P23 Framework Agreement Schedule 05A.C

Project Agreement NEC4 Option C Target Contract with Activity Schedule

Project Name: XXXXXXXXXXXXXX

Project Reference: P23.XXXX

Project Agreement

Between

Client: XXXXXXXXXXXXXXXXXXXXXXX

and

Contractor: XXXXXXXXXXXXXXXXXXXXXXXX

# Guidance Notes

1. This template uses the ‘Navigation Pane’ in Microsoft Word to allow users to easily move around the document. To display the ‘Navigation Pane’ (select ‘View’ and tick the box ‘Navigation Pane’). Text in bold is generally either a ‘Heading 1’ or ‘Heading 2’ style which will appear in the ‘Navigation Pane’ and Contents page.
2. The flow chart below illustrates the steps in formulating the P23 scheme and project agreement documentation from initial PSCP appointment through relevant design stages, construction and handover. Clients can appoint a PSCP at any of the preconstruction stages (1 to 3) below through a range of options detailed in P23 FA Schedule 5:

* Stage 1: Strategic Outline Case
* Stage 2: Outline Business Case
* Stage 3: Full Business Case



1. Clients should seek appropriate legal and technical advice when using and compiling Project Agreements.

1. This template is arranged as follows and used with template 2 (Scope):
   1. Section A: PSCP initial appointment to cover the first design stage of the project (step 4 above),
   2. Section B: continuation agreement if the project has subsequent design stages (step 6 above),
   3. Section C: confirmation agreement to proceed to stage 4 (construction) and 5 (post completion) (step 8 above)
2. Section AA contains standard documents and templates for use in compiling the relevant section of the contracts.
3. The table below provides an indicative comparison between the P23 Project Stages and the RIBA plan of work. Where designers’ appointments pass from the Client to the PSCP it is important to agree the progress of the design at the point of transfer.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| RIBA Plan of work 2013 stage (0 to 7) | | | | | | | |
| 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Stage 1 | | Stage 2 | | Stage 3 | Stage 4 | | Stage 5 |
| SOC | | OBC | | FBC/Target Price | Construction | | Post comp |
| P23 Project Stages 1 to 5 | | | | | | | |

1. Items in these templates that require project specific entries are highlighted in grey. Some items, particularly in Template 2 Scope, can be intentionally blank in preconstruction where the information is yet to be established.
2. Enabling works can be instructed during pre-construction. See Template 2 section D070 and E108.
3. Termination of individual Projects is provided in the conditions of contract. Project termination does not terminate the Scheme Agreement (to the extent applicable).

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# Section A Project Agreement

## A Guidance Note

1. Reference to Scheme Agreement should be removed where not used e.g. in the event of direct award.
2. The documents listed in item 3 should be amended to reflect the relevant call-off procedure.

**THIS AGREEMENT** is made on 20[]

**Between:**

1. XXXXXXXX (the *Client*, which expression shall include its successors in title and assignees); and
2. XXXXXXXX incorporated and registered in XXXXXXXX with company number XXXXXXXX whose registered office is at XXXXXXXX (the *Contractor*)

Whereas

* the *Contractor* is a Principal Supply Chain Partner (**PSCP**) having on [date] entered into the CWAS2/P23 Framework Alliance Contract (**P23 FA**) with the Crown Commercial Services ;
* the *Client* and the *Contractor* on [date] entered into a Scheme Agreement for the Scheme identified therein pursuant to P23 FA;
* pursuant to the Scheme Agreement the *Client* may enter into further agreements with the *Contractor* for individual projects within the Scheme;
* the *Client* wishes to have provided the works for Project XXXXXXXX within:

[XXXXXX Scheme name]

[XXXXXX Description of the Project]

(**Project**)

Comprising: Management and delivery of the Design and Construction Services for the said Project within the Scheme.

This Project Agreement commences at Project Stage XXXXXXXXXXX

**NOW IT IS AGREED THAT:**

1. The *Contractor* Provides the Works in accordance with this Project Agreement.
2. The *Client* pays the *Contractor* the amount due in accordance with this Project Agreement.
3. The documents forming this Project Agreement are:

|  |  |  |
| --- | --- | --- |
| Document | Dated | Document ref. |
| 1. This Project Agreement including the Contract Data, Scope, NEC Core Clauses, Secondary Options and Z Clauses, |  |  |
| 1. Appendix A01: *PSCP* Entry Stage Proposal / Tender (delete as applicable) incorporating Contract Data Parts 1 and 2, |  |  |
| 1. Appendix A02: Appendices to the *PSCP* Entry Stage Proposal / Tender (delete as applicable), |  |  |
| 1. Appendix A03: other appendices to this Project Agreement, |  |  |
| 1. Appendix A04 Scheme Agreement, |  |  |
| 1. Appendix A05 The *Client’s* Project Letter of Instruction duly accepted by the *PSCP* (if applicable) |  |  |

1. Subsequent Project Stages will be incorporated into this Agreement by use of:
   1. Section B *Client* Continuation Agreement for *PSCP* to proceed with the next design project stage (where applicable) and associated appendices.
   2. Section C Confirmation of Agreement to Complete the Substantial Design, Construction and Handover of the Project and associated appendices.
2. If there is any ambiguity or inconsistency in or between the documents comprising this Agreement, the priority of the documents is in accordance with the following sequence:
   1. the completed Contract Data including NEC Core Clauses, as amended and Supplementary Options;
   2. the additional conditions contract (Z Clauses);
   3. the other conditions of contract;
   4. the Scope;
   5. any other information provided, or document identified in the Contract Data; and
   6. the rest of the P23 FA.

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

|  |  |
| --- | --- |
| Executed as a Deed for and on behalf of the *Client* as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Executed as a Deed for and on behalf of the *Contractor* as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |

# Section A Appendices

## A01 *PSCP* Stage Proposal / Tender (amend accordingly)

1. Attach a copy of the *PSCP* Stage Proposal Letter (see Appendix AA01 for template Letter) or the *PSCP* accepted Tender (amend accordingly)

## A02 Appendices to the *PSCP* Entry Stage Proposal or Tender (amend accordingly)

1. List out and attach any appendices to the *PSCP* entry stage proposal letter or Tender. (amend accordingly)

## A03 Other Appendices to this Project Agreement

1. List out and attach any other appendices to this Project Agreement.

## A04 Scheme Agreement (delete if not applicable)

1. Attach a copy of the executed Scheme Agreement to include attachments referred to in the Scheme Agreement.

## A05 Project Letter of Instruction (PLOI) (delete if not applicable)

1. Attach a copy of the *Client* Project Letter of Instruction duly accepted by the *Contractor*.

# Section B *Client* Continuation Agreement (delete if not applicable)

## B Guidance Note

1. The below *Client* Continuation Agreement is used for any subsequent preconstruction stages. Do not use this for stage 4/5 use Section C. This section can be deleted from Section A appointments.

## B *Client* Continuation Agreement for *PSCP* to proceed with the next project design stage

**THIS AGREEMENT** is made on 20[]

**Between:**

1. XXXXXXXX (the *Client*, which expression shall include its successors in title and assignees);
2. XXXXXXXX incorporated and registered in XXXXXXXX with company number XXXXXXXX whose registered office is at XXXXXXXX (the *Contractor*)

Whereas

* the *Client* accepts the *Contractor’s* Project Stage XXX proposal for Project XXXXXXXXXXXXXXXXXXXXXXXXX and wishes the *Contractor* to continue to Provide the Works through Project Stage XXXX

**NOW IT IS AGREED THAT:**

1. The *Contractor* Provides the Works in accordance with the Project Agreement.
2. The *Client* pays the *Contractor* the amount due in accordance with the Project Agreement.
3. The documents added to the Project Agreement are:

|  |  |  |
| --- | --- | --- |
| Document | Dated | Document ref. |
| 1. This Continuation Agreement, |  |  |
| 1. Appendix B01: *PSCP* Stage Proposal, |  |  |
| 1. Appendix B02: Appendices to the *PSCP* Stage Proposal, |  |  |
| 1. Appendix B03: other appendices to this Continuation Agreement |  |  |

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

|  |  |
| --- | --- |
| Executed as a Deed for and on behalf of the *Client* as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Executed as a Deed for and on behalf of the *Contractor* as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |

# Section B Appendices

## B01 *PSCP* Stage Proposal Letter

1. Attach a copy of the *PSCP* Stage Proposal Letter (see Appendix AA01 for template Letter).

## B02 Appendices to the *PSCP* Stage Proposal

1. List out and attach any appendices to the *PSCP* stage proposal letter

## B03 Other Appendices to this Project Agreement

**B03 Guidance Note**

The process of completing the Scope (Template 2) for a Project requires the compiler of the specific documentation to assess and amend the lists and/or processes and operations identified in the Scope of Work to provide a comprehensive Scope for the Project contract at each of the applicable Project Stages.

Any other appendices should be consistent with the structure of the Scope. In particular, the Scope is not to be amended at any Project Stage to incorporate ‘Scope for the *Contractor’s* design’ this being registered in Contract Data Part two (the *PSCP’s* design is subject to *Project Manager’s* acceptance).

Where the *PSCP* is appointed at an early Project Stage the Scope may be limited. In such circumstances it will be the *PSCP’s* obligation, in collaboration with the *Project Manager*, to provide a fully documented Scope package as the design develops. In contrast, where the design has been substantially advanced prior to appointment of the *PSCP* the *Client* provided Scope should reflect this position.

1. List out and attach any other appendices to the *Client* Continuation Agreement.

# Section C to the Project Agreement

## C Guidance Note

1. This section is completed to confirm the agreement for the stage 4/5 works. It can be deleted from Section A and B appointments.

## C Confirmation of Agreement to Complete the Substantial Design, Construction and Handover of the Project

**THIS AGREEMENT** is made on 20[]

**Between:**

1. XXXXXXXX (the *Client*, which expression shall include its successors in title and assignees); and
2. XXXXXXXX incorporated and registered in XXXXXXXX with company number XXXXXXXX whose registered office is at XXXXXXXX (the *Contractor*)

Whereas

* the *Client* accepts the *Contractor’s* Project Stage proposal and wishes the *Contractor* to continue to Provide the Works through to the whole of the works:
  1. Stage 4/5 completion of design, construction and handover of the works.
  2. Stage 4/5 Price included in the Target Price for all stages being the amount of £ XXX,XXX,XXX.XX stated in the *Contractor’s* proposal dated XXXXXXXX

**NOW IT IS AGREED THAT:**

1. The *Contractor* Provides the Works in accordance with the Project Agreement.
2. The *Client* pays the *Contractor* the amount due in accordance with the Project Agreement
3. The documents forming part of this Appendix C deed to the Project Agreement are:

|  |  |  |
| --- | --- | --- |
| Document | Dated | Document ref. |
| 1. This Confirmation of Agreement, |  |  |
| 1. Appendix C01: *PSCP* Stage Proposal, |  |  |
| 1. Appendix C02: Appendices to the *PSCP* Stage Proposal, |  |  |
| 1. Appendix C03: other appendices to this Confirmation of Agreement |  |  |

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

|  |  |
| --- | --- |
| Executed as a Deed for and on behalf of the *Client*, as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Executed as a Deed for and on behalf of the *Contractor*, as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |

## C01 *PSCP* Stage Proposal Letter

1. Attach a copy of the *PSCP* Stage Proposal Letter (see Appendix AA01 for template Letter).

## C02 Appendices to the *PSCP* Stage Proposal

1. List out and attach any appendices to the *PSCP* Stage Proposal Letter

## C03 Other Appendices to this Confirmation of Agreement

**C03 Guidance Note**

The process of completing the Scope (Template 2) for a Project requires the compiler of the specific documentation to assess and amend the lists and/or processes and operations identified in the Scope of Work to provide a comprehensive Scope for the Project contract at each of the applicable Project Stages.

Any other appendices should be consistent with the structure of the Scope. In particular, the Scope is not to be amended at any Project Stage to incorporate ‘Scope for the *Contractor’s* design’ this being registered in Contract Data Part two (the *PSCP’s* design is subject to *Project Manager’s* acceptance).

Where the *PSCP* is appointed at an early Project Stage the Scope may be limited. In such circumstances it will be the *PSCP’s* obligation, in collaboration with the *Project Manager*, to provide a fully documented Scope package as the design develops. In contrast, where the design has been substantially advanced prior to appointment of the *PSCP* the *Client* provided Scope should reflect this position.

1. List out and attach any other appendices to the Confirmation of Agreement.

# AA Standard proformas and Letters

## AA Guidance Note

1. These are the standard proformas and letters to be completed and inserted into the Section A/B/C as required.
2. Prefix the reference numbers with the relevant section reference, for instance 01 below would use A01 where this is the first *PSCP’s* form of proposal.
3. The *PSCP* should work closely with the *Project Manager* when preparing their stage proposal to agree relevant elements in advance of formal submission of the Stage proposal.
4. This letter will need amending dependant on the Call-off option used by the *Client* or may be replaced by the *PSCP’s* tender submission.

## AA01 PSCP Stage Proposal Letter

Dear XXXX,

Project Name: XXXXXX: Proposal Reference: XXXXXX for Project Stage: XXXXX (**Project Stage Proposal**)

Further to receipt of your instruction to develop and submit a *PSCP* Project Stage Proposal, in collaboration with the *Project Manager*, we hereby confirm our Project Stage Proposal to Provide the Works for this Project Stage in accordance with:

1. This Project Stage Proposal includes (amend accordingly):
   1. This letter
   2. Appendix 02.01 Target Price
   3. Appendix 02.02 Contract Data Part one
   4. Appendix 02.03 Contract Data Part Two Data
   5. Appendix 02.04 Priced Resource Activity Schedule
   6. Appendix 02.05 Activity Schedule
   7. Appendix 02.06 Project Programme
   8. Appendix 02.07 Project Cash flow
   9. Appendix 02.08 Project Procurement Strategy
   10. Appendix XXX List other appendices
2. The forecast amount for this Project Stage including the Fee is: £ XX,XXX,XXX.XX (Excluding VAT)

Words (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX)

1. The forecast for the Target Price that includes the Fee for the Project and its 5 Stages, is: £ XXXXXXXXXXX (Excluding VAT)

Words (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX)

1. On receipt of your written acceptance thereof and completion and return of the Project Agreement (executed by both parties) we shall continue this Project in accordance with the Accepted Programme.

|  |  |  |
| --- | --- | --- |
| Signed on behalf of the *Contractor*: | Name and Address of *Contractor*: | Dated: |
|  |  |  |

## AA02.01 Stage Proposal Target Price

### AA02.01 Guidance note

1. Where this template Project Agreement is being used in the context of a further competition, or where additional projects are being instructed under Paragraph 3 of P23 FA Schedule 4A, the applicable *PSCP* staff rates and fee percentage should be derived from but shall not exceed the staff rates and fee percentage submitted by the *PSCP* as part of its relevant pricing submission.
2. Where this template Project Agreement is being used in the context of a direct award under Paragraphs 4 or 5 of P23 FA Schedule 4A, the applicable *PSCP* staff rates and fee percentage should be derived from but shall not exceed the PSCP’s tendered staff rates and fee percentage as set out under Tables 2B, 4A, 4B and 4C for the relevant Lot in P23 Framework Pricing.
3. Attached stage proposal Target Price excel spreadsheet.

## AA02.02 E Contract Data Part One: Data Provided by the *Client*

### 02.02 Guidance note

1. Contract data part one is reviewed, updated and agreed between the *Client’s* *Project Manager* and the *PSCP* prior to commencement of each Project Stage and issued with the *PSCP* Stage Proposal. Some parts can be left blank in preconstruction where the information is yet to be defined or is not relevant to the stage.
2. Clients should seek appropriate legal and technical advice when using and compiling Project Agreements.
3. Clients review the Secondary ‘Optional’ clauses below and change to ‘Applies’ or ‘Not used’. The conditions of contract and clauses should only be amended with the explicit agreement of NHSEI. The NEC4 Optional clauses not listed below are not deemed suitable and should only be used with the explicit agreement of NHSEI.
4. Please note the use of some Secondary Options will require further details to be provided further down in this Contract Data Part One and/or the Scope

## 1. General

|  |  |  |  |
| --- | --- | --- | --- |
| * The *conditions of contract* are the core clauses and the clauses for main Option C, Dispute Resolution Option W2 and Secondary Options identified as ‘Applies’ in the table below – and Z of the NEC4 Engineering and Construction Contract | | | |
| **Option** | | **Applies** | **Guidance** |
| W2 Used when adjudication is the method of dispute resolution and the United Kingdom Housing Grants, Construction and Regeneration Act 1996 applies | | Applies | Statutory requirement for UK projects. |
| X1 Price adjustment for inflation | | Optional | Generally, only considered for use if the project will exceed 24 months construction duration. Clients should seek agreement from NHSEI before using X1 particularly for higher value and longer project durations. |
| X2 Changes in the law | | Applies | Standard practise for public sector to take the risk for these changes subject to a test of foreseeability on the *PCSP’s* part. |
| X4 Ultimate holding company guarantee | | Optional | Used where the *PSCP* has an ultimate holding company in the form detailed in the P23 FA Schedule 11. To be considered particular to the *PSCP’*s economic and financial standing and options X8, X13 and X16. |
| X5 Sectional Completion | | Optional | Used if the project requires sectional completion |
| X7 Delay damages | | Applies | Applies other than in exceptional circumstances agreed with NHSEI. Clients should provide evidence of a reasonably considered assessment of the losses reflected in the delay damages figure. |
| X8 Undertakings to the *Client* or Others | | Applies | Clients should obtain collateral warranties with step in rights from designers and key subcontractors. The warranties, novation agreements etc. should be included in the Scope. (see also note on Option Y(UK)3 below). |
| X9 Transfer of rights | | Not used | Intellectual property and a license for the *Client* and others to use copyright material is dealt with in the Z clauses and P23 FA. Clients do not generally require the transfer of design intellectual property to the *Client*. |
| X10 Information modelling | | Optional | Used where the *Client* has requirements relating to building Information modelling and if they wish to use any BIM protocols. Clients should adopt BIM requirements stated in NHSEI guidance. |
| X11 Termination by the *Client* | | Used | Standard provisions to allow for termination. |
| X12 Multiparty Collaboration | | Optional | Only to be used in exceptional circumstances and approved by NHSEI. |
| X13 Performance bond | | Optional | To be considered particular to the *PSCP*’s economic and financial standing and options X4, X8 and X16. |
| X14 Advanced payment to the *Contractor* | | Optional | Only to be used in exceptional circumstances and approved by NHSEI. Supported by a bond. |
| X15 The *Contractor’s* design | | Used | Provisions to include for the *PSCP* undertaking design. |
| X16 Retention | | Optional | To be considered particular to the *PSCP’s* economic and financial standing and options X4, X8 and X13. |
| X17 Low performance damages | | Optional | Only envisaged in certain circumstances, approved by NHSEI and supported by a reasonably considered assessment of the losses reflected in the low performance damages figure. |
| X18 Limitation of liability | | Used | Should be reviewed on project by project basis. |
| X19 Key Performance Indicators | | Optional | Client choice. P23 FA does contain some KPIs, but they are not linked to this option. |
| X21 Whole Life Cost | | Optional | Client choice. Generally, not widely used option. Clients should have a clear understanding before using this clause. |
| X22 Early *Contractor* involvement | | Not used | X22 not used but some similar provisions are included in the Scope. |
| Option Y(UK)1 Project Bank Account | | Optional | Clients strongly encouraged to use. |
| Option Y(UK)2 The Housing Grants, Construction and Regeneration Act 1996 | | Used | Statutory requirement for UK projects. |
| Option Y(UK)3 The Contracts (Rights of Third Parties) Act 1999 | | Optional | Used where the *Client* wishes to confer contractual rights in favour of other third parties. This option does not provide for third party rights in favour of the *Client* within subcontracts. Clients wishing to use the Act as an alternative to option X8 should seek legal advice which will require additional Z clauses and requirements within the Scope and subcontracts. |
| Option Z *Additional conditions of contract* | | Used | Z clause amendments are detailed at the end of this Contract Data. |
| * The *works* are management and delivery of design and construction services for the Project listed in a ‘Project Agreement’, as described in the Scope | | | |
| * The *Client* is: | | | |
| Name |  | | |
| Address for communications |  | | |
| Address for electronic communications |  | | |
| * The *Project Manager* is | | | |
| Name |  | | |
| Address for communications |  | | |
| Address for electronic communications |  | | |
| * The *Superviso*r is | | | |
| Name |  | | |
| Address for communications |  | | |
| Address for electronic communications |  | | |
| * The Scope is in Template 2 | | | |
| * The Site Information is in: Template 2 Section F | | | |
| * The boundaries of the site are | | | |
|  | | | |
| * The language of the contract is English | | | |
| * The law of the contract is the law of England and Wales | | | |
| * The period for reply is 2 weeks except that   The period for reply for individual design package submitted to the *Project Manager* for acceptance is 7 days or a longer period agreed in writing between the *Contractor* and the *Project Manager* | | | |
| * The following matters will be included in the Early Warning Register | | | |
| Listed if known | | | |

## 2. The *Contractor’s* Main responsibilities

The key dates and conditions to be met are

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

|  |  |
| --- | --- |
| The *Contractor* prepares forecasts for the total Defined Cost for the whole of the works at intervals no longer than | XX weeks |

## 3. Time

|  |  |  |
| --- | --- | --- |
| The *starting date* is | |  |
| The *access dates* are | | |
| part of the site | | date |
| (1) | |  |
| (2) | |  |
| (3) | |  |
| The *Contractor* submits revised programmes at intervals no longer than four (4) weeks, alternatively calendar monthly. |  | |
| *If the Client has decided the completion date for the whole of the works*   * The completion date for the whole of the works is: |  | |
| *If the Client is not willing to take over the works before the completion date*   * The *Client* is not willing to take over the works prior to the Completion Date | | |
| If no programme is identified in part two of the Contract Data   * The *Contractor* is to submit a first programme for acceptance within (Y) weeks of the contract date: | Y = XX weeks | |

## 4. Quality Management

|  |  |  |
| --- | --- | --- |
| The period after the Contract Date within which the Contractor is to submit a quality policy statement and quality plan is | | [one week] |
| The Period between Completion of the whole of the *works* and the *defects date* is | | [104 weeks] |
| The *defect correction period* is | 2 weeks | except that |
| * The *defect correction period* for a Defect occurring when working within an operational building/facility or following Completion or ‘take over’ by the *Client* is; * a Defect resulting in an emergency that immediately affects the functional use of a part or all of building/facility (Defect Type A) is twenty-four (24) hours. * a Defect that has an adverse but manageable effect on the functional use of the building/facility (Defect Type B) is five (5) days. | | |
| The *Project Manager* may at his discretion determine a longer Defects Period where a Defect cannot be completed within the *defect correction period* stated above as a consequence of the extent of corrective work required to correct the Defect. The Project Manager may only do so on the basis that the *Contractor* takes all steps necessary to make safe the works in question and acts expeditiously to correct the Defect within the determined period of extension. | | |

## 5. Payment

|  |  |
| --- | --- |
| The *currency of this contract* is the pound sterling (£) | |
| The *assessment interval* is: one calendar month | |
| The interest rate is 8% above the rate of the Bank of England base rate. Base rate for a debt falling due between 1 January and 30 June is calculated by reference to the Bank of England base rate on 31 December of the previous year. Base rate for a debt falling due between 1 July and 31 December is calculated by reference to the Bank of England base rate on or 30 June of that year. | |
| The *Client* pays the expenses as detailed in the Scope | |
| The Contractor’s share percentages and the share ranges applied to Stages 1 to 3 and 4/5 of the Project are: | |
| **Share Range** | **Project Stages 1 to 3** |
| Less than 100% | Nil% |
| Greater than 100% | 100% |
|  | **Project Stage 4/5** |
| Less than 95% | Nil |
| 95 to 100% | 50% |
| Greater than 100% | 100% |
| The Affordability Amount (excluding VAT) for design, construction and handover cost for this Project is: |  |

## 6. Compensation Events

|  |
| --- |
| * The place where weather is to be recorded is: |
|  |
| * The *weather measurements* to be recorded each calendar month are   + the cumulative rainfall (mm)   + the number of days with rainfall more than 5mm   + the number of days with minimum air temperatures less than zero degrees Celsius   + the number of days with snow lying at 12.00 hrs GMT   + and these measurements: |
|  |
| * The *weather measurements* are supplied by The Meteorological Office, Meteorological Office, Fitzroy Road, Exeter, Devon, EX1 3PB, United Kingdom e-mailto:enquiries@metoffice.gov.uk |
| * The *weather data* are the records of past *weather measurements* for each calendar month which were recorded at |
|  |
| * Where no recorded data are available assumed values for ten year weather data for each *weather measurement* for each calendar month are |
|  |
| These are additional compensation events: |
|  |

## 8. Liabilities and insurance

|  |  |  |
| --- | --- | --- |
| These are additional *Client’s liabilities*:   1. The Project works are delayed or suspended due to an act of terrorism. 2. Insurance for extension/ refurbishment where –    1. The Project works involve work to any existing building or structure of the *Client*, or where the Site includes any existing building or structure of the *Client*; the *Client* self-insures such existing building or structure to the extent that the *Contractor* remains liable for accidental damage caused by the *Contractor’s* operations within the Working Areas/ occupied area, and;    2. The *Contractor* remains liable for all damage resulting from negligence of the *Contractor* in undertaking such operations 3. Other liabilities as listed: **Guidance note**: These should be extremely limited in nature and reflect project specific issue and not used to undermine or redistribute the allocation of liability in the contract. | | |
| The following apply individually to each Project within the Scheme  **Guidance Note:** Cover levels to be reviewed by the Client and amended if required. Insurance costs for these policies are not included in the fee. | | |
| * The minimum amount of cover for insurance against loss of or damage to property (except the *works*, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor* Providing the Works for any one event is [**£10,000,000.00 (ten million pounds sterling)]** | | |
| * The minimum amount of cover for insurance against death or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event is [**£10,000,000.00 (ten million pounds sterling)]** | | |
| * The insurance against loss or damage to the works in connection with this contract is the replacement cost, and the amount for replacement of any Plant and Materials provided by the *Client* is [**£ XXXXXXXXX (Words XXXXXXXXXXXXXXXXXXXXXXX)]** | | |
| * The *Client* provides these insurances from the Insurance Table | | |
| Insurance against: | Cover/indemnity is | The deductibles are |
|  |  |  |
|  |  |  |
| * The *Client* provides these additional insurances | | |
| Insurance against: | Cover/indemnity is | The deductibles are |
|  |  |  |
|  |  |  |

## 9. Termination

### Resolving and avoiding disputes

|  |  |
| --- | --- |
| The tribunal is litigation | |
| Option W2 is used | |
| The Senior Representatives of the *Client* are | |
| Name (1) |  |
| Address for communications |  |
| Address for electronic communications |  |
| Name (2) |  |
| Address for communications |  |
| Address for electronic communications |  |
| The *Adjudicato*r is |  |
| Name |  |
| Address for communications |  |
| Address for electronic communications |  |
| The Adjudicator nominating body is |  |

### Optional statements

**Guidance Note:** To be completed to correspond with the options identified in Contract Data Part One: Data Provided by the *Client*: 1. General

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Option X1 Price Adjustment for inflation | | | | | | | Is/is not used |
| **Guidance note:** If X1 is used complete the table below, if not delete the table and the two bullet points below the table. The hourly staff rates are subject to adjustment as detailed in the Schedule of Cost Components regardless of this option.   * The proportions used to calculate the Price Adjustment Factor are | | | | | | | |
| Proportion | | | | Linked to the index for | | | Index |
| 0.xxxx | | | |  |
| 0.xxxx | | | |  |
| 0.xxxx | | | |  |
| 0.xxxx | | | |  |
| 0.xxxx | | | |  |
| 0.xxxx | | | | Non-adjustable | | |  |
| 1.0000 | | | |  | | |  |
| * The base date for indices is | | | | | | | The date the Target Price is agreed between the *Client* and *Contractor* |
| * The indices are those prepared by | | | | | | | The Office for National Statistics |
| **Option X5 Sectional Completion** | | | | | | | [Is/Is not used] |
| **Guidance note:** If X5 is used complete the table below, if not delete the table   * The completion date for each section of the works is | | | | | | | |
| Section | Description | | | | | | completion date |
|  |  | | | | | |  |
|  |  | | | | | |  |
|  |  | | | | | |  |
|  |  | | | | | |  |
|  |  | | | | | |  |
|  |  | | | | | |  |
|  |  | | | | | |  |
|  |  | | | | | |  |
| **Option X7 Delay Damages** | | | | | | | [Is not used] |
| If option X7 is used without option X5 | | | Delay damages for Completion of the whole of the works are | | | | [£XXXXXXXXX per day] |
| **If Option X7 is used with option X5**   * Delay damages for each section of the works are | | | | | | | |
| section | Description | | | | | | Amount per day |
| 1 |  | | | | | |  |
| 2 |  | | | | | |  |
| 3 |  | | | | | |  |
| 4 |  | | | | | |  |
| 5 |  | | | | | |  |
| Remainder of the works | | | | | | |  |
| **X8 undertakings to the *Client* or Others** | | | | | | | |
| The *undertakings to Others* are provided to | | | | |  | | |
| The Subcontract undertakings to Others are | | | | | | | |
| works | | | | | provided to | | |
|  | | | | |  | | |
|  | | | | |  | | |
| The *Subcontractor undertakings* to the *Client* are | | | | | | | |
| works | | | | |  | | |
| **X10: Information modelling – If Option X10 is used** | | | | | | | |
| If no information *execution plan* is identified in part two of the Contract Data | | | | | | | |
| The period after the Contract Date within which the Contractor is to submit a first Information Execution Plan for acceptance is | | | | |  | | |
| The minimum amount of insurance cover for claims made against the Contractor arising out of its failure to use the skill and care normally used by professionals providing information similar to the Project Information is, in respect of each claim | | | | |  | | |
| The period following Completion of the whole of the works or earlier termination for which the Contractor maintains insurance for claims made against it arising out of its failure to use the skill and care is | | | | |  | | |
| **X13: Performance bond** if Option X13 is used | | | | | | | |
| The amount of the performance bond is | | | | |  | | |
| **X14: Advanced payment to the *Contractor*** if Option X14 is used insert relevant information below | | | | | | | |
| **X15: The Contractor’s design** Option 15 is used | | | | | | | |
| The *period for retention* following Completion of the whole of the works or earlier termination is | | | | | | |  |
| The minimum amount of insurance cover for claims made against the Contractor arising out of its failure to use skill and care normally used by professionals designing works similar to the works is, in respect of each claim this contract is  **Guidance Note:** Client review and amend accordingly. The cost of these insurances is not included in the fee. | | | | | | | Lot 1: £10,000,000 (ten million pounds sterling) |
| Lot 2: £10,000,000 (ten million pounds sterling) |
| Lot 3: £20,000,000 (twenty million pounds sterling) |
| The period following Completion of the works or earlier termination for which the Contractor maintains insurance for claims made against it arising out of its failure to use the skill and care is | | | | | | | [12 years] |
| **X16: Retention** If X16 is used | | | | | | | |
| The *retention free* amount is | | | | |  | | |
| The retention percentage is | | | | | % | | |
| Retention bond | | | | | The Contractor **may/may not** give the Client a retention bond (Delete as applicable | | |
| **X18: Limitation of liability** | | | | | | | |
| The *Contractor’s* liability to the *Client* for indirect or consequential loss is limited to | | | | | | | |
| **Lot 1**  15% of the Target Price | | | **Lot 2**  15% of the Target Price | | | **Lot 3**  15% of the Target Price | |
|  | | | | | | | |
| For any one event, the *Contractor’s* liability to the *Client* for loss or damage to the *Client’s* Property is limited to | | | | | | | |
|  | | | | | | | |
| The *Contractor’s* liability for Defects due to his design which are not listed on the Defects Certificate is limited to | | | | | | | |
| No limitation to liability. | | | | | | | |
| The *Contractor’s* total liability to the *Client* for all matters arising under or in connection with the contract, other than excluded matters, is limited to | | | | | | | |
| Lot 1  100% of the Target Price | | | Lot 2  100% of the Target Price | | | Lot 3  **Insert value appropriate for project** | |
| The *end of liability date* is | | | [12 years] | | | years after the Completion of the whole of the *works* | |
| **X20: Key Performance Indictors –** if used add details below | | | | | | | |
| **Y(UK)1: Project Bank Accounts** | | | | | | | |
| Charges made and interest paid by the *project bank* | | The *Contractor* **is/is not** to pay any charges made and to be paid any interest paid by the project bank **(Delete as applicable)** | | | | | |
| **Y(UK)3: The Contracts (Rights of Third Parties) Act 1999** – If used add details below | | | | | | | |

### Z Clauses

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Option Z is used. (BP) indicates the clause is taken from the CCS/IPA ‘Standard Contract Amendments (Boilerplates)’ clauses. | | | | |
| Z1 | Identified and Defined Terms – clause 11  11.1  Add the following words to the end of clause 11.1:  “and are defined in clause 11.2 or 11.3 unless derived from the P23 FA in which case they have the meaning given in the P23 FA unless the context infers otherwise.”  11.2(6)  In the first bullet point, before "Scope", insert "contract and/or the";  In the second bullet point, delete "which the *Project Manager* has accepted" and replace with "or the other requirements of this contract and/or the Scope.”  11.2(26)  In the fifth line before the word “Scope” insert "contract and/or the"; ’ | | | |
| Z2 | Insert new clause 11.3 additional defined terms:    “11.3 (1) Affordability Amount is the amount stated in the Contract Data.  (2) The Primary Supply Chain Member (PSCM) is a Subcontractor.  (3) Target Price is the total of the Prices.  (4) *Contractor's* Design Documents are the drawings, design details and specifications of work, Plant and Materials prepared by the *Contractor* for the works.  (5) Project Stage is each and any of the following P23 design, construction and handover stages   * Stage 1: Strategic outline Case * Stage 2: Outline business Case * Stage 3: Full Business Case * Stage 4: Construction * Stage 5: Handover” | | | |
| Z3 | Interpretation and the law – clause 12  12.1 Delete clause 12.1 and replace with;  "In this contract, except where the context shows otherwise   * words in the singular also mean in the plural and the other way round, * references to a document include any revision made to it in accordance with this 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 and * references to a standard include any current relevant standard that replaces it."   12.4 after “contract” insert this “and the P23 FA”. | | | |
| Z4(BP) | Corrupt Acts – clause 18  Insert new clause 18.4:  “18.4.1 The *Contractor* represents and warrants that neither it, nor to the best of its knowledge any of its people, have at any time prior to the Contract Date:   * committed a Corrupt Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Corrupt Act or * been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Corrupt Act.” | | | |
| Z5 | Prevention – clause 19  **Insert** in clause 19.1 before the words “the *Project Manager*” the words “the Contractor and the *Project Manager* comply with clause 15 following which”. | | | |
| Z6 | The *Contractor’s* design – clause 21  Insert new clauses 21.4,  “21.4 The *Contractor* accepts entire responsibility for the design contained within the Scope for the *Contractor’s* design and for any mistake, inaccuracy, discrepancy or omission contained in the same. Nothing contained in the Scope for the *Contractor’s* design shall affect in any way the obligations of the *Contractor* under the contract.    21.5 Where there is an ambiguity or inconsistency in the *Contractor's* design accepted by the *Project Manager* or between the *Contractor's* design and the Scope, the *Contractor* provides the *Project Manager* with proposals to remove the same which are acceptable to the *Project Manager* acting reasonably. Such acceptance shall not be treated as an instruction changing the Scope.  21.6 In the event of any discrepancies being discovered in the documents comprising the contract, the *Contractor* shall at once notify the *Project Manager* in writing. If amendments to the design or methods of work are required as a result of discrepancies in the documents, such amendments shall not be regarded as a compensation event. The *Contractor* shall pay all fees and costs in connection therewith." | | | |
| Z7(BP) | Intellectual Property Rights – clause 22  Delete clause 22 in its entirety and replace with the following:    In this clause 22 only:  **“Document”** means all designs, drawings, specifications, software, electronic data, photographs, plans, surveys, reports, and all other documents and/or information prepared by or on behalf of the *Contractor* in relation to this contract.  22.1 The Intellectual Property Rights in all Documents prepared by or on behalf of the *Contractor* in relation to this contract and the work executed from them remains the property of the *Contractor*. The *Contractor* hereby grants to the *Client* an irrevocable, royalty free, non-exclusive licence to use and reproduce the Documents for any and all purposes connected with the construction, use, alterations or demolition of the *works*. Such licence entitles the *Client* to grant sub-licences to third parties in the same terms as this licence provided always that the *Contractor* shall not be liable to any licencee for any use of the Documents or the Intellectual Property Rights in the Documents for purposes other than those for which the same were originally prepared by or on behalf of the *Contractor*.  22.2 The *Clien*t may assign novate or otherwise transfer its rights and obligations under the licence granted pursuant to 22.1 to a Crown Body or to anybody (including any private sector body) which performs or carries on any functions and/or activities that previously had been performed and/or carried on by the *Client*.  22.3 In the event that the *Contractor* does not own the copyright or any Intellectual Property Rights in any Document the *Contractor* uses all reasonable endeavours to procure the right to grant such rights to the *Client* to use any such copyright or Intellectual Property Rights from any third party owner of the copyright or Intellectual Property Rights. In the event that the *Contractor* is unable to procure the right to grant to the *Client* in accordance with the foregoing the *Contractor* procures that the third party grants a direct licence to the *Client* on industry acceptable terms.    22.4 The *Contractor* waives any moral right to be identified as author of the Documents in accordance with section 77, Copyright Designs and Patents Acts 1988 and any right not to have the Documents subjected to derogatory treatment in accordance with section 8 of that Act as against the *Client* or any licensee or assignee of the *Client*.    22.5 In the event that any act unauthorised by the *Client* infringes a moral right of the *Contractor* in relation to the Documents the *Contractor* undertakes, if the *Client* so requests and at the *Client'*s expense, to institute proceedings for infringement of the moral rights.  22.6 The *Contractor* warrants to the *Client* that it has not granted and shall not (unless authorised by the *Client*) grant any rights to any third party to use or otherwise exploit the Documents.  22.7 The *Contractor* supplies copies of the Documents to the *Project Manager* and to the *Client*’s other contractors and consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related works.  22.8 After the termination or conclusion of the *Contractor*’s employment hereunder, the *Contractor* supplies the *Project Manager* with copies and/or computer discs of such of the Documents as the *Project Manager* may from time to time request and the *Client* pays the *Contractor*’s reasonable costs for producing such copies or discs.  22.9 In carrying out the *works* the *Contractor* does not infringe any Intellectual Property Rights of any third party. The *Contractor* indemnifies the *Client* against claims, proceedings compensation and costs arising from an infringement or alleged infringement of the Intellectual Property Rights of any third party. | | | |
| Z8 | Subcontracting – clause 26  Clause 26.3 addition  At the second set of bullet points after co-operation delete ‘.’ (full stop) and  Add third bullet point   * they do not comply with any requirements set out in the Scope. | | | |
| Z9 | Assignment – clause 28  Add additional clauses:  “28.2 The *Client* may assign the benefit or any of its rights under this contract to another Client (as defined in the P23 FA) body without the *Contractor's* consent and may assign the benefit or any of its rights otherwise with the *Contractor's* consent.  28.3 The *Contractor* may not assign the benefit of the contract nor any of its rights under it without the *Client's* consent.  28.4 Where this clause requires consent to assignment, a Party does not assign without such consent.  28.5 A Party notifies the other Party within seven days when it has assigned the benefit or any of its rights under the contract.” | | | |
| Z10 | Take over - clause 35  35.2  In the first bullet point of clause 35.2 add the words "described in or" before the word "for"” | | | |
| Z11 | Payment - clause 51  51.1 Third sentence, after “change in the amount due since the last payment assessment” add “provided always that the change in the amount due shall not exceed the cash flow forecast for the relevant stage of the works.” | | | |
| Z12 | Insert new clause 51A  51A         VAT  51A.1        In this clause ‎51A, the following definitions shall apply:  51A.1.1     **HMRC** means HM Revenue & Customs;  51A.1.2     **Order** means the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019 (SI 2019 No. 892);  51A.1.3     **Reverse Charge** means, in relation to a supply, that under section 55A(6) of the Value Added Tax Act 1994 it is for the recipient, on the supplier's behalf, to account for and pay VAT on the supply and not for the supplier; and  51A.1.4     **Supply** means a supply made for VAT purposes under or in connection with this contract by the *Contractor* and Supplies shall be construed accordingly.  51A.2        The Parties agree and confirm that the procedure for the payment of VAT (if any) by either Party to the other shall be governed entirely and exclusively by the provisions of this clause 51A notwithstanding any other provision of this contract.  51A.3        Any consideration (whether monetary consideration or non-monetary consideration) paid or provided under or in connection with this contract is to be treated as exclusive of any VAT.  If the person making the supply (or the representative member of the VAT group of which it is a member) is required to account for VAT on any supply, the recipient of the supply shall pay (in addition to paying or providing any other consideration) an amount equal to the amount of that VAT upon the later of:  51A.3.1     the time for payment or provision of the consideration; and  51A.3.2     the receipt by the recipient of the supply of a VAT invoice in respect of that VAT.  51A.4        The *Client* confirms that the requirements specified in article (8)(1)(b) of the Order will be satisfied in respect of any Supply and the Parties consider that the Reverse Charge will not apply to the Supplies so that it is for the *Contractor* to account for and pay VAT to HMRC.  51A.5        Where the *Contractor* has accounted for VAT on Supplies (on the understanding that the Reverse Charge did not apply) but HMRC notifies the *Client* in writing that:  51A.5.1     the Reverse Charge did apply in respect of those Supplies, and  51A.5.2     notwithstanding that the *Contractor* has accounted for VAT to HMRC in respect of those Supplies, the *Client* has to account for VAT under the Reverse Charge on those Supplies, the *Contractor* shall, within two days of receipt of a copy of such notice, issue a credit note to the *Client* in respect of those Supplies and at the same time pay to the *Client* the amount of VAT included in such credit note. | | | |
| Z13(BP) | Fair payment – clause 56  Insert a new clause:  56.1 The *Contractor* assesses the amount due to a Subcontractor without taking into account the amount certified by the *Project Manager*.  56.2 The *Contractor* includes in the contract with each Subcontractor   * a period for payment of the amount due to the Subcontractor not greater than 5 days after the final date for payment in this contract. The amount due includes, but is not limited to, payment for work which the Subcontractor has completed from the previous assessment date up to the current assessment date in this contract, * a provision requiring the Subcontractor to include in each sub-subcontract the same requirement (including this requirement to flow down, except that the period for payment is to be not greater than 9 days after the final date for payment in this contract and * a provision requiring the Subcontractor to assess the amount due to a sub-subcontractor without taking into account the amount paid by the *Contractor.* | | | |
| Z14(BP) | Prompt Payment - clause 57  Insert a new clause  57.1 Where the *Contractor* submits an application for payment (including an electronic invoice) to the *Project Manager* in accordance with clause 50, the *Project Manager* will assess that application for payment in accordance with clause 51.  57.2 The *Client* shall pay the *Contractor* any sums due under such an application for payment no later than the final date for payment. If the application for payment is in the format of an electronic invoice it must comply with the standard on electronic invoicing. For these purposes “electronic invoice” means an invoice which has been issued transmitted and received in a structured electronic format which allows for its automatic and electronic processing. An electronic invoice complies with the standard on electronic invoicing where it complies with the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.  57.3 Where the *Project Manager* fails to comply with clause 57.1 and there is an undue delay in assessing the application for payment, the application for payment shall be regarded as valid and undisputed for the purposes of clause 57.2 14 days after the due date for payment or such different period for payment if stated in the Contract Data.  57.4 Where the *Contractor* enters into a Sub-Contract, the *Contractor* shall include in that Sub-Contract:   * provisions having the same effect as clauses 57.1 to 57.3 of this contract; and * a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 57.1 to 57.3 of this contact. * in this clause 57, "Sub-Contract" means a contract between two or more suppliers, at any stage of remoteness from the Client in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this contract. | | | |
| Z15 | Notifying compensation events - clause 61  Clause 61.3; second paragraph delete the word "eight" and replace with "four". | | | |
| Z16 | Assessing compensation events - clause 63  63.6: insert the words "including any cost paid by the *Contractor* to Others in respect of a *Client* liability". | | | |
| Z17 | The *Client’s* title to Plant and Materials - clause 70  Delete clause 70 and replace with the following:  "70 *Client's* title to Plant and Materials  70.1 The value of Plant and Materials outside the Working Areas is excluded from the Price for Work Done to Date unless:   * the Plant and Materials is within the United Kingdom, * the *Contractor* demonstrates to the satisfaction of the *Project Manager* that the *Contractor* has unencumbered title to the Plant and Materials, * the Plant and Materials is stored separately and is clearly and visibly marked as for the *Client* and this contract, * the Plant and Materials is adequately protected against water, theft, vandalism and other casualties, * the Plant and Materials is insured against loss or damage while stored or in transit to the Working Areas for its full reinstatement value under a policy of insurance protecting the interests of the Parties in respect of the usual insured risks for the period until it is brought within the Working Areas and * the *Contractor* has provided an off site materials bond for the value of the Plant and Materials.   70.2 The off site materials bond is issued by a bank or insurer which the *Project Manager* has accepted. A reason for not accepting the proposed bank or insurer is that its commercial position is not strong enough to carry the bond. The bond is in the form set out in the Scope.  70.3 Where the value of Plant and Materials outside the Working Areas is included in the Price for Work Done to Date   * the *Contractor's* title in the Plant and Materials passes to the *Client*, * the *Contractor* does not remove it from where it is stored except for use on the works and * the risk of loss or damage to the Plant and Materials remains with the *Contractor*.   70.4 The value of Plant and Materials within the Working Areas is excluded from the Price for Work Done to Date unless   * title in the Plant and Materials has already passed to the *Client* under clause 70.3 or * the *Contractor* demonstrates to the satisfaction of the Project Manager that the *Contractor* has unencumbered title in the Plant and Materials.   70.5 The *Contractor's* title in Plant and Materials passes to the *Client* when it is brought within the Working Areas, but (subject to clause 80.1) the risk of loss or damage to the Plant and Materials remains with the *Contractor*.  70.6 The *Contractor* does not remove Plant and Materials within the Working Areas from where it is stored except for use on the works or with the Project Manager's permission.  70.7 The title to Plant and Materials passes back to the *Contractor* if it is removed from the Working Areas with the Project Manager's permission." | | | |
| Z18 | *Contractor’s* liabilities - clause 81  Insert new clause 81.2:  "Until the Defects Certificate has been issued and unless otherwise instructed by the *Project Manager*, the *Contractor* promptly replaces loss of and repairs damage to the works, Plant and Materials." | | | |
| Z19 | Recovery of costs - clause 82  82.1: replace existing wording with the following:  "The *Contractor* indemnifies the *Client* against claims, proceedings, compensation and costs for an event for which the *Contractor* is liable." | | | |
| Z20 | Recovery of costs - clause 82  Clause 82.2: insert the words "to Others" after the word "paid" in the first line of the clause. | | | |
| Z21 | Termination - clause 90  Clause 90.2  **Addition to Termination Table** | | | |
| Terminating Party | Reason | Procedure | Amount due |
| The *Client* | R22, R23, R24,R25 | P1, P2 and P5 | A1 (excluding principal bullet point 3) and A2 |
| Clause 90.2  Delete “and A4” from the amount due to the *Contractor* on termination for reasons R1-R10, R16 and R19. | | | |
| Z22 | Reasons for termination - clause 91  Amendment to clause 91.7:  Second bullet point: Insert “(R21)” after “thirteen weeks”  Delete remainder of clause from “and which” to the end.  Add new clauses:  “91.9 The *Client* may terminate prior to the access date if any Business Case which has not been accepted is unacceptable or if the Target Price is not agreed within the Affordability Amount (R23).  91.10 The *Client* may terminate if the *Contractor* is found to be in contravention of any statutory obligation (R24).  91.11 The *Client* may terminate where the Contractor commits an act which would entitle the Authority to terminate the P23 FA (R25).” | | | |
| Z23 | Procedures on termination - clause 92    Addition to clause 92.2  P5 The *Contractor* hands over to the *Project Manager* all hard copy and electronic data for the *Contractor’s* design including material prepared by a Subcontractor, the Scope for the *Contractor’s* design and Site Information obtained so far as prepared at termination. | | | |
| Z24 | Payment on termination - clause 93  Delete clause 93.2 A4 | | | |
| Z25 | Insert new clause 94  “Reinvestment of forecast balance share of Target  Where the *Client* wishes to expend any share forecast to remain at Completion on the *Project Manager’s* calculation of *Contractor’s* share the following applies:   * Amounts remaining after forecast calculation of the Contractor’s share may be reinvested in the Project by compensation event procedures. * The amount reinvested is not added to the Target. * The *Project Manager’s* assessments of the *Contractor’s* share (clauses 54) disregards such reinvested amounts from the Price for Work Done to Date.” | | | |
| Z26 | Insert new clause 95  “Incorporation of specific terms of the P23 FA  “The *Contractor* shall comply with such obligations set out in the P23 FA and its schedules (and any supporting documents referred to therein) which expressly or impliedly confer a benefit on the Client or require performance by the *Contractor* as if the *Client* was named in place of the Authority wherever referred to in those clauses (including without prejudice to the generality of the foregoing clauses 1.7, 2.1.3, 4.4, 4.7.3, 6, 7, 8 and 9 and Schedules 2, 3, 5, 6, 7, [14] and 18. The *Contractor* acknowledges it owes the same obligations to the *Client* pursuant to those clauses as it owes to the Authority under the P23 FA.” | | | |
| Z27 | Changes in the law – Option X2  Amendment to clause X2.1:  In the second line after the word “Contract Date” insert:  “and provided that the *Contractor* could not have reasonably foreseen such a change in law at the Contract Date or had notice of such before the Contract Date.” | | | |
| Z28 | Limitation of liability - Option X18  X18.5  In the eighth line delete “and” from the end of the sentence.  In the ninth line, after “share” insert “and”  After the final bullet point insert the following new bullet points:   * claims and proceedings from Others and compensation and costs payable to Others which arise from or in connection with the *Contractor* Providing the Works, * insurable amounts, * the *Contractor’s* liability in the event of any fraud, wilful misconduct, gross negligence, abandonment, corruption or criminal conduct on the part of the *Contractor,* * the *Contractor’s* liability in the event of any breach of the Framework Information, * the *Contractor’s* liability under clause 22.9, * direct termination losses due to reasons R22-R25. | | | |

### Schedule of Cost components (amendments from the NEC4 SCC wording are identified in bold)

|  |  |
| --- | --- |
| An amount is included   * only in one cost component * only if it is incurred in order to Provide the Works and * **only if it is not an amount to be included in the Fee under P23 Framework Pricing** | |
| **People 1** | The following components of the cost of   * the cost of people who are directly employed by the *Contractor* and whose normal place of working is within the Working Areas * the cost of people who are directly employed by the *Contractor* and whose normal place of working is not within the Working Areas but who are working in the Working Areas, proportionate to the time they spend working in the Working Areas **but who’s costs are not included in the Fee** and * **roles identified in P23 Framework Pricing are charged as per P23 Framework Pricing or any reduced rate tendered during the Call off procedure** |
| 11 | Wages, salaries and amounts paid by the *Contractor* for people paid according to the time worked on the contract. |
| 12 | Payments **(proportionate to the time spent on the Project where annualised payments are made)** related to work on the contract and made to people for   1. bonuses and incentives 2. overtime 3. working in special circumstances 4. special allowances 5. absence due to sickness **(limited to one week)** and holidays **consistent with company holiday and leave allowances and excluding extended periods of absence** 6. severance **related to work on this contract**. |
| 13 | Payments made in relation to people in accordance with their employment contract for   1. travel (**as section D076 of the Scope**) 2. subsistence and lodging (**as section D076 of the Scope**) 3. ~~relocation~~ **Deleted** 4. medical examinations 5. ~~passports and visas~~ **Deleted** 6. ~~travel insurance~~ **Deleted** 7. ~~items (a) to (f) for dependants~~ **Deleted** 8. ~~protective clothing~~ **Deleted and included within 25 - Payments for the purchase price of Equipment which is consumed.** 9. contributions, levies or taxes imposed by law 10. pensions and life assurance **(payments are limited to amounts paid by the *Contractor* for individuals proportionate to the time worked on the Project and exclude payments for pension scheme deficits, pension holidays etc.)** 11. death benefit 12. occupational accident benefits 13. medical aid and health insurance 14. a vehicle (**as section D076 of the Scope**) 15. safety training. |
| 14 | The following components of the cost of people who are not directly employed by the *Contractor* but the *Contractor* according to the time worked while they are within the Working Areas.  Amounts paid by the *Contractor*. |
| **Equipment 2** | The following components of the cost of Equipment which is used within the Working Areas **(including the cost of accommodation)** |
| 21 | Payments for the hire or rent of Equipment not owned by   * the *Contractor*, * the *Contractor’s* ultimate holding company or * by a company with the same ultimate holding company   at the hire or rental rate multiplied by the time for which the Equipment is required. |
| 22 | Payments for Equipment which is not listed in the Contract Data but is   * owned by the *Contractor*, * purchased by the *Contractor* under a hire purchase or lease agreement, or * hired by the *Contractor* from the *Contractor's* ultimate holding company or from a company with the same ultimate holding company   at open market rates, multiplied by the time for which the Equipment is required. |
| 23 | Payments for Equipment purchased for work included in this contract listed with a time-related on cost charge, in the Contract Data, of   * the change in value over the period for which the Equipment is required and * the time-related on cost charge stated in the Contract Data for the period for which the Equipment is required.   The change in value is the difference between the purchase price and either the sale price or the open market sale price at the end of the period for which the Equipment is required. Interim payments of the change in value are made at each assessment date. A final payment is made in the next assessment after the change in value has been determined.  If the *Project Manager* agrees, an additional item of Equipment may be assessed as if it had been listed in the Contract Data. |
| 24 | Payments for special Equipment listed in the Contract Data. These amounts are the rates stated in the Contract Data multiplied by the time for which the Equipment is required.  If the *Project Manager* agrees, an additional item of special Equipment maybe assessed as if it had been listed in the Contract Data. |
| 25 | Payments for the purchase price of Equipment **(including People 13 (h) protective clothing)** which is consumed. |
| 26 | Unless included in the hire or rental rates, payments for   * transporting Equipment to and from the Working Areas other than for repair and maintenance, * erecting and dismantling Equipment and * constructing, fabricating or modifying Equipment as a result of a compensation event. |
| 27 | Payments for purchase of materials used to construct or fabricate Equipment. |
| 28 | Unless included in the hire rates, the cost of operatives is included in the cost of people. |
| **Plant and Equipment 3** | The following components of the cost of Plant and Materials |
| 31 | Payments for   * purchasing Plant and Materials, * delivery to and removal from the Working Areas, * providing and removing packaging and * samples and tests |
| 32 | Cost is credited with payments received for disposal of Plant and Materials unless the cost is disallowed. |
| **Subcontractors 4** | The following components of the cost of Subcontractors |
| **41** | Payments to Subcontractors for work which is subcontracted without taking into account any amounts paid to or retained from Subcontractor by the *Contractor*, which would result in the *Client* paying or retaining the amount twice. |
| **Charges 5** | The following components of the cost of charges paid or received by the *Contractor.* |
| 51 | Payments for provision and use in the Working Areas of   * water, * gas, * electricity, * telephone **(excluding mobile phones)** and * internet. |
| 52 | Payments to public authorities and other properly constituted authorities of charges which they are authorised to make in respect of the works. |
| 53 | Payments for   1. cancellation charges arising from a compensation event 2. ~~buying or leasing land or building within the Working Area~~ **Deleted** 3. ~~compensation for loss of crops or buildings~~ **Deleted** 4. royalties 5. inspection certificates 6. charges for access to the Working Areas 7. facilities for visits to the Working Areas by Others 8. consumables and equipment provided by the *Contractor* for the *Project Manager's* and *Supervisor's* use |
| 54 | Payment’s made and received by the *Contractor* for the removal from Site and disposal or sale of materials from excavation and demolition. |
| **Manufacture and fabrication 6** | The following components of the cost of manufacture and fabrication of Plant and Materials by the *Contractor* which are   * wholly or partly designed specifically for the works and * manufactured or fabricated outside the Working Areas. |
| 61 | Amounts calculated by multiplying each of the rates for people in the Contract Data by the total time appropriate to that rate spent on manufacturing and fabrication of Plant and Materials outside the Working Areas. |
| **Design 7** | The following components of the cost of design of the *works* and Equipment done outside the Working Areas. |
| 71 | Amounts calculated by multiplying each of the rates for people in the Contract Data by the total time appropriate to that rate spent on design of the works and Equipment outside the Working Areas. |
| 72 | The cost of travel to and from the Working Areas as **section D076 of the Scope (excluding home to normal base office travel)** for the categories of design people listed in the Contract Data. |
| **Insurance 8** | The following are deducted from cost   * the cost of events for which this contract requires the *Contractor* to insure and * other costs paid to the *Contractor* by insurers. |

## AA02.03 Contract Data Part Two: Data Provided by the *Contractor*

### 02.03 Guidance note

1. Contract data part one is reviewed, updated and agreed between the *Client’s* *Project Manager* and *PSCP* prior to commencement of each Project Stage and issued with the PSCP stage proposal. Some parts can be left blank in preconstruction where the information is yet to be defined or is not relevant to the stage.

### 1 General

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| The *Contractor* is | | | | |
| Name | |  | | |
| Address for communications | |  | | |
| Address for electronic communications | |  | | |
| The *Client* stated Project Cost Schedule price band value is | | | | £ |
| The *fee percentage* is | | | | % |
| The *working areas* are | | | |  |
| The *key persons* are | | | | Listed in Appendix XX |
| The aftercare Manager is | | | | |
| Name | Address | | Day and out of hours contact nr. | |
|  |  | |  | |
| The following matters will be included in the Early Warning Register | | | | |
|  | | | | |

### 2 The *Contractor’s* main responsibilities

|  |  |
| --- | --- |
| **The *Contractor* is to provide Scope for his design**  The Scope for the *Contractor’s* design is in |  |

### 3 Time

|  |  |
| --- | --- |
| **If a programme is to be identified in the Contract Data**  The programme identified in the Contract Data is |  |
| **If the *Contractor* is to decide the completion date for the whole of the works**  The completion date for the whole of the works is |  |

### 5 Payment

|  |  |
| --- | --- |
| The activity schedule is |  |
| The submitted Target Price for the Project in the Stage proposal is |  |

### Option W2 is used

|  |  |
| --- | --- |
| The Senior Representatives of the *Contractor* are | |
| Name (1) |  |
| Address for communications |  |
| Address for electronic communications |  |
| Name (2) |  |
| Address for communications |  |
| Address for electronic communications |  |

### X10: Information modelling – delete if not used

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

### Y(UK)1: Project Bank Account – delete if not used

|  |  |
| --- | --- |
| The *project bank* is |  |
| *named suppliers* are |  |

### Data for the Schedule of Cost Components Guidance: Refer to appendices if required)

|  |  |  |  |
| --- | --- | --- | --- |
| The listed items of Equipment purchased for work on this contract, with an on cost charge, are | | | |
| Project Stage | Equipment | Time related charge | Per time period |
|  |  |  |  |
|  |  |  |  |
| The rates for special equipment are | | | |
| Project Stage | Equipment | Time related charge | Per time period |
|  |  |  |  |
|  |  |  |  |
| The rates for Defined Cost of manufacture and fabrication outside the Working Areas by the *Contractor* are | | | |
| Included in Appendix | |  | |
| The hourly rates for Defined Cost of design outside the Working Areas are | | | |
| Included in Appendix | |  | |
| The categories of design people whose travelling expenses to and from the Working Areas are included as a cost of design of the *works* and Equipment done outside the Working Areas are | | | |
|  | | | |

### Other data to be provided by the *Contractor*

|  |  |
| --- | --- |
| Insurance policies   * The *Contractor* submits certificates for the insurances which he is to provide (85.1) | |
| List certificates attached | |
| * The *Contractor* states the amount of deductibles (excess) applicable to each insurance policy he provides | |
| Policy | Excess |
| loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) due to activity in connection with this contract | £ |
| death or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract | £ |
| (CAR) in respect of loss or damage to the works in connection with this contract | £ |
| professional indemnity insurance for design liability in connection with this contract | £ |
| all other insurances required by the law amount | £ |

## AA02.04 Priced Resource Activity Schedule

1. PRAS should be provided in an Excel format

## AA02.05 Activity Schedule

1. The *Contractor* activity schedule

## AA02.06 Project programme

1. The project programme should be prepared in accordance with the Scope.

## AA02.07 Project Cash Flow

1. The project cash flow should be prepared in accordance with section D060 of the Scope.

## AA02.08 Project Procurement Strategy

1. The project procurement strategy should be prepared in accordance with section E1400 of the Scope.