

Crown Commercial Service

**CONSTRUCTION PROFESSIONAL SERVICES FRAMEWORK SCHEDULE 5
TEMPLATE CALL OFF AGREEMENT (INCORPORATING THE NEC3 PROFESSIONAL SERVICES SHORT
CONTRACT APRIL 2013) AND CONTRACT DATA**

Date 28th July 2022

FORM OF AGREEMENT

Incorporating the NEC3 Professional Services Short Contract April 2013

Contract Number

704235451.2

Between

MOTT MACDONALD LIMITED

And

The Ministry of Defence (MOD), Defence Infrastructure Organisation (DIO)

For the provision of

**Facilities Condition Management (FCM) L2 Assets with no FCM score for Assessment
– Lots 1, 3 to 6**

THIS AGREEMENT is made the 28 day of July 2022.

PARTIES:

1. The Defence Infrastructure Organisation (DIO) acting as part of the Secretary of State (the "*Employer*"); (the "**Employer**"); and
2. **Mott MacDonald Limited** which is a company incorporated in and in accordance with the laws of England and Wales Company No. 01243967 whose registered office address is at Mott Macdonald House, 8-10 Sydenham Road, Croydon, CR0 2EE (the "**Consultant**").

BACKGROUND

- (A) The Minister for the Cabinet Office (the "**Cabinet Office**") as represented by Crown Commercial Service, a trading fund of the Cabinet Office, without separate legal personality (the "**Authority**"), established a framework for construction professional services for the benefit of public sector bodies.
- (B) The *Consultant* was appointed to the framework and executed the framework agreement RM6165 which is dated 03 November 2021. In the Framework Agreement, the Consultant is identified as the "Supplier".
- (C) On the 23 Jun 2022 the Employer DIO acting as part of the Crown, invited the *Consultant* along with other framework suppliers to tender for the *Employer's* construction professional services requirements in accordance with the Call Off Procedure (as defined in the Framework Agreement).¹
- (D) On the 13 July 2022 the *Consultant* submitted a tender response and was subsequently selected by the *Employer* to provide the *services*.]¹
- (E) The *Consultant* has agreed to Provide the Services in accordance with this agreement and the Framework Agreement.
- (F) The *Consultant* has agreed to Provide the Services in accordance with this agreement and the Framework Agreement.

IT IS AGREED AS FOLLOWS:

1. The *Employer* will pay the *Consultant* the amount due and carry out his duties in accordance with the *conditions of contract* identified in the Contract Data and the Contract Schedules.
2. The *Consultant* will Provide the Services in accordance with the *conditions of contract* identified in the Contract Data and the Contract Schedules.

This contract incorporates the conditions of contract in the form of the NEC3 Professional Services Short Contract April 2013 together with the additional conditions specified in the Contract Data, which form this contract together

¹ Delete paragraphs (C) and (D) if appointment is made by direct award under the Call Off Procedure

with the documents referred to in it. References in the NEC3 Professional Services Short Contract April 2013 Edition to "the contract" are references to this contract.

3. This Call Off Contract is the entire agreement between the parties in relation to the services and supersedes and extinguishes all prior arrangements, understandings, agreements, statements, representations or warranties (whether written or oral) relating thereto.
4. Neither party has been given, nor entered into this agreement in reliance on any arrangements, understandings, agreements, statements, representations or warranties other than those expressly set out in this agreement.
5. Nothing in clauses 4 or 5 shall exclude liability in respect of misrepresentations made fraudulently.

Executed under hand

Signed	Supplier	Buyer
Name	REDACTED	REDACTED
Title	Principal Account Leader	DIO Comrci Manager
Signature	REDACTED	REDACTED
Date	28 July 2022	28 July 2022

Short Contract

A contract between Mott MacDonald Limited

and The Ministry of Defence (MOD), Defence Infrastructure Organisation (DIO)

for Facilities Condition Management (FCM) L2 Assets with no FCM score for Assessment – Lots 1, 3 to 6

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

Contract Data

The *Client* is

Name	The Ministry of Defence (MOD), Defence Infrastructure Organisation (DIO)	
Address	Whittington Barracks, Whittington, Lichfield WS14 9PY	
E-mail address	diodst-fcm@mod.gov.uk	
The <i>services</i> are	To carry out visual assessments of the condition of Level 2 assets – Lots 1, 3 to 6 utilising the FCM methodology, on the FCM APP	
The <i>starting date</i> is	1 st August 2022	
The <i>completion date</i> is	31 st March 2023	
The <i>law of the contract</i> is	England & Wales	
The <i>period for reply</i> is	2	weeks
The <i>defects date</i> is	N/A	weeks after Completion
The <i>assessment date</i> is the	N/A	of each month

Contract Data

The *Consultant* provides the following insurance cover

Insurance against	Minimum amount of cover	Period following Completion or earlier termination
Failure of the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>services</i> .	£ REDACTED in respect of each claim, without limit to the number of claims	From the <i>starting date</i> until Contract end date.
Death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	£ REDACTED in respect of each claim, without limit to the number of claims	From the <i>starting date</i> until Contract end date.
Death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	£ REDACTED in respect of each claim, without limit to the number of claims	From the <i>starting date</i> until Contract end date.

The *Client* provides the following insurance cover

Only enter details here if *Client* is to provide insurance.

N/A

The <i>Consultant's</i> total liability to the <i>Client</i> for matters for which insurance is provided is limited to	The Consultant's total liability to the Employer for all matters arising under or in connection with this contract is limited to £ REDACTED in the aggregate.
The <i>Consultant's</i> total liability to the <i>Client</i> for other matters is limited to	The liability period under the Contract is: 6 years from completion of the Services
The <i>tribunal</i> is:	Arbitration
If the <i>tribunal</i> is arbitration, the arbitration procedure is	London Court of International Arbitration Rules
The place where the arbitration is to be held is	London
The person who will choose the arbitrator if the Parties cannot agree is	Institution of Civil Engineers

Only include these statements if the *tribunal* is arbitration.

The *conditions of contract* are the NEC Professional Services Short Contract (April 2013) and the following additional conditions.

Only enter details here if additional conditions are required

AUTHORISATION BY THE CROWN FOR USE OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS

Notwithstanding any other provisions of the Contract and for the avoidance of doubt, award of the Contract by the Authority and placement of any contract task under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 or Section 12 of the Registered Designs Act 1949. The Contractor acknowledges that any such authorisation by the Authority under its statutory powers must be expressly provided in writing, with reference to the acts authorised and the specific intellectual property involved.

MOD Additional Conditions of Contract (DEFCONS) are:

1. DEFCON 76 (Edn 06/21) - Contractor's Personnel at Government Establishments
2. DEFCON 129J (Edn 18/11/16) - Use of Electronic Business Delivery Form
3. DEFCON 501 (Edn 10/21) - Definitions & Interpretations
4. DEFCON 503 (Edn 06/22) - Formal Amendments to Contract
5. DEFCON 507 (Edn 07/21) - Delivery
6. DEFCON 513 (Edn 04/22) - Value Added Tax

- 7. DEFCON 514 (Edn 08/15) - Material Breach**
- 8. DEFCON 515 (Edn 06/21) - Bankruptcy and Insolvency**
- 9. DEFCON 516 (Edn 04/12) - Equality**
- 10. DEFCON 518 (Edn 02/17) - Transfer**
- 11. DEFCON 520 (Edn 08/21) - Corrupt Gifts and Payments of Commission**
- 12. DEFCON 522 (Edn 11/21) - Payment and Recovery of Sums Dues**
- 13. DEFCON 526 (Edn 08/02) - Notices**
- 14. DEFCON 527 (Edn 09/97) - Waiver**
- 15. DEFCON 529 (Edn 09/97) - Law (English)**
- 16. DEFCON 531 (Edn 09/21) - Disclosure of Information**
- 17. DEFCON 532A (Edn 05/22) - Protection of Personal Data**
- 18. DEFCON 534 (Edn 06/21) - Sub Contracting and Prompt Payment**
- 19. DEFCON 537 (Edn 12/21) - Rights of Third Parties**
- 20. DEFCON 538 (Edn 06/02) - Severability**
- 21. DEFCON 539 (Edn 01/22) - Transparency**
- 22. DEFCON 550 (Edn 02/14) - Child Labour and Employment Law**
- 23. DEFCON 566 (Edn 10/20) - Change of Control of Contractor**
- 24. DEFCON 602B (Edn 12/06) - Quality Assurance (without Deliverable Quality Plan)**
- 25. DEFCON 604 (Edn 06/14) - Progress Reports**
- 26. DEFCON 605 (Edn 06/14) - Financial Reports**
- 27. DEFCON 609 (Edn 07/21) - Contractor's Records**
- 28. DEFCON 620 (Edn 06/22) - Contract Change Control Procedure**
- 29. DEFCON 632 (Edn 11/21) - Third Party Intellectual Property – Rights & Restrictions**
- 30. DEFCON 642 (Edn 07/21) - Progress Meetings**
- 31. DEFCON 656A (Edn 08/16) - Termination for Convenience – Under £5M**
- 32. DEFCON 658 (Edn 09/21) - Cyber**
- 33. DEFCON 660 (Edn 12/15) - Official-Sensitive Security Requirements**
- 34. DEFCON 670 (Edn 02/17) - Tax Compliance**
- 35. DEFCON 694 (Edn 07/21) - Accounting For Property of the Authority**
- 36. DEFCON 703 (Edn 06/21) - Intellectual Property Rights – Vesting in the Authority**

In the event of a conflict between the NEC3 Z Clauses and the above DEFCONs, the DEFCONs shall take precedence.

The following DEFFORMs shall be used:

1. DEFFORM 539A - Tenderers Commercially Sensitive Information Form

Option Z2	Identified and defined terms Applies
Option Z4	Admittance to Client's Premises Applies
Option Z5	Prevention of fraud and bribery applies
Option Z6	Equality and diversity Applies
Option Z7	Legislation and Official Secrets applies
Option Z8	Conflict of interest applies
Option Z9	Publicity and Branding does not apply
Option Z10	Freedom of information applies
Option Z13	Confidentiality and Information Sharing applies
Option Z14	Security Requirements applies
Option Z16	Tax Compliance applies
Option Z22	Fair payment applies
Option Z26	Building Information Modelling does not apply
Option Z44	Intellectual Property Rights applies
Option Z45	HMRC Requirements applies
Option Z46	MoD DEFCON Requirements

	Applies
Option Z47	Small and Medium Sized Enterprises (SMEs) does not apply
Option Z48	Apprenticeships does not apply
Option Z49	Change of Control applies
Option Z50	Financial Standing does not apply
Option Z51	Financial Distress does not apply
Option Z52	Records, audit access and open book data applies
Option Z100	Data Protection applies
Option Z101	Cyber Essentials applies

The Consultant's Offer

The *Consultant* is

Name	REDACTED, Mott MacDonald Limited
Address	St Vincent Plaza, 319 St Vincent Street, Glasgow, G2 5LD
Telephone	+44 141 2224684
E-mail address	REDACTED@mottmac.com

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

The name, job, qualifications
and experience of the
Consultant's key people are in
The *staff rates* are

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Person or job	Unit of measurement	rate
People not stated here are at open market rates or competitively tendered rates		

The offered total of the Prices is

Enter the total of the Prices from the Price List.

**If all work is to be carried out on a time charge basis,
enter 'Not Applicable'**

Price List

Lump Sum Fee for undertaking the works defined by this proposal is:

Per Lot	
Lot 1 – Infra	REDACTED
Lot 3 – Scotland, Central & North	REDACTED
Lot 4 – Wales and SW	REDACTED
Lot 5 – SE - A	REDACTED
Lot 6 – SE -B	REDACTED

A high-level breakdown of the costs is summarised below:

Cost Breakdown	Cost (£)*
Cost Item	
Labour	REDACTED
Travel & Subsistence	REDACTED

	The total of the Prices is	£1,859,960.00 (Ex VAT)
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Scope

1. The Scope should be a complete and precise statement of the *Client's* requirements. If it is incomplete or imprecise, there is a risk that the *Consultant* will interpret it differently from the *Client's* intention. Information provided by the *Consultant* should be listed in the Scope only if the *Client* is satisfied that it is required, is part of a complete statement of the *Client's* requirements and is consistent with other parts of the Scope.

1. Purpose of the Service

Provide a brief summary of why the service is being commissioned and what it will be used for.

Engaging support to collect Visual asset condition data for approx. 7000 UK Defence Estate Assets, Built, Infrastructure and Maritime at a cost of approx. £**REDACTED** to support delivery of full coverage of the of the UK Defence Estate. Facility Condition Management (FCM) is a key project within the pan-Defence Asset Management Programme, sitting as a sub-project within the Asset Class Management, Analytics and Decision Support Project, and informs strategic investment decision-making and prioritisation by Defence TLBs on the upkeep of their assets. The project has an existing spend of c.£ **REDACTED** which has been spent under previous business cases. Including this business case, a total of £**REDACTED** has been allocated within the Asset Management Programme 10-year profile in order to enable FCM to achieve full operating capability (FOC) by April 24 and maintain the system thereafter. There is a target date of 8 months for these UK Defence Estate packages of work to be delivered starting from Aug 22.

2. Description of the service

Give a complete and precise description of what the *Consultant* is required to do.

If items of work have to be provided by a stated date, include a table describing the works and stating the date when it is to be provided.

To carry out visual assessments of the condition of Level 2 assets – Lots 1 (Infra), 3 (Scotland, Central & Nth), 4 (Wales and SW), 5 (SE-A) & 6 (SE-B) utilising the FCM methodology, on the FCM APP



Lots 1, 3 to 6 - SoR_Methology.zip

and Mott MacDonald's proposal dated 13/07/22



704235451 - MM Tender Proposal.zip

Scope

3. Existing information

List existing information which is relevant to the *services*. This can include documents which the *Consultant* is to further develop

N/A

4. Specifications and standards

List the specifications and standards that apply to the contract.

N/A

5. Constraints on how the *Consultant* provides the Service

State any constraints on sequence and timing of work and on method and conduct of work including the requirements for any work by the *Client*.

Set out any requirements for a quality management system.

Include a dispute resolution procedure if required.

Any issues or disputes please contact the FCM Project Team on:

REDACTED/ REDACTED: diodst-fcm@mod.gov.uk

6. Requirements for the programme

State whether a programme is required and, if it is, what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated

Programme of work is required by the Project Team to show dates of assessments. This should be submitted as soon as work is planned in and no later 5 days prior to the assessment.

7. Information and other things provided by the *Client*

N/A

Item	Date by which it will be provided
Completion of Service	31 Mar 2023

