



National Highways Limited

NEC4 Supply Short Contract
(June 2017 with amendments January 2019 and October 2020)

Contract Data

in relation to *goods* for

National Highways Consumables Contract 2023_24

CONTENTS AMENDMENT SHEET

Issue No.	Revision No.	Amendments	Initials	Date
01	00	Tender Issue		March 23

Contract Data

THE PURCHASER'S CONTRACT DATA

The *Purchaser* is

Name National Highways Limited

Address for communications Bridge House,
1 Walnut Tree Close
Guildford
Surrey GU1 4LZ
Registered number 09346363

Address for electronic communications

Redacted

The *Purchaser* requires the *Supplier* to Provide the Goods when instructed by Batch Order No

The *goods* are Animal Control & Restraint Equipment, Emergency Traffic Management (ETM) Equipment, Cleaning Equipment, Small Electrical Items, Medical Equipment (including disposable items), Oils, Lube & Fluids, Small Hand-Tools, Stationery, Consumable Items and Fixings. In addition to the supply of *goods*, some ancillary calibration services are also required.

The Scope is in the document entitled "Scope"

The *law of the contract* is

England, subject to the exclusive jurisdiction of the Courts of England

The *period for reply* is

2 weeks unless
stated otherwise by
the *Purchaser*

The *starting date* is

1 April 2023

The *delivery date* is

5 Days

The *delay damages* are

Not Applicable

per day

The *premises* are as stated in the Scope.

The period for correction of Defects after the Delivery is

26

week(s)

The *defects date* is

4

weeks after Delivery

The *assessment day* is the

Last day

of each month

The Price List is in the document entitled "Supply of Consumables & Equipment 2023_24 Commercial Workbook"

The index is not applicable as this is a 12-month contract

The base date for the index is not applicable as this is a 12-month contract

The base date value for the index is not applicable as this is a 12-month contract

If the *goods* are instructed by Batch Order

The *batch order interval* is

Not Applicable

The *end date* is

Not Applicable

The extension period is Not Applicable

The quantity range of *goods* in the Batch Order is from

Not Applicable

to

Not Applicable

The *Adjudicator* is

Name

The person chosen by the Parties from an agreed list of Adjudicators published by the Chartered Institute of Arbitrators

Address for communications

To be confirmed

Address for
electronic To be confirmed
communications

The *interest rate* for late payment is 3 % per complete week
of delay

The *Supplier's* liability to the *Purchaser*
for the *Purchaser's* indirect or
consequential loss is limited to

10% of the total of the Prices on the date the
Purchaser accepted the Supplier's offer

For any one event, the liability of the
Supplier to the *Purchaser* for loss of or
damage to the *Purchaser's* property is
limited to

[...]

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

The *Purchaser* provides this insurance

Not Applicable

The *Supplier* provides the insurances from the Insurance Table below and in accordance
with the requirements in Annex 03 of the Scope.

The minimum of cover for insurance against
loss of or damage to property (except the
goods, plant and materials and equipment)
and liability for bodily injury to or death of a
person (not an employee of the *Supplier*)
arising from or in connection with the
Supplier Providing the Goods and Services
for any one occurrence

Limit of indemnity (£10,000,000.00) in
respect of any one occurrence without limit to
the number of occurrences in any annual
policy period,

but (£10,000,000.00) any one occurrence
and in the aggregate per annum in respect of
liability arising out of products and pollution
or contamination liability (to the extent
insured by the relevant policy).

The minimum amount of cover for insurance
against death of or bodily injury to
employees of the *Supplier* arising out of and
in the course of their employment in
connection with the contract for any one
occurrence is

Not less than ten million pounds
(£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 for the duration of the
contract or such greater period as is
required by law

The *Adjudicator nominating body* is

Chartered Institute of Arbitrators for non-
engineering services

The *tribunal* is

arbitration

The *arbitration procedure* is

Chartered Institute of Arbitrators Arbitration
Rules (2000)

The currency of this contract is the pound sterling (£).

Contract Data entries relating to Z Clauses

Z14 - Project Bank Account

Option Y(UK)1 of the NEC4 Term Service Contract (June 2017 with amendments January 2019) [does not apply] to the contract.

The *conditions of contract* are the NEC4 Supply Short Contract June 2017 (with amendments January 2019 and October 2020) and the *additional conditions of contract* clauses Z1 to Z60.

THE SUPPLIER’S CONTRACT DATA

The *Supplier* is

Name: Weston SM LLP Trading as Protect Signs

Address for communications

Redacted

Address for electronic communications

Redacted

The contact details of the *Supplier’s* Data Protection Officer or Data Protection nominated lead are

Redacted

The project bank is

Not Applicable

The named suppliers are

Not Applicable

The Quality Submission is in

Not Applicable

The *fee percentage* is

Redacted

 %

The *manufacture and fabrication overhead percentage* is

Redacted

 %

The *people rates* are

category of person	unit	rate
<div></div>	<div></div>	<div></div>
<div></div>	<div></div>	<div></div>
<div></div>	<div></div>	<div></div>

Contract Data entries relating to Z Clauses

Z9 The *credit ratings* at the Contract Date and rating agencies issuing them are

party	rating agency	credit rating
Supplier	Redacted	Redacted
Consortium Member	Redacted	Redacted
Guarantor	Redacted	Redacted

Z Clause Contents	
Number	Title
Z1	Changes to Core and Secondary Option clauses
Z2	Interpretation
Z3	Recovery of sums due from the <i>Supplier</i> .
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Z5	Not Used
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Z7	Termination – Public Contract Regulations 2015
Z8	Subcontracting
Z9	Merger, take - over, Change of Control and financial distress
Z10	Joint ventures
Z11	Parent Company Guarantee
Z12	Discrimination, Bullying and Harassment
Z13	Intellectual Property Rights (IPRs)
Z14	Project Bank Account
Z15	Tax Non – Compliance
Z16	Value Added Tax Recovery
Z17	Removal of <i>goods</i> from the Scope
Z18	Corruption or loss of data
Z19	Conflict of Interest
Z20	Limitation of liability
Z21 -Z50	Not Used
Z51	Not Used
Z52	Not Used
Z53	Not Used
Z54	Not Used
Z55	Not Used
Z56	Not Used
Z57	Not Used
Z58	Not Used
Z59	Not Used
Z60	Tax Arrangements of Public Appointees

Z1	Changes to core & Secondary Option clauses
11	Identified and defined terms
11.2	<p>Add the following defined terms:</p> <p>(12) Alternative Guarantee is an alternative form of guarantee or security to a Parent Company Guarantee agreed by the <i>Purchaser</i>.</p> <p>(13) Associated Company is any of</p> <ul style="list-style-type: none"> • A Consortium Member or • Any company, corporation, partnership, joint venture or other entity which directly or indirectly Controls, is under the Control of or is under common Control with the <i>Supplier</i> or a Consortium Member. <p>(14) Change of Control is an event where any single person, or group of persons acting in concert, acquires Control of the <i>Supplier</i> or a Consortium Member or acquires a direct or indirect interest in the relevant share capital of the <i>Supplier</i> or a Consortium Member, as a result of which that person or group of persons holds or controls the largest direct or indirect interest in (and in any event more than 25% of) the relevant share capital of the <i>Supplier</i> or a Consortium Member.</p> <p>(15) Consortium Member is an organisation which is a member of the group of economic operators comprising the <i>Supplier</i>, whether as a participant in a non-integrated joint venture or a shareholder in a joint venture company.</p> <p>(16) Control has the meaning set out in section 1124 of the Corporation Tax Act 2010.</p> <p>(17) Controller is the single person (or group of persons acting in concert) that</p> <ul style="list-style-type: none"> • has Control of the <i>Supplier</i> or a Consortium Member or • holds or controls the largest direct or indirect interest in the relevant share capital of the <i>Supplier</i> or a Consortium Member. <p>(18) Corrective Action has the meaning given in BS EN ISO 9000:2015</p> <p>(19) Credit Rating is the <i>credit rating</i> or any revised long term credit rating issued by a rating agency accepted by the <i>Purchaser</i> in respect of the <i>Supplier</i>, a Consortium Member or any Guarantor.</p> <p>(20) Data Protection Legislation is</p> <ul style="list-style-type: none"> • the UK General Data Protection Regulation (the retained EU law version of the General Data Protection Regulation (EU2016/679)), • the LED (Law Enforcement Directive (Directive (EU) 2016/680), • the Data Protection Act 2018, • the Privacy and Electronic Communications (EC Directive) Regulations 2003, and <p>any other data protection laws and regulations applicable in England and Wales.</p> <p>(21) The Data Protection Acts are the General Data Protection Regulation (EU 2016/679) and any other laws or regulations relating to privacy or personal data.</p> <p>(22) The Discrimination Acts are the Equality Act 2010 and any provisions of any earlier statutes that are expressly preserved in force by that Act.</p> <p>(23) DOTAS are the Disclosure of Tax Avoidance Schemes rules contained in Part 7 of the Finance Act 2004 and in secondary legislation made pursuant to it,</p>

as extended to National Insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012 (SI 2012/1868).

(24) Enforcement Action is enforcement action brought by a regulatory authority against the *Supplier* or an Associated Company under any health and safety or environmental legislation, including a successful prosecution or the issue of a prohibition or improvement notice under any contract.

(25) EU Reference is any European Union

- regulation,
- decision,
- tertiary legislation or
- provision of the European Economic Area agreement.

(26) Exit Day is the exit day as defined in section 20 of the European Union (Withdrawal) Act 2018, as amended.

(27) Financial Standing Test is the financial test for the *Supplier*, a Consortium Member or a proposed guarantor used in the tender stage of the competition for this contract.

(28) General Anti-Abuse Rule is

- the legislation in Part 5 of the Finance Act 2013 and
- any future legislation introduced to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions.

(29) Guarantor is a person who gives a Parent Company Guarantee to the *Purchaser*.

(30) Halifax Abuse Principle is the principle explained in the CJEU case C-255/02 Halifax and others.

(31) Health and Safety Plans are

- a completed Health, Safety and Wellbeing Maturity Matrix (HS&WMM) for the Supplier or each Consortium Member in the form required by the *Purchaser*, recording the level of safety maturity within the organisation at the date of the HS&WMM,
- an implementation plan, setting out the actions to be taken by the Supplier or each Consortium Member over a period of 12 months following the date of the HS&WMM in order to improve the scores recorded in the HS&WMM by not less than the percentage specified from time to time by the *Purchaser*, including the timescale for each action and
- an action plan, setting out the specific actions to be taken under the contract by the *Supplier* and its subcontractors (at any stage of remoteness from the *Purchaser*) in order to support delivery of the improvements identified in the implementation plans for the *Supplier* or each Consortium Member.

(32) Incoming Supplier is any supplier appointed by the *Purchaser* to Provide the Goods or part of it in place of the *Supplier*.

(33) Information Systems are the systems specified in the Scope for the collection and storage of information regarding the *goods* or any revised systems introduced by the *Purchaser* from time to time.

(34) Intellectual Property Rights or IPRs are copyright and related rights, database rights, design rights, patents, inventions, trade marks (and goodwill attaching to those trade marks), domain names, applications for and the right to

apply for any of the foregoing, moral rights, confidential information and any other intellectual or industrial property rights, whether or not registered or capable of registration, whether subsisting now or in future in any part of the world.

(35) Parent Company Guarantee is a guarantee of the *Supplier's* performance in the form set out in the Scope.

(36) Performance Requirement is the required standard for performance of each element of the *goods* as specified in the Scope.

(37) Personal Data are any data relating to an identified or identifiable individual that are within the scope of protection as "personal data" under the Data Protection Acts.

(38) Quality Plan is the quality plan produced in accordance with

- BS EN ISO 9001:2015,
- Clause 40 of the contract and
- the Scope.

(39) Quality Submission is the *quality submission* unless later changed in accordance with the contract, detailing the Tender Commitments made by the *Supplier* as part of its tender in respect of how it is to perform its obligations under contract.

(40) Related Dispute is a dispute under or in connection with a contract between a Party and Others relating to this contract.

(41) Related Dispute Adjudicator is an adjudicator appointed to determine a Related Dispute.

(42) Relevant Subcontract is a subcontract used to appoint a subcontractor (at any stage of remoteness from the *Purchaser*) 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 Goods or
- incorporated or left in the *goods*

which has not already been awarded before the Contract Date.

(43) Relevant Subcontractor is a subcontractor (at any stage of remoteness from the *Purchaser*) appointed under a Relevant Subcontract.

(44) Relevant Tax Authority is HM Revenue & Customs or, if the *Supplier* is established in another jurisdiction, the tax authority in that jurisdiction.

(45) RIDDOR Incident is an incident occurring under any contract between the *Supplier*, an Associated Company and subcontractor (at any stage of remoteness from the *Purchaser*) and

- the *Purchaser* or
- any other person

which results in death or serious injury to any worker or non-worker and for which the *Supplier*, an Associated Company or subcontractor (at any stage of remoteness from the *Purchaser*) is responsible under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (or any replacement of it) or equivalent laws outside England applicable to such a contract.

(46) The Secretary of State is the Secretary of State for Transport.

(47) Staff are persons employed or engaged by the *Supplier* or an Associated

Company or any subcontractor at any stage of remoteness from the *Purchaser* to Provide the Goods at any time.

(48) Tax Non-Compliance is where a tax return submitted by the *Supplier* or a Consortium Member to a Relevant Tax Authority on or after 1 October 2012

- Is found on or after 1 April 2013 to be incorrect as a result of a Relevant Tax Authority successfully challenging the *Supplier* or a Consortium Member under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rule or legislation with similar effect or
- The failure of an avoidance scheme in which the *Supplier* or a Consortium Member was involved which was (or should have been) notified to a Relevant Tax Authority under the DOTAS or a similar regime or
- Gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax-related offences which is not spent at the date of award of this contract or to a civil penalty for fraud or evasion.

Amend the following terms

60 Compensation events

In clause 60.1(1) at the end of the clause delete the full stop and insert

or a change to the Information Systems or the introduction of a new Information System or a change to the method of or requirements for performance measurement or a change which is stated elsewhere in these *conditions of contract* not to be a compensation event.

60.1 (4) Insert at the end (before the full stop)

“unless the instruction relates to a notification from the *Supplier* that a conflict of interest may exist or arise”.

83 Insurance Cover

Delete clauses 83.2, 83.3 and the Insurance Table and insert

“83.2 The *Supplier* provides the insurances as stated in the Contract Data.”

Z2 Interpretation

Z2.1 In the contract, except where the context shows otherwise:

- references to a document include any revision made to it in accordance with the contract;
- references to a statute or statutory instrument include any amendment or re-enactment of it from time to time and any subordinate legislation or code of practice made under it;
- references to a British, European or International standard include any current relevant standard that replaces it;
- references to persons or organisations include bodies corporate, unincorporated associations, partnerships and any other legal entity; and
- the words “includes” or “including” are construed without limitation.

Z3 Recovery of sums due from the *Supplier*.

- Z3.1 Where, under the contract a sum of money is recoverable from or payable by the *Supplier*, such sum may be deducted from or reduced by the amount of any sum or sums then due or which at any time after may become due to the *Supplier* under the contract or any other contract with the *Purchaser*.

Z4 Assignment and transfer

- Z4.1 The *Supplier* does not assign, transfer or charge the benefit of the contract or any part of it or any benefit or interest under it without the prior agreement of the *Purchaser*.
- Z4.2 If requested by the *Purchaser*, the *Supplier* executes a novation agreement in the form specified in the Scope (or such other form as the *Purchaser* may reasonably require) transferring the benefit and burden of the contract to
- an organisation established to take over the *Purchaser's* functions or part of them,
 - another public body exercising similar functions,
 - a Department or Office of Her Majesty's Government or
 - a local authority

Z5 Not used

Z6 Adjudication

- Z6.1 The NEC4 Dispute Resolution Service Contract (June 2017) includes the following additional condition of contract:
- Any information concerning the contract obtained by either the *Adjudicator* or any person advising or aiding him is confidential, and is not used or disclosed by the *Adjudicator* or any such person except for the purposes of this Agreement. The *Adjudicator* complies, and takes all reasonable steps to ensure that any persons advising or aiding him comply, with the Official Secrets Acts 1911 to 1989.
- Z6.2 If a dispute under the contract raises issues that are substantially the same as or connected with issues in a Related Dispute and the Related Dispute has been referred to adjudication, the dispute under the contract is referred to the Related Dispute Adjudicator and the Related Dispute Adjudicator becomes the *Adjudicator*.

Z7 Termination - Public Contract Regulations 2015

- Z7.1 The *Purchaser* may terminate if one of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applied to the *Supplier* at the Contract Date.
- Z7.2 The *Purchaser* may terminate the contract with immediate effect
- if the contract has been subject to substantial modification which would have required a new procurement procedure pursuant to regulation 72 of the Public Contracts Regulations 2015.

- Z7.3 The procedure and amount due on termination are the same as for
- - Reason 2 if the modification or infringement was due to a default by the *Supplier*,
 - Reason 5 if the modification or infringement was due to a default by the *Purchaser* and
 - Reason 8 if the modification or infringement was due to any other reason

Z8 Subcontracting

- Z8.1 The *Supplier* assesses the amount due to a subcontractor without taking into account the amount assessed under the contract.
- Z8.2 If the *Supplier* subcontracts work to an Associated Company, the Defined Cost of the work subcontracted is assessed as if the work had not been subcontracted unless otherwise agreed by the *Purchaser*.
- Z8.3 The *Purchaser* may, having stated the reasons, instruct the *Supplier* to remove a subcontractor (at any stage of remoteness from the *Purchaser*). The *Supplier* then arranges the removal of the subcontractor (at any stage of remoteness from the *Purchaser*) and the appointment of a replacement in accordance with the contract.
- Z8.4 Not Used.
- Z8.5 Before
- appointing a proposed subcontractor or
 - allowing a subcontractor to appoint a proposed subsubcontractor
- the *Supplier* submits to the *Purchaser* for acceptance
- either
 - o a Single Procurement Document (as described in regulation 59 of the Public Contracts Regulations 2015) in respect of the proposed subcontractor or subsubcontractor or
 - o other means of proof (as specified in regulations 60(4) and 60(5) of the Public Contracts Regulations 2015) that none of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applies to the proposed subcontractor or subsubcontractor and
 - details of any RIDDOR Incident under any contract for which the proposed subcontractor or subsubcontractor is responsible and of any Enforcement Action brought against the proposed subcontractor or subsubcontractor.

- Z8.6 The *Supplier* does not appoint the proposed subcontractor (or allow the subcontractor to appoint the proposed subsubcontractor) until the *Purchaser* has accepted the submission. A reason for not accepting the submission is that
- it shows that there are grounds for excluding the proposed subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015 or
 - the *Purchaser* is not satisfied that the proposed subcontractor or subsubcontractor has put in place adequate measures to ensure that similar matters to the RIDDOR Incident or the event giving rise to Enforcement Action will not occur.
- Z8.7 If requested by the *Purchaser*, the *Supplier* provides further information to support, update or clarify a submission under clause Z8.5.
- Z8.8 If, following the acceptance of a submission under clause Z8.6, it is found that
- one of the grounds for excluding the subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015 applies or
 - the subcontractor or subsubcontractor has not put in place adequate measures to ensure that similar matters to the RIDDOR Incident or the event giving rise to Enforcement Action will not occur
- the *Purchaser* may instruct the *Supplier* to
- replace the subcontractor or
 - require the subcontractor to replace the subsubcontractor.
- Z8.9 The *Supplier* submits the name of each proposed subcontractor to the *Purchaser* for acceptance. A reason for not accepting the subcontractor is that
- its appointment will not allow the *Supplier* to Provide the Goods.
- The *Supplier* does not appoint a proposed subcontractor until the *Purchaser* has accepted it.
- Z8.10 The *Supplier* submits the proposed conditions of contract for each subcontract to the *Purchaser* for acceptance unless the *Purchaser* has agreed that no submission is required.
- Z8.11 The *Supplier* does not appoint a subcontractor on the proposed subcontract conditions submitted until the *Purchaser* has accepted them. A reason for not accepting them is that
- they will not allow the *Supplier* to Provide the Goods or
 - they do not include a statement that the parties to the subcontract shall act in a spirit of mutual trust and co-operation.

Z9 Merger, takeover, Change of Control and financial distress

- Z9.1 The *Supplier* notifies the *Purchaser* immediately if a Change of Control has occurred or is expected to occur except to the extent that (and for as long as) it

is prevented from doing so by any disclosure restriction imposed on it by any tribunal or regulatory authority.

- Z9.2 The *Supplier* notifies the *Purchaser* immediately of any material change in
- the direct or indirect legal or beneficial ownership of any shareholding in the *Supplier* (or a Consortium Member). A change is material if it relates directly or indirectly to a change of 3% or more of the issued share capital of the *Supplier* (or a Consortium Member), or
 - the composition of the *Supplier* or a Consortium Member. A change is material if it directly or indirectly affects the performance of this contract by the *Supplier* or is considered substantial in accordance with Regulation 72(8)(e) of the Public Contracts Regulations 2015.
- Z9.3 The *Supplier* notifies the *Purchaser* immediately of any change or proposed change in the name or status of the *Supplier* or a Consortium Member.
- Z9.4 The *Supplier* notifies the *Purchaser* immediately if any of the following events occurs in relation to the *Supplier*, a Consortium Member or a Guarantor
- its Credit Rating falls below the relevant *credit rating*,
 - there is a further fall in its Credit Rating below the relevant *credit rating*,
 - it issues a profits warning to a stock exchange or makes any other public announcement about a material deterioration in its financial position or prospects,
 - it is subject to a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety,
 - it commits a material breach of its covenants to its lenders or
 - its financial position or prospects deteriorate to such an extent that it would not meet the Financial Standing Test.
- Z9.5 If a Change of Control occurs and is likely to give rise to an actual or potential conflict of interest, the *Supplier* and the *Purchaser* meet within one week to discuss the actions to be taken by either Party in order to overcome or mitigate the conflict. If the Parties do not agree and implement the actions needed to overcome or mitigate the conflict, the *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods with immediate effect. In the event of a termination under this clause, the termination procedures followed are P1, P2 and P3 and the amounts due on termination are A1 and A2.
- Z9.6 If as a result of a Change of Control
- a person or organisation with which the *Purchaser* does not wish to be associated for ethical or reputational reasons is an Associated Company or
 - the *Purchaser* decides (having reviewed any information provided by the *Supplier* and made appropriate inquiries) that the *Supplier* is no longer in a position to Provide the Goods
- the *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods with immediate effect. In the event of a termination under this clause, the termination procedures followed are P1, P2 and P3 and the amounts due on termination are A1 and A2.

- Z9.7 If a Change of Control occurs, the *Supplier* provides to the *Purchaser*
- certified copies of the audited consolidated accounts of the Controller for the last three financial years,
 - a certified copy of a board minute of the Controller confirming that it will give to the *Purchaser* a Parent Company Guarantee if so required by the *Purchaser*,
 - any other information required by the *Purchaser* in order to determine whether the Controller meets the Financial Standing Test and
 - any other information requested by the *Purchaser* in order to satisfy itself that the *Supplier* remains in a position to perform its obligations under this contract.
- Z9.8 If a Change of Control or any of the events listed in clauses Z9.2 to Z9.4 occurs, the *Purchaser* may require the *Supplier* to give to the *Purchaser* a Parent Company Guarantee from the Controller or (if the Controller does not meet the Financial Standing Test) an alternative guarantor proposed by the *Supplier* and accepted by the *Purchaser*.
- Z9.9 A reason for not accepting an alternative guarantor proposed by the *Supplier* is that it does not
- meet the Financial Standing Test,
 - provide the legal opinion required in clause Z9.13 or
- have a Credit Rating at least equal to the *credit rating* for the person to whom the event listed in clause Z9.4 has occurred.
- Z9.10 If so required by the *Purchaser*, the *Supplier* within four weeks after the *Purchaser* notifies the requirement gives to the *Purchaser* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Purchaser*.
- Z9.11 The *Purchaser* may accept a Parent Company Guarantee from the Controller or an alternative guarantor proposed by the *Supplier* who does not meet the Financial Standing Test if the *Supplier* gives to the *Purchaser* an assurance that the Controller or the alternative guarantor will meet the Financial Standing Test within 18 months of the *Purchaser's* acceptance. If so, the Parties agree a process for reviewing the financial standing of the Controller or the alternative guarantor during that period in order to demonstrate to the *Purchaser* that it will meet the Financial Standing Test by the end of that period.
- Z9.12 If
- the *Supplier* fails to notify the *Purchaser* that an event listed in clause Z9.4 has occurred,
 - neither the Controller nor any alternative guarantor proposed by the *Supplier* complies with the Financial Standing Test within the timescale stated in clause Z9.11 or fails to provide the legal opinion required by clause Z9.13
 - the *Supplier* does not give to the *Purchaser* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Purchaser* within four weeks of a request from the *Purchaser* to do so or

- the *Supplier* fails to demonstrate to the *Purchaser* that the Controller or the alternative guarantor accepted by the *Purchaser* will meet the Financial Standing Test within 18 months of the *Purchaser's* acceptance

the *Purchaser* may treat such failure as a substantial failure by the *Supplier* to comply with its obligations.

Z9.13 If the *Supplier*, a Consortium Member, a Guarantor or an alternative guarantor proposed by the *Supplier* (in this clause referred to as a "relevant entity") is not a company incorporated in and subject to the laws of England, the *Supplier* provides a legal opinion from a lawyer or law firm which is

- qualified and registered to practise in the jurisdiction in which the relevant entity is incorporated and
- accepted by the *Purchaser*.

The legal opinion is addressed to the *Purchaser* on a full reliance basis and the liability of the lawyer or law firm giving the opinion is not subject to any financial limitation unless otherwise agreed by the *Purchaser*.

The legal opinion confirms that the method of execution of the Parent Company Guarantee is valid and binding under applicable local law and in particular covers the matters listed in the Scope.

Z10 Joint ventures

Z10.1 This clause applies if the *Supplier* is an unincorporated joint venture.

Z10.2 Each Consortium Member is jointly and severally liable to the *Purchaser* for the performance of the *Supplier's* obligations under this contract.

Z10.3 The *Supplier* nominates the representative named in the Contract Data for the purposes of the contract and for the giving and receiving of all notices, certificates, instructions and other communications under it. The *Supplier* acknowledges that receipt of a communication by the *Supplier's* nominated representative constitutes receipt by all the Consortium Members. The *Supplier* notifies the *Purchaser* in advance of any change to the identity of the *Supplier's* nominated representative.

Z10.4 The *Supplier* acknowledges that any payment made by the *Purchaser* to a Consortium Member under the contract to that extent discharges the *Purchaser's* liability to make payment to the *Supplier*.

Z10.5 A Consortium Member gives not less than four weeks' notice to the *Purchaser* of any proposed termination of the joint venture arrangement.

Z10.6 Termination of the joint venture arrangement for any reason is treated as a substantial failure by the *Supplier* to comply with its obligations.

Z10.7 Where two or more Consortium Members comprise the *Supplier*, clause 90.1 & 90.2 of the conditions of contract are amended by inserting after "the other Party" the words "or in the case of the *Supplier*, any Consortium Member".

Z11 Parent Company Guarantee

Z11.1 If required by the *Purchaser*, the *Supplier* gives to the *Purchaser* a Parent Company Guarantee. If a Parent Company Guarantee was not given by the

Contract Date, it is given to the *Purchaser* within four weeks of the date of award of the contract, or of the *Purchaser's* request, whichever is later.

Parent Company Guarantees are given for:

- a standalone company – from its Controller, or
- a joint venture (whether incorporated or unincorporated) – from the Controller of each Consortium Member.

In all cases it is for the *Purchaser* to decide whether it will accept a Parent Company Guarantee from a company other than the Controller.

- Z11.2 A failure to comply with this condition is treated as a substantial failure by the *Supplier* to comply with the contract.

Z12 Discrimination, Bullying and Harassment

- Z12.1 The *Supplier* indemnifies the *Purchaser* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Purchaser* arising out of or in connection with

- any investigation or proceedings under the Discrimination Acts or
- an allegation of bullying or harassment

resulting from any act or omission of the *Supplier* in connection with the contract.

Z13 Intellectual Property Rights (IPRs)

- Z13.1 The *Purchaser* owns (or will own) all IPRs in material prepared in connection with this contract, except as stated otherwise in the Scope. To the extent that these IPRs do not automatically belong to the *Purchaser*, the *Supplier* enters into such documents and does such acts as the *Purchaser* requests to transfer the IPRs to the *Purchaser*, and procures that its subcontractors (at any stage of remoteness from the *Purchaser*) do the same. The *Supplier* provides to the *Purchaser* the documents which transfer these IPRs to the *Purchaser*.

- Z13.2 The *Supplier* waives or procures a waiver of any moral rights in any copyright works assigned to the *Purchaser* under the contract.

- Z13.3 The *Supplier* obtains perpetual, royalty-free, non-exclusive, assignable and irrevocable licences (capable of being sub-licensed to a third party, who shall also have the right to grant further sub-licences) of other IPRs for the *Purchaser* as stated in the Scope. Any licence granted under this clause survives the termination or expiry of the contract and cannot be terminated by the *Supplier* or its assignees or any third party. The *Supplier* provides to the *Purchaser* the documents which license these IPRs to the *Purchaser*.

The *Supplier's* or third party licensor's exclusive remedies for any breach by the *Purchaser*, or any sub-licensee, of any licence granted under this clause are damages and equitable relief.

- Z13.4 The *Supplier* ensures that any subcontract (at any stage of remoteness from the *Purchaser*) contains a right for the *Purchaser* (enforceable in accordance with the Contracts (Rights of Third Parties) Act 1999) to enforce the obligations in this clause.

Z14 Project Bank Account

- Z14.1 If so stated in the Contract Data, Option Y(UK)1 of the NEC4 Supply Contract (June 2017 with amendments January 2019 and October 2020) applies to the contract, with appropriate changes and as amended below.

The *Purchaser* may at any time notify the *Supplier* that payments under the contract will no longer be made using the Project Bank Account. This notice is a compensation event. Within one week of the *Purchaser's* notice, the *Supplier* notifies the Named Suppliers that the Project Bank Account is no longer to be used and proposes an alternative method to ensure that the Named Suppliers receive payments in accordance with its contracts.

Z15 Tax Non – Compliance

- Z15.1 The *Supplier* warrants that it has notified the *Purchaser* of any Tax Non-Compliance or any litigation in which the *Supplier* (or a Consortium Member) is involved relating to any Tax Non-Compliance prior to the Contract Date.

- Z15.2 The *Supplier* notifies the *Purchaser* within one week of any Tax Non-Compliance occurring after the Contract Date and provides details of
- the steps the *Supplier* is taking to address the Tax Non-Compliance and to prevent a recurrence,
 - any mitigating factors that it considers relevant and
- any other information requested by the *Purchaser*.

- Z15.3 The *Supplier* is treated as having substantially failed to comply with the contract if
- the warranty given by the *Supplier* under clause Z15.1 is untrue,
 - the *Supplier* fails to notify the *Purchaser* of a Tax Non-Compliance or
- the *Purchaser* decides that any mitigating factors notified by the *Supplier* are unacceptable.

Z16 Value Added Tax (VAT) Recovery

- Z16.1 An amount due under the contract calculated by reference to a sum incurred by any person includes value added tax only to the extent that it is not recoverable as input tax by that person (or a member of the same tax group) by set-off or repayment.

Z17 Termination and removal of part of the goods

- Z17.1 The *Purchaser* may instruct the *Supplier* that
- part of the *goods* is to be permanently removed from the contract or
 - for urgent reasons of health and safety, part of the *goods* is to be temporarily removed from the contract.

In either case the *Supplier* acknowledges that the *Purchaser* may itself, or may appoint another supplier in place of the *Supplier* to provide goods similar to the removed *goods* (or part of it).

- Z17.2 An instruction given under clause Z17.2 is assessed as a compensation event, except that if the instruction is given for Reason 1, the assessment includes a deduction of the forecast of the additional cost to the *Purchaser* of completing

the removed *goods*.

- Z17.3 If the *Supplier's* obligation to Provide the Goods is terminated for any reason, the *Supplier*, if instructed by the *Purchaser*,
- completes the performance of providing any part of the *goods* started prior to the date of termination and
 - co-operates with the *Purchaser* or any Incoming Supplier so as to ensure a smooth transfer of functions.

Z18 Corruption or loss of data

- Z18.1 If any data of the *Purchaser* is corrupted, lost, stolen or sufficiently degraded as a result of the *Suppliers* default so as to be unusable, the *Supplier* immediately reports this to the *Purchaser* and
- the *Purchaser* may instruct the *Supplier* to restore the data in accordance with the *Purchaser's* requirements or
 - the *Purchaser* may itself restore the data (and the *Supplier* pays to the *Purchaser* any reasonable expenses which the *Purchaser* incurs in so doing).

Z19 Conflict of Interest

- Z19.1 Any steps taken in accordance with paragraph S313.1 in the Scope is not a compensation event.
- Z19.2 A failure to comply with paragraph S313.1 in the Scope is treated as a substantial failure by the *Supplier* to comply with the contract.

Z20 Other amounts to be paid by the *Supplier*

- Z20.1 Not used
- Z20.2 Not used
- Z20.3 The *Supplier* pays the *Purchaser's* costs incurred if the *Supplier* seeks the *Purchaser's* assistance in repairing damaged or faulty technology, equipment, plant and materials which is attributable to the *Supplier* in accordance with the Scope.

Z21 Limits of liability

- Z21.1 The *Supplier's* liability to the *Purchaser* for the *Purchaser's* indirect or consequential loss is limited to the amount stated in the Contract Data.

Z22 – Z50 Not Used

Z51 Not Used

Z52 Not Used

Z53	Not Used
Z54	Not Used
Z55	Not Used
Z56	Not Used
Z57	Not Used
Z58	Not Used
Z59	Not Used
Z60	[Tax Arrangements of Public Appointees]

- Z60.1 Where any Staff are liable to be taxed in the United Kingdom in respect of consideration received under this contract, the *Supplier* complies, and procures that the Staff comply, with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
- Z60.2 Where any Staff are liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, the *Supplier* complies, and procures that the Staff comply, with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
- Z60.3 The *Purchaser* may, at any time during the term of this contract, request the *Supplier* to provide information to demonstrate either how any member of Staff is complying with clauses Z60.1 and Z60.2 or why those clauses do not apply to it.
- Z60.4 If the *Supplier* fails to provide information in response to a request under clause Z60.3
- within the period for reply or
 - which adequately demonstrates either how any member of Staff is complying with clauses Z60.1 and Z60.2 or why those clauses do not apply to it
- the *Purchaser* may
- treat such failure as a substantial failure by the *Supplier* to comply with his obligations or
 - instruct the *Supplier* to replace the relevant member of Staff.
- Z60.5 If the *Purchaser* receives or identifies information through any means which demonstrates that a member of Staff is not complying with clauses Z60.1 and Z60.2, the *Purchaser* may treat such non-compliance as a substantial failure by the *Supplier* to comply with its obligations.
- Z60.6 The *Supplier* acknowledges that the *Purchaser* may
- supply any information which it receives under clauses Z60.3 or Z60.5 or

- advise the non-supply of information
to the Commissioners of Her Majesty's Revenue & Customs for the purpose of
the collection and management of revenue for which they are responsible.]