitating any tests or inspections (on and off Site),
- include details on the provision of samples,
- include method for recording results,
- include sufficient hold points or
- permit the *Project Manager* to plan supervision resources.

S 720 Covering up completed work

S 720.1 The *Contractor* immediately covers up completed work, where necessary, once shown the work is free from Defects and has passed the testing and inspection regime required for the element of work in question.

S 725 Supervisor's procedures for inspection and watching tests

S 725.1 Not used.

S 730 Defects (in relation to Tests and Inspections & cross referenced with S430 and S660)

S 730.1 Not used.

S 800 Management of the works

S 805 Project team – Others

S 805.1 The *Contractor* prepares and submits to the *Project Manager* for acceptance the Integrated Project Controls Plan (IPCP) in accordance with requirements contained in Volume 2 Part 8 (Integrated Project Controls) of the contract within the timescales stated.

S 810 Communication systems

S 810.1 The *Contractor* complies with the *Client's* information systems requirements contained in Volume 2 Part 5 (Digital Construction) of the contract.

S 815 Management procedures

Provision for Performance Information (see S730)

Provision for Health and Safety Information (see S1100)

S 820 Contractor's application for payment

- S 820.1 The *Contractor* ensures the purchase order number is included on its invoice and submits such records as requested by the *Client* with each invoice in the format as required by the *Client*.
- S 820.2 The *Contractor* provides a WBS breakdown of the invoice in the format required by the *Project Manager* ([see link at Annex A](#)).
- S 820.3 The *Contractor* notifies the *Project Manager* of the name and address of the Project Bank, the account name and number, the bank sort code and any other details required to make direct payments into that account.
- S 820.4 The *Contractor* provides any supporting information with each application for payment in accordance with the Government's 'Invoicing and taking payment from customers' guide ([see link at Annex A](#)).
- S 820.5 The *Contractor* provides any additional information to the *Project Manager* that is requested for the purpose of checking the invoice for correctness.

S 825 Commissioning report

- S 825.1 Not used.

S 830 Provision of cost information

- S 830.1 A Work Breakdown Structure (WBS) incorporating a cost breakdown structure is prescribed by the *Client*. The *Contractor* submits financial information in accordance with this WBS. It is intended that the *Contractor* will report Earned Value Management (EVM) performance ([see link at Annex A](#)) against a standard Work Breakdown Structure (WBS) specified by the *Client* ([see link at Annex A](#)).
- S 830.2 The *Contractor* provides EVM performance against a standard WBS specified by the *Client* through the provision of the 'Commercial Reporting and Monitoring System' (CRaMS) return ([see link at Annex A](#)).

Earned Value Reporting

- S 830.3 The *Contractor* provides a verified monthly electronic Commercial Reporting and Monitoring System (CRaMS) return, using the current version or any replacement, to the *Project Manager* and performance intelligence team on the last Working Day of each reporting period, as specified by the *Client*.
- S 830.4 The *Contractor* arranges for its subcontractors to make financial submissions in the same format.

S 831 Provision of Price Information

- S 831.1 The outline requirements for cost capture are detailed below.
Data to be supplied in accordance with Volume 2 Part 8 (Integrated Project Controls) of the contract includes

- a bill of quantities structured and coded to the WBS ([see link at Annex A](#)), with a six-column split (staff, labour, plant and materials, equipment, subcontract and other),
- resource rate build ups and schedules,
- Subcontractor comparison sheets,
- full set of successful Subcontractors' quotations,
- a summary of all successful subcontractors' quotations on a template provided by the *Project Manager* ([see link at Annex A](#)),
- full set of drawings used to price the tender,
- priced *Contractor's* PCF stage 5 Early Warnings Register and
- *Contractor's* rate card.

S 831.2 Data to be supplied by the *Contractor* after the *starting date* includes

- initial order values for the order placed with Subcontractors, summarised against the original quotation on the template provided and
- final outturn costs and the value of any change events summarised by Subcontractor against the original subcontract order.

S 835 Data collection system

S 835.1 The *Contractor* captures all costs within a data collection system identified by the *Client* in WBS form ([see link at Annex A](#)) as a minimum for use on the contract in respect of applications for payment.

S 835.2 If the *Client's* minimum requirements for the *Contractor's* data collection system are not met, the *Contractor* is required to effect such modifications or enhancements to its own data collection system, or those of its supply chain, as are required, to meet the *Client's* requirements.

S 836 Provision of electronic documents and data

S 836.1 If information is to be exchanged electronically, the *Contractor* complies with the *Client's* procedures ([see link at Annex A](#)), including requirements in paragraph S 228, for safeguarding the connection and the format of transmitted data.

S 836.2 For non-electronic exchange of information, the *Contractor* complies with the *Client's* procedures ([see link at Annex A](#)) for safeguarding the transmitted data.

S 836.3 Electronically stored data is provided in a format capable of transfer to readily available equipment in general use.

S 836.4 The *Contractor* provides electronic documents and data in accordance with the requirements contained in Volume 2 Part 5 (Digital and Construction Requirements) of the contract.

S 837 Information systems

S 837.1 The *Contractor* complies with the *Client's* information systems in accordance with the requirements contained in Volume 2 Part 5 (Digital and Construction Requirements) of the contract.

S 838 Disclosure of information

- S 838.1 The *Contractor* acknowledges that the *Client* may receive Disclosure Requests and that the *Client* may be obliged (subject to the application of any relevant exemption and, where applicable, the public interest test) to disclose information (including commercially sensitive information) pursuant to a Disclosure Request. Where practicable, the *Client* consults with the *Contractor* before doing so in accordance with the relevant code of practice. The *Contractor* responds to any such consultation promptly and within any deadline set by the *Client* and acknowledges that it is for the *Client* to determine whether or not such information should be disclosed.
- S 838.2 When requested to do so by the *Client*, the *Contractor* promptly provides information in its possession relating to the contract and assists and co-operates with the *Client* to enable the *Client* to respond to a Disclosure Request within the time limit set out in the relevant legislation.
- S 838.3 The *Contractor* promptly passes any Disclosure Request which it receives to the *Project Manager*. The *Contractor* does not respond directly to a Disclosure Request unless instructed to do so by the *Project Manager*.
- S 838.4 The *Contractor* acknowledges that the *Client* is obliged to publish information relating to the contract in accordance with Procurement Policy Note 01/17 entitled “The Transparency of Suppliers and Government to the Public” dated 16 February 2017 (or any later revision) (the “PPN”) ([see link at Annex A](#)), except to the extent that any information in it is exempt from disclosure pursuant to the Freedom of Information Act 2000. The *Client* consults with the *Contractor* before deciding whether information is exempt, but the *Contractor* acknowledges that the *Client* has the final decision.
- S 838.5 The *Contractor* acknowledges that the *Client* is obliged to publish the provisions of the contract in accordance with the Crown Commercial Service’s guidance note entitled “Publication of Central Government Tenders and Contracts” dated November 2017 (or any later revision) except to the extent that any information in it is exempt from disclosure pursuant to the Freedom of Information Act 2000. The *Project Manager* consults with the *Contractor* before deciding whether information is exempt, but the *Contractor* acknowledges that the *Client* has the final decision. The *Contractor* co-operates with and assists the *Project Manager* and *Client* to publish the contract in accordance with the *Client*’s obligation.
- S 838.6 The Contractor
- co-operates with and assists the *Project Manager* to enable the *Client* to comply with its obligation to publish information in accordance with PPN 01/17 or any later revision,
 - agrees with the *Project Manager* a schedule for the release to the public of information relating to the contract by the *Client* in accordance with the terms of the PPN,
 - provides information to assist the *Client* in responding to queries from the public as required by the PPN and requested by the *Project Manager* and
 - supplies the *Project Manager* with financial data relating to the contract in the form and at the times specified in the PPN.
- S 838.7 No additional requirements or constraints for disclosure of information.

S 840 Microsoft Dynamics 365

- S 840.1 The *Contractor* uses Microsoft Dynamics 365 in accordance with the requirements contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract.

S 841 CEMAR

- S 841.1 The *Contractor* uses CEMAR in accordance with the requirements contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract.

S 845 Software Training

- S 845.1 The *Client* provides training to Staff (see S 845.2 below) for all systems listed in Volume 2 Part 5 (Digital Construction Requirements) of the contract.
- S 845.2 The *Contractor* proposes a list of appropriate Staff to be trained for each system for acceptance by the *Project Manager*. The *Contractor* liaises with the *Project Manager* to programme the training to optimise efficiencies.
- S 845.3 A reason for not accepting the *Contractor's* list is that
- the resources identified do not need training or
 - the resources are not actively engaged in Providing the Works.
- S 845.4 Additional training required for the *Client* or Others are specified elsewhere within Volume 2 Part 5 (Digital Construction Requirements) of the contract.

S 850 Meetings

- S 850.1 Following the *starting date*, the *Contractor* convenes and attends monthly progress meetings with the *Project Manager*. Monthly progress meetings are held no later than the eighth (8th) Working Day of each month. The following attendees from the *Contractor* at these meetings are required unless otherwise agreed by the *Project Manager*
- project director,
 - project manager,
 - commercial manager
 - design manager,
 - construction manager,
 - construction tunnelling manager,
 - community relations manager,
 - health and safety manager,
 - environmental manager,
 - digital lead and
 - support staff deemed necessary for the meeting or as requested by the *Project Manager*

The *Contractor* chairs meetings unless otherwise agreed with the *Project Manager*.

- S 850.2 All meetings are held at a location to be agreed between the *Contractor* and the *Project Manager*, or as determined by the *Project Manager*, but generally for the Mobilisation Phase at the *Client's* offices and for the Construction Phase at the *Contractor's* site office.
- S 850.3 The *Contractor* prepares the agenda for all meetings, establishes and documents the terms of reference for each meeting including workshops, and forwards the agenda to the *Project Manager* at least four (4) Working Days prior to the meeting.
- S 850.4 The *Contractor* prepares and submits to the *Project Manager*, at least two (2) Working Days in advance of the monthly progress meeting, a monthly progress report to include the following information
- progress report for period covered by meeting,
 - information related to project performance indicators,
 - programme for next reporting period,
 - actual start dates of activities commenced since the previous updates and reasons for any changes from the accepted *works* programme,
 - actual completion dates of activities completed since the previous update and reasons for any changes from the accepted *works* programme,
 - the anticipated time for completion, in Working Days, for activities in hand,
 - any change requested by the *Contractor* to the programmed completion date and the reasons for any change,
 - proposals for retrieving of any slippage to the accepted *works* programme,
 - design issues,
 - certificate status,
 - confirmation of scheme costs estimate and budget forecast,
 - payment schedule – agreement of compensation events,
 - insurance related issues,
 - subcontractors,
 - quality matters,
 - safety CDM issues,
 - customer service matters,
 - customer complaints,
 - Early Warning Register and
 - media community liaison, publicity and advertising matters
- S 850.5 The *Contractor* includes *Client's* health, safety and wellbeing imperative moments at the start of meetings.
- S 850.6 The *Contractor* ensures that customer service and health, safety and wellbeing issues are an agenda item at monthly review meetings.
- S 850.7 The *Contractor* prepares and issues minutes of the meeting / workshop to the *Project Manager* for acceptance within five (5) Working Days of the date of the meeting / workshop. The minutes include an abbreviated action list with assigned responsibilities and timescales for action.
- S 850.8 A reason for not accepting the minutes of the meeting / workshop is that they
- do not represent the outcomes/actions of matters discussed or
 - the *Project Manager* seeks clarifications.

- S 850.9 The *Contractor* complies with additional meeting requirements as contained in Volume 2 Part 8 (Integrated Project Controls) of the contract.

S 855 Records and Reporting

- S 855.1 The *Contractor* records efficiencies within an efficiency register ([see link at Annex A](#)), updates and submits the efficiency register to the *Project Manager* on a monthly basis.

S 856 Records and reporting for Small Medium Enterprises

- S 856.1 For each Small and Medium Enterprise (SME) employed on the contract, as defined in Annex A ([see link at Annex A](#)), the *Contractor* reports to the *Client* each quarter from the *starting date* until Completion and at the *defects date*
- the name of the SME,
 - the class of SME (medium, small or micro),
 - the value of the contract undertaken by the SME,
 - the monthly amounts paid to the SME in the quarter and
 - the aggregated value paid to the SME since the *starting date*.
- S 856.2 The *Contractor* acknowledges that the *Client* may
- publish the information supplied under the section, along with the *Contractor's* name and the name of the contract and
 - pass the information supplied under this section S 856 to any Government Department who may then publish it along with the names of the SMEs, the *Contractor's* name or the contract.
- S 856.3 The *Contractor* ensures that the conditions of contract for each subcontractor who is an SME include
- a term allowing the *Client* to publish the information supplied under this section S 856 and
 - obligations similar to those set out in this section S 856.
- S 856.4 The *Contractor* further ensures that the conditions of contract for each subcontractor include a requirement that the conditions of contract for any further sub-subcontractor engaged by the subcontractor who is an SME include obligations similar to those set out in this section S 856.

S 865 Communications

- S 865.1 The *Contractor* complies with the requirements contained in Volume 2 Part 7 (Communications, Stakeholder and Community Engagement Requirements) of the contract.

S 900 Working with the *Client* and others

S 905 Sharing the Working Areas with Others

- S 905.1 The *Contractor* cooperates with and shares the Working Areas with Others as advised by the *Project Manager*.
- S 905.2 The *Contractor* cooperates with and shares the Working Areas with

- the *Client* (and its subcontractors) for the operation of the existing A303 and the new A303 including the activities listed in Volume 2 Part 4 (Maintenance Period Requirements) including table 4-1 and
- members of the public using a public right of way, the existing highways and the new A303.

S 910 Co-operation and Co-ordination

- S 910.1 The *Contractor* cooperates with other suppliers in obtaining and providing information needed.
- S 910.2 The *Contractor* co-ordinates with local highway authorities and other relevant parties where necessary to ensure roadwork clashes are prevented.
- S 910.3 The *Contractor* programmes works in a manner that minimises the impact on the customer.
- S 910.4 The *Contractor* programmes any PCF product review requests at least six (6) weeks in advance and ensures that all programmed dates are met.
- S 910.5 The *Contractor* co-locates teams where appropriate and encourages information sharing, communication, concurrent working and a proactive delivery culture.
- S 910.6 The *Contractor* shares information, communicates openly with the *Client*, continuously shares lessons learnt and achievements and enables embedded learning.
- S 910.7 The *Contractor* does not enter into commitments when dealing with third parties that might impose any obligations on the *Client* except with the consent of the *Client*.
- S 910.8 The *Contractor* participates in the Project Information Services Steering Group as referenced in Volume 2 Part 5 (Digital Construction Requirements) of the contract.

S 920 Authorities and utilities providers

- S 920.1 The *Contractor* complies with Appendix 1/16 of Volume 3 (Specification Appendices) of the contract.

S 925 Deed of Novation

- S 925.1 Where a deed of novation is required (see clause Z4.2 Assignment), the form of novation agreement is set out in [Annex F](#).

S 1000 Services and other things to be provided

S 1005 Services and other things provided by the *Contractor* for the use by the *Client*, *Project Manager*, *Supervisor* or Others

- S1005.1 The *Contractor* provides Equipment for the *Client*'s use in accordance with Appendix 1/1 of Volume 3 (Specification Appendices) of the contract.

S 1010 Services and other things provided by the *Client*

- S 1010.1 If, at the *starting date*, the *Client* makes available Plant and Materials for use by the *Contractor* in Providing the Works, the *Contractor* supplies the same quantity and quality of Plant and Materials to the *Client* at Completion unless the *Project Manager* agrees otherwise.

S 1100 Health, Safety and Wellbeing

S 1101 Health, Safety and Wellbeing Implementation Plan

- S 1101.1 The *Contractor* prepares a Health, Safety and Wellbeing Implementation Plan within one month of the *starting date* and submits it to the *Project Manager* for acceptance.
- S 1101.2 The Health, Safety and Wellbeing Implementation Plan outlines the aspirations of the *works* and the *Contractor* demonstrates that the plan aligns with and supports delivery of the *Client's* Home, Safe and Well strategy (see [link at Annex A](#)) with measures that demonstrates
- how the *Contractors* senior leadership team ensures that health and safety is maintained as a priority in Providing the Works,
 - risk mitigation using the latest technologies and engineering controls,
 - assessment, measurement and improvement of health and safety performance and maturity,
 - assurance of the competence along with the continual improvement of Staff and subcontractors (at any stage of remoteness from the *Client*) capability,
 - assessment, monitoring, management, promotion and where possible improvement of health and wellbeing of Staff including a health surveillance programme,
 - engagement of Staff on health, safety and wellbeing,
 - any design ensures in Providing the Works
 - the Working Areas provide and
 - outcomes provide
- a healthy and safe environment and
- recording of health, safety and wellbeing, challenges, visits, inspections, incidents and other events, and the system for the recording.
- S 1101.3 The *Contractor* submits the Health, Safety and Wellbeing Implementation Plan for the acceptance of the *Project Manager*. A reason for not accepting the plan is that it does not comply with the Scope.
- S 1101.4 Once the Health, Safety and Wellbeing Implementation Plan is accepted by the *Project Manager* the *Contractor* complies with it when Providing the Works.
- S 1101.5 As a minimum, on each anniversary of the *starting date*, the *Contractor* reviews and updates the Health, Safety and Wellbeing Implementation Plan. The *Contractor* submits the updated Health, Safety and Wellbeing Implementation Plan within 3 weeks of the relevant anniversary of the *starting date* to the *Project Manager* for acceptance.

S 1102 Management of health and safety

Client's procedures

- S 1102.1 The *Contractor* complies with the DMRB documents relating to health, safety and wellbeing or as advised by the *Project Manager*.

Contractor's health and safety management system

- S 1102.2 The *Contractor*
- operates a formal health and safety management system complying with ISO 45001, which includes the operation of health and safety management systems, health surveillance and the development of a safety profiling system capable of being easily monitored,
 - interfaces and aligns its health and safety management system with the *Client's* health and safety management systems, policies and procedures and
 - documents the systems and fully and effectively implements the systems within six (6) months of the *starting date*.

Subcontractor's health and safety management system

- S 1102.3 The *Contractor* ensures all subcontractors (at any stage of remoteness from the *Client*) comply with the *Contractor's* health and safety management system.

Management of road risk and plant operative interface

- S 1102.4 The *Contractor* implements systems and procedures for effective management of occupational road safety in line with recommendations contained in Health and Safety Executive publication INDG382 'Driving at work' (see link at Annex A) and the *Client's* Driving for Better Business (see link at Annex A) which includes systems for
- assessing traffic management,
 - driver competency,
 - provision of training,
 - vehicle maintenance,
 - accident investigation and
 - driver safety.
- S 1102.5 The *Contractor* manages Equipment and operative interfaces within the Working Areas, as a minimum, in line with Health and Safety Executive guidance HSG144 'The safe use of vehicles on construction sites' (see link at Annex A).

S 1103 Medical fitness

- S 1103.1 At the start of each calendar quarter, the *Contractor* prepares a Health and Wellbeing Report and submits it to the *Project Manager* which
- highlights trends relating to occupational health issues,
 - significant occupational health observations / events of all people involved in Providing the Works and
 - mitigation measures / actions implemented.

Drug and alcohol policy

- S 1103.2 The *Contractor* prepares and complies with a Drugs and Alcohol Plan for Providing the Works.
- S 1103.3 The Drugs and Alcohol Plan includes
- testing regimes,
 - pre-employment testing,
 - just cause testing,
 - random testing,
 - post-incident testing,
 - any mitigating circumstances such as medication,
 - any admittance to dependency during employment (assistance etc.) and
 - drugs and alcohol failure consequence (refusal, dismissal, future employment etc.).

S 1104 Health and safety charity-based incentive schemes

- S 1104.1 The *Client* supports and promotes the use of charity-based incentive schemes as an aid to improving health and safety. If requested by the *Project Manager*, the *Contractor* adopts such schemes and includes a combination of local and national charities.

S 1105 Health assessment and control

- S 1105.1 The *Contractor* ensures that Staff are provided with health surveillance in accordance with its risk assessments.
- S 1105.2 The *Contractor* makes wellbeing services for the prevention of ill health available to the Staff.
- S 1105.3 The *Contractor*
- monitors and records Working Days lost due to illness,
 - identifies whether work or non-work related,
 - classifies type of illness and
 - introduces management systems for minimising ill health.
- Each month, this data is supplied to the *Project Manager*.
- S 1105.4 The *Contractor* ensures fatigue is managed effectively.
- S 1105.5 The *Contractor* assesses the risks to its employees from work-related stress and gives advice and practical guidance on how to manage work-related stress, as a minimum, in accordance with Health and Safety Executive workbook (WBK01) 'Tackling work-related stress using the Management Standards approach' ([see link at Annex A](#)).

S 1106 Health and safety culture

- S 1106.1 The *Contractor* ensures its leaders, at every level of its organisation and subcontractors (at any stage of remoteness from the *Client*) reflect a strong health and safety culture, which is led by clear, visible leadership in the Working Areas and every office engaged in Providing the Works.

- S 1106.2 If requested by the *Project Manager*, the *Contractor's* health & safety managers or advisers attend the *Client's* health and safety forum.
- S 1106.3 The *Contractor's* health & safety managers or advisers attend the *Client's* quarterly Principal Designers Working Group meetings, with the aim of improving health and safety management performance in relation to design, construction, operations and maintenance.
- S 1106.4 The *Contractor* ensures that any member of Staff who displays a behaviour or attitude which could or does endanger either themselves or others, or cause damage or harm to Plant and Materials or Equipment, is not permitted access to the Working Areas or is removed from the Working Areas.

Health and safety – exchange of information

- S 1106.5 The *Client* provides
- health and safety information in the *Client's* possession to support the *Contractor* in Providing the Works and
 - a copy of the *Client's* health and safety policies, procedures, and guidance.
- S 1106.6 The *Contractor* submits health and safety information to the *Project Manager* including inductions, training, equipment inspection and testing records and safe systems of work (including site briefings to be available for inspection upon request).
- S 1106.7 The *Contractor* implements measures for managing and supervising Staff who do not speak English as their first language, which include
- a suitable ratio of supervision to workforce,
 - appropriate means of communication of relevant documentation and
 - assessment to ensure understanding.
- S 1106.8 The *Contractor* consults and involves Staff whose first language is not English, as a minimum, in accordance with the guidance and recommendations contained in Health and Safety Executive guidance HSG 263 'Involving your workforce in health and safety' ([see link at Annex A](#)).

Health and safety advice

- S 1106.9 The *Contractor* appoints and retains competent health and safety managers and advisers as part of its health and safety management system.
- S 1106.10 The minimum requirements for any *Contractor's* health and safety manager are as stated in [Annex K](#).
- S 1106.11 The minimum requirements for any *Contractor's* health and safety adviser are
- membership of IOSH or qualified to NEBOSH Construction Certificate or above,
 - relevant knowledge and experience of major civil and highways projects and
 - a good working knowledge of legislation, guidance and standards relevant to the *works*.

- S 1106.12 The *Contractor* provides the health & safety managers and advisers support of additional competent Staff to fulfil the health and safety requirements of the contract.

S 1107 Risk Assessments, Method Statements and Permits to Work

- S 1107.1 The *Contractor* implements a risk assessment and method statement production and briefing process.
- S 1107.2 The *Contractor* issues a schedule of work activities to the *Project Manager* for acceptance within one month of the *starting date* which includes
- a list of risk assessments and method statements that will be prepared throughout the *works* and the relevant work activities,
 - the relevant work activities that may impact on assets or properties owned or controlled by the *Client* and Others,
 - timeframes for the preparation of risk assessments and method statements and for issue to the *Project Manager* for review and
 - a rating of the potential risks of work activities, classified as
 - high,
 - medium or
 - low
- including an explanation as to why activities have been identified as low, medium or high risk.
- S 1107.3 A reason for the *Project Manager* not accepting a schedule of work activities is that it does not
- provide a full list of risk assessments and method statements for the duration of the *works*,
 - identify work activities that may impact on assets or properties owned or controlled by the *Client* and Others,
 - allow sufficient time allowances for *Project Manager* review as required by the contract or
 - provide an explanation as to how potential risks have been classified.
- S 1107.4 The *Contractor* makes available risk assessments and method statements for *Project Manager's* review and comment in accordance with the agreed schedule unless otherwise agreed with the *Project Manager*. The *Contractor* addresses comments made by the *Project Manager* prior to carrying out any work activities. Absence of comments not does mean acceptance by the *Project Manager*.
- S 1107.5 The *Contractor*
- operates a permit to work process for higher risk activities either independently or as part of other processes to which they pertain and
 - prepares permits in line with Health and Safety Executive guidance HSG250 'Guidance on permit-to-work systems' ([see link at Annex A](#)).
- S 1107.6 As a minimum, the *Contractor* operates a permit to work process for the following non-exhaustive list of activities

- piling and any works that involve vibration,
- hot works,
- entry to confined spaces,
- excavations within close proximity to utilities,
- unexploded ordnance (UXO),
- contaminated land,
- electrical works, including work on live services,
- temporary works and
- use of cartridge tools.

S 1108 CDM Compliance

- S 1108.1 The *Client* appoints the *Contractor* to act as principal contractor and principal designer for the purposes of the Construction (Design and Management) Regulations 2015.
- S 1108.2 The *Contractor* ensures its subcontractors (at any stage of remoteness for the *Client*), identified as CDM duty holders comply with the Construction (Design and Management) Regulations 2015 in the discharging of their duties.
- S 1108.3 The *Contractor* provides information to the *Project Manager* to demonstrate that individuals proposed for appointment to carry out the duties have the skills, knowledge and experience that meet the requirements given in the Health and Safety Executive's guidance on regulations (L153), 'Managing Health and Safety in Construction' ([see link at Annex A](#)).

Pre-Construction Information

- S 1108.4 The *Client* has collated pre-construction information ([see link at Annex A](#)).

Welfare Facilities

- S 1108.5 The *Contractor* confirms to the *Project Manager* that adequate welfare facilities are in place prior to commencement of construction activities.

S 1110 Health and safety inspections

- S 1110.1 The *Client* can challenge any activity undertaken where it considers there is a hazard to the safety of any person. Where in the opinion of the *Client* or *Project Manager*, a health and safety hazard exists, the *Contractor* suspends the activity immediately, drafts a report within 24 hours, and submits to the *Project Manager* for information. The report documents the issue observed, the reason for the failure if appropriate and corrective and preventative actions taken before recommencing the activity.
- S1110.2 The *Contractor* outlines within the Construction Phase Plan a formal inspection schedule which is led by the *Contractors* senior leadership team. As a minimum, the *Contractor* ensures that it undertakes inspections on a weekly basis and documents the findings of these inspections. As required, the *Contractor* co-ordinators with the *Project Manager* to allow the planning of joint inspections. The *Contractor* prepares an inspection results report that records the results and analysis of the results. When requested, the *Contractor* provides a copy of any inspection results report to, the *Project Manager*.

- S1110.3 The *Contractor* takes actions to ensure that the matters identified in the inspections are addressed and remedied.
- S1110.4 The *Contractor* implements a system to record inspections and other visits, observations and incident events. The system analyses and provides trend findings with updates in the form of monthly health, safety and wellbeing reports submitted to the *Project Manager*.

S 1111 Incident Reporting

- S 1111.1 The *Contractor* complies with DMRB GG 128 'Requirements for reporting incidents, events and undesirable circumstances: health, safety, wellbeing, structural and environmental' (formerly IAN 128/15Ar/B/C), or its later update or replacement, including any time periods required by GG 128. If no time period is specified in GG 128 the *period of reply* applies unless agreed otherwise with the *Project Manager*.
- S 1111.2 The *Contractor* informs the *Project Manager* if any incident occurs that the *Contractor* considers is not within the remit of GG 128 and reports the incident as if the incident was in the remit of GG 128 if required by the *Project Manager*.
- S 1111.3 In addition to any requirements in GG 128, the *Contractor* reports to the *Project Manager* within 3 hours details of any serious incidents involving any person injured or killed in the Working Area. The *Contractor* reports such incidents through the *Client's* Accident and Incident Reporting System (AIRS).

Incident investigation, reporting and follow-up

- S 1111.4 The *Contractor* ensures that it includes the *Project Manager* as part of any investigation team assigned to investigate incidents that may occur.
- S 1111.5 The *Contractor* provides the *Project Manager* with unrestricted access to information relating to an incident, including facilities, equipment, materials and records of the *Contractor* and the subcontractors (at any stage of remoteness from the *Client*) for this purpose (subject to any statutory or contractual obligation prohibiting this access).
- S 1111.6 The *Contractor* provides a copy of all materials related to an incident to the *Project Manager*. Any materials that otherwise falls to be disclosed by the *Contractor* to the *Client* may be withheld by the *Contractor* provided the *Contractor's* legal advisor confirms to the *Project Manager* that the materials are
- a confidential communication between the *Contractor* and its legal advisor for the purposes of seeking or giving legal advice that the legal advisors normally expect to be given legal privilege in the normal course of its business with the *Contractor* or
 - a confidential communication between the *Contractor* or its legal advisers and third party where the communication came into existence with the dominant purpose of being used in connection with contemplated, pending or actual litigation in adversarial proceedings (as opposed to investigations or fact-finding inquiries).

- S 1111.7 Investigations by the *Contractor* are undertaken by a competent person who has been trained in effective accident/incident investigation. The investigation report provides information on the circumstances surrounding the accident/incident and any remedial measures to be taken in order to prevent a recurrence. Relevant photographs and statements are provided as an integral part of the investigation report.
- S 1111.8 Where the *Contractor* is compiling a draft incident report, the *Contractor* discusses the findings of a draft report with the *Project Manager* prior to the production of the final draft of such a report.
- S 1111.9 The *Contractor* implements recommendations arising from incident investigations.

Incident statistics

- S 1111.10 The *Contractor*, if requested by the *Project Manager*, provides detailed reports of accident and incident statistics to the *Project Manager* in a format and at periods specified by the *Project Manager*.

S 1112 *Client assurance of Health & Safety*

- S 1112.1 The *Contractor* ensures (and procures from its subcontractors (at any stage of remoteness from the *Client*) the *Project Manager* has unrestricted access at all reasonable times to any
- premises used to or supports Providing the Works,
 - Equipment,
 - Plant and Materials,
 - Staff and
 - materials including records and electronic systems
- of the *Contractor* and any subcontractor (at any stage of remoteness from the *Client*), subject only to any statutory obligation prohibiting the disclosure of any such materials, to audit any or all of the *Contractor's* health and safety management systems.
- S 1112.2 The *Project Manager* may notify the *Contractor* of any legal breaches, improvements or best practice that may relate to the *works*. This may be as a result of management system audits, inspections and project documentation reviews.
- S 1112.3 Where the *Contractor* has been notified by the *Project Manager* of an issue, the *Contractor* corrects the situation by the date specified by the *Project Manager*.

S 1113 Searches and authorised access to Site and Working Areas

- S 1113.1 The *Contractor* permits and procures the consent of Staff to the searching by the *Project Manager* at any time, including while arriving or leaving the Site and Working Areas, of their person or of any article, including

- any container,
- package,
- box,
- holdall,
- suitcase or
- vehicle

in the possession or use of Staff on the Site and Working Areas or being retained by the *Project Manager* on behalf of the *Contractor* or *Contractor's* employees.

- S 1113.2 Any Staff not complying or unwilling to comply with the requirements above is not permitted access to the Site and Working Areas or is removed from the Site and Working Areas.

S 1200 Subcontracting

S 1205 Restrictions of requirements for subcontracting

- S 1205.1 Not used.
- S 1205.2 Not used.
- S 1205.3 Except as required by an operational requirements of a Category Purchase Agreement, the *Contractor* obtains a minimum of 3 competitive written quotations for the appointment of any subcontractor or supplier for works/services with a value in excess of £10,000.
- S 1205.4 The *Contractor* includes a provision in all subcontracts stating that it will not deduct retention from any amount due to the subcontractor and procures that its subcontractors (at any stage of remoteness from the *Client*) do the same.
- S 1205.4A Unless agreed otherwise by the *Project Manager*, the *Contractor* includes in the conditions of contract for each subcontractor
- provisions to the same effect as the requirements in section S 1100,
 - an acknowledgment from the subcontractor that the *Client* may enforce those provisions directly against the subcontractor under the Contracts (Rights of Third Parties) Act 1999 and
- a provision requiring each further stage subcontract to contain provisions to the same effect as these requirements in section S 1100.
- S 1205.5 The *Contractor* ensures that all subcontractors (at any stage of remoteness from the *Client*) are Named Suppliers. The *Contractor* procures that the *Client* and *Project Manager* may
- at any time, contact any subcontractor (at any stage of remoteness from the *Client*) directly to improve the subcontractor's or its knowledge and understanding of the benefits of Project Bank Accounts and
 - may carry out audits to assess how and when subcontractor (at any stage of remoteness from the *Client*) payments are made.

- S 1205.6 The *Contractor* may propose to the *Project Manager* that a subcontractor (at any stage of remoteness from the *Client*) is not a Named Supplier. The *Contractor* does not, and procures that a subcontractor (at any stage of remoteness from the *Client*) does not, appoint a subcontractor (at any stage of remoteness from the *Client*) who is not a Named Supplier unless the *Project Manager* has accepted the *Contractor's* proposal. A reason for not accepting the *Contractor's* proposal is that it is practicable for the subcontractor (at any stage of remoteness from the *Client*) to be a Named Supplier.
- S 1205.7 The *Contractor* ensures that all subcontracts (at any stage of remoteness from the *Client*) use an NEC form of contract.
- S 1205.8 The *Contractor* may propose to the *Project Manager* that a subcontract (at any stage of remoteness from the *Client*) does not use a NEC form of contract. The *Contractor* does not, and procures that a subcontractor (at any stage of remoteness from the *Client*) does not, award a subcontract (at any stage of remoteness from the *Client*) which is not an NEC form unless the *Project Manager* has accepted the *Contractor's* proposal. A reason for not accepting the *Contractor's* proposal is that it is practicable for the subcontract (at any stage of remoteness from the *Client*) to be an NEC form.
- S 1205.9 The *Contractor* submits the proposed contract data for each subcontract to the *Project Manager* for acceptance, and for the purposes of clause 26.4 (where main Option C, D, E or F applies) this paragraph S1205.9 is the *Project Manager's* instruction to the *Contractor* to make the submission.
- S 1205.10 The *Contractor* ensures that any subcontract is capable of being novated to a replacement contractor, unless agreed otherwise by the *Project Manager*.
- S 1205.11 The *Contractor* may propose to the *Project Manager* that a subcontract is not capable of being novated to a replacement contractor. The *Contractor* does not award a subcontract that is not capable of being novated to a replacement contractor unless the *Project Manager* has accepted the *Contractor's* proposal. A reason for not accepting the *Contractor's* proposal is that it is practicable for the subcontract to be novated to a replacement contractor.
- S 1205.12 When requested by the *Project Manager*, the *Contractor* executes, and procures a subcontractor executes, an agreement in the form set out in [Annex Q](#) of this Volume 2 Part 1 (General Requirements) or such other form as the *Client* may reasonably require to novate the benefit and burden of a subcontract to a replacement contractor or the *Client*.
- S 1205.13 The *Contractor* undertakes all subcontractor selection and management processes in a manner that is compatible with and supports the *Client* in its obligations to comply with the Public Services (Social Value) Act 2012 and any guidance as if the Act applies
- to works contracts and goods contracts as well as services contracts and
 - the *Contractor's* subcontracts.

- S 1205.14 The *Contractor* supports the *Client* in its commitment to the DfT's SME action plan ([see link at Annex A](#)) by supporting, and when instructed by the *Project Manager* attending, "meet the buyer / contractor" style events.

The *Contractor*

- organises (including venues) all or part of the events, as instructed by the *Project Manager*,
- ensures such events are branded as a project event,
- agrees with the *Project Manager* any costs associated with such events prior to incurring such costs and
- encourages and enables the events to be supported by Federation of Small Business or other trade bodies when advised by the *Project Manager*.

Structural Steelwork

- S 1205.15 All structural steelwork including the fabrication and erection of new steelwork and the dismantling, modification, fabrication, refurbishment and re-erection of existing steelwork for bridgeworks, footbridges, sign gantries and other similar structures is to be undertaken by a steelwork contractor listed in "The Register of Qualified Steelwork Contractors Scheme for Bridgeworks" for the type and value of the work to be undertaken, or equivalent. This requirement may also be satisfied, if necessary, by registration and audit under an accepted equivalent registration scheme from another member state of the European Union provided that the scheme ensures corresponding levels of safety, suitability and fitness for purpose.

- S 1205.16 When required, the *Contractor* makes any enquiries about the Register of Qualified Steelwork Contractors to:

British Constructional Steelwork Association
4 Whitehall Court
London
SW1A 2ES

S 1206 Fair payment

- S 1206.1 The *Contractor* includes in the contract with each subcontractor
- a period for payment of the amount due to the subcontractor not greater than 19 days after the date on which payment becomes due under the contract. The amount due includes payment for work which the subcontractor has completed from the previous assessment date up to the current assessment date in the contract,
 - a provision requiring the subcontractor to include in each subsubcontract the same requirement, except that the period for payment is to be not greater than 23 days after the date on which payment becomes due under the contract,
 - a provision requiring the subcontractor to assess the amount due to a subsubcontractor without taking into account the amount paid by the *Contractor* and
 - a provision requiring each further stage subcontract to contain provisions to the same effect as these requirements, with the intention

that all subcontractor (at any stage of remoteness from the *Client*) are to be paid within 30 days after the date on which payment becomes due under the contract.

- S 1206.2 The *Contractor* notifies non-compliance with the timescales for payment
- to the *Client*,
 - to the *Project Manager* and
 - through the Efficiency and Reform Group Supplier Feedback Service.

The *Contractor* includes this provision in each subcontract and requires subcontractors to include the same provision in each subsubcontract with the intention that all subcontractors (at any stage of remoteness from the *Client*) include the same provision.

- S 1206.3 A failure to comply with this section is treated as a substantial failure by the *Contractor* to comply with its obligations.

S 1210 Acceptance procedures

Structural Steelwork

- S 1210.1 In this section
- **Relevant Subcontract** is a subcontract for the supply (whether or not including fabrication, delivery or installation) of any significant steel materials, steel related products or steel related elements (excluding Equipment and fixings) that are
 - used to Provide the Works or
 - incorporated or left in the *works*which the *Contractor* has not already awarded before the Contract Date.
 - **Relevant Subcontractor** is a Subcontractor appointed under a Relevant Subcontract.
- S 1210.2 The *Contractor* advertises any Relevant Subcontract in accordance with Procurement Policy Note (PPN) 11/16 "Procuring Steel in Major Projects - Revised Guidance" ([see link at Annex A](#)) unless the *Project Manager* agrees that to do so is disproportionate to the nature and value of the Relevant Subcontract.
- S 1210.3 The *Contractor* advertises any Relevant Subcontract in accordance with the requirements of sections S 1215 and S 1216.
- S 1210.4 Before advertising any proposed Relevant Subcontract the *Contractor* submits to the *Project Manager* for acceptance
- the proposed Relevant Subcontract in full and
 - a report demonstrating how the proposed Relevant Subcontract meets all the obligations and requirements for a Relevant Subcontract under the contract and,
- A reason for the *Project Manager* not accepting the proposed Relevant Subcontract is that it does not meet the obligations and requirements of the contract.

- S 1210.5 Before appointing a Relevant Subcontractor, the *Contractor* submits to the *Project Manager* for acceptance the name of the proposed Relevant Subcontractor and a report demonstrating
- how the proposed appointment complies with the contract,
 - how the proposed Relevant Subcontractor demonstrates and meets the assessment criteria and
 - how the assessment methodology and scoring methodology have been complied with.
- A reason for not accepting the proposed appointment of a Relevant Subcontractor is
- the tender assessment does not comply with the accepted assessment methodology or scoring methodology,
 - the tender assessment does not demonstrate how the Relevant Subcontractor meets the assessment criteria,
 - the Relevant Subcontractor's appointment does not allow the *Contractor* to Provide the Works or
 - the Relevant Subcontractor's appointment does not comply with the contract.
- S 1210.6 The *Contractor* awards any Relevant Subcontract on the basis of the most economically advantageous tender (as defined in the Public Contracts Regulations 2015) following a fair, transparent and competitive process proportionate to the nature and value of the Relevant Subcontract. The *Contractor* conducts the financial assessment of any Relevant Subcontract tenders on a whole life cost basis.
- S 1210.7 In procuring all Relevant Subcontracts, the *Contractor* takes into account
- compliance by the Relevant Subcontractor with
 - health and safety legislation and the protection of any staff involved in any production or manufacturing process of any steel material or steel product,
 - welfare legislation and
 - employment legislation,
 - the carbon footprint of any steel materials or steel products used in or to Provide the Works so as to minimize any carbon emissions,
 - the social integration of disadvantaged workers or members of vulnerable groups among the staff performing the contract and used to Provide the Works, such as the long-term unemployed (defined as people who have been unemployed for 12 months or more),
 - the Relevant Subcontractor's commitment to provide training in the skills needed
 - to perform any Relevant Subcontract or
 - to Provide the Works,
 - such as the hiring of apprentices and
 - the whole life cost and cost-effectiveness of any steel materials or steel products used in or to Provide the Works, including the cost (measured over the life-cycle of the material or product in question) of
 - transport or transportation,
 - insurance,

- assembly and disposal and
- use, including
 - the cost of energy and other resources,
 - maintenance costs and
 - costs associated with environmental impacts, including the cost of any emissions in its production or manufacture

S 1210.8 The *Contractor* provides to the *Project Manager* information for the use of steel in the *works*, including

- communications in relation to all steel procurements,
- the value of each procurement,
- content,
- contractual arrangements,
- award criteria and evaluation methodology and
- the quantity of raw steel provided by UK and non UK suppliers.

S 1215 Contracts Finder

S 1215.1 The *Contractor* ensures all subcontracts are advertised on CompeteFor (see link in Annex A).

S 1215.2 The requirements of this section S 1215 do not apply to subcontracts placed under a Category Purchase Agreement.

S 1215.3 Where the total of the Prices is £5,000,000 or more at the Contract Date or where Option X22 is used, the *Contractor*

- subject to paragraphs S 1215.5, S 1215.6 and S 1215.7, advertises on Contracts Finder all subcontract opportunities arising from or in connection with Providing the Works above a minimum threshold of £25,000 that arise before Completion,
- within 90 days of awarding a subcontract to a subcontractor, updates the notice on contracts finder with details of the successful subcontractor,
- monitors the number, type and value of the subcontract opportunities placed on Contracts Finder advertised and awarded in its supply chain prior to Completion and provides reports on this information to the *Project Manager* in the format and frequency as reasonably specified by the *Project Manager* and
- promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

S 1215.4 Each advert referred to in paragraph S 1215.3 provides a full and detailed description of the subcontract opportunity with each of the mandatory fields being completed on Contracts Finder by the *Contractor*.

S 1215.5 The obligation at paragraph S 1215.3 only applies in respect of subcontract opportunities arising after the Contract Date.

- S 1215.6 The *Contractor*, may propose to the *Project Manager* for agreement that a specific subcontract is not advertised on Contracts Finder. The *Contractor* provides a detailed reason for not advertising the specific contract. The *Contractor* provides further detail when requested by the *Project Manager*. If agreed by the *Project Manager*, the *Contractor* is relieved from advertising that subcontract opportunity on Contracts Finder.
- S 1215.7 In respect to Relevant Subcontracts, the *Contractor* also complies with sections S 1210 and S 1400.
- S 1215.8 Not used.

S 1216 Advertising Subcontracts in accordance with the Public Contract Regulations 2015

- S 1216.1 Not used.

S 1220 Subcontracting Incentivisation

- S 1220.1 The *Contractor* ensures that each subcontract includes incentive schemes that enables the subcontractor to contribute to and benefit from the incentive schemes in clauses 54 and Z119.
- S 1220.2 The *Contractor* may propose to the *Project Manager* that a subcontract does not have incentive schemes in accordance with paragraph S 1220.1. Unless paragraph S 1220.3 applies, the *Contractor* does not award a subcontract which does not have incentive schemes in accordance with paragraph S 1220.1 unless the *Project Manager* has accepted the *Contractor's* proposal. A reason for not accepting the *Contractor's* proposal is that
- the subcontract is to be with a subcontractor which is a Key Subcontractor or
 - total of the prices (as defined under the subcontract) is valued at £1,000,000.00 or higher, excluding VAT, at the subcontract's contract date (as defined under the subcontract).
- S 1220.3 The *Contractor* may award a subcontract which does not have incentive schemes in accordance with S 1220.1 where
- the subcontractor will only subcontract on the subcontractor's own terms and conditions and it is evidenced to the *Project Manager* or
 - the subcontract is to be with a Category Supplier.

S 1230 Subcontracting Risk Allocation

- S 1230.1 The *Contractor* ensures that each subcontract includes a risk allocation that is
- similar to the contract and
 - reflective of the value of the subcontract.
- S 1230.2 The *Contractor* may propose to the *Project Manager* that a subcontract does not have a risk allocation that is

- similar to the contract and
- reflective of the value of the subcontract.

Unless paragraph S 1230.3 applies, the *Contractor* does not award a subcontract which does not have a risk allocation that is

- similar to the contract and
- reflective of the value of the subcontract

unless the *Project Manager* has accepted the *Contractor's* proposal. A reason for not accepting the *Contractor's* proposal is that the subcontract is to be with a subcontractor which is a Key Subcontractor.

S 1230.3 The *Contractor* may award a subcontract which does not have a risk allocation that is

- similar to the contract and
- reflective of the value of the subcontract

where

- the subcontractor will only subcontract on the subcontractor's own terms and conditions or
- the subcontract is to be with a Category Supplier.

S 1300 Title

S 1305 Marking

S 1305.1 To prepare Equipment, Plant and Materials which are outside the Working Areas for marking by the *Contractor*

- marks the Equipment, Plant and Materials in the location they are stored so as to show that its destination is the Working Areas and that they are the property of the *Client* (upon marking by the *Contractor* and
- provides to the *Supervisor*
 - evidence that the title to the Equipment, Plant and Materials has passed to the *Contractor* free of all liens, charges, options, encumbrances, rights, claims and other interests of any third party and
 - a schedule identifying
 - a unique number and bar code,
 - the locations where the relevant Equipment, Plant and Materials are stored in until they are brought within the Working Areas and
 - the value of each item of the Equipment and Plant and Materials stored.

S 1305.2 The *Contractor* ensures that any Equipment, Plant and Materials stored outside of the Working Areas is stored so that

- it is not damaged and
- it is safe and secure.

S 1305.3 The Plant and Materials which are outside the Working Areas which are identified for payment are

- all Plant and Materials outside the Working Areas which is to be paid by the *Client* in accordance with clause Z124.

The Plant and Materials which are outside the Working Areas which are marked by the *Contractor* are such Plant and Materials which is to be paid by the *Client* in accordance with clause Z124.

S 1310 Materials from excavation and demolition

- S 1310.1 The *Contractor* prepares a Materials Management Plan to deliver the commitments of the Outline Environmental Management Plan (OEMP) in accordance with Volume 2 Part 2 (Design and Technical Requirements) of the contract.

S 1400 Acceptance or procurement procedure (Options C, D, E and F only)

S 1405 Procurement procedures

- S 1405.1 Not used.

S 1410 Submission and acceptance procedures

- S 1410.1 Not used.

S 1500 Accounts and records (Options C, D, E and F only)

S 1505 Additional records

- S 1505.1 Not used.

S 1510 Cost verification

- S 1510.1 The *Contractor* allows the *Project Manager, Client* (or a forensic cost verification consultant engaged by the *Client*) to remove data relating to the assessment of Defined Cost (including Personal Data) from any system, the Working Areas or any other premises for the purpose of verifying the Defined Cost incurred.
- S 1510.2 The *Client* ensures that data removed from the Working Areas for verification is adequately protected against the risk of accidental, unauthorised or unlawful processing, destruction, loss, damage, alteration or disclosure.
- S 1510.3 The *Contractor* obtains agreement from the data subject for the removal of Personal Data from the Working Areas for verification.

S 1520 Records and audit access

- S 1520.1 The *Contractor* keeps materials and information obtained or prepared by the *Contractor* or any subcontractor (at any stage of remoteness from the *Client*) in connection with the contract for a period of 12 years after the defects date.
- S 1520.2 The *Contractor* permits the *Client* and the Comptroller and Auditor General to examine documents held or controlled by the *Contractor* or any subcontractor (at any stage of remoteness from the *Client*).

- S 1520.3 The *Contractor* provides such oral or written explanations as the *Client* or the Comptroller and Auditor General considers necessary.
- S 1520.4 This section S 1520 does not constitute a requirement or agreement for the purposes of section 6(3)(d) of the National Audit Act 1983 for the examination, certification or inspection of the accounts of the *Contractor*.

S 1600 Parent Company Guarantee

- S 1600.1 The forms of Parent Company Guarantees are set out in [Annex B](#) (or such other form as the *Client* may reasonably require). See clauses Z9 and Z11.
- S 1600.2 If the entity that is to provide the Parent Company Guarantee is not a company incorporated in and subject to the laws of England and Wales, the *Contractor* provides a legal opinion in support of a Parent Company Guarantee.

Any legal opinion provided by the *Contractor* in support of a Parent Company Guarantee from a company not incorporated in and subject to the laws of England and Wales includes (among others) the following matters

- is addressed to the *Client* on a full reliance basis,
- the liability of the lawyers giving the opinion is not subject to any exclusion or limitation of liability,
- confirmation that
 - the Controller is a corporation duly incorporated in the relevant jurisdiction, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated,
 - the Controller has full power to execute, deliver, enter into and perform its obligations under the Parent Company Guarantee,
 - all necessary corporate, shareholder and other action required to authorise the execution and delivery by the Controller of the Parent Company Guarantee and the performance by it of its obligations under it have been duly taken,
 - execution by the proposed signatories in accordance with the method of execution proposed will constitute valid execution by the Controller, the execution and delivery by the Controller of the Parent Company Guarantee and the performance of its obligations under it will not conflict with or violate
 - the constitutional documents of the Controller,
 - any provision of the laws of the jurisdiction in which it is incorporated,
 - any order of any judicial or other authority in the jurisdiction in which it is incorporated or
 - any mortgage, contract or other undertaking which is binding on the Controller or its assets and
 - (assuming that it is binding under English Law) the Parent Company Guarantee constitutes legal, valid and binding obligations of the Controller enforceable in accordance with its terms,
- notification of any other formalities to be complied with under local law which may be necessary to enforce the Parent Company Guarantee in

the Controller's place of incorporation, including (for example) notarisation, legalisation or registration of the Parent Company Guarantee,

- notification of whether withholding is required to be made by the Controller in relation to any monies payable to the Client under the Parent Company Guarantee,
- confirmation of whether the Client will be deemed to be resident or domiciled in the foreign jurisdiction by reason of its entry into the Parent Company Guarantee and
- confirmation that the Controller and its assets are not entitled to immunity from suit, pre-judgment attachment or restraint or enforcement of a judgment on grounds of sovereignty or otherwise in the courts of England and Wales in respect of proceedings against it in relation to the Parent Company Guarantee.

S 1700 Undertakings to the *Client* or Others (Option X8)

- S 1700.1 Prior to the Completion of *section 3*, the *Contractor* provides the undertaking in the form specified in *Annex U* or such other form as the *Client* may require.

S 1800 Intellectual Property Rights

S 1805 *Contractor's rights over material prepared for the design of the works*

- S 1805.1 The *Contractor* acquires no rights over material prepared for the design of the *works*.
- S 1805.2 The *Contractor* may use such material only for the purpose of Providing the Works.

S 1810 Other rights to be obtained by the *Contractor*

- S 1810.1 The following definitions apply for the purposes of section S 1800
- **Affiliate** is in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.
 - **Central Government Body** is a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics
 - Government Department,
 - Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal),
 - Non-Ministerial Department or
 - an Executive Agency of one of the aboveand any body corporate that is a wholly owned subsidiary of one of the above.
 - **Client Background IPR** is IPR owned by the *Client* before the Contract Date, or created by the *Client* independently of the contract, and Crown Copyright which is not available to the *Contractor* otherwise

than under the contract, but excluding IPRs owned by the *Client* subsisting in the Client Software.

- **Client Software** is software which is owned by or licensed to the *Client* (other than under or pursuant to the contract) and which is or will be used by the *Contractor* in order to Provide the Works.
- **Client System** is the *Client's* computing environment (consisting of hardware, software and telecommunications networks or equipment) used by the *Client* or the *Contractor* in connection with the contract which is owned by the *Client* or licensed to it by a third party and which interfaces with the Contractor System or which is necessary for the *Client* to receive the works.
- **Commissioning Date** for a *relevant works* is the day on which the commissioning of a *relevant works* is successfully completed and its *relevant works conditions* are met.
- **Confidential Information** is
 - information, including all Personal Data, which (however it is conveyed) is provided by the disclosing Party in connection with the contract that relates to
 - the Disclosing Party Group or
 - the operations, business, affairs, developments, Intellectual Property Rights, trade secrets, know-how and personnel of the Disclosing Party Group,
 - other information provided by the disclosing Party in accordance with the contract that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Recipient's attention or into the Recipient's possession in connection with the contract,
 - discussions, negotiations, and correspondence between the disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Recipient or any of its directors, officers, employees, consultants and professional advisers in connection with the contract and all matters arising therefrom; and
 - information derived from any of the above,but not including any information which
 - was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the disclosing Party,
 - the Recipient obtained on a non-confidential basis from a third party who is not, to the Recipient's knowledge or belief, bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the Recipient,
 - was already generally available and in the public domain at the time of disclosure otherwise than by a breach of the contract or breach of a duty of confidentiality or
 - was independently developed without access to the Confidential Information.
- **Contractor Background IPR** is IPR owned by the *Contractor* or a third party before the Contract Date or created by the *Contractor* or a third party independently of the contract, which in each case is or will

be used before or after the *defects date* for Providing the Works (including its design, testing, implementation), its maintenance, operation and improvement, but excluding IPRs owned by the *Contractor* subsisting in the Contractor Software or by any third party in Third Party Software.

- **Contractor Equipment** is the hardware, computer and telecoms devices and equipment used by the *Contractor* or its subcontractors (or any subcontractor of any tier to the *Contractor*) (but not hired, leased or loaned from the *Client*) for the Providing the Works.
- **Contractor Software** is software which is proprietary to the *Contractor* (or an Affiliate of the *Contractor*) and
 - which is or will be used by the *Contractor* for the purposes of Providing the Works,
 - which is or will be used by the *Client* for the purposes of maintaining, operating or improving the *works* and
 - including the software specified as such in the Software Schedule.
- **Contractor System** is the information and communications technology system used by the *Contractor* in implementing and performing the *works* including the Software, the Contractor Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Client System).
- **Control** is the possession by person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and Controls and Controlled are to be interpreted accordingly.
- **Deposited Software** is the Software the Source Code of which is to be placed in escrow as required by the *Project Manager* and notified to the *Contractor* from time to time including as identified in the Software Schedule.
- **Disclosing Party Group** is where the disclosing Party is
 - the *Contractor*, the *Contractor* and any Affiliates of the *Contractor*, and
 - the *Client*, the *Client* and any Central Government Body with which the *Client* or the *Contractor* interacts in connection with the contract.
- **Documentation** is descriptions of the *works*, the *Contractor's works* solution, performance measures, details of the Contractor System (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as
 - is required to be supplied by the *Contractor* to the *Project Manager* under the contract,
 - would reasonably be required by a competent third party capable of Good Industry Practice contracted by the *Client* to develop,

- configure, build, deploy, run, maintain, upgrade and test the individual systems that Provide the Works or make use of the *works*,
- is required by the *Contractor* in order to Provide the Works and
 - has been or is generated in order to Provide the Works.
- **Good Industry Practice** is at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a skilled and experienced person or body engaged in services similar to the *works* to a customer like the *Client*, such supplier seeking to comply with its contractual obligations in full and complying with any applicable laws.
 - **Indemnified Person** is the *Client* and each and every person to whom the *Client* (or any direct or indirect sub-licensee of the *Client*) sub-licenses, assigns or novates any Relevant IPRs or rights in Relevant IPRs in accordance with the contract.
 - **Intellectual Property Rights** or **IPRs** are
 - copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and other rights in Confidential Information,
 - applications for registration, and the right to apply for registration, for any of the rights listed above that are capable of being registered in any country or jurisdiction and
 - all other rights having equivalent or similar effect in any country or jurisdiction.
 - **IPRs Claim** is any claim against any Indemnified Person of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any Relevant IPRs save for any such claim to the extent that it is caused by any use by or on behalf of that Indemnified Person of any Relevant IPRs, or the use of the Client Software by or on behalf of the *Contractor*, in either case for a purpose not reasonably to be inferred from the Scope or the provisions of the contract.
 - **Object Code** is software and data in machine-readable, compiled object code form.
 - **Open Source Software** is software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPRs in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge.
 - **OSS** is the Open Source Software listed in the Software Schedule.
 - **Recipient** is the Party which receives or obtains directly or indirectly Confidential Information.
 - **Relevant IPR** is IPRs used to Provide the Works or as otherwise provided and licensed by the *Contractor* (or to which the *Contractor* has provided access) to the *Client* or a third party in the fulfilment of the *Contractor's* obligations under the contract including IPRs in the

Specially Written Software, the Contractor Software, the Contractor Background IPRs and the Third Party Software but excluding any IPRs in the Client Software and the Client Background IPRs.

- **Software** is Specially Written Software, Contractor Software and Third Party Software.
- Software Supporting Materials are
 - the Documentation, Source Code and the Object Code of the Specially Written Software and
 - all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software.
- **Software Schedule** is the *software schedule* unless later changed in accordance with the contract.
- **Source Code** is computer programs and data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software.
- **Specially Written Software** is any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the *Contractor* (or by a Subcontractor (or any subcontractor of any tier to the *Contractor*) or other third party on behalf of the *Contractor*) specifically for the purposes of the contract, including
 - any Contractor Background IPRs that are embedded in or which are an integral part of such software; and
 - any modifications or enhancements to Contractor Software or Third Party Software created specifically for the purposes of the contract.
- **Third Party Software** is software which is proprietary to any third party (other than an Affiliate of the *Contractor*) which in any case is or will be used by the *Contractor* or *Client* for the purposes of Providing the Works, maintaining, operating or improving the *works* and including the software specified as such in the Software Schedule and including OSS.

S 1810.2 All Intellectual Property Rights in

- Client Background IPR and
- Client Software

are and remain the property of the *Client* or the Crown, and the *Contractor* does not acquire any right, title or interest therein or thereto.

S 1810.3 The *Contractor* hereby assigns to the *Client*, with full title guarantee, title to and all rights and interest in the Specially Written Software (except for any Contractor Background IPR contained therein) or procures that the first owner of the Specially Written Software assigns them to the *Client* on the same basis.

S 1810.4 All Intellectual Property Rights in

- Contractor Background IPR and
- Contractor Software

are and remain the property of the *Contractor*, and neither the *Client* nor the Crown acquire any right, title or interest therein or thereto.

- S 1810.5 The *Contractor* waives or procures a waiver of any moral rights in any copyright works assigned to the *Client* pursuant to the contract.
- S 1810.6 The *Contractor* hereby grants the *Client* to use (to include the right to load, execute, store, transmit, display and copy (for the purposes of archiving, backing-up, loading, execution, storage, transmission or display)) the
- Contractor Software,
 - Contractor Background IPR and
 - Third Party Software
- for any purpose relating to the *works* and its maintenance, operation, modification and for any purpose relating to the exercise of the *Client's* (or any other Central Government Body's) business or function.
- S 1810.7 The *Contractor* delivers to the *Project Manager* the Specially Written Software in both Source Code and Object Code forms together with relevant Documentation and all related Software Supporting Materials as necessary to meet its obligations under the contract and upon request by the *Client* at any time, and provides updates of the Source Code and of the Software Supporting Materials promptly following each new release of the Specially Written Software, in each case on media that is agreeable to the *Project Manager*. The *Contractor* acknowledges and agrees that the ownership of the media referred to in this paragraph vests in the *Client* upon their receipt by the *Project Manager*.
- S 1810.8 In respect of any sub-licence of the rights granted to the *Client* under paragraph S1810.7, if requested by the *Contractor* the sub- licensee executes a confidentiality undertaking (refer to Annex Y) in favour of the *Contractor* or third party owner of the relevant rights or such reasonable form as agreed by the *Project Manager*.
- S 1810.9 The *Contractor* informs the *Project Manager* of all Specially Written Software that constitutes a modification or enhancement to Contractor Software or Third Party Software.
- S 1810.10 The *Client* grants to the *Contractor*, or procures the direct grant to the *Contractor* of, a royalty-free, non-exclusive, non-transferable, revocable licence to use all Client Software and Client Background IPR reasonably required by the *Contractor* in order to Provide the Works. Any such licence is granted for the duration of the contract only and solely to enable the *Contractor* to comply with its obligations under the contract.
- S 1810.11 If an IPRs Claim is made, or the *Contractor* anticipates that an IPRs Claim might be made, the *Contractor*, at its own expense and sole option, either
- procures for the Client or other relevant Indemnified Person the right to continue using the relevant item which is subject to the IPRs Claim or
 - replaces or modifies the relevant item with non-infringing substitutes provided that

- the performance and functionality of the replaced or modified item is at least equivalent to the performance and functionality of the original item,
- the replaced or modified item does not have an adverse effect on any other services, or the Client System or the Contractor System,
- there is no additional cost to the *Client* or relevant Indemnified Person (as the case may be) and
- the terms and conditions of the contract apply to the replaced or modified *works*.

S 1810.12

If the *Contractor*

- procures a licence or
- modifies or replaces an item

in accordance with paragraph S1810.11 but this has not avoided or resolved the IPRs Claim, then the *Client* may treat this IPRs Claim as the *Contractor* having substantially hindered the *Client* or Others.

S 1810.13

The *Contractor* keeps the Software Schedule up to date to reflect the Software used to Provide the Works. The *Contractor* provides the *Project Manager* a copy of the updated Software Schedule within 5 days of any change to the Software.

S 1810.14

The *Contractor* deposits, and procures that each owner of the Deposited Software deposits, not less than fourteen (14) days following the relevant Commissioning Date or at such other times as the *Project Manager* may require, the Source Code of such part of the Software that consists of Deposited Software in escrow with the National Computing Centre ("NCC") (or equivalent agreed with the *Project Manager*) on the basis of its standard single or multi licensee escrow agreement (as applicable) unless another form is stated in the Scope, modified as necessary, and where applicable, to be consistent with the provisions paragraph S1810.16. The *Contractor* ensures that (and procures that each owner of the Deposited Software ensures that) the deposited version of the Source Code is the current version of the Deposited Software and that the deposited version is kept up-to-date as the Deposited Software is modified or upgraded. The *Contractor* pays, or procures that each owner of Deposited Software pays, the initial storage fees and any annual fees under the escrow agreement and the *Client* pays any release fees.

S 1810.15

Where Deposited Software includes Specially Written Software, without prejudice to the provisions of paragraph S1810.14, the *Contractor* ensures there are no restrictions on the release to the *Client* of Specially Written Software from escrow, which is released whenever required by the *Client* and without payment of any release fee, unless the *Project Manager* has agreed otherwise.

S 1810.16

Where the *Contractor* is unable to procure compliance with the provisions of paragraph S1810.14 in respect of any Third Party Software that is Deposited Software, it provides the *Project Manager* with written evidence of its inability to comply with these provisions and agrees with the *Project Manager* a suitable alternative to escrow that affords the *Client* the nearest equivalent protection. The *Contractor* is excused from its

obligations under paragraph S1810.15 only to the extent that the *Contractor* and the *Project Manager* have agreed on a suitable alternative.

S 1810.17 In circumstances where the *Client* obtains the release of the Source Code from escrow, the *Contractor* hereby grants (and procures that any owner of Deposited Software grants) to the *Client* a perpetual, worldwide, assignable, royalty-free, irrevocable and non-exclusive licence to use and support (which includes the right to load, execute, interpret, store, transmit, display, copy (for the purposes of loading, execution, interpretation, storage, transmission or display), modify, adapt, enhance, reverse compile, decode and translate) the Source Code version of the Deposited Software to the extent necessary for the receipt of the *works*, its maintenance, operation and modification of the *works* and for any purpose relating to the exercise of the *Client's* (or any other Central Government Body's) business or function. The licence granted under this paragraph S1810.17 survives the termination or expiry of the contract and cannot be terminated by the *Contractor* or its assignees or any third party.

S 1810.18 For additional contract specific requirements and constraints, refer to Clause Z13 of Contract Data part one on Intellectual Property Rights (IPR's).

S 1810.19 Three (3) months prior to the Maintenance Completion Date, the *Contractor* enters (and procures any subcontractor (at any stage of remoteness from the *Client*) enters) in to novation agreements for

- all escrow agreement for Deposited Software to novate the escrow agreement to the *Client* and
- all Software maintenance agreements for the Software to either the *Client* or a *Client's* contractor as directed by the *Project Manager*

in the form specified in the Scope (or such other form as the *Client* may reasonably require).

The effective date for any novation agreement is the Maintenance Completion Date or an earlier date as instructed by the *Project Manager*.

S 1900 Information modelling (Option X10)

S 1905 Information Model Requirements

S 1905.1 The Information Model Requirements are contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract and the *Client's* EIR.

The terms contained in Volume 2 Part 5 (Digital Construction Requirements) of the contract and the *Client's* EIR mean the equivalent of that in the NEC4 Engineering Construction Contract (ECC) as shown in Table 5 (*Clarification of digital terms*).

Table 5: Clarification of digital terms

Term in Volume 2 Part 5 (Digital Construction Requirements) and the <i>Client's</i> EIR	Equivalent term in NEC ECC
BIM Execution Plan (BEP)	Information Execution Plan
the Appointing Party	the <i>Client</i>
the Appointed Party	the <i>Contractor</i>

S 2000 Performance bond (Option X13) and Z124 Plant and Material outside the Working

- S 2000.1 The form of performance bond is set out in Annex T. See clauses X13 and Z124.

S 2100 Advanced payment to the *Contractor* (Option X14)

- S 2100.1 Not used.

S 2200 The *Contractor's* design (Options X15)

S 2205 Constraints on use of material

- S 2205.1 Documents are to be retained in its original format and in a format that allows continued access by the *Client*.
- S 2205.2 The *Contractor* provides a proposal to the *Project Manager* for acceptance for its plan and programme to retain material.
- S 2205.3 A reason for not accepting the proposal is that it will not allow the *Client* continued access to material.

S 2300 Retention (Option X16)

- S 2300.1 Not used.

S 2400 Low performance damages (Option X17)

- S 2400.1 Not used.

S 2405 Key Performance Indicators (KPIs) (X20)

- S 2405.1 Not used.

S 2500 Early Contractor Involvement (Option X22)

- S 2500.1 Not used.

S 2600 Project Bank Account (PBA) (Option Y(UK)1)

- S 2600.1 The *Contractor* complies with paragraph S 1205.5.
- S 2600.2 The *Contractor* ensures that any deeds associated with the Project Bank Account are issued in sufficient time to allow the *Client* to apply its common seal to prevent any payment issues. The *Contractor* liaises with the *Project Manager* to agree submission dates of deeds

- S 2600.3 The *Contractor* ensures that
- there is one original copy of the deed for each party to the deed issued to the *Project Manager* for the attachment of *Client's* common seal and
 - each original copy of the deed has original signatures from the authorised signatories and common seals (if used).

S 2605 Adding a Named Supplier

- S 2605.1 A word version of the Trust Deed from NEC is provided in Annex A ([see link at Annex A](#))
- A word version of The Joining Deed from NEC is provided in Annex A ([see link at Annex A](#))

S 2610 Project Bank Account Tracker

- S 2610.1 The *Contractor*
- registers for access to the Project Bank Account Tracker, “the PBA Tracker” and
 - completes and submits to the *Project Manager* on a monthly basis
 - a fully populated “PBA Tracker” ([see link at Annex A](#)) detailing payment made by the *Contractor* to its subcontractors (at any remoteness from the *Client*) and
 - detailed PBA statements and payment runs required to reconcile payment dates and amounts to the application breakdown in the PBA Tracker for
 - subcontractor (at any stage of remoteness from the *Client*) paid directly from the Project Bank Account (“PBA supply chain”) and
 - subcontractor (at any stage of remoteness from the *Client*) not paid directly from the Project Bank Account (“non-PBA supply chain”).

The *Contractor* ensures any data relating to other clients is redacted from the main account statement before submission in .pdf format.

- S 2610.2 The *Contractor* provides a detailed explanation of all variances from the previous month and any further information requested by the *Project Manager*.

The SME percentage is calculated from the full application value.

Time in the PBA Tracker and Performance Indicator is measured in calendar days.

- S 2610.3 The *Client* monitors the time it takes the *Contractor* to pay its subcontractors (at any stage of remoteness from the *Client*) through the PBA, following deposit of funds into the PBA.

- S 2610.4 Not used.

- S 2610.5 If any data/evidence is missing or still required (if not covered in the PBA Tracker) spot checks are undertaken directly by the *Client* with the supply chain (at various intervals) to verify that they are getting paid in accordance with the contract.

- S 2610.6 Where the *Contractor* transfers monies from other accounts into the PBA this is stated on the bank statement.

S 2700 *Client's work specifications and drawings*

S 2705 *Client's work specification*

- S 2705.1 The work specification is as detailed below and as extended by Volume 2 Part 2 (Design and Technical Requirements) of the contract.

Specification

- S 2705.2 The Specification referred to in the Scope is the 'Specification for Highway Works' current at the *tender date*, published by The Stationery Office (TSO) (formerly HMSO) as Volume 1 of the Manual of Contract Documents for Highway Works ([see link at Annex A](#)), as modified and extended by the following
- appendix 0/1: Contract-specific Additional, Substitute and Cancelled Clauses, Tables and Figures,
 - appendix 0/2: Contract-specific minor alterations to existing Clauses, Tables and Figures and
 - the "numbered appendices" listed in appendix 0/3.
- as stated in Volume 3 (Specification Appendices) of the contract.
- S 2705.3 Insofar as any of the numbered appendices may conflict or be inconsistent with any provision of the 'Specification for Highway Works' the numbered appendices always prevail.
- S 2705.4 Any reference in the contract to a clause number or appendix in the Specification is be deemed to refer to the corresponding substitute clause number or appendix listed in appendix 0/1 or 0/2.
- S 2705.5 Where a clause in the Specification is altered any original table/figure referred to in the clause applies unless the table/figure is also altered. Where a table/figure is altered any reference in a clause to the original table/figure applies to the altered table/figure.
- S 2705.6 Where work, goods or materials which are not required for the *works* (or the construction of the *works*), a clause in the Specification does not apply to such work, goods or materials.
- S 2705.7 Any appendix referred to in the Specification which is not used does not apply.

Design Standard

- S 2705.8 The *Contractor* complies with
- the Design Manual for Roads and Bridges ([see link at Annex A](#)) as published at the *tender date* and
 - other documents as extended by Volume 2 Part 2 (Design and Technical Requirements) of the contract.

Major Projects Instructions

- S 2705.9 When producing the design, the *Contractor* complies with all Major Projects Instructions issued by the *Client* at the *tender date*, which are available on the Supply Chain Portal.

S 2710 Drawings

- S 2710.1 The drawings are as contained in Volume 4 (Contract Drawings) of the contract.

S 2800 Designated funds

S 2805 Designated funds - *Contractor's Proposals*

- S 2805.1 The *Project Manager* may request the *Contractor* to submit a proposal for the development of an Innovation. The *Project Manager* provides to the *Contractor* a brief
- describing the Innovation and its linkage to the subject-matter of the contract,
 - stating when the Innovation is to be deployed and, if appropriate, removed from the Working Areas and
 - indicating the desired outcome and the outputs to be produced by the *Contractor*.
- S 2805.2 Before submitting the draft proposal and if requested by the *Project Manager*, the *Contractor* attends a meeting to discuss the developing proposal and potential products.
- S 2805.3 The *Contractor* submits the proposal to the *Project Manager* for acceptance within two weeks of the request or such other period as the *Project Manager* agrees. The proposal includes any necessary changes to the Scope. A reason for not accepting the proposal is
- it does not comply with the brief,
 - it does not deliver the desired outcome and the outputs,
 - the consequential changes to the Scope are not acceptable or
 - the forecast Defined Cost of the Innovation is not substantiated or agreeable.
- S 2805.4 The *Project Manager* replies to the proposal within [two] weeks. If the *Project Manager's* reply is not accepted, the *Project Manager* states the reasons. The *Contractor* submits a revised proposal taking account of the reasons to the *Project Manager* for acceptance within one week.
- S 2805.5 If the *Project Manager* accepts the proposal, the *Project Manager* instructs the development of the Innovation as a change to the Scope.
- S 2805.6 The *Contractor* identifies separately in each application for payment the part of the Price for Work Done to Date that is attributable to the development of each Innovation. The *Contractor* provides any associated payment details requested by the *Project Manager*.

S 2900 Organisational Maturity

- S 2900.1 The *Contractor* ensures that its *leadership team* and wider project team's Staff demonstrate the following capabilities
- leadership maturity,
 - collaborative behaviours,
 - improving data sharing and management and
 - supply chain engagement,
- to contribute to successful delivery of the *works*.

S 2900.2 The areas of this Scope Part 1 (General Requirements) relevant to organisational maturity are

- Considerate Constructors as detailed in section S 250,
- strategic alignment as detailed in section S 296,
- continual improvement as detailed in section S 675,
- training and competence of *Contractor's* Staff as detailed in section S 680,
- subcontracting as detailed in section S 1200,
- leadership development as detailed in section S 2905 (below),
- behaviours as detailed in section S 295,
- people strategy as detailed in section S 253,
- supply chain engagement as detailed in section S 2915 (below) and
- project execution as detailed in section S 2910 (below).

S 2905 Leadership

S 2905.1 The *Contractor* provides a Leadership Plan within 12 weeks of the *starting date* for acceptance by the *Project Manager*.

The Leadership Plan provides

- detail on how the *Contractor's* leadership team will influence and drive operation of the project including
 - the approaches and processes that show how the *Contractor's* leaders develop and retain a successful project team, including
 - recruitment and on-boarding,
 - individual and team development and retention and
 - succession planning,
 - CVs for the key persons,
 - an explanation of how the Leadership Plan
 - is influenced by the StART development plan (paragraph S 296.4),
 - influences and supports
 - delivery of the Inclusion Action Plan (paragraph S 253.2),
 - continual improvement including lean,
 - the internal communications process and
 - influences the Employment and Skills Plan (paragraph S 253.10).
- the leadership embedment tests to be used at notice to proceed to demonstrate
 - its leadership team is embedded into an integrated structure with the *Client, Project Manager, Supervisor* and Support Team and
 - its processes and procedures for Providing the Works are developed and integrated with *Client's* own processes and procedures.

S 2905.2 The *Contractor* submits the Leadership Plan for acceptance of the *Project Manager*. A reason for not accepting the plan

- is that it does not provide details on how the *Contractor's* leadership team will influence and drive operation of the project or
- is that it does not provide details on the leadership embedment tests to be used at notice to proceed.

- S 2905.3 Once the Leadership Plan is accepted by the *Project Manager*, the *Contractor*
- complies with the Leadership Plan and
 - keeps the Leadership Plan under review to ensure it is effective.
- S 2905.4 As a minimum, on each anniversary of the *starting date*, the *Contractor* reviews and updates the Leadership Plan. The *Contractor* submits the updated Leadership Plan within 3 weeks of the relevant anniversary of the *starting date* to the *Project Manager* for acceptance.
- S 2905.5 During the Mobilisation Phase, the *Contractor* submits a report to the *Project Manager* on a monthly basis that details the progress towards achieving the leadership embedment tests to be used at notice to proceed as detailed in the Leadership Plan.

S 2910 Project Execution

- S 2910.1 The *Contractor* provides a Project Execution Plan (PEP) within 12 weeks of the *starting date* for acceptance by the *Project Manager*.
- The PEP provides details on the approaches, processes and procedures the *Contractor* will implement to deliver the project including the approaches and processes for
- strategy development and deployment,
 - decision-making and governance structure,
 - escalation and conflict resolution,
 - clarity of roles and responsibilities,
 - developing a physical environment that will support project delivery,
 - performance management,
 - risk management,
 - planning and programme management and
 - innovation, Research and Development (R&D).
- S 2910.2 The PEP includes as an annex the Integrated Project Controls Plan as defined in section 2.1 of Volume 2 Part 8 (Integrated Project Controls) of the contract.
- S 2910.3 The *Contractor* submits the PEP for acceptance of the *Project Manager*. A reason for not accepting the plan is that it does not provide details on all the approaches and processes to be implemented by the *Contractor*.
- S 2910.4 Once the PEP is accepted by the *Project Manager*, the *Contractor*
- complies with the PEP and
 - keeps the PEP under review to ensure it is effective.
- S 2910.5 As a minimum, on each anniversary of the *starting date*, the *Contractor* reviews and updates the PEP. The *Contractor* submits the updated PEP within 3 weeks of the relevant anniversary of the *starting date* to the *Project Manager* for acceptance.

S 2915 Supply Chain

S 2915.1 The *Contractor* provides a Supply Chain Engagement Plan (SCEP) within 12 weeks of the *starting date* for acceptance by the *Project Manager*.

The SCEP provides details on how the *Contractor* works with its subcontractors (at any remoteness from the *Client*) to Provide the Works including

- the approach to subcontractor (at any remoteness from the *Client*)
 - selection and onboarding,
 - engagement and management and
 - health, safety and wellbeing and
- details of induction, training and development.

S 2915.2 The *Contractor* submits the SCEP for acceptance of the *Project Manager*. A reason for not accepting the plan is that it does not provide details on all the approaches and processes to be implemented by the *Contractor*.

S 2915.3 Once the SCEP is accepted by the *Project Manager*, the *Contractor*

- complies with the SCEP and
- keeps the SCEP under review to ensure it is effective.

S 2915.4 As a minimum, on each anniversary of the *starting date*, the *Contractor* reviews and updates the SCEP. The *Contractor* submits the updated SCEP within three weeks of each anniversary of the *starting date* to the *Project Manager* for acceptance.

Annexes

Annex A: Hyperlinks to and locations of referenced documents

Scope section	Document title	Link / location
S 205	risk management policy and strategy	Volume 5 (Data Room)
	Project Control Framework	Volume 5 (Data Room)
	Major Project Directorate Risk and Issue Management Manual	Volume 5 (Data Room)
	Xactium user guide	Volume 5 (Data Room)
S 206	PPN 07/14	link
	Energy Efficiency Directive 2012/27/EU	link
	Sustainable Development Strategy	link
S 207	Government Buying Standards	link
	air quality strategy	link
	Government Buying Standards for Transport 2017	link
S 209	Sustainable Development Strategy	link
	carbon tool guidance	link
S 214	Anti-Bribery Code of Conduct and Anti-Fraud Code of Conduct, collectively “the Codes”	Volume 5 (Data Room)
S 227	PPN 02/18	link
S 229	employment policies and codes of practice relating to discrimination and equal opportunities	Volume 5 (Data Room)
S 251	A303 customer plan	Volume 5 (Data Room)
	Customer Service Strategic Plan	Volume 5 (Data Room)
	Customer Service Standards	Volume 5 (Data Room)
S 253	Recruiting for Success	Volume 5 (Data Room)
	occupational descriptors	Volume 5 (Data Room)
	Transport Infrastructure Skills Strategy	link
	Armed Forces Covenant	link
	Care Leavers Covenant	Volume 5 (Data Room)
S 255	Project Control Framework	Volume 5 (Data Room)
	A303 PCF product matrix	Volume 5 (Data Room)
	The Project Control Framework Best Practice Planning and Consultation Process	Volume 5 (Data Room)
S 285	CM framework information	Volume 5 (Data Room)
S 295	IBIP programme	Volume 5 (Data Room)
S 296	StART 3	link

Scope section	Document title	Link / location
S 306	A303 PCF product matrix	Volume 5 (Data Room)
S 330	<i>Client's</i> agreement with Southern Electric Power Distribution PLC	Volume 5 (Data Room)
	<i>Client's</i> agreement with Southern Gas Networks PLC	Volume 5 (Data Room)
S 445	Asset Data Management Manual	link
S 605	<i>Client's</i> Document Control Procedure	Volume 5 (Data Room)
S 670	Collaborative Performance Framework	Volume 5 (Data Room)
S 820	WBS breakdown of the invoice	Volume 5 (Data Room)
	Government's 'Invoicing and taking payment from customers' guide	link
S 830	EVM performance	link
	standard Work Breakdown Structure	Volume 0 of the contract - Commercial Workbook - Work Breakdown Structures
	Commercial Reporting and Monitoring System	link
S 831	WBS	Volume 0 of the contract - Commercial Workbook - Work Breakdown Structures
	template for summary of successful subcontractors' quotations	Volume 5 (Data Room)
S 835	WBS	Volume 0 of the contract - Commercial Workbook - Work Breakdown Structures
S 836	<i>Client's</i> procedures for safeguarding the connection and the format of transmitted data (electronic)	link
	<i>Client's</i> procedures for safeguarding the connection and the format of transmitted data (non-electronic)	link
S 838	PPN 01/17	link
S 855	efficiency register	Volume 5 (Data Room)
S 856	SME definition	link
S 1101	Home, Safe and Well strategy	link
S 1102	INDG382 'Driving at work'	link
	Driving for Better Business	link
	HSG144 'The safe use of vehicles on construction sites'	link
S 1105	WBK01 'Tackling work-related stress using the Management Standards approach'	link
S 1106	HSG 263 'Involving your workforce in health and safety'	link

Scope section	Document title	Link / location
S 1107	HSG250 'Guidance on permit-to-work systems'	link
S 1108	L153 'Managing Health and Safety in Construction'	link
	pre-construction information	Volume 5 (Data Room)
S 1205	DfT SME Action Plan	link
S 1210	PPN 11/16	link
S 1215	CompeteFor	link
S 2605	The Trust Deed	Volume 5 (Data Room)
	The Joining Deed	Volume 5 (Data Room)
S 2610	PBA Tracker	For registration and guidance contact CommercialCostIntelligence@nationalhighways.co.uk .
S 2705	Specification for Highway Works	link
	Design Manual for Roads and Bridges	link
Annex C	Security Policy Framework	link
	Baseline Personnel Security Standard	link
	Equality Act 2010	link
	Rehabilitation of Offender Act 1974	link
	Disclosure and Barring Service	link
	List X	link
Annex E	Lean Benefits Realisation Guide	link
	Lean Maturity Assessment Toolkits	link
	Simplified Lean Capability Assessment	Volume 5 (Data Room)

Annex B: Form of Parent Company Guarantees

VERSION 1

NATIONAL HIGHWAYS LIMITED

as Client

[•]

as Guarantor

PARENT COMPANY GUARANTEE

relating to a contract for the provision
of construction works at [•]

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 “**Client**”)
- (2) [●] (company no [●]) whose registered office is at [●] (the “**Guarantor**”)

BACKGROUND

- (A) By the Contract, the **Client** has employed the Contractor to carry out construction works at [●] as more particularly described in the Contract.
- (B) The Guarantor is the [ultimate]² parent company of the Contractor.
- (C) The Guarantor has agreed to guarantee the due performance by the Contractor of his obligations under the Contract in the manner set out in this deed.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 Unless the contrary intention appears, the following definitions apply:

“**Contract**” means the contract dated [●] between the Client (1) and the Contractor (2) for the carrying out of construction works at [●].

“**Contractor**” means [●] (company no [●]) whose registered office is at [●].

“**Insolvency Event**” means the Contractor being unable to pay its debts (as defined by Sections 123(1) and 268(1) of the Insolvency Act 1986) or any corporate action, legal proceedings or other procedure or step is taken in relation to:

- a) suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Contractor other than a solvent liquidation or reorganisation of the Contractor;
- b) a composition, assignment or arrangement with any creditor of the Contractor;
- c) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Contractor or any of its assets; or
- d) enforcement of any security over any assets of the Contractor,

or any analogous procedure or step is taken in any jurisdiction.

- 1.2 The clause headings in this deed are for the convenience of the parties only and do not affect its interpretation.

² Note to Procurement Officer: delete if not applicable.

- 1.3 Words importing the singular meaning include the plural meaning and vice versa.
- 1.4 Words denoting the masculine gender include the feminine and neuter genders and words denoting natural persons include corporations and firms and all such words shall be construed interchangeably.
- 1.5 References in this deed to a clause are to a clause of this deed.
- 1.6 References in this deed to any statute or statutory instrument include and refer to any statutory amendment or re-enactment for the time being in force.

2. GUARANTEE

- 2.1 In consideration of the Client agreeing to enter into the Contract with the Contractor, the Guarantor irrevocably and unconditionally guarantees and undertakes to the Client that:
 - a) the Contractor will perform and observe all his obligations under the Contract at the times and in the manner provided in the Contract; and
 - b) in the event of any breach of such obligations by the Contractor, the Guarantor shall procure that the Contractor makes good the breach or otherwise cause it to be made good and shall indemnify the Client against any loss, damage, demands, charges, payments, liability, proceedings, claims, costs and expenses suffered or incurred by the Client arising from or in connection with it.
- 2.2 The Guarantor shall also indemnify the Client against:
 - a) any costs, losses and expenses (including legal expenses) which may be suffered or incurred by the Client in seeking to enforce and enforcing (i) this Guarantee and/or (ii) any judgment or order obtained in respect of this Guarantee; and
 - b) any loss or liability suffered or incurred by the Client if any of the obligations of the Contractor under the Contract is or becomes illegal, invalid or unenforceable for whatsoever reason as if such obligations were not illegal, invalid or unenforceable provided that the Client shall not recover any more from the Guarantor under the indemnity in this sub-clause 2.2(b) than the Client would have been entitled to recover from the Contractor under the Contract had the relevant obligations not been illegal, invalid or unenforceable.
- 2.3 Any limitation or defence which would have been available to the Contractor in an action under the Contract shall likewise be available to the Guarantor in a corresponding action under this deed, provided that nothing in this clause shall:
 - a) prejudice or affect any liability of the Guarantor under clause 2.2; nor
 - b) allow the Guarantor to avoid liability if either of the events specified in clause 5 occurs.

3. GUARANTOR'S LIABILITY

- 3.1 The obligations of the Guarantor under this deed are in addition to and independent of any other security which the Client may at any time hold in respect of the Contractor's obligations under the Contract and may be enforced against the Guarantor without first having recourse to any such security.
- 3.2 The obligations of the Guarantor under this deed are in addition to and not in substitution for any rights or remedies that the Client may have against the Contractor under the Contract or at law.
- 3.3 The liability of the Guarantor under this deed shall in no way be discharged, lessened or affected by:
- a) an Insolvency Event;
 - b) any change in the constitution, status, function, control or ownership of the Contractor or any legal limitation, disability or incapacity relating to the Contractor or any other person;
 - c) the Contract or any of the provisions of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
 - d) any time given, waiver, forbearance, compromise or other indulgence shown by the Client to the Contractor;
 - e) the assertion or failure to assert or delay in asserting any rights or remedies of the Client or the pursuit of any right or remedy of the Client;
 - f) the giving by the Contractor of any security or the release, modification or exchange of any such security or the liability of any person; or
 - g) any other act, event, omission or circumstance which but for this provision might operate to discharge, lessen or otherwise affect the liability of the Guarantor,

in each case with or without notice to, or the consent of, the Guarantor and the Guarantor unconditionally and irrevocably waives any requirement for notice of, or consent to, such matters.

- 3.4 Any decision of an adjudicator, expert, arbitral tribunal or court in respect of or in connection with the Contract and any settlement or arrangement made between the Client and the Contractor shall be binding on the Guarantor.

4. VARIATIONS TO THE CONTRACT

- 4.1 The Guarantor authorises the Contractor and the Client to make any addition or variation to the Contract, the due and punctual performance of which shall likewise be guaranteed by the Guarantor in accordance with the terms of this deed. The liability of the Guarantor under this deed shall in no way be discharged or lessened by any such addition or variation.

5. LIQUIDATION / DETERMINATION

5.1 The Guarantor covenants with the Client that:

- a) if a liquidator is appointed in respect of the Contractor and the liquidator disclaims the Contract; or
- b) if the Contractor's employment under the Contract is determined for any reason,

the liability of the Guarantor under this deed shall remain in full force and effect.

6. WAIVER

6.1 The Guarantor waives any right to require the Client to pursue any remedy (whether under the Contract or otherwise) which it may have against the Contractor before proceeding against the Guarantor under this deed.

7. RIGHTS OF GUARANTOR AGAINST CONTRACTOR

7.1 The Guarantor shall not by any means or on any ground seek to recover from the Contractor (whether by instituting or threatening proceedings or by way of set-off or counterclaim or otherwise) or otherwise to prove in competition with the Client in respect of any payment made by the Guarantor under this deed nor be entitled in competition with the Client to claim or have the benefit of any security which the Client holds for any money or liability owed by the Contractor to the Client. If the Guarantor shall receive any monies from the Contractor in respect of any payment made by the Guarantor under this deed, the Guarantor shall hold such monies in trust for the Client for so long as the Guarantor remains liable or contingently liable under this deed.

8. CONTINUING GUARANTEE

8.1 The terms of this deed are a continuing guarantee and shall remain in full force and effect until each part of every obligation of the Contractor under the Contract has been performed and observed and until each and every liability of the Contractor under the Contract has been satisfied in full.

9. THIRD PARTY RIGHTS

9.1 Unless the right of enforcement is expressly granted, it is not intended that any third party should have the right to enforce any provision of this deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

10. NOTICES

10.1 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.

10.2 Any notice given pursuant to this clause will be deemed to have been served as follows:

- 1.2.1 if delivered personally, at the time of delivery; and

- 1.2.2 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 and Wales.
- 10.3 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.
- 11. GOVERNING LAW**
- 11.1 The application and interpretation of this deed shall in all respects be governed by English Law and any dispute or difference arising under it shall be subject to the exclusive jurisdiction of the courts of England and Wales save that any decision, judgment or award of such courts may be enforced in the courts of any jurisdiction.

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

EXECUTION PAGE

Executed as a deed by
[GUARANTOR] acting by [*name of* Director
director] in the presence of:

Name of witness:

Signature of witness:

Address:

Occupation:

or

Executed as a deed by **[GUARANTOR]**)
acting by:)

Director

Director/Secretary

VERSION 2

NATIONAL HIGHWAYS LIMITED

as Client

[●]

as Guarantor

PARENT COMPANY GUARANTEE

relating to a contract for the provision
of construction works at [●]

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 “**Client**”)
- (2) [●] (company no [●]) whose registered office is at [●] (the “**Guarantor**”)

BACKGROUND

- (A) By the Contract, the **Client** has employed the Contractor to carry out construction works at [●] as more particularly described in the Contract.
- (B) The Guarantor is the [ultimate]³ parent company of the Contractor.
- (C) The Guarantor has agreed to guarantee the due performance by the Contractor of his obligations under the Contract in the manner set out in this deed.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 Unless the contrary intention appears, the following definitions apply:

“**Contract**” means the contract dated [●] between the Client (1) and the Contractor (2) for the carrying out of construction works at [●].

“**Contractor**” means [●] (company no [●]) whose registered office is at [●].

“**Expiry Date**” means the earliest of:

- a) 31st December 2050; or
- b) the durations pursuant to the Limitation of Liability Act 1980 after completion of the whole of the works pursuant the Contract.

“**Insolvency Event**” means the Contractor being unable to pay its debts (as defined by Sections 123(1) and 268(1) of the Insolvency Act 1986) or any corporate action, legal proceedings or other procedure or step is taken in relation to:

- a) suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Contractor other than a solvent liquidation or reorganisation of the Contractor;
- b) a composition, assignment or arrangement with any creditor of the Contractor;

³ Note to Procurement Officer: delete if not applicable.

- c) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Contractor or any of its assets; or
- d) enforcement of any security over any assets of the Contractor,

or any analogous procedure or step is taken in any jurisdiction.

“Maximum Amount” means £550 million (five hundred and fifty million British pound sterling).

- 1.2 The clause headings in this deed are for the convenience of the parties only and do not affect its interpretation.
- 1.3 Words importing the singular meaning include the plural meaning and vice versa.
- 1.4 Words denoting the masculine gender include the feminine and neuter genders and words denoting natural persons include corporations and firms and all such words shall be construed interchangeably.
- 1.5 References in this deed to a clause are to a clause of this deed.
- 1.6 References in this deed to any statute or statutory instrument include and refer to any statutory amendment or re-enactment for the time being in force.

2. GUARANTEE

- 2.1 In consideration of the Client agreeing to enter into the Contract with the Contractor, the Guarantor irrevocably and unconditionally guarantees and undertakes to the Client that:
 - a) the Contractor will perform and observe all his obligations under the Contract at the times and in the manner provided in the Contract; and
 - b) in the event of any breach of such obligations by the Contractor, the Guarantor shall procure that the Contractor makes good the breach or otherwise cause it to be made good and shall indemnify the Client against any loss, damage, demands, charges, payments, liability, proceedings, claims, costs and expenses suffered or incurred by the Client arising from or in connection with it.
- 2.2 The Guarantor shall also indemnify the Client against:
 - a) any costs, losses, liabilities, fines, penalties and expenses (including legal expenses) which might be suffered or incurred by the Client in connection with taxes or registration requirements arising in Italy through the execution or delivery of this Guarantee; and
 - b) any costs, losses, liabilities, fines, penalties and expenses (including legal expenses) which may be suffered or incurred by the Client in seeking to enforce and enforcing (i) this Guarantee and/or (ii) any judgment or order obtained in respect of this Guarantee; and
 - c) any loss or liability suffered or incurred by the Client if any of the obligations of the Contractor under the Contract is or becomes illegal, invalid or unenforceable for whatsoever reason as if such obligations were not illegal, invalid or unenforceable provided that the Client shall not

recover any more from the Guarantor under the indemnity in this sub-clause 2.2(c) than the Client would have been entitled to recover from the Contractor under the Contract had the relevant obligations not been illegal, invalid or unenforceable.

2.3 Any limitation or defence which would have been available to the Contractor in an action under the Contract shall likewise be available to the Guarantor in a corresponding action under this deed, provided that nothing in this clause shall:

- a) prejudice or affect any liability of the Guarantor under clause 2.2; nor
- b) allow the Guarantor to avoid liability if either of the events specified in clause 5 occurs.

3. GUARANTOR'S LIABILITY

3.1 The obligations of the Guarantor under this deed are in addition to and independent of any other security which the Client may at any time hold in respect of the Contractor's obligations under the Contract and may be enforced against the Guarantor without first having recourse to any such security.

3.2 The obligations of the Guarantor under this deed are in addition to and not in substitution for any rights or remedies that the Client may have against the Contractor under the Contract or at law.

3.3 The liability of the Guarantor under this deed shall in no way be discharged, lessened or affected by:

- a) an Insolvency Event;
- b) any change in the constitution, status, function, control or ownership of the Contractor or any legal limitation, disability or incapacity relating to the Contractor or any other person;
- c) the Contract or any of the provisions of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
- d) any time given, waiver, forbearance, compromise or other indulgence shown by the Client to the Contractor;
- e) the assertion or failure to assert or delay in asserting any rights or remedies of the Client or the pursuit of any right or remedy of the Client;
- f) the giving by the Contractor of any security or the release, modification or exchange of any such security or the liability of any person; or
- g) any other act, event, omission or circumstance which but for this provision might operate to discharge, lessen or otherwise affect the liability of the Guarantor,

in each case with or without notice to, or the consent of, the Guarantor and the Guarantor unconditionally and irrevocably waives any requirement for notice of, or consent to, such matters.

3.4 Any decision of an adjudicator, expert, arbitral tribunal or court in respect of or in connection with the Contract and any settlement or arrangement made between the Client and the Contractor shall be binding on the Guarantor.

- 3.5 The maximum aggregate liability of the Guarantor under this deed shall not exceed the Maximum Amount.

4. VARIATIONS TO THE CONTRACT

- 4.1 The Guarantor authorises the Contractor and the Client to make any addition or variation to the Contract, the due and punctual performance of which shall likewise be guaranteed by the Guarantor in accordance with the terms of this deed. The liability of the Guarantor under this deed shall in no way be discharged or lessened by any such addition or variation.

5. LIQUIDATION / DETERMINATION

- 5.1 The Guarantor covenants with the Client that:
- a) if a liquidator is appointed in respect of the Contractor and the liquidator disclaims the Contract; or
 - b) if the Contractor's employment under the Contract is determined for any reason,

the liability of the Guarantor under this deed shall remain in full force and effect.

6. WAIVER

- 6.1 The Guarantor waives any right to require the Client to pursue any remedy (whether under the Contract or otherwise) which it may have against the Contractor before proceeding against the Guarantor under this deed.

7. RIGHTS OF GUARANTOR AGAINST CONTRACTOR

- 7.1 The Guarantor shall not by any means or on any ground seek to recover from the Contractor (whether by instituting or threatening proceedings or by way of set-off or counterclaim or otherwise) or otherwise to prove in competition with the Client in respect of any payment made by the Guarantor under this deed nor be entitled in competition with the Client to claim or have the benefit of any security which the Client holds for any money or liability owed by the Contractor to the Client. If the Guarantor shall receive any monies from the Contractor in respect of any payment made by the Guarantor under this deed, the Guarantor shall hold such monies in trust for the Client for so long as the Guarantor remains liable or contingently liable under this deed.

8. CONTINUING GUARANTEE

- 8.1 The terms of this deed are a continuing guarantee and, subject to clause 8.2, shall remain in full force and effect until each part of every obligation of the Contractor under the Contract has been performed and observed and until each and every liability of the Contractor under the Contract has been satisfied in full.
- 8.2 The obligations of the Guarantor under this deed shall be released and discharged upon the Expiry Date save in respect of any claim made in writing upon the Guarantor under this deed on or before the Expiry Date.

9. THIRD PARTY RIGHTS

- 9.1 Unless the right of enforcement is expressly granted, it is not intended that any third party should have the right to enforce any provision of this deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

10. NOTICES

- 10.1 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.
- 10.2 Any notice given pursuant to this clause will be deemed to have been served as follows:
- 10.2.1 if delivered personally, at the time of delivery; and
- 10.2.2 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 and Wales.
- 10.3 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.

11. GOVERNING LAW

- 11.1 The application and interpretation of this deed shall in all respects be governed by English Law and any dispute or difference arising under it shall be subject to the exclusive jurisdiction of the courts of England and Wales save that any decision, judgment or award of such courts may be enforced in the courts of any jurisdiction.

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

EXECUTION PAGE

Executed as a deed by
[GUARANTOR] acting by *[name of* Director
director] in the presence of:

Name of witness:

Signature of witness:

Address:

Occupation:

or

Executed as a deed by **[GUARANTOR]**)
acting by:)

Director

Director/Secretary

Annex C: *Client's* personnel security procedures

1. Client's personnel security procedures

1.1 Mandatory Obligations

- 1.1.1 The Client is required to adopt the Personnel Security requirements and management arrangements set down in Security Policy 3: Personnel Security of Her Majesty's Government (HMG) Security Policy Framework version 1.1 – May 2018 issued by the Cabinet Office as amended from time to time (the "Security Policy Framework").
- 1.1.2 The Security Policy Framework is available to be downloaded from the Cabinet Office website ([see link at Annex A](#)). The *Contractor* familiarises itself with the objectives and principles embodied within the Security Policy Framework, in addition to the mandatory obligations extracted from the Security Policy Framework and set down in this annex.
- 1.1.3 The *Contractor* ensures that the appropriate level of Personnel Security is obtained and maintained for all Staff in accordance with the Security Policy Framework.
- 1.1.4 The *Project Manager* notifies the *Contractor* of any revisions to the Personnel Security requirements arising as a consequence of subsequent amendments to the Security Policy Framework.
- 1.1.5 The Cabinet Office Efficiency and Reform Group has introduced security requirements in relation to site admittance, passes and photographs. These requirements are set out in section 4 of this annex.

1.2 Security Checks – Minimum Requirement

- 1.2.1 The HMG Baseline Personnel Security Standard (BPSS) forms the minimum-security check requirements for all Staff whose duties include
- working in the *Client's* premises, including offices, Regional Operations Centre (ROC), the National Traffic Control Centre (NTCC) and any outstations,
 - usage of the *Client's* Information Systems or
 - working unsupervised in any other capacity.
- 1.2.2 The *Project Manager* may notify the *Contractor* of a modification to the categories of Staff requiring BPSS security checks at any time.
- 1.2.3 The complete Government guidance document for the BPSS is available to be downloaded from the Cabinet Office website ([see link at Annex A](#)). The BPSS form and summary guidance produced by *Client* is located in this annex.
- 1.2.4 Procedural and other details for ensuring compliance with the BPSS are set down in section 2 of this annex.

1.3 Security Checks – Additional Vetting Requirement

- 1.3.1 Where Staff require unrestricted access to the *Client* areas identified in section 3 of this annex, the *Project Manager* notifies the *Contractor* of the appropriate level of National Security Vetting (NSV) to be carried out.
- 1.3.2 The *Project Manager* notifies the Security Team via [email](#) that the applicant requires NSV to be carried out.
- 1.3.3 Procedural and other details for ensuring compliance with NSV are set down in section 3 of this annex.

2. BPSS Compliance

2.1. Procedures

- 2.1.1 The *Contractor* undertakes security checks to ensure the confidentiality, integrity and availability of the *Client's* asset (materials or information).
- 2.1.2 The recruitment controls of the BPSS are required to have been carried out for all Staff to whom paragraph 1.2.1 above applies prior to their employment on this contract. The recruitment control process is completed satisfactorily before an individual
- is issued with a security pass giving unrestricted access to the *Client's* premises,
 - potentially has access to the *Client's* sensitive, possibly protectively-marked, information or
 - is given access to the *Client's* IT network.
- 2.1.3 The *Contractor* takes all necessary measures to confirm that any previous security checking carried out on existing Staff meets the requirements of the BPSS, either in full or by exception using the risk management assessment process guidance contained in the Security Policy Framework.
- 2.1.4 The *Contractor* notes that, for existing Staff with more than 3 years continuous employment and who have not had any access passes or permits revoked in that time, the requirements for references in the BPSS security check can be deemed to be discharged by a letter from a director or head of personnel of the *Contractor* certifying the same.
- 2.1.5 The *Contractor* rectifies any unacceptable gaps identified between the BPSS and existing security checking in accordance with the requirements of the BPSS.
- 2.1.6 Any new Staff to whom paragraph 1.2.1 above applies are assessed strictly in accordance with the requirements of the BPSS.
- 2.1.7 The *Contractor* keeps full and auditable records of all security checks carried out on the Staff and makes such records available to the *Client* or its appointed representatives for audit purposes at all reasonable times.

- 2.1.8 If
- the *Client* discovers any non-compliance with the requirements of the BPSS from the audit process,
 - the *Contractor* fails to keep full records of security checks carried out on Staff, or
 - the *Contractor* fails to make such records available on reasonable request,

The *Project Manager* may

- invoke individual withdrawal of permits or passes to Staff,
- invoke systematic withdrawal of permit or passes to Staff,
- require that an independent audit of the *Contractor's* BPSS security check procedure is undertaken at the expense of the *Contractor* or
- the *Contractor* takes the appropriate action to immediately address any non-compliance with the BPSS notified to it by the *Project Manager*.

- 2.1.9 It should be noted that the BPSS does not constitute a formal security clearance. It is designed to provide a level of assurance as to the trustworthiness, integrity and reliability of the individual involved.

2.2 Security check process for BPSS

- 2.2.1 The security check process of the BPSS below follows the guidance provided in the HMG Baseline Personnel Security Standard May 2018.

- 2.2.2 The BPSS comprises verification of four main elements

- identity,
- nationality and immigration status (including an entitlement to undertake the work in question),
- employment history (past 3 years) and
- criminal record (unspent convictions only).

Additionally, prospective Staff are required to give a reasonable account of any significant periods (6 months or more in the past 3 years) of time spent abroad.

- 2.2.3 The specific requirements for verification of each of the four main elements are set down in Part II - The Verification Process of the HMG Baseline Personnel Security Standard (BPSS) ([see link at Annex A](#)). An outline description of the core requirements is included below but does not relieve the *Contractor* from its obligation to comply with all the requirements of the HMG BPSS.

- 2.2.4 Information collected at each stage of the process is reviewed, assessed and recorded in line with the forms contained in Appendix A below. These forms cover
- Verification Record,
 - Nationality and Immigration Status Form,
 - UK Home Office's Employer Checking Service,
 - Employment History Report Form,
 - Her Majesty's Revenue & Customs (HMRC) Record Check Form and
 - Criminal Record Declaration.

2.3 Verification of Identity – Outline Requirements

- 2.3.1 Identity may be verified by physically checking a range of appropriate documentation (e.g. passport or other photo ID together with utility bills, bank statements etc.) or by means of a commercially available ID verification service.
- 2.3.2 Only original documents should be used for identification purposes, copies are not appropriate. Electronic signatures are to be verified by cross checking to a specimen signature provided by the individual.
- 2.3.3 There is no definitive list of identifying documents. The *Contractor* should note that not all materials (including documents) listed in the BPSS are of equal value. The objective is a document that is issued by a trustworthy and reliable source, is difficult to forge, has been dated and is current, contains the owner's name, photograph and signature and itself requires some evidence of identity before being issued (e.g. passport or ID card).
- 2.3.4 National Insurance Numbers (NINOs) can be obtained fraudulently and cannot be relied on as a sole means of establishing identity or right to work. Temporary numbers beginning with TN or ending in a letter from E to Z inclusive are not acceptable.
- 2.3.5 Where verification of identity is not straightforward, but a decision is nevertheless taken to employ an individual, the *Contractor* notifies the *Project Manager* and records the matter on the Early Warning Register.

2.4 Nationality and Immigration Status (including an entitlement to undertake the work in question) – Outline Requirements

- 2.4.1 Nationality and Immigration Status may be verified by physically checking appropriate documentation or, in exceptional circumstances only, by means of an independent check of UK Visas and Immigration records.
- 2.4.2 The *Contractor* takes the necessary steps to ensure that an individual has the right to remain in the United Kingdom and undertake the work in question.

- 2.4.3 Checks need to be applied consistently and the *Contractor* needs to be aware of its obligations under the Equality Act 2010 ([see link at Annex A](#)).

2.5 Employment history (past 3 years) – Outline Requirements

- 2.5.1 Employment history may be verified by checking with previous clients, by following up references or by means of commercially available CV checking service or, in exceptional circumstances only, by means of an independent check of HMRC records.
- 2.5.2 To ensure that prospective employees are not concealing associations or gaps, the *Contractor* as a minimum verifies the individual's recent (past 3 years) employment or academic history.
- 2.5.3 Where there are unresolved gaps or doubts remain about an individual's employment history, an independent check of HMRC records may be made.
- 2.5.4 Every effort should be made to check that the individual has held the previous employment history claimed. Any gaps in the past 3 years employment history are to be investigated.

2.6 Criminal record (unspent convictions only) – Outline Requirements

- 2.6.1 The *Contractor* should note that the requirement to verify "unspent" convictions does not apply when the BPSS is being carried out as part of the groundwork for NSV, where a full check of criminal records ("spent" and "unspent") are made as part of that process.
- 2.6.2 Under the terms of the Rehabilitation of Offender Act 1974 ([see link at Annex A](#)), it is reasonable for employers to ask individuals for details of any "unspent" criminal convictions. The Act states that if an offender remains free of further convictions for a specified period (the "rehabilitation period"), the conviction becomes spent. Where rehabilitation has taken place, the individual must be treated as if the offence had never been committed.
- 2.6.3 The *Contractor's* attention is drawn to the basic disclosure certificate check option available from Disclosure and Barring Service ([see link at Annex A](#)).
- 2.6.4 Where "unspent" convictions have been disclosed, the *Contractor* carries out a risk assessment, which may include the need for legal advice, before proceeding.

2.7 Approval for employment

- 2.7.1 General guidance and requirements post BPSS verification are contained in Part IV – Post Verification Process of the HMG BPSS ([see link at Annex A](#)). An outline description of the core requirements is included below but does not relieve the *Contractor* from its obligation to comply with all the requirements of the BPSS.

- 2.7.2 Subject to paragraph 2.7.3 below and unless advised to the contrary by the *Project Manager*, all Staff for whom a completed BPSS Verification Record has been submitted may be treated by the *Contractor* as suitable to undertake the duties referred to in paragraph 1.2.1 above.
- 2.7.3 The *Client* ordinarily requires a period of 3 Working Days from receipt of a fully completed BPSS security check for its internal approvals process and prior to the subsequent issue of access permits and passes. The *Project Manager* may exclude from the Working Areas any individual for whom a BPSS Verification Record is not supplied, is incomplete or is otherwise unsatisfactory.
- 2.7.4 BPSS Verification Records with a sealed Criminal Record Declaration are assessed separately on a case by case basis by the *Project Manager*. The *Project Manager* advises the *Contractor* if the individual has been approved as suitable to undertake all or any of the duties referred to in paragraph 1.2.1 above.

2.8 Incomplete or unsatisfactory BPSS Verification Records

- 2.8.1 Where a BPSS is incomplete or is otherwise unsatisfactory, the *Project Manager* advises the *Contractor* of the deficiencies and the actions needed to correct them.
- 2.8.2 The *Project Manager* contacts the Security Team to address any actions needed as a result of an incomplete or otherwise unsatisfactory BPSS check.

2.9 Renewal of the BPSS

- 2.9.1 Under most circumstances, renewal of the BPSS is not required.
- 2.9.2 The *Contractor* rechecks the immigration status of migrant Staff before their current right to remain expires or within 12 months of the previous check, whichever is the sooner. These checks are repeated until the employee can demonstrate an indefinite right to remain in the United Kingdom or until the employment comes to an end.
- 2.9.3 The *Project Manager* instructs the *Contractor* to carry out additional security checks on any Staff required to operate in or on a List X site ([see link at Annex A](#)).
- 2.9.4 If an employee, who has previously been subject of a BPSS security check, leaves the employment of the *Contractor* and is subsequently re-employed by the *Contractor* within twelve months, the original security check authorisation may be reinstated. The *Client* may require additional evidence before reinstating the original security check authorisation. In all other cases of re-employment, the full BPSS security check must be carried out.

2.10 Ongoing personnel security management (“aftercare”)

- 2.10.1 The *Contractor* monitors, manages and supports the required behaviours of Staff who are approved for work on this contract in line with the principles contained in the Security Policy Framework and reports to the *Project Manager* immediately if the continuing suitability of an employee is in doubt.
- 2.10.2 Where the *Contractor* reports a case of doubt or the *Project Manager* considers that the actions of any of the Staff do not conform to the required behaviours, the *Project Manager* may instruct the *Contractor* to review the performance of the individual concerned. The *Contractor* takes appropriate action in consequence of the review, which may include
- performance improvement,
 - temporary suspension of permits and passes or
 - removal of the individual in accordance with the clause 24.2 of the *conditions of contract*.

2.11 Retention of documentation

- 2.11.1 The documentation associated with the BPSS security check is retained by the *Contractor* until Completion of the whole of the *works* and for a period of twelve months after the individual has ceased to be used in Providing the Works.
- 2.11.2 The *Contractor* destroys, in an appropriate secure manner, all electronic and paper copies of documentation which it is no longer required to retain.

3. National security Vetting (NSV)

3.1 Procedures

- 3.1.1 In all cases, verification of identity and the individual's entitlement to undertake the work in question must be carried out before embarking on NSV.
- 3.1.2 Other than in exceptional circumstances, NSV must not be undertaken before the BPSS's full controls have been applied. The *Contractor* agrees with the *Project Manager*, on a case by case basis, any exceptional cases where NSV and BPSS procedures are required to be carried out in parallel.
- 3.1.3 The *Project Manager* determines if any Staff need to undertake NSV in addition to the BPSS security check.
- 3.1.4 If the *Project Manager* considers that NSV is required, the *Client* identifies, manages and undertakes the necessary vetting at the *Client's* expense.
- 3.1.5 Where the *Project Manager* determines that NSV is required, the approvals process set out in section 2.7 does not apply, unless the *Project Manager* instructs otherwise. Access permits and passes are ordinarily only issued on satisfactory completion of NSV.

4. CABINET OFFICE EFFICIENCY AND REFORM GROUP REQUIREMENTS

4.1 Site Admittance

- 4.1.1 The *Contractor* submits to the *Project Manager* details of Staff. The details include a list of names and addresses, the capacities in which employed, and other information required by the *Project Manager*.
- 4.1.2 The *Project Manager* may instruct the *Contractor* to take measures to prevent unauthorised persons being admitted on to the Site and the Working Areas. The instruction is a compensation event if the measures are additional to those required by the Scope.

4.2 Passes

- 4.2.1 Staff of the *Contractor* and its subcontractors (at any remoteness from the *Client*) are to carry a *Client's* pass whilst they are on the *Client's* premises.
- 4.2.2 The *Contractor* submits to the *Client* for acceptance a list of the names of the people for whom passes are required. The *Client* issues the passes to the *Contractor*. Each pass is returned to the *Client* when the employee no longer requires access to that part of the Site/Working Area or after the *Client* has given notice that the employee is not to be admitted to the Site/Working Area.

4.3 Photographs

- 4.3.1 The *Contractor* does not take photographs of the Site or the *works* or any part of them unless it has obtained the acceptance of the *Project Manager*.
- 4.3.2 The *Contractor* takes the measures needed to prevent it and its Subcontractors' Staff taking, publishing or otherwise circulating such photographs.

5. Baseline Personnel Security Standard (BPSS) check

5.1 Introduction

- 5.1.1 Unless advised otherwise it is the *Client's* hiring manager who completes a Baseline Personnel Security Standard (BPSS) check. The *Client's* hiring manager must be a National Highways employee and is usually the *Project Manager*. Therefore, all *Contractors* working on National Highways' premises or with its technology, should be BPSS approved before they begin working for the *Client*. The BPSS form and guidance have been produced to assist the *Client's* hiring managers undertaking checks and to ensure their checks meets the Cabinet Office's standards set out in the Security Policy Framework (SPF) May 2018 and the HMG Baseline Personnel Security Standard v6.0 – May 2018 (and any subsequent amended versions).
- 5.1.2 The BPSS form and guidance notes are in Appendix A to this annex.

Appendix A: Baseline Personnel Security Standard (BPSS) form and guidance

Baseline Personnel Security Standard Check

Introduction

Unless advised otherwise it is the *Client's* hiring manager who completes a Baseline Personnel Security Standard (BPSS) check. The *Client's* hiring manager must be a National Highways employee and is usually the *Project Manager*. Therefore, all *Contractors/Consultants*, working on National Highways' premises or with its technology, should be BPSS approved before they begin working for the *Client*. This form has been produced to assist the *Client's* hiring managers undertaking checks and to ensure their checks meet the Cabinet Office standards set out in the Security Policy Framework (SPF) May 2018 ([see link at Annex A](#)) and the HMG Baseline Personnel Security Standard v6.0 – May 2018 (and any subsequent amended versions) ([see link at Annex A](#)).

This document contains the BPSS form and guidance notes to assist with the form completion.

Please read the guidance notes fully before starting to complete this form.

This document is split into:

BPSS Form sections:

1. Applicant details and identity verification
2. Nationality and right to work
3. Employment history and personal references
4. Criminal records check
5. Declarations

Guidance notes:

- Annex 1: General notes
- Annex 2: Identity verification
- Annex 3: Nationality and right to work
- Annex 4: European Economic Area (EEA) countries
- Annex 5: Employment history and personal references
- Annex 6: Personal reference template

Please note that if the applicant only requires external email access to National Highways' computer systems (known as ZZ account) then please complete sections 1, 2, 3 and 5 only. The *Client's* hiring manager sends the form to ITSecurityAdvice@nationalhighways.co.uk. A criminal records check is not required for ZZ accounts.

If the applicant already has BPSS approval from their current employer, they are not required to complete another check. It does not matter how long ago the approval was given or whether there has been a period when they didn't work for their current employer. If the *Client's* hiring manager is informed of this by the *Contractor*, the *Client's* hiring manager needs to email the [Security Team](#) who will check the applicant's details against their records for existing BPSS approvals.

A303 Amesbury to Berwick Down (Stonehenge)

General Requirements



If assistance is required to complete this form, the *Client's* hiring manager should contact the Security Team via email on SecurityTeam@nationalhighways.co.uk.

BPSS FORM

SECTION 1 - Application details and identity verification

1.1 Client's hiring manager details

Hiring manager's name:	
Company location:	
Telephone number:	

1.2 Applicant details

Applicant's name:	
Gender:	Male / female (please delete as appropriate)
Current home address:	
Contact telephone number:	
Prospective National Highways place of work:	
Prospective start date:	
Position:	Contractor (please delete as appropriate)

1.3 Identity verification (for the Client's hiring manager)

The applicant must present you with appropriate documentation to prove their identity. Annex 2 – Identity verification provides details of which documents are acceptable and general guidance on this section. Generally, one document which contains a photo or 2 documents without photos are sufficient.

Please note the document(s) you have seen below:

Document type:		Date of issue:	
Country of issue:		Date of expiry:	

Document type:		Date of issue:	
Country of issue:		Date of expiry:	

(please replicate table for each document taken as required)

SECTION 2 - Nationality and right to work

2.1 Applicant's details

Nationality (list all):

Are you subject to immigration control? Yes/no (please delete)

If yes, please specify:

Are there any restrictions on your continued residence in the UK? Yes/no (please delete)

If yes, please specify:

Are there any restrictions on your continued freedom to take employment in the UK? Yes/no (please delete)

If yes, please specify:

2.2 Nationality verification (for *Client's* hiring managers)

The applicant must provide you with appropriate documentation to prove they have the 'right to work' in the UK. The list of acceptable documents is provided by UK Visas and Immigration accessible [here](#).

You must also follow their 3-step guide accessible [here](#).

Annex 3 below contains general guidance on this section.

Annex 4 below contains a list of European Economic Area (EEA) countries whose citizens have a 'right to work' in the UK.

Please note the document(s) you have seen below:

Document:	
Date of issue:	
Review date (if applicable):	

(please replicate table for each document taken as required)

SECTION 3 - Employment history and references

3.1 Applicant's employment history (past 3 years)

Please provide details of all the companies you have worked for in the last 3 years (whether in the UK or overseas). You need to provide references from these employers:

Company name:	
Company address:	
Contact name:	
Period of employment:	

Company name:	
Company address:	
Contact name:	
Period of employment:	

Company name:	
Company address:	
Contact name:	
Period of employment:	

(please replicate table as required)

3.2 Gaps in applicant's employment history

Please describe any gaps in your employment including time spent in full-time education, any foreign travel or periods of unemployment within the past 3 years:

3.3 Employment verification (for *Client's* hiring managers)

You will need to obtain confirmation from all the companies listed, as well as letters from schools/ academic institutions and/ or passport visas to confirm overseas travel. Annex 5 below provides guidance on this section.

Please answer the 3 sections below:

- a) Please confirm that you have verified employment with all the companies listed:
Yes/no (please delete)

If no, please explain why this was not possible:

- b) Please confirm the documents you have seen which verify any gaps in employment:

Document:	
Date of issue:	

(please replicate table as required)

- c) If you have obtained a personal reference, please record the referee's details below:

Referee:	
Relationship to applicant:	
Address:	

SECTION 4 - Criminal record check

4.1 Information for applicants

We require a criminal record check to confirm if you have any unspent convictions. You do not need to tell us about any spent convictions.

A basic Disclosure and Barring Service (DBS) check is the criminal record check available for people living or working in England and Wales. If you have been living or working in Scotland or Northern Ireland for over 6 months in the last 3 years, another criminal record check will need to be applied for. Full details on how to apply can be found [here](#).

Once you have applied, please keep a copy of the reference number to provide to your hiring manager.

Further details on what information is included on each certificate are on the relevant website.

It will be helpful to tell your hiring manager about offences that will be shown on your certificate, before your certificate arrives.

4.2 Criminal records check verification (for *Client's* hiring managers)

The applicant must provide the *Client's* hiring manager with either:

- evidence that the application for the certificate has been submitted (e.g. reference number or screen shot),
- a recent (issued within 3 months) original criminal records certificate, or
- an older original certificate if the applicant still works for the same employer and the check was carried out as part of their employment.

Please note the document you have seen below:

Document:	
Date of issue:	

(please replicate table as required)

If the application has only just been made, hiring managers will need to make sure they review the certificate when it arrives. If hiring managers are unsure about any of the details shown on the certificate, please contact the [Security Team](#).

An overseas criminal record certificate will also be required if the applicant has been outside of the UK for a period of 6 months or over in the last 3 years. The [Security Team](#) can provide guidance on how to obtain these certificates.

SECTION 5 - Declarations

5.1 Applicant's declaration:

I declare that the information I have given on this form is true and complete. In addition, I understand that any false information or deliberate omission in the information I have given on this form may prevent me from working with National Highways. I will notify the hiring manager of any material changes to the information I have provided.

Name:	
Signature:	
Date:	

5.2 Client's hiring manager's declaration:

I certify that in accordance with the requirements of the BPSS, I have examined the documents listed on this form and can confirm that the applicant has satisfied the requirements in all sections.

I have made available to the applicant the appropriate privacy notice (see Guidance Notes - Annex 1 below), which informs the applicant as to their statutory rights under the Data Protection Act 2018 and General Data Protection Regulation.

Name:	
Signature:	
Date:	

GUIDANCE NOTES

Annex 1 to Appendix A

General notes

- the *Client's* hiring manager must see original documents, copies are not acceptable,
- all the time the *Client's* hiring manager needs to check that birth dates, signatures and photos match. If any discrepancies are found, please contact the [Security Team](#) for advice,
- the *Client's* hiring manager must comply with the Data Protection Acts and General Data Protection Regulation (GDPR), therefore
 - remember to delete any electronic versions of this form/ personal documents and securely destroy paper copies of documents when they are no longer relevant. UK Visas and Immigration provide advice on how long to keep copies of nationality and right to work documents [here](#), and
 - issue the applicant with the latest [National Highways BPSS Privacy Notice document](#),
- once the applicant starts work, the *Client's* hiring manager will need to email the [Facilities helpdesk](#) to request that the applicant's photo is taken for their building pass and a building induction is undertaken,
- if the *Client's* hiring manager is not located in the same building as the applicant, the *Client's* hiring manager will need to make sure there is someone available to greet the applicant at reception and undertake a new starter induction. The *Client's* hiring manager will also need to make sure that reception is aware of the date the applicant is starting work.

If the *Client's* hiring manager has any questions regarding this form or the BPSS check itself, the [Security Team](#) can be contacted for assistance. If the *Client's* hiring manager would prefer to speak to someone, please state this in your email and a member of the Security team will call you as soon as they can.

Annex 2 to Appendix A

Applicant details and identity verification

Generally, one document which contains a photo or two documents without photos will provide adequate proof of identity. However not all documents are of equal value; listed below are some examples of documents that are from reliable sources, are difficult to forge and are dated. Documents with an expiration date must be current and all others should have been issued within the last 6 months.

Good examples of identity documents that contain a photo are:

- current UK photo-card driving licence, and
- current passport.

If the applicant is a citizen of the United Kingdom, Switzerland or one of the European Economic Area countries (see Annex 4), their passport can also be used as proof of their 'right to work'. This means that no additional documentation is required to prove nationality.

Good examples of identity documents without photos include:

- birth, adoption or gender recognition certificate,
- marriage licence, divorce (decree absolute) or annulment papers,
- current full UK driving licence (old 'paper' version),
- a recent utility bill (issued within the last 6 months),
- a council tax bill (valid for the current year period),
- bank, building society or credit union statement (issued within the last 6 months) or passbook containing the applicant's current address,
- current benefit book or card or original notification letter from the DWP confirming the right to benefit (these documents are not required to be dated within the last 6 months), and
- police registration document or HM Forces identity card.

This is not an exhaustive list and if none of these documents are available, please contact the [Security Team](#) for further advice.

What to look for when examining documents:

- the documents shown to you must be the original documents. If you are unsure, consider comparing them to other examples you may have to hand if applicable. Otherwise please consult Her Majesty's Passport Office guidance for checking UK Passports [here](#),
- examine the documents for alterations or signs that the photograph and/ or signature has been removed and replaced,
- check that any signature on the documents tallies with other examples in your possession. If you're unsure, ask the applicant to sign something in your presence,
- check that details given on the documents corresponds with what you already know about the individual,
- check the date of issue on each document. If all documents are newly issued and there are only minimal references available which do not cover the last three years' employment records, please contact the [Security Team](#) for more advice.

If you have any doubts about the documents you have been given, please contact the [Security Team](#), before discussing your concerns with the applicant.

Young Applicants

It can be difficult for young applicants to supply most of the documents listed above. If this appears to be a genuine problem, ask the applicant to supply a passport-sized photo, endorsed on the back with the signature of someone of standing in the applicant's community, e.g. a justice of the peace, doctor, member of the clergy, teacher etc. The signatory should have known the applicant for a minimum of three years.

The photo must be accompanied by a signed statement from the signatory giving their full name, address and phone number and confirming the period they have known the applicant.

Annex 3 to Appendix A

Nationality and right to work

The current advice from UK Visas and Immigration on nationality and right to work in the UK is available on their [website](#).

In addition, please note:

- You must be satisfied that each document produced relates to the applicant, and you will need to check that all documents contain the same date of birth, photo and the applicant's appearance looks the same.
- It is not necessary to send copies of these documents to the Security Team. However, if you are unsure or unfamiliar with the documents you have been given, the Security Team are available to advise you. Please email the [Security team](#) in the first instance and, if required, the *Client's* hiring manager will be asked to scan the relevant parts of the documents in question and send it to the team for their review.
- The UK Visas and Immigration website provides advice on how long to keep copies of nationality and right to work documents [here](#).

Annex 4 to Appendix A

European Economic Area (EEA) Countries

Citizens of the United Kingdom, Switzerland or one of the following European Economic Area (EEA) countries, have the right to work in the UK. Further information is available [here](#).

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden

Annex 5 to Appendix A

Employment history and personal references

- all employment history should be confirmed with previous employers, including overseas appointments (where the applicant was abroad for over 6 months).
- a template to send to previous employers and personal referees can be found in Annex 6 below. However most companies will now only provide official confirmation of when an individual worked for them (on letter headed paper). This is acceptable.
- reasonable steps should be taken to ensure that the reference is genuine. References that are handwritten, not on letter headed paper, contain spelling or grammatical errors or is just not convincing for any reason, should be followed up directly with the individual(s) providing the reference.
- if the applicant has been unemployed, or his previous employer is no longer in business, a personal reference can be obtained instead (see below). This is not necessary if the period involved is less than 6 months long.
- if the applicant has only worked for one organisation in the last 3 years, then one reference from this company is sufficient.
- where an applicant has been in full time education during the period, confirmation must be obtained from the relevant school or other academic institution.
- where an applicant has been overseas during the last 3 years, it is sufficient to see the entry visa (this only applies to citizens which do not hold an EEA passport). Some countries no longer issue exit visas.
- where a young person has difficulty in providing both evidence of identity and adequate referee coverage, it may be appropriate to obtain both from the same referee.

Personal references

- personal references are acceptable when no other reference is available. Family members (including in-laws) are not suitable for references.
- the applicant should provide the details of someone of professional standing (e.g. solicitor, civil servant, teacher, accountant, bank manager, doctor, officer of the armed forces) who has sufficient knowledge of the applicant to provide a considered reference. If the applicant is unable to nominate such a person, then references should be obtained from personal acquaintances. Personal acquaintances cannot provide references if they are involved in any financial arrangements with the applicant.

Annex 6 to Appendix A

Personal reference template

[The Client's hiring manager can use this template to send to both previous employers and personal referees. The hiring manager will need to include a covering letter, explaining that they are requesting this information in relation to the applicant's proposed role in National Highways.]

Dear

SUBJECT: *[insert applicant's name]*

1. Over what period have you known the subject and in what capacity?

Date from:		Date to:	
Capacity:			

2. Are you related to the subject? If so, please state your relationship.

3. Are you involved in any financial arrangements with the subject?

YES/ NO (please delete)

4. Do you believe the subject to be honest, conscientious and discreet?

I declare that the information I have given on this form is true to the best of my knowledge.

Name:	
Signature:	
Date:	
Address:	
Telephone number:	
Email address:	

Annex D: Certificates

Certificates are as contained in Volume 2 Part 9 (Review and Certification) of the contract.

Annex E: Continual improvement

The *Contractor* is required to achieve the following requirements

Purpose and Scope

Continual improvement does not relate to improvements necessary for the *Contractor* to achieve contract compliance, although it is recognised that a similar process may be used to correct any such non-compliance.

Continual improvement comprises four parts:

- outcome requirements,
- strategic objectives,
- the method (tools and techniques) and
- performance measurement.

1. Outcome Requirements

The primary outcome from using continual improvement is the generation and realisation of reductions in the cost of Providing the Works for the benefit of both the *Client* and the *Contractor*.

An additional outcome is the improvement of quality of the *works*, at no additional cost to the *Client*.

2. Strategic Objectives

The following strategic objectives in support of the above outcome are to be delivered by the *Contractor*

- engagement of the *Contractor's* executive leadership to ensure these continual improvement requirements are fulfilled,
- proactive management and engagement of the *Contractor's* supply chain in support of reductions in the cost of Providing the Works enabled by a reduction in the cost to the *Client*,
- a systematic and prioritised approach to the improvement of all of the processes and sub-processes included in the *Contractor's* quality plan,
- the identification of improvement opportunities that primarily have the potential to generate reductions in the cost of Providing the Works,
- realisation of the reduction in the cost of Providing the Works by a measurable reduction in the Price for Work Done to Date and
- realisation of other benefits that result in an improvement to the quality of the *works*, at no additional cost to the *Client*.

3. The Method (tools and techniques)

Lean is a method of delivering the above outcome requirements and strategic objectives and is a way of doing more with less. It produces what a customer wants, when it is required, with a minimum of waste, and to a high-level quality. Lean works through a relentless elimination of waste and reduction of variation.

The *Contractor* is required to execute this method, although it is accepted that it may adopt, at its own discretion, additional methods to deliver the above outcome requirements and strategic objectives.

The *Contractor* uses Lean tools to systematically address, in a planned sequence, the Processes and Sub-Processes in its quality plan in order to identify customer requirements, establish and optimise the execution of value adding activity, identify and minimise non-value adding activity, and eliminate waste.

The execution of continual improvement forms part of the role and accountability of the executive process owner.

The *Contractor*

- deploys a Lean strategy that
 - adopts Lean principles as part of formal strategic plans for the *Contractor's* business and
 - employs formal processes for determining customer/*Client* value.
- ensures Lean leadership so that
 - senior leaders and management within the *Contractor's* organisation enthusiastically embrace the concept of Lean and support a transformation to a Lean culture in the organisation.
- delivers customer value that ensures
 - value streams of all stakeholder processes have been mapped and value adding activities are identified and optimised,
 - critical interactions and interdependences are identified and
 - opportunities for minimising non-value adding activity and eliminating waste are identified and realised.
- adopts Lean structure and behaviour to
 - revise policies and procedures to promote, encourage and support Lean behaviour,
 - delegate decision making to lowest practical level, with appropriate training,
 - encourage prudent risk taking and
 - implement a comprehensive programme of innovation/improvement initiatives, measure their impact and report these to the *Client* as requested.
- ensures process flow to
 - design processes along value streams encouraging customer/*Client* pull with minimum waste,
 - minimise travel distance or time delay,
 - ensure continuous flow through all value streams,
 - ensure demand is aligned to customer pull in order to provide a balanced workload with minimum stock levels and
 - ensure process flow is optimised through the entire supply chain.
- creates standard work practices to
 - standardise processes across sites and departments and
 - standardise tools and systems used throughout the *Contractor's* organisation and work collaboratively with its supply chain to support similar approach.

- ensures process control and quality to
 - reduce process variation throughout the *Contractor* organisation and its supply chain,
 - analyse the root cause of Defects and Nonconformities, implement corrective action and update Processes with lessons learned,
 - ensure all processes include mistake proofing with preventative measures maintaining optimal process conditions and
 - delegate authority for quality to lowest practical level minimising secondary inspection.
- ensures planning, design and construction takes account of customer/*Client* requirement to
 - continually evaluate customer/*Client* needs with formal feedback,
 - ensure customer/*Client* is represented on integrated product/project teams,
 - integrate planning/design/construction teams,
 - identify and quantify priorities of downstream stakeholders,
 - ensure services to sites designed to be in line with demand usage to minimise inventory and
 - ensure the customer's/*Client's* needs are translated into common goals that are communicated and understood by integrated planning/design/construction teams and create a collaborative environment that aims to meet those goals.
- deploys effective equipment maintenance to
 - ensure equipment is in a condition to contribute to quality and provide a high level of availability. Keep records of Defects to target proactive maintenance,
 - ensure employees have full ownership and care for processes and maintain process performance and
 - evaluate repair/maintenance schedules in line with available capacity and ensure risk contingency.
- maintains effective supporting infrastructure to
 - ensure financial/measurement system supports Lean transformation and is readily accessible to stakeholders,
 - ensure information systems are easily accessible and compatible with stakeholder communications and analysis needs,
 - ensure personnel practices make suitable skills available,
 - ensure education and training programmes support the continual improvement and business strategy,
 - make resources and support available to employees to contribute to Lean improvement,
 - develop a supply chain that can be effectively managed, works collaboratively and works towards common goals,
 - define, develop and integrate supplier networks to ensure efficient creation of value for enterprise stakeholders and
 - provide adequate trained Lean practitioner resource to deliver lean activity at organisational and project level.

In carrying out the above process the *Contractor* assists and enables its supply chain in the adoption of Lean methodologies and approaches, and engaging in Lean improvement projects. The *Contractor* measures lean performance of at least its Subcontractors and shows how it is working with its Subcontractors to make improvements.

4. Performance Management

The *Contractor* records and measures the benefits realised from the execution of continual improvement process in accordance with the *Client's* Lean Benefits Realisation Guide ([see link at Annex A](#)).

The *Contractor*

- captures and records the reductions in cost and related efficiencies and supporting evidence,
- captures and records any other benefits,
- ensures results are recorded showing general details about the improvement, the base line/current state, planned/targeted benefits, and actual/realised benefits with supporting calculations,
- reviews and reports on performance on a monthly basis or when required to do so,
- provides the benefits created in the format required by the *Client* and
- prepares case studies and knowledge transfer packs for the captured benefits if requested to do so by the *Client*.

The *Contractor* measures its adoption of a continual improvement culture using the *Client's* Lean Maturity Assessment Toolkits (LMAT) ([see link at Annex A](#)) at organisational and contract level. The *Contractor* adjusts its delivery of continual improvement process based on lessons learned from the measurement of its performance.

The *Contractor* is measured on the effective use of collaborative planning at programme and contract level.

The *Contractor* is measured on supporting its supply chain improving its lean maturity through its effective use of the *Client's* Simplified Lean Capability Assessment (SLCA) ([see link at Annex A](#)). It is expected that the *Contractor* undertakes the lean assessments with at least its tier 1 subcontractors and at least annually. SLCAs undertaken and related scores are provided to the *Client*, if requested.

The *Client* provides training in undertaking assessments using the tools developed by the *Client*.

Annex F: Deed of Novation (Old Client to New Client for the Contractor)

DATED [●]

NATIONAL HIGHWAYS LIMITED
as Old Client

[●]
as New Client

[●]
as **Contractor**

DEED OF NOVATION

relating to a [●] contract for the provision of [●] works in National Highways Area [●]

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 “**Old Client**”)
- (2) [insert details of replacement authority] (the “New Client”)
- (3) [●] (company no [●]) whose registered office is at [●] (the “**Contractor**”)

BACKGROUND

- (A) By the Contract, the Old Client has employed the **Contractor** to provide the Works.
- (B) The Old Client has agreed (with the consent of the **Contractor**) to transfer all its rights and obligations under the Contract to the New Client and the **Contractor** has agreed to accept the liability of the New Client in place of the liability of the Old Client under the Contract upon and subject to the terms of this deed, which is supplemental to the Contract.

1. DEFINITIONS AND INTERPRETATION

- 1.1 Unless the contrary intention appears, the following definitions apply:

“**Contract**” means the contract dated [●] between the Client (1) and the **Contractor** (2) (including any further agreement varying or supplementing the Contract) under which the **Contractor** has agreed to provide the Works.

“**Works**” means the Works to be provided by the **Contractor** pursuant to the Contract.
- 1.2 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.
- 1.3 Words in this deed denoting the singular include the plural meaning and vice versa.
- 1.4 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.
- 1.5 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.

2. NOVATION

- 2.1 The Old Client and the **Contractor** release and discharge each other from the further performance of their respective obligations under the Contract and the **Contractor** acknowledges and accepts the liability of the New Client in place of the liability of the Old Client under the Contract.
- 2.2 The **Contractor** undertakes to be bound to the New Client by the terms of the Contract in every way as if the New Client was and always had been a party to the Contract in place of the Old Client.

- 2.3 The **Contractor** acknowledges and warrants to the New Client that it has duly observed and performed and will continue duly to observe and perform all its obligations under the Contract.

3. NEW CLIENT'S UNDERTAKING

- 3.1 Subject to Clause 4.1 below, the New Client undertakes to be bound to the **Contractor** by the terms of the Contract and to perform the obligations on the part of the *Client* under the Contract in every way as if the New Client was and always had been a party to the Contract in place of the Old Client.

4. PAYMENT OF SUMS DUE

- 4.1 The **Contractor** and the Old Client agree that the total amount to be paid by the Old Client to the **Contractor** for the Works provided under the Contract prior to the date of this deed is £[●]. The **Contractor** acknowledges that the Old Client has paid the sum of £[●] prior to the date of this deed. The balance of £[●] shall be invoiced by the **Contractor** to the Old Client and paid by the Old Client in accordance with the Contract.
- 4.2 The **Contractor** and the New Client agree that the New Client shall be solely responsible (to the exclusion of the Old Client) for payment of all sums due to the **Contractor** under the Contract for any Works provided after the date of this deed.
- 4.3 [Where, under Clause 2.2 above or under any other contract between the New Client and the Contractor, any sum of money is recoverable from or payable by the Contractor to the New Client, such sum may be deducted from or reduced by the amount of any sum then due or which may at any time become due from the New Client to the Contractor under Clause 4.2 above or under any other contract with any Department or Office of Her Majesty's Government.]⁴

5. NOTICES

- 5.1 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.
- 5.2 Any notice given pursuant to this clause will be deemed to have been served as follows:
- a) if delivered personally, at the time of delivery; and
 - b) 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 and Wales.
- 5.3 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

⁴ Include only if the New Client is a Department or Office of Her Majesty's Government.

the custody of the postal authorities as a pre-paid recorded or special delivery letter.

6. GOVERNING LAW AND DISPUTES

- 6.1 This deed and any non-contractual obligations arising out of or in connection with it shall be governed by English Law.
- 6.2 The parties agree that the courts of England and Wales 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 LIMITED acting by:

)
)
)

Director

Director/Secretary

OPTION 2b Executed as a deed by)
NATIONAL LIMITED acting by:)
)

Authorised Signatory

Authorised Signatory

Executed as a deed by **[NEW CLIENT]**)
in the presence of:)

Authorised Signatory

Authorised Signatory

Executed as a deed by **[CONTRACTOR]**)
in the presence of:)

Director

Director/Secretary

Annex G: Inclusion Action Plan

Guidance for Suppliers

The *Client's* objective is to embed the principles of equality, diversity and inclusion into all areas of our business, driving real change in how we work with our customers and communities, our supply chain and our employees. The *Client* believes that in order to achieve its vision of being the world's leading road operator it needs a better understanding and meet the different needs of its large and diverse customer base and factor these needs in to the design and delivery of service.

This requires us to work collaboratively with partners so that our workplaces are inclusive and the strategic road network is accessible and integrated for both our users and communities living alongside the network. We therefore require our suppliers to demonstrate how they develop an iterative approach in supporting the *Client* in meeting its equality, diversity and inclusion objective through the life of the contract. We also believe that to achieve outstanding performance we need to attract, recruit, develop and retain talented people from all groups within the active labour force and then work to ensure an inclusive environment in which all can thrive. The *Client* expects our suppliers to share the same values in terms of equality, diversity and inclusion as well as supporting our wider vision.

The Inclusion Action Plan covers the key areas of equality and diversity, and inclusion (EDI).

The action plan is to be accompanied by some contextual information including reference to suppliers' key relevant policies. The action plan relates specifically to the project you are contracted for. Key relevant policy documents such as suppliers' equality and diversity policies (or equivalent) can be appended.

All relevant information for the submission is to be included and the action plan should not exceed 20 pages with the exception of any appendices. Any appendices only include relevant policies as any other information will not be considered. Within the action plan outline how you ensure that EDI requirements are met within your organisation and across your team selected to deliver this service paying particular attention to how you

- attract, recruit and retain a greater diversity of new entrants to the sector,
- ensure the working culture, practice and environment enables everyone to perform to their full potential,
- will support the *Client* in meeting their responsibilities as signatories of the Armed Forces Covenant and the Care Leavers Covenant,
- consider the diverse needs of customers and neighbouring communities,
- hold yourselves and your supply chain to account in delivering the above,
- monitor and evidence year on year improvements and
- describe what success looks like for your organisation.

Action Plan Structure

- current position/baseline
 - what does your baseline data say about where you are (this should provide some guidance as to the additional actions to be taken or actions to be dis/continued).
 - The Discrimination Acts' protected characteristic groups are: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion/ belief and sexual orientation.
- action/task
 - what you do to meet the requirements.
- when does this happen
 - when do you take the action specified above?
- person responsible
 - who is responsible for this action?
- resource
 - you may also want to consider the resources needed to take action over and above the responsible officer.
- measure of success (outcome/performance indicators)
 - what does success look like?
 - how do you know it has made a tangible difference?
 - the difference this activity has made.

The areas covered in Table 6 (*Inclusion Action Plan Structure*) are objective areas that the *Client*, as a minimum, expects suppliers to include. Additional objectives can be added to those already included in Table 6 (*Inclusion Action Plan Structure*). Any additional objectives will vary depending on the situation of the company and in relation to the contract.

Table 6: Inclusion Action Plan Structure

	Inclusion objective	Baseline position – how and what did you use to enable you to get here?	Action/ task to meet requirements	When	Person responsible	Measure of success (MoS) – what difference has this made
1	Employment - outline the steps you will take to attract, recruit and develop a greater diversity of talent to meet the workforce needs of the contract					
2	Employment – outline the steps you will take to create a working environment and culture that enables everyone to perform to their potential					
3	Customer and communities – outline the steps you will take to consider the differing needs of customers and neighbouring communities when making decisions throughout the life of the project					
4	Governance and accountability - describe how you will hold yourselves and those in your supply chain to account in delivering and monitoring the difference made in relation to the above					

Annex H: Procurement through Category Purchase Agreements (excluding technology Category Suppliers)

Prior to entering into any subcontract for the bulk purchase of materials, works or services (excluding traffic management technology), the *Contractor*

- undertakes market testing of contract requirements against Category Purchase Agreements or
- for categories where no Category Purchase Agreement is in place; obtains contract specific quality and methodology submissions from potential suppliers (in addition to complying with the requirements identified at S 1205).

The *Contractor* provides this information to the *Project Manager* no later than two (2) weeks before the *Contractor* enters into a subcontract with its selected supplier of the materials, works or services.

When agreed with the *Project Manager* enters into a contract with a Category Supplier, the *Contractor* manages the procurement process and any secondary competition in accordance with the “framework information” for the Category Purchase Agreement.

The *Contractor* provides full visibility to the *Project Manager* of the procurement process for the selection of any Category Supplier.

CATEGORY MANAGEMENT PRINCIPLES

Category management is a key element of the *Client's* Procurement Strategy ‘Delivering Sustainable Value through Supply Chain Management’ and as such

- all relevant contract elements are tested by the *Contractor* against the *Client's* category management (CM) framework where such agreements exist. This is currently
 - pavements,
- The *Client* may procure new Category Purchase Agreements from time to time and the *Project Manager* will inform the *Contractor* of such new Category Purchase Agreements. When agreed, the *Contractor* ensures it uses any new Category Purchase Agreements as if it has been informed of the new Category Purchase Agreements at the Contract Date,
- any assessment of options for delivering category management works or services elements takes account of any identified whole life cost savings and non-financial factors, such as health, safety and welfare benefits, in addition to the initial capital cost,
- input into the early contractor involvement is obtained by the *Contractor* from the *Client's* Category Suppliers during the development stage of the *works* and is encouraged.
- where availability to employ professional services through Category Purchase Agreements exists, the *Contractor* may choose to employ these services during and beyond the development stage of the *works*. Subject to the selection procedure in the applicable Category Purchase Agreements, in this instance the *Contractor* may propose a direct award of Category Purchase Agreements works at delivery stage to a specific Category Supplier without the requirement for further competition. Any proposal demonstrates value for money and is subject to prior agreement by the *Project Manager*,
- in circumstances where the *Contractor* has employed professional services through a Category Purchase Agreements, the *Contractor* is not obliged to direct award the works at delivery stage. In this instance the *Contractor* follows the Category Purchase

Agreements selection procedure (and defined in the relevant Category Purchase Agreements) to identify a Category Supplier to deliver the works requirements,

- the *Contractor* liaises with the *Project Manager* to identify and plan a programme that allows the Category Purchase Agreements procurement and associated governance procedures to be implemented within the requirements of the overall project programme and the *Contractor's* Procurement Schedule, in accordance with Volume 2 Part 8 (Integrated Project Controls) of the contract,
- where the *Contractor* proposes to use “group company” arrangements, the *Contractor* demonstrates that the price is at open market or competitively tendered prices in accordance with the contract and
- if agreed by the *Project Manager*, the *Contractor* procures that a subcontractor (at any stage of remoteness from the *Client*) enters into a contract with a Category Supplier pursuant to a Category Purchase Agreement for the purchase of materials, works or services needed to Provide the Works. The *Contractor* procures that the contract between the subcontractor (at any stage of remoteness from the *Client*) and the Category Supplier is as set out in the Category Purchase Agreement and that the subcontractor (at any stage of remoteness from the *Client*) does not change them unless the *Client* (via the *Project Manager*) agrees.

Annex I: Procurement through Category Purchase Agreements – Technology Category Suppliers

When instructed by the *Project Manager*, the *Contractor* enters into a contract with a Category Supplier for the procurement and installation of roadside technology, pursuant to the Category Purchase Agreement with the Crown Commercial Service (formerly Government Procurement Service), namely, the Traffic Management Technology Framework (TMTF), or any later replacement.

Unless otherwise specified in the Scope or instructed by the *Project Manager*, the *Contractor* manages the procurement process and any secondary competition in accordance with the TMTF and monitors expenditure and performance against the agreed TMTF Task.

Unless otherwise specified in the Scope or instructed by the *Project Manager*, the *Contractor* arranges and manages installation.

Signs and signals

Signs and signals are procured against agreed *Client* specifications and are based on forecasts provided by the *Contractor*.

On expiry of the warranty period, responsibility for maintenance either

- except for *section 5*, transfers to the *Client* or
- remains with the *Contractor* until Completion of the whole of the *works*.

The *Contractor* procures a supply, install and commission task orders and procures maintenance spares based on each supplier's failures modes effect analysis.

Except for *section 5*, when Plant passes all site acceptance testing, responsibility for maintenance transfers to the *Client* on Completion of *section 3*.

CCTV

CCTV is procured against agreed *Client* specifications.

On expiry of the warranty period, responsibility for maintenance either

- except for *section 5*, transfers to the *Client* or
- remains with the *Contractor* until Completion of the whole of the *works*.

Roadside Infrastructure Plant

Roadside infrastructure Plant is procured against agreed *Client* specifications.

On expiry of the warranty period, responsibility for maintenance either

- except for *section 5*, transfers to the *Client* or
- remains with the *Contractor* until Completion of the whole of the *works*.

Cable

Cable is procured against agreed *Client* specifications.

On expiry of the warranty period, responsibility for maintenance either

- except for *section 5*, transfers to the *Client* or
- remains with the *Contractor* until Completion of the whole of the *works*.

Emergency Roadside Telephones (ERTs) and Traffic Monitoring Plant (NTIS & MIDAS)

ERTs, NTIS and MIDAS Plant is procured against agreed *Client* specifications.

On expiry of the warranty period, responsibility for maintenance either

- except for *section 5*, transfers to the *Client* or
- remains with the *Contractor* until Completion of the whole of the *works*.

HADECS3

HADECS3 is procured against agreed *Client* specifications.

The *Contractor* arranges and manages maintenance in accordance with Home Office Type Approval requirements.

On expiry of the warranty period, responsibility for maintenance either

- except for *section 5*, transfers to the *Client* or
- remains with the *Contractor* until Completion of the whole of the *works*.

For a limited period HADECS3 is procured as set out below

The *Client* operates the tender letting process through the framework contract (1/208 Highways England's Digital Enforcement Compliance System or any later replacement) and undertakes competition, based on forecasts provided by the *Contractor*.

Supply and installation under the framework contract (1/208 Highways England's Digital Enforcement Compliance System or any later replacement) runs until the achievement of the financial limit of the framework contract (1/208 Highways England's Digital Enforcement Compliance System or any later replacement).

Maintenance under the framework contract (1/208 Highways England's Digital Enforcement Compliance System or any later replacement) runs until the earlier of

- 2024 or
- the achievement of the financial limit of the framework contract (1/208 Highways England's Digital Enforcement Compliance System or any later replacement).

Annex J: Insurance Table

- 1.1 Without prejudice to its obligation to indemnify or otherwise be liable to the *Client* under the contract, the *Contractor*, from the *starting date* takes out and maintains or procures the taking out and maintenance in full force and effect insurance in accordance with the requirements specified in the Insurance Table and any other insurances as may be required by law (together the “Required Insurances”). The *Contractor* ensures that the Required Insurances are effective in each case not later than the date on which the relevant risk commences.
- 1.2 The *Contractor* ensures the Required Insurances referred to in paragraph 1.1 of this annex are taken out and maintained with insurers who (in the opinion of the *Client*) are of good financial standing, sound security, appropriately regulated and of good repute in the United Kingdom insurance market.
- 1.3 The *Contractor* does not (and the *Contractor* procures that none of its subcontractors (at any stage of remoteness from the *Client* do not)) take any action, or permit anything to occur in relation to it, which would entitle any insurer to refuse to pay any claim under any insurance policy in which that party is an insured, a co-insured or additional insured person.
- 1.4 The Required Insurances referred to in paragraph 1.1 of this annex
- where specified in the Insurance Table, name the *Client* as a co-insured for its separate interest,
 - where specified in the Insurance Table, provide for non-vitiation and severability of interests protection in respect of any claim made by the *Client* as a co-insured,
 - where specified in the Insurance Table procure that insurers undertake to waive all rights of subrogation howsoever arising and claims against the *Client*, its employees, servants or agents which they may have or acquire, arising out of any occurrence in respect of which any claim is admitted and is insured under the Required Insurances. The provisions of this bullet point do not apply against any *Client*’s officer, director, employee, agent and assign who has caused or contributed to such an occurrence or claim by fraud, deliberate misrepresentation, deliberate nondisclosure or deliberate breach of policy condition,
 - where specified in the Insurance Table, procure that the Required Insurances contain an indemnity to principals clause under which the *Client* is indemnified in respect of claims made against the *Client* arising from death or bodily injury or third party property damage for which the *Contractor* is legally liable in respect of the contract,
 - are maintained from the date in paragraph 1.1 of this annex above and until at least the expiry or termination of the contract and for such a further period as may be specified in the Insurance Table substantially subject to the terms, cover features and extensions and principal exclusions as specified in the Insurance Table and

- are maintained from time to time (as far as is reasonably practicable), on terms no less favourable than those generally available to a contractor in respect of the risks insured in the United Kingdom insurance market from time to time.

1.5 The *Contractor*

- without limiting any specific requirements in the contract, takes or procures the taking of all reasonable risk management and risk control measures in relation to the contract as it would be reasonable to expect of a contractor, acting in accordance with industry best practice, including to the investigation and reporting of relevant claims to insurers,
- discharges all its obligations under the Insurance Act 2015 when placing, renewing, amending or maintaining any insurances required by the contract including complying with the duty of fair presentation to insurers and taking the actions needed to protect the *Client's* separate interests and
- uses all reasonable endeavours to procure that all insurance brokers through whom any Required Insurances to be effected by the *Contractor* are effected or maintained maintain intact their files (including all documents disclosed and correspondence in connection with the placement of those Required Insurances and the payment of premiums and claims under such Required Insurances) until the date specified in the Insurance Table for each relevant class of insurance.

1.6 The *Contractor* provides, on request to the *Project Manager*

- evidence of the Required Insurances, in a form satisfactory to the *Client*, and
- evidence, in a form satisfactory to the *Client*, that the premiums payable under the Required Insurances have been paid and that the insurances are in full force and effect and meet the insurance requirements of the *Contractor* in respect thereof and

Neither inspection, nor receipt of such evidence, constitutes acceptance by the *Client* of the terms thereof, nor be a waiver of the *Contractor's* liability under the contract.

1.7 The *Contractor* provides evidence, in a form satisfactory to the *Project Manager*, of the insurances required by paragraph 1.1 of this annex as and when requested and certified copies provided to the *Project Manager* as soon as possible but in any even no later than 2 weeks following the *Project Manager's* request or the relevant insurance policy renewal date.

1.8 The *Contractor*

- where the insurers purport to cancel, suspend or terminate the Required Insurances, procures that the insurers, as soon as is practicable, notify the *Contractor* in the event of any such proposed suspension, cancellation or termination and

- where it receives such notification from insurers in relation to this paragraph 1.8 promptly notifies the *Project Manager* of receipt of such proposed suspension, cancellation or termination.
- 1.9 The *Contractor* promptly notifies to insurers any matter arising from or in relation to the contract from which it may be entitled to claim under any of the Required Insurances.
- 1.10 Except where the *Client* is the claimant party and without limiting the other provisions of the paragraph, the *Contractor* notifies the *Client* immediately, (such notification to be accompanied by reasonable particulars of the incident or circumstances giving rise to such claim).
 - of any incident or circumstances which may give rise to any claim amounting to or in excess of £50,000 in connection with the contract under any of the Required Insurances and
 - if the incident or circumstances may give rise to any claim in connection with the contract, which may be in excess of the limits of the Required Insurances.
- 1.11 If the *Contractor* is in breach of paragraph 1.1 of this annex the *Client* may pay (at its option) any premiums, insurance premium tax and insurance broker costs required to keep such insurance in force or itself procure such insurance, and in either case, recover such amounts from the *Contractor* on demand, together with all expenses incurred in procuring such insurance.
- 1.12 Where any policy requires the payment of a premium, insurance premium tax or other related insurance cost, the *Contractor* is liable for such premium, insurance premium tax or other related cost.
- 1.13 The *Contractor*
 - where any insurance is subject to an excess or deductible below which the indemnity from the insurers is excluded, is liable for such excess or deductible and
 - is not entitled to recover from the *Client* any sum paid by way of excess or deductible under the insurances whether under the terms of the contract or otherwise.
- 1.14 The *Contractor* ensures all insurance proceeds received under the Construction “All Risks” Insurance and Marine Cargo Insurance referred to in the Insurance Table, are applied to the repair, reinstate and replace each part or parts of the insured property in respect of which the proceeds were received.
- 1.15 Insurance Table (Required Insurances)

1. Construction “All Risks” Insurance (CAR)

1.1 Insureds

1. *Contractor*
2. *Client*

as appropriate, each for their respective rights and interests in the contract.

1.2 Insured property

The permanent and temporary works, materials, goods, plant and materials and equipment for incorporation in the *works* constructional plant, tools, and equipment belonging to or the responsibility of *Contractor* or subcontractors (at any stage of remoteness from the *Client*), Tunnel Boring Machines and all other property used or for use in connection with *works* associated with the contract.

1.3 Basis of cover

"All Risks" of physical loss, destruction or damage to the Insured property (as specified in paragraph 1.2 of this Insurance Table above) during the period of insurance (as specified in paragraph 1.7 of this Insurance Table below) from any cause whatsoever, including whilst in transit (other than by sea or air) or in storage, unless otherwise excluded.

1.4 Sum insured (required level)

At all times an amount not less than the full reinstatement or replacement value of the Insured property (as specified in paragraph 1.2 of this Insurance Table above) but not less than the value specified in the contract plus provision to include cover features and extensions (as specified in paragraph 1.8 of this Insurance Table below). Tunnel subject to Munich Re Endorsement 101 Tunnelling. Tunnel Boring Machines to be not less than the full reinstatement or replacement value of the Insured property (as specified in paragraph 1.2 of this Insurance Table above).

1.5 Maximum deductible threshold

Not to exceed

- tunnelling, underground works, defective design, workmanship and materials **£2,000,000.00** each and every loss LEG3,
- other non-tunnelling related defective design, workmanship and materials **£750,000.00** each and every loss LEG2,
- perils of storm, flood, water damage, subsidence and collapse **£2,000,000.00** each and every loss,
- all other losses including testing and commissioning **£500,000.00** each and every loss and
- Tunnel Boring Machines **£1,000,000.00** each and every loss.

1.6 Territorial limits

United Kingdom including offsite storage and during inland transit.

1.7 Period of insurance

From the commencement of the relevant *works* until completion of the relevant *works* and thereafter in respect of defects liability until expiry of the defect correction period.

1.8 Cover features and extensions

- terrorism,
- munitions of war clause,
- additional costs of completion clause,
- professional fees clause,
- debris removal clause,
- 72 hour clause,
- European Union local authorities clause,
- free issue materials clause,
- 115% escalation clause,

- automatic reinstatement of sum insured clause,
- loss minimization,
- plans and documents,
- expediting expenses,
- Fire Prevention Joint Code of Compliance,
- temporary repairs,
- advance payment,
- full guarantee maintenance to the extent available or as a minimum extended maintenance for mechanical and electrical works,
- testing and commissioning,
- computer data reinstatement,
- replacement/reinstatement basis of claims settlement with cash option for non-reinstatement alternative,
- inland transit and temporary storage,
- Tunnelling Code of Practice,
- 50/50 clause and
- co-insured, non-vitiation, waiver of subrogation and notice of cancellation in accordance with paragraphs 1.4. and 1.8.1 of this [Annex J](#) of the contract

1.9 Principal exclusions

- war and related perils,
- nuclear/radioactive risks,
- design improvement LEG3 for civil works but LEG2 for all works other than civil works to the extent available,
- pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.
- wear, tear and gradual deterioration.
- consequential financial losses.
- cyber risks.
- inventory losses, fraud and employee dishonesty
- airborne and waterborne craft
- pilling clause and
- Munich Re Endorsement 101 Tunnelling – 175% of original per meter construction cost or £60,000,000.

2. **Marine Cargo Insurance**

2.1 Insureds

1. *Contractor*
2. *Client*

as appropriate, each for their respective rights and interests in the contract.

2.2 Insured property

All property and interest of every description for all transits by sea or air of all goods intended for the *works* where such items are carried for the account and interest of the Insured (as set out in paragraph 2.1 of this Insurance Table above) from risk attachment at factory premises or elsewhere to site and including off site storage.

2.3 Coverage (required level)

"All Risks" of physical loss or damage to the Insured property (as specified in paragraph 2.2 of this Insurance Table above) unless otherwise excluded.

2.4 Basis of valuation

Not less than the full replacement value plus 10% for any one sending/any one voyage plus provision to include other cover features and extensions (as specified in paragraph 2.8 below of this Insurance Table) as appropriate

2.5 Maximum deductible threshold

Not to exceed **£50,000.00** each and every loss.

2.6 Territorial limits

Worldwide

2.7 Period of insurance

On an 'Open' cover basis, from the commencement of the relevant transits until the delivery to the site plus any deferred unpacking period.

2.8 Cover features and extensions

- terrorism,
- Institute Cargo Clauses (A),
- Institute War Clauses (Cargo) including terrorism,
- Institute Strikes Clauses (Cargo) and
- overland transit to the extent it is not covered under the Construction 'All Risks' Insurance

2.9 Principal exclusions

- as per Institute Cargo Clauses (A),
- ordinary leakage ordinary loss in weight or volume or ordinary wear and tear of the subject matter insured,
- inherent vice or nature of the subject matter insured,
- insolvency or financial default of the owners managers charterer's or operators of the vessel or aircraft, unless not material to the claim,
- un-seaworthiness of the vessel or craft, etc. but only where the Insured (as set out in paragraph 1.2 of this Insurance Table above) is aware of the un-seaworthiness,
- insufficiency or unsuitability of packing,
- delay,
- vessel not ISM Code certified/SOLAS Convention,
- war risks on land and
- radioactive contamination.

3. Third Party Public Liability Insurance

3.1 Insured

1. *Contractor*

3.2 Interest

To indemnify the Insured (as set out in paragraph 3.1 of this Insurance Table above) in respect of all sums that the Insured (as set out in paragraph 3.1 of this Insurance Table above) may become legally liable to pay whether contractually or otherwise (including claimant's costs and expenses) as damages in respect of accidental

- death or bodily injury, illness or disease contracted by any person,
- loss or damage to property and

	<ul style="list-style-type: none"> interference to property or any easement right of air, light, water or way or the enjoyment or use thereof by obstruction, trespass, nuisance, loss of amenities
	happening during the period of insurance (as set out in paragraph 3.6 of this Insurance Table below) and arising out of or in connection with the contract.
3.3	<p><u>Limit of indemnity (required level)</u></p> <p>Not less than £75,000,000 in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, but in the annual aggregate in respect of products or pollution liability (to the extent insured by the policy).</p>
3.4	<p><u>Maximum deductible threshold</u></p> <p>Not to exceed £200,000.00 each and every occurrence of third party property damage, personal injury claims to be paid in full.</p>
3.5	<p><u>Territorial limits</u></p> <p>United Kingdom and elsewhere in the world in respect of non-manual visits.</p>
3.6	<p><u>Period of insurance</u></p> <p>From the <i>starting date</i> for the duration of the contract renewable on an annual basis unless agreed otherwise by the Parties.</p>
3.7	<p><u>Cover features and extensions</u></p> <ul style="list-style-type: none"> munitions of war, cross liability clause, contingent motor vehicle liability, legal defence costs in addition to the limit of indemnity, waiver of subrogation in accordance with paragraph 1.4 of this Annex J of the Scope, indemnity to principals clause in accordance with paragraph 1.4 of this Annex J of the Scope, Health & Safety at Work Act(s) clause, Data Protection Acts clause, Consumer Protection Act 1987 and defence appeal and prosecution costs relating to the Corporate Manslaughter and Corporate Homicide Act 2007
3.8	<p><u>Principal exclusions</u></p> <ul style="list-style-type: none"> war and related perils, nuclear/radioactive risks, liability for death, illness, disease or bodily injury sustained by employees of the Insured (as set out in paragraph 3.1 of this Insurance Table above) arising out of the course of their employment, liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by legislation in respect of such vehicles, liability in respect of predetermined penalties or liquidated damages imposed under the contract, liability in respect of loss or damage to property in the care, custody and control of the Insured (as set out in paragraph 3.1 of this Insurance Table above) but this exclusion is not to apply to all property belonging to the

	<p><i>Client</i> which is in the care, custody and control of the Insured (as set out in paragraph 3.1 of this Insurance Table above),</p> <ul style="list-style-type: none"> liability arising from the ownership, possession or use of any aircraft or marine vessels, liability arising from pollution and contamination unless caused by a sudden, unintended, unexpected and accidental occurrence, events more properly covered under the Professional Indemnity Insurance policy (as set out in paragraph 4 of this Insurance Table below), losses indemnified under the Construction "All Risks" Insurance (CAR) policy (as set out in paragraph 1 of the Insurance Table above), liability arising from toxic mould, liability arising from asbestos and cyber risks
4.	Professional Indemnity Insurance
4.1	<u>Insured</u>
	1. <i>Contractor</i>
4.2	<u>Interest</u>
	To indemnify the Insured (as set out in paragraph 4.1 of this Insurance Table above) for all sums which the Insured (as set out in paragraph 4.1 of this Insurance Table above) shall become legally liable to pay (including claimant's costs and expenses) as a result of any claim or claims first made against the Insured (as set out in paragraph 4.1 of this Insurance Table above) during the Period of insurance (as set out in paragraph 4.6 of this Insurance Table below) by reason of any act, error or omission arising from or in connection with professional services relevant to the contract.
4.3	<u>Limit of indemnity (required level)</u>
	Not less than £25,000,000 in respect of any one claim and in aggregate per annum and £5,000,000 in respect of any one claim and in the aggregate per annum in respect of asbestos (to the extent insured by the relevant policy).
4.4	<u>Maximum deductible threshold</u>
	Not to exceed £5,000,000.00 each and every claim.
4.5	<u>Territorial limits</u>
	United Kingdom.
4.6	<u>Period of insurance</u>
	From the <i>starting date</i> for the duration of the contract renewable on an annual basis unless agreed otherwise by the Parties and a period of twelve (12) years following the expiry or termination of the contract whichever occurs earlier.
4.7	<u>Cover features and extensions</u>
	<ul style="list-style-type: none"> loss of documents and computer records extension, legal liability assumed under contract, duty of care agreements and collateral warranties and retroactive cover from the date of the contract or retroactive date no later than the date of the contract in respect of any policy provided on a claims made form of policy wording.
4.8	<u>Principal exclusions</u>
	<ul style="list-style-type: none"> war and related perils,

- nuclear/radioactive risks,
- insolvency of the Insured (as set out in paragraph 4.1 of this Insurance Table above) and
- bodily injury, sickness, disease or death sustained by any employee of the Insured (as set out in paragraph 4.1 of this Insurance Table above) arising out of the course of their employment.

5. Contractors Pollution Liability

5.1 Insured

1. *Contractor*

5.2 Interest

To indemnify the Insured (as set out in paragraph 5.1 of this Insurance Table above) in respect of all sums that the Insured (as set out in paragraph 5.1 of this Insurance Table above) may become legally liable to pay consequent to a pollution incident and/or action by a relevant authority (including to a local authority, Environmental Agency or any judicial authority) or a third party, including the *Client*, and resulting in a claim or claims first made against the Insured (as set out in paragraph 5.1 of this Insurance Table above) and reported to the insurer during the policy period. A pollution incident relates to either pollution in existence at the date of the contract disturbed or in some way aggravated, released or made worse by the Insured (as set out in paragraph 5.1 of this Insurance Table above) or pollution caused by the Insured (as set out in paragraph 5.1 of this Insurance Table above) in connection with the execution of the *works* subsequent to the commencement of the relevant *works*.

5.3 Limit of indemnity (required level)

Not less than £10,000,000 in respect of any one occurrence, the number of occurrences being unlimited in any policy period and not less than £20,000,000 in the aggregate during the policy period the policy period not to exceed three years unless agreed otherwise by the Parties.

5.4 Maximum deductible threshold

Not to exceed £200,000.00 for each and every loss.

5.5 Territorial limits

The site and off site migration of contamination from the site.

5.6 Period of insurance

From the *starting date* for the duration of the contract (the policy period not to exceed three years unless agreed otherwise by the Parties).

5.7 Cover features and extensions

- regulatory or third party claims for on site clean-up of pre-existing and new conditions arising from the act or omission of the Insured (as set out in paragraph 5.1 of this Insurance Table above),
- regulatory or third party claims for off-site clean-up of pre-existing and new conditions arising from the act or omission of the Insured (as set out in paragraph 5.1 of this Insurance Table above),
- third party claims for on-site and off-site property damage from pre-existing and new conditions arising from the act or omission of the Insured (as set out in paragraph 5.1 of this Insurance Table above),
- legal costs,
- retroactive date, policy inception and

- liability arising from the *works*, subject to their inclusion within the definition of covered operations under the policy.

5.8 Principal exclusions

- war and related perils.
- nuclear/radioactive risks but this exclusion shall not apply to naturally occurring materials that may become a pollution condition as a consequence of relocation.
- asbestos (exclusion not to extend to asbestos remediation costs with respect to soil and groundwater).
- deliberate, wilful and intentional non-compliance with any statutory regulation ordinance or instruction of any government agency or body, or executive, judicial or administrative order.
- criminal fines and penalties.
- terrorism.

6. **Policies to be taken out as required by United Kingdom law.**

Parties to the contract are required to meet their statutory insurance obligations in full. Insurances required to comply with all statutory requirements including to employers' liability insurance and motor third party liability insurance.

The limit of indemnity for the employers' liability insurance not to be less than £10,000,000 any one occurrence, the number of occurrences being unlimited during any annual period of insurance or such greater amount as is required by the applicable law from the earlier of

- the *starting date*,
- when the *Contractor* commences to Provide the Works and
- such greater period as is required by law (required level)

and for the remainder of the duration of the contract.

The limit of indemnity for the motor third party liability insurance not to be less than unlimited each and every occurrence, the number of occurrences being unlimited in any annual policy period for third party death / bodily injury, and £10,000,000 for third party property damage each and every occurrence the number of occurrences being unlimited in any annual policy period, or such greater amount as is required by the applicable law for the duration of the contract or such greater period as is required by law (required level).

The statutory insurances to contain an indemnity to principals clause in respect of claims made against the *Client* arising out of the performance of the *Contractor* of his duties under the contract in accordance with paragraph 1.4 of this [Annex J](#) to the Scope.

The insurance will be maintained from the date of the contract throughout the period of the contract.

Annex K: Key Persons Schedule

The below schedule summarises the minimum knowledge, skills, experience, qualifications and professional membership requirements expected for identified *key persons*.

The knowledge, skills and experience needs to be relevant and transferrable to the project as attained from experience of delivering similar major infrastructure projects or from a related role / applicable sector.

The roles for inclusion in the key person schedule are	Knowledge / Skills / Experience							Qualifications	Professional Membership	Minimum period of availability
Contractor's project director	substantial technical knowledge and understanding of the construction industry with demonstrable evidence as recognised by industry endorsed achievements.	proven experience of developing and overseeing a strategic management approach.	proven experience in applying effective high-level interventions to drive significant programme level improvements.	proven experience in leading multi-disciplinary teams in the delivery of highly technical and complex projects.	proven experience of engaging with stakeholders and the supply chain at various levels of an organisation.	substantial understanding of programme and project management in delivering a programme of works.	transparently models the desirable behaviours and has proven leadership experience in creating a positive working environment that optimises the performance of the project team.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	A relevant chartered membership, or equivalent, of a professional competency awarded by a chartered professional body or learned society, or similar professional title under the European professional qualification directive (2005/36/EC) (or international equivalent)	full duration of Scheme.
Contractor's project manager	substantial technical knowledge and understanding of highways and tunnelling of a similar scale and complexity with evidence of implementing innovative solutions and/or provision of specialist and technical advice.	proven experience of implementing a strategic management approach.	proven experience of achieving quality standards and applying continuous improvement techniques to drive project level improvements.	proven experience of managing multi-disciplinary teams in the delivery of highly technical and complex projects.	proven experience of managing senior stakeholder relationships to achieve desired outcomes.	substantial understanding of programme and project management.	transparently models the desirable behaviours and has proven leadership experience in creating a positive working environment that optimises the performance of the project team.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	A relevant chartered membership, or equivalent, of a professional competency awarded by a chartered professional body or learned society, or similar professional title under the European professional qualification directive (2005/36/EC) (or international equivalent)	full duration of Scheme.
Contractor's commercial manager	substantial knowledge and understanding of commercial management in the construction industry.	proven experience of developing a commercial structure and delivering integrated solutions.	proven experience of working with and administering a range of contract forms (of note NEC4 Option C).	proven experience of delivering pragmatic and innovative solutions utilising new collaborative forms of procurement.	proven experience of making financial decisions based on accurate analysis, robust forecasting, and engagement with project team.	proven experience of supporting project managers with commercial matters.	proven experience and demonstrable evidence of interpersonal and communication skills that creates an environment where financial performance can be constructively challenged.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	A relevant chartered membership, or equivalent, of a professional competency awarded by a chartered professional body or learned society, or similar professional title under the European professional qualification directive (2005/36/EC) (or international equivalent)	full duration of Scheme.
Contractor's design manager	proven experience in design coordination and management drawing on proven technical knowledge and understanding.	proven experience of managing multi-disciplinary design teams in the delivery of highly technical and complex projects.	proven experience of integrating the needs of key project stakeholders in the design development of solutions.	proven experience of developing design solutions that promote safe and effective construction, operation and maintenance of the asset.	proven experience of delivering design solutions that satisfy performance requirements.	substantial knowledge and understanding of digital and technological advances in the industry (including BIM) and new methods of construction.	proven experience of creating a positive working environment that allows innovative design solutions to be identified.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	A relevant chartered membership of the ICE, IStructE or equivalent.	full duration of Scheme (incl. support during Construction phase).
Contractor's construction manager	proven experience in construction management drawing on proven technical knowledge and understanding of Schemes of a similar scale and complexity.	proven experience of managing complex construction projects formed of multi-disciplinary teams with the ability to co-ordinate and integrate working practices to ensure delivery on programme.	proven experience of integrating the needs of key project stakeholders to assist with the construction of the projects in accordance with the programme.	proven experience to construct a project in accordance with the design, operation and maintenance requirements of the asset.	proven experience of working with and administering a range of contract forms (of note NEC4 Option C).	substantial knowledge and understanding of digital and technological advances in the industry (including BIM) and new methods of construction.	proven experience of ensuring health, safety and welfare of all Staff is maintained.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	A relevant chartered membership, or equivalent, of a professional competency awarded by a chartered professional body or learned society, or similar professional title under the European professional qualification directive (2005/36/EC) (or international equivalent)	full duration of Scheme (incl. support during Mobilisation phase).

The roles for inclusion in the key person schedule are	Knowledge / Skills / Experience							Qualifications	Professional Membership	Minimum period of availability
Contractor's construction tunnelling manager	substantial knowledge and understanding of TBM tunnelling processes of a similar scale and complexity and geotechnical principles.	proven experience of managing complex tunnelling projects.	proven experience of managing key project stakeholders and ability to maintain good relationships.	proven experience of constructing tunnels using TBM methods in accordance with the design, operation and maintenance requirements of the asset.	proven experience of achieving quality standards and applying continuous improvement techniques to drive significant efficiency gains.	substantial knowledge and understanding of digital and technological advances in the industry (including BIM) and new methods of construction.	proven ability to establish and lead a health, safety and wellbeing culture with a track record of delivering projects safely.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	A relevant chartered membership, or equivalent, of a professional competency awarded by a chartered professional body or learned society, or similar professional title under the European professional qualification directive (2005/36/EC) (or international equivalent)	Full duration of tunnelling related activities.
Contractor's community relations manager	proven experience of managing community relation issues.	proven experience to positively influence project outcomes through effective stakeholder management.	proven experience of preparing and implementing community engagement plans.	proven interpersonal and communication skills that have overcome challenging situations.	substantial and demonstrable evidence in attending and leading community engagement events.	proven experience of identifying innovative and improved ways of working that assist community and stakeholder engagement.	proven experience of co-ordinating effective and timely responses to high-volumes of enquiries.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	N/A	full duration of Scheme.
Contractor's health and safety manager	substantial knowledge of health, safety and wellbeing legislation, guidance and standards.	proven experience in leading on health, safety and wellbeing matters of a multi-disciplinary team.	proven experience of facilitating health, safety and wellbeing meetings, training courses and preparation of associated material for all Staff.	proven experience of leading a team of health, safety and wellbeing professionals to achieve required outcomes.	proven experience of developing strategies that lead to improved health, safety and wellbeing performance of an organisation.	proven experience of providing health, safety and wellbeing leadership through a variety of tools and techniques.	proven experience of creating a positive working environment that supports a health, safety and wellbeing culture.	degree in occupational health and safety or equivalent National Vocational Qualification (NVQ) Level 6 Diploma from a recognised awarding body	A relevant chartered membership, or equivalent, of a professional competency awarded by a chartered professional body or learned society, or similar professional title under the European professional qualification directive (2005/36/EC) (or international equivalent)	full duration of Scheme.
Contractor's environmental manager	substantial knowledge of environmental legislation, guidance and standards.	proven experience in leading on environmental matters in a multi-disciplinary team.	proven experience of preparing and implementing environmental plans.	proven experience of leading a team of environmental professionals to achieve required outcomes.	proven experience of satisfying environmental requirements to facilitate delivery of design solutions that satisfy performance requirements.	proven experience of managing senior stakeholder relationships to achieve desired outcomes.	proven experience of co-ordinating effective and timely responses to stakeholder enquiries to assist with project delivery.	An officially recognised degree awarded by an institution on the list of recognised bodies published by the UK Government (or international equivalent).	A relevant chartered membership, or equivalent, of a professional competency awarded by a chartered professional body or learned society, or similar professional title under the European professional qualification directive (2005/36/EC) (or international equivalent)	full duration of Scheme.
Contractor's digital lead	Please refer to clause 1.2.10 of Volume 2 Part 5 (Digital Construction Requirements) of the contract.									full duration of Scheme.

Annex L: Data Processing

Processing, Personal Data and Data Subjects

This annex shall be completed by the *Client*, who may take account of the view of the *Contractors*, however the final decision as to the content of this annex shall be with the *Client* at its absolute discretion.

- The contact details of the *Client's* data protection officer are DataProtectionAdvice@nationalhighways.co.uk.
- The contact details of the *Contractor's* data protection officer are **[insert Contact details]**
- The *Contractor* complies with any further written instructions with respect to data processing issued by the *Project Manager*.

Any such further instructions are incorporated into Table 7 (*Data Processing*).

Table 7: Data Processing

Description	Details
identity of the <i>Client</i> and <i>Contractor</i>	the Parties acknowledge that for the purposes of the Data Protection Act 2018, the <i>Client</i> is the Controller and the <i>Contractor</i> is the Processor in accordance with clause 2 of the Act.
subject matter of the processing	the processing is needed to allow the Processor to effectively deliver the <i>works</i> .
duration of the processing	from the starting date to Completion of the whole of the <i>works</i> .
nature and purposes of the processing	<p>the nature of the processing shall include collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means).</p> <p>the purpose of the processing includes</p> <ul style="list-style-type: none"> • recruitment assessment, • employment processing, • ID verification, • ability assessment, • training records, • engagement recording, • for communication purposes and • [any other purposes to be populated prior to the starting date in consultation with the Contractor].
type of Personal Data	<p>the type of Personal Data includes</p> <ul style="list-style-type: none"> • name, • home address, • date of birth, • national insurance number, • contact telephone number, • email address, • images, • audio and video recordings, • biometric data and • [any other Personal Data to be populated prior to the starting date in consultation with the Contractor].
categories of Data Subject	<p>the categories of Data Subject include</p> <ul style="list-style-type: none"> • Staff, • Subcontractors (at any stage of remoteness from the <i>Client</i>), • <i>Client</i>, • site visitor, • key stakeholder,

	<ul style="list-style-type: none"> • affected landowner, • member of the local community, • <i>Client's</i> customer and • [Other categories of Data Subject to be populated prior to the <i>starting date</i> in consultation with the <i>Contractor</i>].
plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Data will be retained for at least eighteen (18) months following the last interaction that a Data Subject has with the <i>Contractor</i> regarding the <i>works</i> and is destroyed no later than twenty-four (24) months following that last interaction, unless otherwise agreed with the Data Subject.

Joint Controller Agreement

Not used.

Annex M: Declaration of Interests and Conflict of Interest form

Official-Sensitive
(only when not a nil return)

National Highways Limited Declaration of Interest Form (for use by individuals with non-employment contract status)

Purpose

This form asks you to provide information in respect of actual, potential or perceived conflicts of interest in line with the Public Contracts Regulations 2015, the Concession Contract Regulations 2016 and National Highway's own policies including in regard to procurement and transparency.

The fact that you have an actual, potential or perceived conflict of interest is not necessarily a barrier to your involvement in a particular decision. The nature of action taken, when handling conflicts of interest, will depend on a number of factors which will be considered by National Highways and the decision of National Highways will be final.

1.	Personal details (for National Highways and statutory records, please advise any subsequent changes)	
a.	role/service provided	
b.	present surname and any former surname(s)	
c.	present forename(s) and any former forename(s)	
d.	phone numbers a) landline b) mobile (National	
e.	date form completed	

2.	Directorships	
Are you a director or a "shadow director" ⁵ of any company?		YES/NO
If YES, please provide the names of the companies, business sector, and date you became a director.		

3.	Other business interests	
Are you a partner, employee or a consultant (paid or otherwise) in any business?		YES/NO
If YES state the names and give the nature of the businesses where this is not indicated in the title and the nature and start date of your involvement with each partnership, employment or consultancy.		
Have you held any fiduciary office or position of trust (paid or otherwise) in the last 10 years? Please include public and any political offices.		YES/NO

⁵ "shadow director" means a person in accordance with whose instructions the directors of the company are accustomed to act. If you are a director or a shadow director of a company and, as a consequence are also a director or shadow director of several subsidiaries, a general description of the subsidiaries will suffice.

If YES please give details and if you no longer hold the position, describe the circumstances in which you ceased to do so.	
Do you have a direct shareholding in any company in the sector in which National Highways operates?	YES, I hold shares in the sector in which National Highways operates / NO, I do not hold any shares in the sector in which National Highways operates
If YES, please give details of the shares which you hold.	

4.	Voluntary work
Are you involved in or a member of any professional bodies, charities, special interest or political groups in the sector which National Highways operates?	YES/NO
If YES provide details.	

5.	Other
Are there any other matters which you, or a reasonable member of the public might perceive that National Highways should be aware of which might impact on your role as a <i>Contractor</i> to National Highways or the reputation of National Highways?	YES/NO
If YES provide details.	
Are there any matters or relevant interests, (including significant interests of close members ⁶ of your family) which might influence your judgement, deliberation or action in providing services to/your role in National Highways or be perceived by a reasonable member of the public as doing so? Please include information on any directorships and business interests in respect of close members of your family in respect of the sphere in which National Highways operates.	YES/NO
If YES provide details.	

6.	Connected persons
Please confirm (in the box to the right) that, in relation to the questions contained in sections 3, 4, 6, above, no additional information would need disclosure in relation to any connected person.	I confirm that no additional information requires disclosure. I have provided additional information above.

⁶ Close members means a) an individual's domestic partner and children b) children of an individual's domestic partner c) dependents of an individual or an independent's domestic partner, d) parents and in-laws, and e) siblings.

Declaration

1. I declare that to the best of my knowledge and belief (having taken all reasonable care to ensure that such is the case) the answers to all of the above questions are true and not misleading.
2. I shall not communicate to any person, firm, company or other legal entity other than National Highways employees or consultants engaged by or on behalf of National Highways in connection with the same matter any commercially sensitive or confidential information in connection with my work at National Highways (unless National Highways grants permission in writing to share commercially sensitive or confidential information with such person, firm, company or other legal entity).
3. During and for a period of 12 months following the expiry of my appointment to work for National Highways, I shall not seek to obtain any commercial advantage for myself, my employer or any connected persons, or personal advantage, from my work at National Highways.
4. During and following the expiry of my appointment to work for National Highways, I shall not assist my employer, any organisation connected with my employer, or any other organisation or person in tendering for any contract opportunity with National Highways that I have worked on in my capacity as a *Contractor* to National Highways.
5. I shall not pay, give, receive or offer to pay, give, receive any sum of money or other consideration directly or indirectly to any person whatsoever for any act described in paragraphs 2, 3 and 4 above. If any offer is made to me to breach this declaration, I shall report it immediately to National Highways.
6. All documentation that I have access to in my role as a *Contractor* to National Highways shall be made available to National Highways to form part of any relevant tender information pack. Any information that may give me, my employer or a third party any advantage in a tender process shall be returned to National Highways.
7. I understand that I may only be involved in the evaluation of a tender for National Highways where expressly sanctioned in writing by National Highways. I understand that I will not be involved in the process for agreeing any extension to my contract or the contract of any *Contractor* who shares with me the same employer.
8. I understand that I am not to be involved in looking at the route to market for any contract, project or task for which I or my employer may wish to tender and not to be involved in the assessment of resources being proposed for such contract, project or task. I agree to remove myself from any discussions relating to the procurement route for any contract, project or task for which I or my employer may wish to tender and I agree not to discuss these matters with my employer or with the team responsible for managing the contract, project or task in my firm.
9. Should any of the information on this declaration change or should I become aware of a potential, perceived or actual conflict of interest I will immediately contact National Highways to inform them and will take all reasonable steps to mitigate or remove the potential, perceived or actual conflict of interest.
10. I understand that if I do not comply with the statements in this declaration I may prejudice my employers ability to participate in tendering for contract opportunities with National Highways, I may have my contract with National Highways terminated and could face legal action.

11. I confirm that I have read and understood the requirements related to conflicts of interest in the contract between my employer and National Highways for the provision of the services.

Signed by the <i>Contractor</i>	
Date	

Acknowledged by the employer	
Date	

For National Highways's use only - Only applicable when involved in the tendering process

Acceptance/ Non-acceptance

I have considered the impact on the assessment and the risks to the National Highways objectives

☐

I am willing to accept this supplier for this assessment as a result of this consideration

☐

I am not willing to accept this supplier for this assessment as a result of this consideration

☐

Please record reasoning for decision:

Signed:

Name in Block Capitals:

Post and Grade:⁷

⁷ This section of the agreement will be countersigned by PB8 SCD, or if one not available a PB8 PLT Member.

Annex N: Quality Table

The quality table is as contained within the Performance Manual.

Annex O: Multi Party Collaboration / Partnering Information

Not used.

Annex P: Additional Definitions Used in the Scope

Not used.

Annex QA: Form of Novation (Old Contractor to New Contractor/Client for a subcontractor)

[•]
as Old **Contractor**

[•]
as New **Contractor/
Client**

[•]
as Subcontractor

DEED OF NOVATION

relating to a **[•]** contract for the provision of **[•]** works in **[•]**

DATED [●]

PARTIES

- (1) [●] (company no [●]) whose registered office is at [●] (the “**Subcontractor**”)
- (2) [●] (company no [●]) whose registered office is at [●] (the “**Old Contractor**”)
- (3) [●] (company no [●]) whose registered office is at [●] (the “**New Contractor/Client**”)

BACKGROUND

- (A) By the Contract, the Old **Contractor** has employed the Subcontractor to provide the Works.
- (B) The Subcontractor has agreed (with the consent of the Old **Contractor**) to transfer all its rights and obligations under the Subcontract to the **[New Contractor/Client]** and the Subcontractor has agreed to accept the liability of the **[New Contractor/Client]** in place of the liability of the Old **Contractor** under the Subcontract upon and subject to the terms of this deed, which is supplemental to the Subcontract.

1. Definitions and interpretation

- 1.1 Unless the contrary intention appears, the following definitions apply:

“**Subcontract**” means the subcontract dated [●] between the Old **Contractor** (2) and the Subcontractor (1) (including any further agreement varying or supplementing the Subcontract) under which the Subcontractor has agreed to provide the Works.

“**Works**” means the works to be provided by the Subcontractor pursuant to the Subcontract.

- 1.2 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.
- 1.3 Words in this deed denoting the singular include the plural meaning and vice versa.
- 1.4 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.
- 1.5 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.

2. Novation

- 2.1 The Old **Contractor** and the Subcontractor release and discharge each other from the further performance of their respective obligations under the Subcontract and the Subcontractor acknowledges and accepts the liability of the **[New Contractor/Client]** in place of the liability of the Old **Contractor** under the Subcontract.

2.2 The [New Contractor/Client] undertakes to be bound to the Subcontractor by the terms of the Subcontract in every way as if the [New Contractor/Client] was and always had been a party to the Subcontract in place of the Old Contractor.

2.3 The Subcontractor acknowledges and warrants to the [New Contractor/Client] that it has duly observed and performed and will continue duly to observe and perform all its obligations under the Subcontract.

3. [New CONTRACTOR/CLIENT]'S undertaking

3.1 Subject to Clause 4.1 below, the [New Contractor/Client] undertakes to be bound to the Subcontractor by the terms of the Subcontract and to perform the obligations on the part of the "Contractor" under the Subcontract in every way as if the [New Contractor/Client] was and always had been a party to the Subcontract in place of the Old Contractor.

4. Payment of sums due

4.1 The Subcontractor and the Old Contractor agree that the total amount to be paid by the Old Contractor to the Subcontractor for the Works provided under the Subcontract prior to the date of this deed is £[●]. The Subcontractor acknowledges that the Old Contractor has paid the sum of £[●] prior to the date of this deed. The balance of £[●] shall be invoiced by the Subcontractor to the Old Contractor and paid by the Old Contractor in accordance with the Subcontract.

4.2 The [New Contractor/Client] acknowledges that any payment made by the Old Contractor to the Subcontractor in respect of the Works (whether before or after the date of this deed) shall be treated as having been made to the Subcontractor and that the Old Contractor's payment obligation under the Contract shall to that extent be treated as discharged.

5. Notices

5.1 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.

5.2 Any notice given pursuant to this clause will be deemed to have been served as follows:

- a) if delivered personally, at the time of delivery; and
- b) 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 and Wales.

5.3 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.

6. Governing law and disputes

6.1 This deed and any non-contractual obligations arising out of or in connection with it shall be governed by English Law.

- 6.2 The parties agree that the courts of England and Wales 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

Executed as a deed by **[OLD**)
CONTRACTOR])
in the presence of:

Director

Director/Secretary

Executed as a deed by **[NEW**)
CONTRACTOR])
in the presence of:

Director

Director/Secretary

Executed as a deed by)
[SUBCONTRACTOR] in the presence of:)

Director

Director/Secretary

Annex QB: Form of Novation (old Contractor to new Contractor)

NATIONAL HIGHWAYS LIMITED
as Client

[●]
as New Contractor

[●]
as Old Contractor

DEED OF NOVATION

relating to a [●] contract for the provision of [●] works in National Highways Area [●]

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 “**Client**”)
- (2) [●] (company no [●]) whose registered office is at [●] (the “**Old Contractor**”)
- (3) [●] (company no [●]) whose registered office is at [●] (the “**New Contractor**”)

BACKGROUND

- (A) By the Contract, the Client has employed the Old **Contractor** to provide the Works.
- (B) The Old **Contractor** has agreed (with the consent of the Client) to transfer all its rights and obligations under the Contract to the New **Contractor** and the Client has agreed to accept the liability of the New **Contractor** in place of the liability of the Old **Contractor** under the Contract upon and subject to the terms of this deed, which is supplemental to the Contract.

1. Definitions and interpretation

- 1.1 Unless the contrary intention appears, the following definitions apply:

“**Contract**” means the contract dated [●] between the Client (1) and the Old **Contractor** (2) (including any further agreement varying or supplementing the Contract) under which the Old **Contractor** has agreed to provide the Works.

“**Works**” means the Works to be provided by the Old **Contractor** pursuant to the Contract.

- 1.2 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.
- 1.3 Words in this deed denoting the singular include the plural meaning and vice versa.
- 1.4 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.
- 1.5 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.

2. Novation

- 2.1 The Old **Contractor** and the Client release and discharge each other from the further performance of their respective obligations under the Contract and the Client acknowledges and accepts the liability of the New **Contractor** in place of the liability of the Old **Contractor** under the Contract.
- 2.2 The New **Contractor** undertakes to be bound to the Client by the terms of the Contract in every way as if the New **Contractor** was and always had been a party to the Contract in place of the Old **Contractor**.

2.3 The Client acknowledges and warrants to the New **Contractor** that it has duly observed and performed and will continue duly to observe and perform all its obligations under the Contract.

3. New **CONTRACTOR'S undertaking**

3.1 Subject to Clause 4.1 below, the New **Contractor** undertakes to be bound to the Client by the terms of the Contract and to perform the obligations on the part of the **Contractor** under the Contract in every way as if the New **Contractor** was and always had been a party to the Contract in place of the Old **Contractor**.

4. Payment of sums due

4.1 The Client and the Old **Contractor** agree that the total amount to be paid by the Client to the Old **Contractor** for the Works provided under the Contract prior to the date of this deed is £[●]. The Old **Contractor** acknowledges that the Client has paid the sum of £[●] prior to the date of this deed. The balance of £[●] shall be invoiced by the Old **Contractor** to the Client and paid by the Client in accordance with the Contract.

4.2 The New **Contractor** acknowledges that any payment made by the Client to the Old **Contractor** in respect of the Works (whether before or after the date of this deed) shall be treated as having been made to the New **Contractor** and that the Client's payment obligation under the Contract shall to that extent be treated as discharged.

5. Notices

5.1 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.

5.2 Any notice given pursuant to this clause will be deemed to have been served as follows:

- a) if delivered personally, at the time of delivery; and
- b) 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 and Wales.

5.3 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.

6. Governing law and disputes

6.1 This deed and any non-contractual obligations arising out of or in connection with it shall be governed by English Law.

6.2 The parties agree that the courts of England and Wales 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
CONTRACTOR]**
in the presence of:

)
)

Authorised Signatory

Authorised Signatory

Executed as a deed by **[NEW
CONTRACTOR]**
in the presence of:

)
)

Director

Director/Secretary

Annex R: Advertising Subcontracts in accordance with the Public Contracts Regulations 2015

Not used.

Annex S: Retention Bond

Not used.

Annex T: Performance Bond

Dated **2020**

NATIONAL HIGHWAYS LIMITED (1)

and

[BOND ISSUER] (2)

ON DEMAND BOND

relating to the construction of

[A303 Amesbury to Berwick Down]

BETWEEN

- (1) **NATIONAL HIGHWAYS LIMITED** (company no. 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ (the “**Client**”); and
- (2) **[BOND ISSUER]** [(Company no. [.....])] whose registered office is at [.....](the “**Bond Issuer**”).

(A) By a contract dated [] (“**the Contract**”) the Client engaged [] (**the Contractor**) to [design and] carry out certain works, all in accordance with the Contract.

(B) Under clause [] of the Contract, this Bond is to be procured by the Contractor in favour of the Client.

1. The Bond Issuer hereby irrevocably and unconditionally undertakes to pay to the Client, as primary obligor, and waiving all rights of objection and defence and without reference to the Client, any sum or sums not exceeding in total the amount of £20,000,000 (*twenty million pounds sterling*) (the “**Maximum Amount**”) upon receipt by the Bond Issuer of the Client’s written demand.
2. Any demand by the Client shall be in writing addressed to the office of the Bond Issuer at [] [ref:] and shall state the amount of the payment which is to be made to the Client by the Bond Issuer and give details of an account in the UK to which funds must be sent.
3. All payments shall be made by the Bond Issuer in full, free of any present or future taxes, levies, duties, charges, fees or withholdings and without any deduction, restriction, conditions, withholding, set-off or counterclaim whatsoever.
4. Any demand made hereunder must be made on a day in which banks are generally open for business in London (a “**Business Day**”) and a demand after 2 p.m. on a Business Day shall be treated as received by the Bond Issuer on the next Business Day.
5. Payment shall be made by the Bond Issuer to the Client without:
 - a) the Bond Issuer being obliged or entitled to make any enquiry of the Client or the Contractor;
 - b) the need for the Client to take any action against, or obtain the consent of, the Contractor;
 - c) any proof or conditions (other than those specified herein),and notwithstanding:
 - a) any dispute between the Client and the Contractor;
 - b) any objection of the Contractor or any other person; or

- c) any liability (actual or contingent) which the Client and the Contractor may owe to one another.
- 6. The Bond Issuer's liability under this Bond shall automatically expire on the earlier of (i) the [date of the Defects Certificate (as defined in the Contract)] and (ii) the date on which the Maximum Amount is reduced to nil (the "**Expiry Date**"), except in respect of any written demand(s) for payment complying with all the requirements hereof received by the Bond Issuer on or before the Expiry Date. After the Expiry Date, no further demands can be made under this Bond.
- 7. The Bond Issuer's liability under this Bond shall not be discharged, released, reduced or otherwise affected in any way by:
 - a) anything that the Client or the Contractor may do or omit or neglect to do in connection with the Contract which but for this provision may operate to exonerate or discharge the Bond Issuer or otherwise reduce or extinguish its liability under this Bond, or any time or waiver granted to or composition or arrangement with the Contractor,
 - b) the taking, variation, compromise, concession, renewal or release of, or refusal or neglect to take, effect or enforce any rights or remedies against the Contractor,
 - c) the insolvency, dissolution, liquidation, amalgamation, reconstruction or reorganisation of the Contractor,
 - d) any amendment, novation, extension, restatement, waiver or supplement to the Contract or any other document or security (however fundamental and whether or not more onerous);
 - e) any instruction change or variation made pursuant to the Contract or any document supplemental thereto;
 - f) any legal limitation or incapacity relating to the Contractor;
 - g) any invalidity of
 - i) obligations of the Contractor under the Contract,
 - ii) any security held by the Contractor or
 - iii) any other person in connection with the Contract or
 - h) any dispute between the Client and the Contractor under or in relation to the Contract
- 8. Any notice or demand to be given under this Bond shall be in writing and shall be deemed to be given properly if it is delivered by hand, or sent by special delivery post or recorded delivery to the address of the relevant party set out above, or, in the case of a demand under clause 2, the address set out in that clause (or such other address as that party may have nominated for service). If the notice is sent by special delivery post or recorded delivery, it shall be deemed to be received two working days after the day it was posted. If the notice is delivered by hand, it shall be deemed to be received on the day it is delivered.

- 9.
- a) The Bond Issuer shall not assign, transfer or charge the benefit of the Bond or any part of it or any benefit or interest under it without the prior agreement of the Client.
 - b) The benefit of this Bond may be assigned by the Client without the consent of the Bond Issuer and/or Contractor to
 - i) a replacement organisation established by the Secretary of State for Transport to take over the Client's functions or part of it,
 - ii) a Department or Office of Her Majesty's Government or
 - iii) Wiltshire Council.
 - c) If requested by the Client, the Bond Issuer shall promptly execute a novation agreement in such form as the Client may reasonably require, transferring the benefit of this Bond to
 - i) a replacement organisation established to take over the Client's functions or part of it,
 - ii) another public body exercising similar functions,
 - iii) a Department or Office of Her Majesty's Government or
 - iv) a local authority.
10. This Bond and any dispute or difference arising in connection with it is governed by, and construed in accordance with, the laws of England and shall be subject to the exclusive jurisdiction of the English courts to which the parties irrevocably submit.
11. Notwithstanding any other provisions of this Bond nothing in this Bond confers or purports to confer any right to enforce any of its terms on any party who is not a party to it where that right would not exist but for the Contracts (Rights of Third Parties) Act 1999.

IN WITNESS whereof the parties hereto have executed this Bond as a Deed on the date first before written.

EXECUTION PAGE

EXECUTED as a **DEED** by [NAME OF ATTORNEY] (Signature)
as attorney for [BOND ISSUER] under a power of attorney dated [DATE] as attorney for [Bond Issuer]

in the presence of a witness:

Witness signature:

Name of witness:

Address of witness:

Occupation of witness:

[National Highways execution block]

Annex U: Collateral Warranty

DATED 20

(1) **[NAME OF CLIENT]**

- and -

(2) **[NAME OF CONTRACTOR]**

- and -

(2) **[NAME OF BENEFICIARY]**

CONTRACTOR DEED OF COLLATERAL WARRANTY

relating to

the provision of [INSERT]

THIS DEED is made on 20

BETWEEN:

- (1) **"CLIENT"** means National Highways Limited (company number 0934663) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ ("Client");
- (2) **[NAME OF CONTRACTOR]** (company number) whose registered office is at ("Contractor"); and
- (3) **[NAME OF BENEFICIARY]** (company number) whose registered office is at ("Beneficiary") which term includes its legal successors and permitted assignees.

BACKGROUND:

- (A) The Client intends to procure the Project.
- (B) By the Contract, the Contractor has agreed with the Client to carry out and complete the Works upon the terms and conditions of the Contract.
- (C) The Beneficiary has an interest in part of the Project.
- (D) It is a term of the Contract, or has otherwise been agreed, that the Contractor enters into this deed of collateral warranty with the Beneficiary in relation to the Works.

IT IS AGREED:

By this deed and in consideration of the sum of £1 paid by the Beneficiary (receipt of which the Contractor hereby acknowledges), the Contractor agrees to enter into the obligations set out in this deed.

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this deed the following words and expressions shall have the following meanings, unless the context requires otherwise:

"Contract" means the contract dated [date] made between the Client and the Contractor;

"Contractor's [Design] Documents" means the drawings, details and specifications of materials, goods and workmanship and other related documents prepared by or for the Contractor in relation to [the design of] the Works;

"Completion" means the date of completion of the whole of the Works pursuant to the Contract;

"Contractor Background IPR" has the meaning given in the Contract

"Project" means [INSERT]; and

"Works" means the works and services to be undertaken by the Contractor under the Contract.

- 1.2 unless the context requires otherwise:

- 1.2.1 reference to any gender includes all genders, reference to the singular includes the plural (and vice versa) and reference to persons includes bodies corporate, unincorporated associations and partnerships (whether or not any of them have a separate legal personality);
- 1.2.2 reference to a recital or clause is a reference to a recital to or clause of this deed; and
- 1.2.3 reference to any legislative provision will be deemed to include any subsequent re-enactment or amending provision;
- 1.2.4 the list of contents and clause headings are included for convenience only and do not affect its interpretation;
- 1.2.5 where a party comprises two or more persons:
- 1.2.6 any obligations on the part of that party contained or implied in this deed are deemed to be joint and several obligations on the part of those persons; and
- 1.2.7 references to that party include references to each and any of those persons; and
- 1.2.8 periods of time will be calculated in accordance with section 116 of the Housing Grants, Construction and Regeneration Act 1996.

2. STANDARD OF CARE

- 2.1 The Contractor warrants and undertakes to the Beneficiary that:
 - 2.1.1 it has carried out and shall carry out its duties and obligations under the Contract subject to and in accordance with the terms of the Contract; and
 - 2.1.2 in addition to and without derogation from clause 2.1.1:
 - 1.1.1.1 it has carried out and shall continue to carry out and complete the Works in a good and workmanlike manner;
 - 1.1.1.2 the Works [will on Completion comply]/[on Completion complied]⁸ in all respects with the requirements of the Contract.

3. NO INSTRUCTIONS TO CONTRACTOR BY BENEFICIARY

- 3.1 The Beneficiary may not give instructions to the Contractor under this agreement.

4. NOT USED

5. COPYRIGHT LICENCE

- 5.1 In addition to the intellectual property rights granted by the Contractor to the Client under the Contract, the Contractor shall grant (or shall procure the grant) to the Beneficiary an irrevocable, royalty-free, non-exclusive licence to copy and to use the Contractor Background IPR used in the Contractor's Design Documents and to

⁸ Delete as applicable if the deed is entered in to prior to or post completion of the Works

- reproduce the [designs and] content of them for any purpose connected to the Works.
- 5.2 The licence referred to in clause 5.1 carries the right to grant sub-licences on the same terms and shall be freely transferable to third parties without the Contractor's consent and shall continue notwithstanding the determination (for any reason) of the Contractor's employment under the Contract.
- 5.3 The Contractor shall not be liable or responsible for any use of the Contractor's Design Documents for any purpose other than that for which the same was originally prepared and provided by the Contractor.
- 5.4 The Contractor waives or shall procure the waiver of any moral or authorship rights which he might otherwise possess under the Copyright, Designs and Patents Act 1988 in respect of the Contractor's Design Documents.
- 5.5 Insofar as ownership of any copyright in any Contractor's Design Documents is vested in any person other than the Contractor, the Contractor shall procure for the Beneficiary the benefit of a licence (on the same terms as clause 5.1) for the same purposes.
- 5.6 The Contractor shall indemnify the Beneficiary against any liability which the Beneficiary may incur by reason of the Contractor infringing or being held to have infringed any copyright
- 5.7 The Contractor shall provide to the Beneficiary a copy of any of the Contractor's Design Documents as soon as reasonably practicable after receipt by the Contractor of a written request from the Beneficiary to do so. The Beneficiary agrees to pay the reasonable copying charges of the Contractor for provision of the same to the Beneficiary.
- 5.8 [The Client shall grant to the Beneficiary an irrevocable, royalty-free, non-exclusive licence to copy and to use the relevant intellectual property rights and to reproduce the [designs and] content of them for any purpose connected to the Works where such relevant intellectual property rights are:
- 5.8.1 assigned to the Client under the Contract; and
- 5.8.2 used in the Contractor's Design Documents.]

6. PROFESSIONAL INDEMNITY INSURANCE

- 6.1 The Contractor warrants that:
- 6.1.1 it has maintained and shall maintain, during the carrying out of the Works and for a period until twelve (12) years from Completion of the Works (notwithstanding earlier termination, expiry or suspension of the Contractor's employment under the Contract), the professional indemnity insurance required by the Contract with reputable insurers with a place of business in the United Kingdom for an amount not less than twenty five million pounds (£25,000,000), any one claim and in the annual aggregate, in respect of any incurred legal liability on the part of the Contractor in the performance of its design obligations under the Contract; and.
- 6.1.2 cover under the professional indemnity insurance is extended to include the Contractor's liabilities under this deed.

6.2 As and when required by the Beneficiary, the Contractor shall produce for inspection documentary evidence that such insurance is being properly maintained.

6.3 If the Contractor is unable to obtain professional indemnity insurance, it shall promptly notify the Beneficiary.

7. ASSIGNMENT

7.1 The Beneficiary may at any time assign the benefit of this deed and/or any rights arising under it by way of absolute legal assignment to any person without the consent of the Contractor being required. Any assignment by the Beneficiary by way of security to any funder providing finance towards the Works and/or in relation to the Project (including the re-assignment of any rights on redemption) will not count as an assignment pursuant to this clause.

7.2 The Contractor undertakes to the Beneficiary not to contend in any proceedings under this deed that any person to whom the Beneficiary assigns or has assigned its rights under this deed in accordance with the provisions of this clause is to be precluded from recovering any loss resulting from any breach of this deed (whenever happening) by reason that such person is an assignee and not the original promisee under this deed or by reason of such person not being the Beneficiary and/or the loss suffered being different or greater to any loss that may have been suffered by the Beneficiary.

8. LIABILITY OF THE CONTRACTOR

8.1 Unless the contrary is stated, no provision of this deed is intended to exclude any obligation or liability which would otherwise be implied whether by statute, the law of contract, tort, equity or otherwise.

8.2 The responsibility of the Contractor under this deed is not to be reduced or in any way released or limited by any enquiry or inspection by or on behalf of any person notwithstanding that such enquiry or inspection may give rise to a claim by the Beneficiary against a third party.

8.3 The rights and benefits conferred upon the Beneficiary by this deed are in addition to any other rights and remedies that the Beneficiary may have against the Contractor including (without prejudice to the generality of the foregoing) any remedies in negligence.

8.4 Any limitation or defence which would have been available to the Contractor in an action under the Contract shall likewise be available to the Contractor in a corresponding action under this deed provided always that the Contractor shall not be entitled to raise any defence made on the basis that any loss incurred by the Beneficiary is not a loss to the Client nor shall it be entitled to raise a defence to a claim under this deed any contributory negligence defence, counterclaim or set-off that it may have against the Client under the Contract.

9. LIMITATION

9.1 The Beneficiary shall be entitled to commence legal proceedings against the Contractor at any time up to the expiry of 12 years from Completion of the Works. For the avoidance of doubt, the parties agree that any provision of the Limitation Act 1980 to the contrary shall not apply to this deed.

10. NOTICES

- 10.1 Any notice required to be given 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.
- 10.2 Any notice given pursuant to this clause will be deemed to have been served as follows:
- 10.2.1 if delivered personally, at the time of delivery; and
- 10.2.2 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 and Wales.
- 10.3 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.

11. RIGHTS OF THIRD PARTIES

- 11.1 A person who is not a party to this deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

12. JURISDICTION AND LAW

- 12.1 This deed is governed by and is to be construed according to English Law and the English Courts shall have jurisdiction in relation to all matters arising under it.
- 12.2 **Delivered** as a deed on the date of this document.

Executed as a deed by)
[NAME OF CONTRACTOR])
by a director in the presence of a witness:)

Signature

Name (block capitals)

Director

Witness signature

Witness name

(block capitals)

Witness address

Executed as a deed by NATIONAL HIGHWAYS)
LIMITED by affixing his common seal in the)
presence of:

Authorised Signatory

Authorised Signatory

Annex V: Advanced Payment Bond

[•]
as Contractor

[•]
as Surety

NATIONAL HIGHWAYS LIMITED
as Client

ADVANCE PAYMENT BOND

relating to a contract for the provision
of construction works at **[•]**

THIS ADVANCE PAYMENT BOND is made as a deed between the following parties whose names and registered office addresses are set out in the Schedule to this Bond (the “**Schedule**”):

- (1) The “**Contractor**” as principal;
- (2) The “**Surety**” as surety; and
- (3) The “**Client**”.

BACKGROUND

- (A) By a contract (the “**Contract**”) entered into between the Client and the Contractor, particulars of which are set out in the Schedule, the Contractor has agreed with the Client to carry out certain construction works (the “**Works**”) upon and subject to the terms of the Contract.
- (B) The Client has agreed to make an advance payment (the “**Advance Payment**”) to the Contractor in accordance with [clause Z120 (Payment Bond)/ Z124 (Payments for Plant and Materials outside of the Working Areas)]⁹ of the Contract provided the Contractor has taken out this Bond in favour of the Client.

OPERATIVE PROVISIONS

1. The Surety is unconditionally and irrevocably bound to the Client in the maximum aggregate sum of £[•] (the “**Maximum Aggregate Sum**”) until the Works have reached the stage referred to in clause 7 below.
2. The Surety shall (waiving all rights of objection and defence, except in the case of fraud) immediately on receipt of a first demand, served from time to time by the Client, which complies with the requirements of Clause 3, pay to the Client the amount demanded up to the Maximum Aggregate Sum.
3. Any demand by the Client under Clause 2 shall:
 - (a) be in writing addressed to the Surety at its office as referred to in this Bond; and
 - (b) state the amount demanded [(which shall not exceed the amount of the payments made by the Client to the Contractor for Plant and Material outside of the Working Area (both as defined in the Contract) that has not been incorporated in to the Works)]¹⁰.

Such demand as above shall, for the purposes of this Bond but not further or otherwise, be conclusive evidence (and admissible as such) that the amount demanded is properly due and payable to the Client.

4. Notwithstanding Clause 1, the Maximum Aggregate Sum shall not apply so as to limit the amount payable by the Surety in relation to any rights or remedies which the Client may have arising from a breach of the terms of this Bond.

⁹ Delete as applicable.

¹⁰ Delete if bond not issued in accordance with clause Z124

5. Any amount payable to the Client under this Bond shall be paid in full and free of any present or future taxes, levies, duties, charges, fees or withholdings of whatsoever nature and without any deduction, restriction, condition, withholding, set-off or counterclaim. If and to the extent that the Surety is compelled by law to make any deduction or withholding, the Surety will gross up such payment so that the net sum received by the Client will be equal to the full amount which the Client would have received had no such deduction or withholding been made.
6. The benefit of this Bond may be assigned by the Client to any person to whom it assigns the benefit of the Contract, subject to notice in writing of such assignment being given to the Surety.
7. [This Bond shall remain in full force and effect until section 3 (as defined in the Contract) of the Works has reached Completion (as defined in the Contract) under the terms of the Contract, at which time this Bond will terminate and become of no further effect.]¹¹
- 7 [This Bond shall remain in full force and effect until the later of;
- the time when all the Plant and Materials outside of the Working Area (both as defined in the Contract) (which the Client has made payment for) have been incorporated into the Works or
 - section 3 (as defined in the Contract) of the Works has reached Completion (as defined in the Contract) under the terms of the Contract
- at which time this Bond will terminate and become of no further effect.]¹²
8. This Bond shall be governed by and construed in accordance with the laws of England and any dispute or difference arising under it shall be subject to the exclusive jurisdiction of the courts of England and Wales save that any decision, judgment or award of such courts may be enforced in the courts of any jurisdiction.
9. Unless the right of enforcement is expressly granted, it is not intended that any third party should have the right to enforce any term of this Bond pursuant to the Contracts (Rights of Third Parties) Act 1999.
10. Any notice or other communication required under this Bond shall be given in writing
- addressed to:
 - [Address of the Surety in England and Wales]
 - For the Attention of [insert details]
- or such other address in England and Wales as the Surety has from time to time notified to the Client in writing in accordance with the terms of this Bond as being an address for the receipt of such demands or notices.

¹¹ For use with clause Z120

¹² For use with clause Z124

Any notice or demand served on the Surety under this Bond shall be deemed to have been served:

- if delivered to or left at (but not in either case by post) the Surety's address as referred to in this clause above, at the time of delivery; or
- if posted, at 10.00 a.m. on the second working day after it was put into the post

In proving service of a notice or demand on the Surety it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter.

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

Schedule

The Contractor:	[●] whose registered office address is at [●].
The Surety:	[●] whose registered office address is at [●].
The Client:	NATIONAL HIGHWAYS LIMITED (company no 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.
The Contract:	A contract dated [●] made between the Client and the Contractor in the form of the NEC4 Engineering and Construction Contract (June 2017 edition incorporating amendments January 12019) for the carrying out of construction works at [●].

EXECUTION PAGE

Executed as a deed by **[SURETY]**)
acting by:)

Director

Director/Company Secretary

OR

Executed as a deed by **[SURETY]**)
acting by [*name of director*] in the)
presence of:)

Director

Name of witness:

Signature of witness:

Address:

Occupation:

Annex W: Project Risk Register

The *Client* uses Xactium as its enterprise wide risk management system. Below, significant scheme specific risks identified as part of the risk management process are shown.

Xactium Risk No.	Risk Title	Event
R21866	obtaining necessary approvals	extensive consultation with third parties and the numerous approvals required to be in place before work can commence could delay start of activities if not planned properly.
R839	discovery of protected species	the <i>works</i> must stop, or <i>works</i> not start, due to the discovery of protected species. Delays may arise while the protected species are moved or the non-disturbance period comes to an end.
R16036	ground conditions	worse ground conditions than expected may require an increase in below ground structural works.
R21858	DCO requirements more onerous than expected	the <i>works</i> are subjected to more onerous DCO conditions than expected. Delays may arise to cater for these more onerous requirements.
R22302	breach of permit conditions / DCO requirements	breach of permit or DCO requirements results in receipt of enforcement notice may impact reputation and ability to undertake future tasks.
R813	tunnel arisings	a greater quantity of contaminated tunnel arisings than expected or the arisings are more difficult to process than anticipated. This could result in delays due to the slower progress processing material or while alternative processing arrangements are made.
R824	adverse weather	the number of days of adverse weather upon which construction works cannot proceed safely is greater than anticipated.
R823	construction Staff	there is a shortage of skilled construction Staff required to meet the programme due to market demand.
R19881	mechanical failure of the TBM	the TBM suffers a mechanical failure during the tunnelling operations resulting in delay to the programme.
R20962	damage to Third Party Assets	assets owned by third parties are damaged by construction activities. Delays could result to remediate any damage as well as a negative reputational impact.
R21848	groundwater – civil construction	the flow of groundwater into excavations is greater than expected. This could lead to delays as changes are made to accommodate the greater flow.
R21867	archaeological sites	damage to a previously unknown archaeological site or item in the ground during construction works results in delays while it is investigated or repaired.
R22301	additional environmental effects	deviation from the authorised development requires further environmental assessment to develop additional environmental mitigations. This may result in delays to key activities on site.
R893	groundwater springs or extraction points	construction work negatively affects third party groundwater springs or extraction points.
R10634	erosion features during tunnelling	unexpected erosion features are discovered during the tunnelling and cross passage excavation works. This may result in delays to tunnelling progress.
R11060	tunnelling support systems	failure of the tunnelling support systems delays tunnelling activities.
R818	unexploded ordnance	unrecorded ordnance discovered during works results in delay while it is cleared.
R819	groundwater - tunnelling	groundwater is greater than expected resulting in the need for increased drainage, ground stabilisation and local de-pressurisation for tunnelling operations.

R862	ground movement	ground conditions are less supportive than expected resulting in the tunnelling operations causing more ground movement than expected. This could cause delay due to a reduced pace of work as the TBM slows down during sections of the route to prevent damage to assets.
R889	asbestos	unforeseen asbestos containing materials are found during the ground works activities resulting in delay while asbestos is removed.
R892	Protestor Action	Protestors obstruct or hinder works onsite.
R21865	tunnel control and management systems (TCMS)	the <i>Client</i> mandates a move to a standardised control and management system across all tunnels during the life of the project. This could result in delays to handover of the tunnel systems to the <i>Client</i> as designed systems are changed to cater for this.
R811	excavated material	the quantity of excavated material that can be re-used on site is less than or of a lesser quality than anticipated.
R879	environmental damage/contamination	contamination or damage to a sensitive environmental receptor may result delays due to remediation and reputational damage.
R5282	archaeological find during construction	a previously unrecorded archaeological find is made which results in a temporary cessation of work on site.

Annex X: Form of Performance Surety

To:

("The Client")

THIS GUARANTEE is made on [.....]

Guarantee N°.:

We have been informed that our client [corporate name and registered details of Contractor] (the "Contractor") has entered into a contract with you dated [], (the "Contract"), for the execution of [scope of work of Contract], as further described in the Contract.

Furthermore, we understand that, the Contract contains an obligation on the part of the Contractor to provide a Guarantee in the amount of [10% of the total of the Prices (as defined in the Contract)].

As guarantor, we [insert name and address of the bank] (the "Bank") hereby unconditionally and irrevocably undertake, without any right of setoff or counterclaim and notwithstanding any objection which may be made by the Contractor, on one or more occasions, to immediately pay to you as you may direct, such an amount not exceeding in total (when aggregated with any such amount(s) previously so paid) "amount in numbers" [insert "amount in words"], upon receipt by us of your written notice stating that in your sole and absolute judgement, the Contractor is in breach of its obligation(s) under the Contract, without you needing to prove or to show grounds for your demand or the sum specified therein.

Such written notice of the Client shall be conclusively binding on us for all purposes under this Performance Security.

Any demand for payment hereunder may be made in total or in part, without invalidating the guarantee to any sum not called. This guarantee shall expire, no earlier than twelve (12) years after Completion of the whole of the *works* (as defined in the Contract), and any demand for payment under it must be received by us at this office on or before that date.

Any and all demands under this guarantee must either be in writing addressed to the Bank's officeor by way of authenticated swift via the Client's bankers and reaching the Bank on or before the Expiry Date

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 revision, ICC Publication No.758. Signature(s)

Signed and sealed this day of , [Insert date 2019]

Annex Y: Software Confidentiality Agreement

FORM OF CONFIDENTIALITY UNDERTAKING CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on [date] 20

BETWEEN:

- (1) [insert name] of [insert address] (the “Sub-licensee”); and
 - (2) [insert name] of [insert address] (the “Contractor”
- and together, the “Parties”).

WHEREAS:

- (A) [insert name of Customer] (the “Customer”) and the Contractor are party to a contract dated [insert date] (the “Contract”) for the provision by the Contractor of [insert brief description of services] to the Customer.
- (B) The Customer wishes to grant a sub-licence to the Sub-licensee in respect of certain software and intellectual property rights licensed to the Customer pursuant to the Contract (the “Sub-licence”).
- (C) It is a requirement of the Contract that, before the Customer grants such sub-licence to the Sub-licensee, the Sub-licensee execute a confidentiality agreement in favour of the Contractor in or substantially in the form of this Agreement to protect the Confidential Information of the Contractor.

IT IS AGREED as follows:

1. Interpretation

1.1 In this Agreement, unless the context otherwise requires:

“Confidential Information”

- a. information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Customer to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:
 - (i) the Contractor; or
 - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, knowhow and/or personnel of the Contractor;
- b. the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-licence together with build information, relevant design and development information, technical

specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Contractor to the Customer pursuant to or in connection with the Sub-licence;

- c. other Information provided by the Customer pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee's attention or into the Sub-licensee's possession in connection with the Sub-licence; and
- d. information derived from any of the above,

but not including any Information that:

- (i) was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Customer;
- (ii) the Sub-licensee obtained on a non-confidential basis from a third party who is not, to the Sub-licensee's knowledge or belief, bound by a confidentiality agreement with the Contractor or otherwise prohibited from disclosing the information to the Sub-licensee;
- (iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
- (iv) was independently developed without access to the confidential Information;

“Information”

all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

“Sub-licence” has the meaning given to that expression in recital (B) to this Agreement.

1.2 In this Agreement:

- 1.2.1 a reference to any gender includes a reference to other genders;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
- 1.2.4 references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;
- 1.2.5 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
- 1.2.6 references to clauses are to clauses of this Agreement.

2. Confidentiality Obligations

2.1 In consideration of the Customer entering into the Sub-licence, the Sub-licensee shall:

- 2.1.1 treat all Confidential Information as secret and confidential;
- 2.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- 2.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Contractor or except as expressly set out in this Agreement;
- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom;
- 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- 2.1.6 immediately notify the Contractor in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- 2.1.7 upon the expiry or termination of the Sub-licence:
 - 2.1.7.1 destroy or return to the Contractor all documents and other tangible materials that contain any of the Confidential Information;
 - 2.1.7.2 ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any

computer, word processor, voicemail system or any other device; and

2.1.7.3 make no further use of any Confidential Information.

3. Permitted Disclosures

- 3.1 The Sub-licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:
- 3.1.1 reasonably need to receive the Confidential Information in connection with the Sub-licence; and
 - 3.1.2 have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and
 - 3.1.3 have agreed to terms similar to those in this Agreement.
- 3.2 The Sub-licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub-licensee.
- 3.3 Before making a disclosure pursuant to Clause 3.2, the Sub-licensee shall, if the circumstances permit:
- 3.3.1 notify the Contractor in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
 - 3.3.2 ask the court or other public body to treat the Confidential Information as confidential.

4. General

- 4.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Contractor shall remain with and be vested in the Contractor.
- 4.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
- 4.2.1 to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;
 - 4.2.2 to require the Contractor to disclose, continue disclosing or update any Confidential Information; or
 - 4.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub-licence.
- 4.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

- 4.4 Without prejudice to any other rights or remedies that the Contractor may have, the Sub-licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub-licensee of any of the provisions of this Agreement. Accordingly, the Sub-licensee acknowledges that the Contractor shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 4.5 The maximum liability of the Sub-licensee to the Contractor for any breach of this Agreement shall be limited to ten million pounds (£10,000,000).
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.
- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.

5. Notices

- 5.1 Any notice to be given under this Agreement (each a "Notice") shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.
- 5.2 Any Notice:
- 5.2.1 if to be given to the Contractor shall be sent to:
- [Address]
- Attention: [Contact name and/or position, e.g. "The Finance Director"]
- 5.2.2 if to be given to the Sub-licensee shall be sent to:
- [Name of Organisation]
- [Address]
- Attention: []

6. Governing Law

- 6.1 This Agreement shall be governed by, and construed in accordance with, English Law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English Law.
- 6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English Courts in respect of any claim or dispute arising out of or in connection with this Agreement.

IN WITNESS of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

For and on behalf of [name of Contractor]

Signature:

Date:

Name:

Position:

For and on behalf of [*name of Sub-licensee*]

Signature:

Date:

Name:

Position:

Annex Z: Pensions

1. In this Annex the following definitions apply
 - Contractor's Alternative Pension Plan is the pension scheme established or nominated by the *Contractor* which satisfies the conditions set out in paragraph 2.
2. The *Contractor* offers its employees who are assigned to provision of the [services] or a relevant part of the [services] membership of the Contractor's Alternative Pension Plan in respect of employment up to the Transfer Date.
3. Unless the prior consent of the *Project Manager* is given, the Contractor's Alternative Pension Plan is
 - a registered pension scheme for the purposes of the Finance Act 2004 and
 - a scheme which, as a minimum, fulfils the *Contractor's* benefit obligations under TUPE, the Transfer of Employment (Pension Protection) Regulations 2005 and sections 257 and 258 of the Pensions Act 2004.
4. Unless the prior consent of the *Project Manager* is given, the *Contractor* ensures that any subcontractor (at any stage of remoteness from the *Client*) and any such subcontractor's pension plan in respect of its employees who are assigned to provision of the *works* or a relevant part of the *works* complies with the requirements of this Annex, including paragraphs 2 and 5.
5. The *Contractor* ensures that
 - its obligations in respect of Exit Transferring Employees who are members of the Contractor's Alternative Pension Plan and
 - any subcontractor's (at any stage of remoteness from the *Client*) obligations in respect of Exit Transferring Employees who are members of any such subcontractor's pension planare discharged prior to the Transfer Date.