

TERM SERVICE

DELIVERY AGREEMENT

(NEC PROFESSIONAL SERVICES CONTRACT)

This is a Service Delivery Agreement as defined in the Framework Agreement made between Scape Procure Limited (1) and Perfect Circle JV Ltd (2) dated 29th January 2021 (the 'Agreement'). Except where the context otherwise requires, all terms defined in the Framework Agreement shall have the same meaning in this Service Delivery Agreement.

THIS AGREEMENT is made on 14/6/2022

BETWEEN

1. the Client	Defence Infrastructure Organisation	2. the Consultant	Perfect Circle JV Ltd
of		whose registered office is	
Address for		Address for	
communications		communications	
DMS Whittington		Charles Street	
Lichfield		Leicester	
Staffordshire WS14 9PY		LE1 1HA	
DIO, St George's House		Halford House	
Telephone	REDACTED	Telephone	REDACTED
Address for			
electronic			
REDACTED	@mod.gov.uk	REDACTED	@aecom.com

FOR THE

SERVICES OF Critical Infrastructure Asset Services FY 22/23

Commission Name - Critical Infrastructure Asset Services FY 2022/2023 Commission No. 4274

## Introduction

### NEC3 Professional Services Contract – Option G

This Delivery Agreement incorporates the NEC 3rd edition Professional Services Contract April 2013 (the NEC3 Professional Services Contract).

Any subsequent amendments to the NEC3 Professional Services Contract shall apply to this Model Delivery Agreement, if agreed in writing by Scape and the Partner, but shall only be incorporated into Delivery Agreements executed after such amendments are published and their inclusion has been agreed accordingly with Scape.

The following rules apply to the incorporation of clauses into a Delivery Agreement:

- a) The contract clauses are varied by the incorporation of option clauses, or a Z clause.
- b) The Client has sole discretion to the choice of Contract Option and Secondary options as noted above
- c) The Client shall act as the Employer in this contract
- d) The 'Client Proposed Appointment Charge' from the Framework Commercial Model is shown as the 'Employer Proposed Appointment Charge' in this agreement
- e) The task schedule must include the appropriate components of the Framework Commercial Model uplifted in accordance with the Framework Agreement, e.g. using the Uplift Percentage appropriate to the forecast value of the Delivery Agreement
- f) staff rates must include the appropriate rates for the Service drawn from the Framework Commercial Model and uplifted in accordance with the Framework Agreement e.g. for regional adjustment factor appropriate to the location of services delivered under the Contract and the Uplift Percentage appropriate to the forecast value of the Delivery Agreement

Whereas:

This Delivery Agreement is made pursuant to the Framework Agreement dated 29th January 2021 made between Scape Procure Limited and the Perfect Circle JV Ltd (the 'Framework Agreement') and incorporates those provisions of the Model Delivery Agreement set out in the Framework Agreement.

When using this Delivery Agreement, the Partner and Client (as stated in the Framework Agreement) are the parties named as 'Consultant' and 'Employer' respectively.

IT IS AGREED as follows:

#### 1. The Consultant's Obligations

The Consultant provides the services and complies with his obligations, acting as the Consultant in accordance with the conditions of contract set out in the Contract Data herein.

#### 2. The Employer's Obligations

The Employer pays the amount of money and complies with its obligations in accordance with the conditions.

## Contract Data and Service Information

### Information provided by the Parties

The following details the Contract Data and associated Scope / Service information which is provided by the parties for this Delivery Agreement and Appended for execution.

The Main Contract Data must be completed in full and uploaded using ONLY the standard template provided by Scape'

### Main Contract Data:

General Project Information,

Clauses Applicable to Main Options and Secondary options where applicable,

Data Pertaining to Optional (X) Clauses,

Y Clauses and Z Clauses where applicable.

Contract Data Provided by the Client:

Contract Data Provided by the Consultant:

Additional Contract Data provided by the parties.

One or more files may be attached in each section of the table below.

Please itemise and upload in the order you wish documents to be appended.

Ref	Item Description	Attach
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001	Service Request Proposal	
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Continues

Contract Data and Service Information

Additional Contract Data provided by the parties.

One or more files may be attached in each section of the table below.

Please itemise and upload in the order you wish documents to be appended.

Ref	Item Description	Attach
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The execution details for the Client below are an example intended for use with DocuSign and may be amended by the Client to suit their normal practice, if required. If the Client chooses to sign the Agreement on paper, only this page should be returned by upload using the DocuSign Print and Sign function]

Executed as a simple contract (under hand) for and on behalf of )

) Defence Infrastructure Organisation

by )

signature - REDACTED

14/6/2022

.....

Authorised Signatory

REDACTED

.....

Full name

Senior Commercial Officer

.....

Position/title

X Executed as a simple contract (under hand) for and on behalf of )

Perfect Circle JV Ltd )

by )

Signature - REDACTED

31/5/2022

.....

OR

Authorised Signatory

Executed as a simple contract (under hand) by  
as attorney for

REDACTED

.....

Perfect Circle JV Ltd

Full name

under a power of attorney

Director

dated

.....

Position/title

## Main Contract Data

Contract Data: Part One – Data provided by the Employer

### 1. General

The conditions of contract are (as each has been amended by Option Z) the core clauses and the clauses for main

Option G, dispute resolution Option W2 and secondary Options X1, X2, , X9, , X11, X18, , Y(UK)2, Y(UK)3 of the NEC3

Professional Services Contract April 2013.

. The Employer is

Name: The Secretary of State for Defence [Acting as part of the Crown]

Address: DIO, St George's House

DMS Whittington

Lichfield

Staffordshire

WS14 9PY

Telephone: **REDACTED**

E-mail address: **REDACTED** @mod.gov.uk

. The Adjudicator is

Name: Not named

Address: N/A

Telephone: N/A

E-mail address: N/A

. The services are Critical Infrastructure Asset Services FY 22/23

. The Scope is in the Service Request Form annexed to this contract

. The language of this contract is English

. The law of the contract is the law of England and Wales

. The period for reply is 2 weeks

. The period for retention is 6 years following Completion or earlier termination

. The Adjudicator nominating body is the Royal Institution of Chartered Surveyors

. The tribunal is the Courts

. The following matters will be included in the Risk Register;

o To be agreed at Task Order level

Optional clause 13.9 – electronic communication does apply<sup>1</sup>.

<sup>1</sup> See additional conditions of contract below.

### 2. The Parties' main responsibilities

. The Employer provides access to the following persons, places and things

access to	access date
MOD Establishments relating to Task Order	Receipt of Task Order
MOD Reports & Records relating to Task Order	Receipt of Task Order
Access to MODNet	Receipt of Task Order
Access to enabling works/support at MOD Establishments relating to Task Order	Receipt of Task Order

### 3. Time

. The starting date is 01 April 2022

. The Consultant submits revised programmes at intervals no longer than monthly, unless there are no changes to the latest submitted programme.

### 4. Quality

. The quality policy statement and quality plan are provided within 2 weeks of the Contract Date.

. The defects date is 52 weeks after Completion of the whole of the services.

### 5. Payment

. The assessment interval is monthly

. The currency of the contract is the pound sterling

. The interest rate is 3% per annum above the base rate in force from time to time of the Bank of England.

### 6. Indemnity, insurance and liability

. The amounts of insurance and the periods for which the Consultant maintains insurance are

event	cover	period following Completion of the whole of the services or earlier termination
Liability of the Consultant for claims made against him arising out of his failure to use skill and care required by this contract.	£5,000,000* in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, save that there may be lower and/or annual aggregate limits of cover in respect of pollution and contamination related claims and similar where such limited cover is the norm	6 years

death or bodily injury to a person (not an employee of the Consultant) or loss of or damage to property resulting from an action or failure to take action by the Consultant	£10,000,000* in respect of each claim, without limit to the number of claims	6 years
death or bodily injury to employees of the Consultant arising out of and in the course of their employment in connection with this contract	The greater of the amount required by law and £10,000,000 in respect of each claim, without limit to the number of claims	6 years

\* to be agreed with the Employer on a commission specific basis

. The Employer provides the following insurances

. Insurance for all existing buildings and property existing within the Site or at the sole discretion of the Employer he may elect to 'self-insure' such existing buildings and property and in doing so accepts all of the Employer's associated risks arising out of or in relation to such 'self-insurance'. In accordance with an Employer's decision to 'self-insure' they do not accept any additional insurance premium/cost from the Consultant. The Consultant is to assume the Employer insures or "self-insures" as set out above and if this is not the case the Consultant will have the opportunity to price for providing these insurances.

. The Consultant's total liability to the Employer for all matters arising under or in connection with this contract, other than the excluded matters is limited to £5,000,000.00 in the aggregate.

Within the total liability limit identified above, the Consultant's liability to the Client for the provision of the following low risk, low value Services arising under or in connection with this contract is limited to:

N/A at Service Request stage.

| The amount and basis of professional indemnity  
| insurance provided by the Subconsultant(s)

and such other low risk, low value Services that |  
are instructed by the Client as Compensation |  
Events



Optional statements (The following optional clauses apply)

If the Employer has decided the completion date for the whole of the services

. The completion date for the whole of the services is 31 December 2022

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

. The Consultant is to submit a first programme for acceptance within 4 weeks of the Contract Date.

If the Employer has identified work which is to meet a stated condition by a key date

. The key dates and conditions to be met are None

condition to be met

key date

1. N/A

2. N/A

3. N/A

If Y(UK)2 is used and the final date for payment is not 14 days after the date when payment is due

The period for payment is **14** days i.e.

The total period for payment after receipt of invoice is 21 days<sup>2</sup>

If the Employer states any expenses

. The expenses stated by the Employer are

Item

amount

None unless stated in individual Task Orders

If Option G is used

. The Consultant prepares forecasts of the total Time Charge and expenses at intervals no longer than 4 weeks.

~~. The exchange rates are those published in [to be agreed on a commission specific basis] on .....  
(date)~~

If Option X1 is used

. The People's Rates will be adjusted in accordance with the indexation provisions of the Framework Agreement

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<sup>2</sup> Perfect Circle are commitment to pay its Supply Chain within 19 days. As a consequence, the Employer ought to pay Perfect Circle within the 21 days stated in the Delivery Agreement and not amend the payment terms

If Option X2

. The law of the project is the law of England and Wales

If Option X8 is used

. The collateral warranty agreements are

agreement reference

third party

Not required

Not required

[The forms of the collateral warranty agreements are set out in the Framework Agreement]

If Option X18 is used

. The Consultant's liability to the Employer for indirect or consequential loss for all matters other than Cladding Claims is limited to

o £5,000,000\*

The Consultant's liability to the Employer for indirect or consequential loss or for any cost of decamping and rehousing in respect of Cladding Claim is excluded<sup>3</sup>.

o £5,000,000\*

. The Consultant's liability to the Employer for Defects that are not found until after the defects date is

o £5,000,000\*

. The end of liability date is 6 years after Completion of the whole of the services.

\* to be agreed with the Employer on a commission specific basis<sup>4</sup>

If Options Y(UK)<sup>3</sup> is used

. Term

person or organisation

None

None

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<sup>3</sup> The Consultant is not liable to the Employer for indirect or consequential loss or for any cost of decamping and rehousing in respect of Cladding Claims.

<sup>4</sup> It is essential to ensure that the caps under Option X18 match those provided by the Supply Chain, i.e. if necessary, reduced from £5 million to lower levels offered by Supply Chain. This must be agreed in advance with the Employer at Service Request stage.

Optional clause Z4.0 – Information Modelling does not apply

## Option Z: ADDITIONAL CONDITIONS OF CONTRACT

The additional conditions of contract are identified by the amendments, alterations, additions and deletions as contained herein apply and take priority over the standard form NEC Professional Services Contract Option G.

### Z1.0 Core Clause amendments

#### 1 General

##### 11.2 (2) Add further bullet point:

. 'provided or procured all Collateral Warranties which the Consultant is then obliged under this contract to provide or procure.'

##### 11.2(13) At the end of the sentence add:

'Appropriately spent excludes time;

. spent on activities included within the Commercial Inclusions Tables contained in the Pricing Procedures of the Framework Agreement,

. not justified by the Consultant's accounts and records,

. that should not have been paid to a Subconsultant or supplier in accordance with its contract,

. was incurred only because the Consultant did not

- follow an acceptance or procurement procedure stated in the Scope,

- give an early warning which the contract required it to give or

- give notification to the Employer of the preparation for and conduct of an adjudication or proceedings of a tribunal between the Consultant and a Subcontractor or supplier,

and the cost of

. activities included under the Employer Proposed Appointment Charge of the Framework Agreement,

. correcting Defects after Completion,

. correcting Defects caused by the Consultant not complying with a constraint on how it is to Provide the Service stated in the Scope,

. for staff not used to Provide the Service (after allowing for reasonable availability and utilisation), and

. preparation for and conduct of an adjudication or proceedings of the tribunal between the Parties.'

##### 11.2(20) Delete the second bullet point and replace with:

'the lump sum price in the Task Schedule for each other item. Where marked accordingly, these lump sum prices may be calculated from applying a stated 'Charge' percentage from the Task Schedule to a forecast or estimated construction project value to establish a single or series of lump sum prices.'

##### 11.2(26) Insert a new clause 11.2(6):

'Framework Agreement is the framework agreement between Scape Procure Limited and the Consultant dated 29th January 2021.'

11.2(27) Insert a new clause 11.2(27):

‘Framework Commercial Model as included in the Framework Agreement between Scape Procure Limited and the Consultant dated 29th January 2021.’

11.2 (28) Insert a new clause 11.2(28): ‘Data Protection Legislation means:

- i. the General Data Protection Regulation (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/68) and any applicable national implementing laws as amended from time to time;
- ii. the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and
- iii. all applicable law about the processing of personal data and privacy.’

11.2 (29) Insert a new clause 11.2(29):

‘Data Subject has the meaning given to it in the Data Protection Legislation.’

11.2 (30) Insert a new clause 11.2(30):

‘Personal Data has the meaning given to it in the Data Protection Legislation.’

11.2 (31) Insert a new clause 11.2(31):

‘Cladding Claim shall mean any claim in respect of:

The combustibility of any Aluminium Composite Panels (and associated core/filler and insulation) which failed the BRE testing programme on behalf of The Department for Communities and Local Government in July and August 2017 or fails BS8414 test set out in the current Building Regulations.’

12.4 Insert at the end:

‘provided that Clauses 23 (Convictions), 29 (Statutory Requirements), 30 (Competition Law, Corrupt Gifts and Payments), 31 (Modern Slavery), 33 (Confidentiality and Freedom of Information), 35 (Intellectual Property) and 37.11 (Miscellaneous: Whistle Blowing) of the Framework Agreement shall be deemed incorporated into this contract, mutatis mutandis, as if references to ‘Scape’ were to ‘the Employer and references to the ‘Agreement’ were to ‘the contract.’

12.5 Insert a new clause 12.5:

‘A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment of it.’

13.9 Insert a new clause 13.9:

‘The following communications shall be deemed to have no effect if made by electronic mail transmission:

- . any notification of a wish to terminate this contract or the employment of the Consultant under it;
  - . any notification by the Consultant of his intention to suspend performance of his obligations under this contract;
  - . any invoking by either party of the procedures applicable under this contract to the resolution of disputes or differences; and
  - . any agreement between the parties amending the provisions of this contract.’
- (Z clause 13.9 may be deleted at the Employers sole discretion)

14.1 Add after the final sentence:

‘Notwithstanding any other provision of this contract, the terms ‘acceptance’, ‘approval’ or similar when used in the context of any acceptance or approval to be given by or on behalf of the Employer has the meaning ‘acceptance of general principles only’ and no such acceptance or approval shall diminish or relieve the Consultant from any of the Consultant’s obligations or liabilities under this contract.’

19. Insert a new Clause 19:

#### Data Protection

‘Both Parties will comply with all applicable requirements of the Data Protection Legislation. These clauses are in addition to, and does not relieve, remove or replace, each Party’s obligations under the Data Protection Legislation. It is agreed that:

19.1. Without prejudice to the generality of clause 19.1, both Parties will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data to each other for the duration and purposes of this agreement.

19.2. Without prejudice to the generality of clause 19.1, the Consultant shall, in relation to any Personal Data processed in connection with the performance by the Consultant of its obligations under this agreement:

19.2.1. Process that Personal Data only on the written instructions of the Employer and only as required for the purpose of the performance of this agreement;

19.2.2. Ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Employer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

19.2.3. Ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

19.2.4. Not transfer any Personal Data outside of the European Economic Area;

19.2.5. Assist the Employer, at the Consultant’s cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

19.2.6. Notify the Employer without undue delay on becoming aware of a Personal Data breach;

19.2.7. At the written direction of the Employer, delete or return Personal Data and copies thereof to the Employer on termination of the agreement; and

19.2.8. Maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Employer or the Employer’s designated auditor.

19.3. The Employer does not consent to the Consultant appointing any third-party processor of Personal Data under this agreement.’

2 The Parties’ main responsibilities

21. Amend as follows:

21.2 Delete and replace with:

‘The Consultant’s obligation is to use (and warrant that it has used) all the reasonable skill, care and diligence normally used by competent and appropriately qualified professionals experienced in providing services similar to the service.’

21.5 Insert a new clause 21.5:

‘The Consultant checks the Scope provided by the Employer and satisfies itself that its own provision of the service, including any proposals, designs and Scope or specification documents for a subsequent construction contract meet the Employer’s Scope with no discrepancy. Where there is ambiguity, inconsistency or conflict between these documents the Employer’s Scope will prevail.’

21.6 Insert a new clause 21.6:

‘The Consultant performs the Service in accordance with relevant laws and regulations, statutory and other requirements (‘Laws’) and (to the extent that the Consultant can control the same) such that the product of the Service complies with all relevant Laws.’

24.5 Insert a new clause 24.5:

‘The Consultant, in relation to any subcontracting of any portion of the service:

- . Procures that the relevant subcontract contains such obligations as necessary to ensure that it is in all respects compatible with the terms of this contract and, without limitation, steps down the obligation to use the degree of skill, care and diligence specified in this contract and that requires collateral warranties in favour of the Employer to be provided in the forms specified in the Framework Agreement and with any amendments as permitted by the Framework Agreement;

- . Procures that all relevant subcontracts shall be executed and delivered as a deed;

- . Warrants each Subcontractor’s compliance with this contract’s Modern Slavery Act requirements;

- . Warrants that all Subcontractors are fully aware of their obligations under the CDM Regulations and are fully competent and are adequately resourced to meet those obligations; and

- . Provides to the Employer a certified copy of any subcontract (save for particulars of the cost of such subcontract service unless other provisions of this contract or the Framework Agreement oblige the Consultant to disclose them).

The Consultant does not appoint a subcontractor if there are compulsory grounds for excluding the subcontractor under regulation 57 of the Public Contracts Regulations 2015.’

24.6 Insert a new clause 24.6:

‘The Consultant includes in any subcontract awarded by him provisions requiring that:

- . payment due to the Subcontractor under the subcontract is made no later than 30 days after receipt of a valid and undisputed invoice unless the Framework Agreement required the Consultant to make earlier payment to the Subcontractor;

- . Invoices for payment submitted by the Subcontractor are considered and verified by the Consultant in a timely fashion;

- . Undue delay in considering and verifying invoices is not sufficient justification for falling to regard an invoice as valid and undisputed; and

- . Any contract awarded by the Subcontractor for work included in this contract includes provisions to the same effect as these provisions.’

26 Insert a new clause 26:

‘The Consultant shall enter a novation agreement in the form specified in the Framework Agreement with the Employer’s contractor within 14 days of being asked to do so in writing and shall, within 14 days of being provided with an engrossment, execute and return to the Employer the collateral warranty agreement in favour of the Employer, but with such amendments as the Consultant, Employer and Employer’s contractor may agree, such agreement not to be unreasonably withheld or delayed.’

5 Payment

50.3 Insert at the end of the second bullet point:

‘less expenses included in the Commercial Inclusions Tables from the Framework Agreement’s Pricing Procedures,’

51.6 Insert a new clause 51.6:

‘In addition to any other legal rights and remedies of the Employer, with the exception of when the Consultant is novated to a contractor under the conditions of contract, whenever any sum of money is recoverable from or payable by the Consultant under this contract that sum may be deducted from any sum then due, or which at any time thereafter becomes due to the Consultant under this contract provided that the Employer notifies the Consultant in writing not later than three days before the final date for payment of the amount to be paid and the basis on which it is calculated.’

6 Compensation events

63.10 At the end of the sentence add:

‘Rates for subconsultant staff are calculated by applying the Uplift Percentage to the subconsultant’s proposed rate. Unless the Employer otherwise agrees, proposed rates must not exceed the relevant regionally adjusted People Rates for the applicable role and seniority stated in the relevant table of the Framework Commercial Model. If the Employer and Consultant do not agree on the rate to be used, the Employer assesses the rate based on the staff rates. The agreed or assessed rate becomes the staff rate for that designation of person.’

63.19 Insert a new clause 63.19:

‘The Employer and Consultant may agree rates or lump sums to assess the change to Prices or Prices for new items in the Task price list. If the Employer and Consultant do not agree on the rate or lump sum to be used, the Employer assesses the rate or lump sum based on the staff rates.’

8 Indemnity insurance and liability

81.1 Amend the insurance table:

delete the words ‘and care normally used by professionals’ in the first insurance of the Insurance Table and replace with:

‘, care and diligence normally used by competent and appropriately qualified professionals experienced in’

83 Insert a new clause 83: Insurance policies

83.1 ‘Before the starting date and on each renewal of the insurance policy until the defects date, the Consultant submits to the Employer for acceptance certificates which state that the insurance required by the contract is in force. After the defects date and on each renewal of the insurance policy until the end of the periods stated in the Contract Data for which insurance is to be maintained, the Consultant submits to the Employer for acceptance certificates which state that insurance required by this contract is in force. The certificates are signed by the Consultant’s insurer or insurance broker. The Employer accepts the policies and certificates if the insurance complies with the contract and if the insurer’s commercial position is strong enough to carry the insured

liabilities. The Employer's acceptance of an insurance certificate provided by the Consultant does not change the responsibility of Consultant to provide the insurances stated in the Contract Data.

83.2 The Parties comply with the terms and conditions of the insurance policies which they are a Party.'

84        Insert a new clause 84:

If the Consultant does not insure

84.1 'The Employer may insure an event or liability which the contract requires the Consultant to insure if the Consultant does not submit a required certificate. The cost of this insurance to the Employer is paid by the Consultant.'

85        Insert a new Clause 85:

Insurance by the Employer

85.1 'The Employer submits certificates for insurance provided by the Employer to the Consultant for acceptance before the starting date and afterwards as the Consultant instructs. The Consultant accepts the certificates if the insurance complies with the contract and if the insurer's commercial position is strong enough to carry the insured liabilities.

85.2 The Consultant's acceptance of an insurance certificate provided by the Employer does not change the responsibility of Employer to provide the insurances stated in the Contract Data.

85.3 The Consultant may insure an event or liability which the contract requires the Employer to insure if the Employer does not submit a required certificate. The cost of this insurance to the Consultant is paid by the Employer.'

90.5            Insert a new clause 90.5:

The Public Contracts Regulations 2015

90.5 'The Employer may terminate the Consultant's obligation to Provide the Service if any of the provisions of regulation 73(1) of The Public Contracts Regulations 2015 apply.

The Employer may terminate the Consultant's obligation to Provide the Services if any of the provisions of paragraph 73(1) of The Public Contracts Regulations 2015 apply.

If the Employer terminates under the provisions of paragraph 73(1)(b) of the Public Contracts Regulations 2015 as a result of information not disclosed by the Consultant at the Contract Date, the procedures and amounts due on termination are the same as if the Consultant has substantially failed to comply with his obligations.

If the Employer otherwise terminates under the provisions of paragraph 73(1) of the Public Contracts Regulations 2015, the procedures and amounts due on termination are the same as if the Employer no longer requires the services.

90.6 The Consultant does not appoint a Subconsultant or supplier if there are compulsory grounds for excluding the Subconsultant or supplier under regulation 57 of the Public Contracts Regulations 2015.

90.7 The Consultant includes in any subcontract awarded by him provisions requiring that:

. payment due to the Subconsultant or supplier under the subcontract is made no later than 30 days after receipt of a valid and undisputed invoice, unless this contract requires the Consultant to make earlier payment to the Subconsultant or supplier;



. invoices for payment submitted by the Subconsultant or supplier are considered and verified by the Consultant in a timely fashion, undue delay in considering and verifying invoices is not sufficient justification for failing to regard an invoice as valid and undisputed; and . any contract awarded by the Subconsultant or supplier for work included in this contract includes provisions to the same effect as these provisions.'

## Z2.0 Secondary Option Clause amendments

None

## Z3.0 Statutory Clause amendments

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

Y2.2 delete clause and replace with the following:

The date on which a payment becomes due is the later of;

. the date of receipt by the Party making payment of an invoice, issued in accordance with these conditions of contract, and . fourteen days after the assessment date.

The date on which the final payment becomes due is the later of;

. the date of receipt by the Party making payment of an invoice, issued in accordance with these conditions of contract, and o if the Employer makes an assessment after the defects date or the date the last Defect is corrected, six weeks after the defects date or the date the last Defect is corrected, whichever is the later,

o if the Employer does not make an assessment after the defects date or the date the last Defect is corrected, two weeks after the Consultant issues its assessment, or

o if the Employer has issued a termination certificate, fifteen weeks after the issue of the certificate.

The final date for payment is seven days after the date on which payment becomes due, or a different period for payment if stated in the Contract Data.

The Employer's certificate is the notice of payment specifying the amount due at the payment due date (the notified sum, which may be zero) and stating the basis on which the amount was calculated. If the Employer does not make an assessment after the defects date or the date the last Defect is corrected, the Consultant's assessment is the notice of payment.

## Z5.0 DEFCON Conditions

Appendix 1 which includes DEFCON conditions shall be incorporated into this Delivery Agreement. To the extent the contents (including, but limited to the clauses, terms and conditions, obligations and liabilities) of Appendix 1 contradict any similar contents of this Delivery Agreement, then Appendix 1 shall prevail.

Please note, in Appendix 1, the "Authority" shall mean the "Client" and the "Contractor" shall mean the "Consultant" in accordance with the SCAPE Consultancy Framework terminology.

## Contract Data: Part Two – Data provided by the Consultant

Statements given in all contracts:

. The Consultant is

Name: Perfect Circle JV Ltd

Address: Halford House, Charles Street, Leicester, LE1 1HA

Telephone: 0345 045 0050

Mobile: REDACTED

E-mail address: REDACTED@aecom.com

. The key people are

Name	REDACTED
Job	Technical Director
Responsibilities	Client Care and overall responsibility for service delivery
Qualifications	DipBS, MBA, MIAM, MSP, FRICS
Experience	33 years' experience

Name	REDACTED
Job	Associate Director
Responsibilities	Asbestos and Legionella Compliance
Qualifications	PhD, BSc (Hons)
Experience	24 years' experience

The Lead Partner is AECOM Limited

. The staff rates are

category of person:	Hourly Rate** (£)
Project Management & Quantity Surveying	
Technical Director	REDACTED
Associates/Principal Consultant	REDACTED
Senior Consultant	REDACTED
Consultant	REDACTED
Senior Technician	REDACTED
Technician/Graduate	REDACTED

Commercial Surveying	
Technical Director	REDACTED
Associate/Principal Consultant	REDACTED
Senior Consultant	REDACTED
Consultant	REDACTED
Senior Technician	REDACTED
Technician/Graduate	REDACTED

Architectural Design, Mechanical Engineer,  
 Electrical Engineer, Structural Engineer &  
 Building Surveying  
 Technical Director  
 Associate/Principal Consultant  
 Senior Consultant  
 Consultant  
 Senior Technician  
 Technician/Graduate

REDACTED  
 REDACTED  
 REDACTED  
 REDACTED  
 REDACTED  
 REDACTED

\*\* Unless the Employer agrees otherwise, the staff hourly rates must not exceed the equivalent, annually adjusted 'People Rate with expenses' stated in the Framework Commercial Model. The People Rates will be adjusted annually on the anniversary of the Framework Agreement i.e., 5th January.

For the Non-Core service, Asset Management, the following rates will be used in line with the previous commission and as agreed with the Employer:

category of person:	Hourly Rate (£)
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Salaried Partner/Director	REDACTED
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Associate/Principal Consultant	REDACTED
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#### Optional Statements

If the Consultant states any expenses

The expenses stated by the Consultant are (Only include expenses and disbursements not listed in the Commercial Inclusions Table of the Framework Agreements Pricing Procedures)

Item***	amount
Mileage for round trips in excess of 50 miles from employee's place of work	Actuals incurred
Accommodation and air/train/ferry travel by prior agreement with DIO	Actuals incurred

\*\*\* No expenses are to be included for Prime Core or Core Services covered as defined in the Framework Agreement and included in the Charges and Uplift Percentages stated in the Framework Commercial Model.

If Option G is used

The task schedule is in the Service Request Form annexed to this contract

. The Employer Proposed Appointment Charge

to be used in the task schedule is £ [0.00 \*\*\*\*]

. The Uplift Percentage is REDACTED \*\*\*\* %

\*\*\*\* Must not exceed the rates stated in the Framework Commercial Model.

## Annex 1 – Service Request Form

## Appendix 1 – DEFCONS

The following DEFCONS are additional conditions of contract and take precedence over any other amendments to the conditions of contract. DEFCONS not listed below shall not be considered additional contract conditions by reference in the listed DEFCONS.

### DEFCONS

DEFCON 76 (Edn 06/21) - Contractor's Personnel at Government Establishments (7 pages)  
DEFCON 82 (Edn 06/21) - Special Procedures for Initial Spares (7 pages)  
DEFCON 501 (Edn 10/21) - Definitions and Interpretations (3 pages)  
DEFCON 513 (Edn 07/21) - Value Added Tax (2 pages)  
DEFCON 514 (Edn 08/15) - Material Breach (1 page)  
DEFCON 516 (Edn 04/12) - Equality (1 page)  
DEFCON 518 (Edn 02/17) - Transfer (1 page)  
DEFCON 522 (Edn 11/17) - Payment and Recovery of Sums Due (1 page)  
DEFCON 526 (Edn 08/02) - Notices (2 pages)  
DEFCON 527 (Edn 09/97) - Waiver (1 page)  
DEFCON 528 (Edn 07/21) - Import and Export Licenses (5 pages)  
DEFCON 529 (Edn 09/97) - Law (English) (1 page)  
DEFCON 531 (Edn 09/21) - Disclosure of Information (3 pages)  
DEFCON 532B (Edn 09/21) - Protection of Personal Data (1 page)  
DEFCON 537 (Edn 06/02) - Rights of Third Parties (1 page)  
DEFCON 538 (Edn 06/02) - Severability (1 page)  
DEFCON 539 (Edn 08/13) - Transparency (1 page)  
DEFCON 550 (Edn 02/14) - Child Labour and Employment Law (1 page)  
DEFCON 602A (Edn 12/17) - Quality Assurance (With Quality Plan) (1 page)  
DEFCON 604 (Edn 06/14) - Progress Reports (1 page)  
DEFCON 608 (Edn 07/21) - Access and Facilities to Be Provided by the Contractor (1 page)  
DEFCON 621B (Edn 10/04) - Transport (If Contractor Is Responsible for Transport) (1 page)  
DEFCON 624 (Edn 11/13) - Use of Asbestos (2 pages)  
DEFCON 642 (Edn 07/21) - Progress Meetings (1 page)  
DEFCON 649 (Edn 12/16) - Vesting (2 pages)  
DEFCON 658 (Edn 09/21) - Cyber (16 pages)  
DEFCON 660 (Edn 12/15) - Official-Sensitive Security Requirements (1 page)  
DEFCON 691 (Edn 03/15) - Timber and Wood-Derived Products (3 pages)

## Service Request Proposal

Further to recent discussions, please find below a Service Request as defined in the Framework Agreement made between Scape Procure Limited and Perfect Circle JV Ltd dated 29th January 2021.

**This Service Request Proposal** is formed of 4 parts:

**Part A: Outline Service Requirements**, which captures your service needs and desired approach,

**Part B: Pre-Engagement Activity Checklist**, identifying any activities required to enable our proposal and price to be presented,

**Part C: Detailed Service Requirements**, identifying your key value drivers, inc. Social Value and measures of VfM captured within our comprehensive service delivery proposal,

**Part D: Statement of Key Outputs**, setting out the deliverables from the pre-engagement stage.

**If you are satisfied that this Service Request represents an accurate record of our pre-engagement discussions, and you would like Perfect Circle to proceed with producing a Delivery Agreement based on this proposal, we should be grateful if you would provide your confirmation.**

Perfect Circle is a company jointly owned by Pick Everard, Gleeds and AECOM. Our offer is unique in framework experience, with an unrivalled record of teams providing excellence through collaboration. We deliver with an extensive national supply chain formed of SMEs, micro businesses and larger consultancies, ensuring we provide performance managed services through local businesses. Forming an integrated team across Perfect Circle and our approved suppliers allows the broadest project scope to be offered with value for money through one simple and effective contract, providing maximum efficiencies and contributions to economic, environmental and social benefits to achieve the greatest levels of social value.

### Part A - Outline Service Requirements

Service Request Proposal Ref 123  
No.  
Commission No. 4274

Client Name Defence Infrastructure Organisation  
Client Contact Name REDACTED  
Client Contact Email REDACTED @mod.gov.uk  
Client Contact Telephone REDACTED  
Number

#### Client Contact Position

Updated Commission Name Critical Infrastructure Asset Services FY 2022/2023 (Term Service)  
Lead Partner for this Task AECOM  
Order / CE

Updated Commission Lead REDACTED  
Contact Name  
Updated Commission Lead REDACTED @aecom.com  
Contact Email  
Updated Commission Lead REDACTED  
Contact Mobile

Lead Partner's NEC3 Project Not Applicable

#### Manager

Updated Commission Provision of external support to deliver critical infrastructure asset services for FY 22/23  
Description

Updated Commission WS14 9PY  
Postcode  
Commission Region West Midlands

Main Contract Type Option G NEC3 Professional Service Contract (Term Service DA)

Updated Client estimated 450,000.00  
budget for Commission £

Client anticipated end date 31 Dec 22

Confidentiality Flag          No

Has a Client's draft/outline No  
programme been appended?

Has a Client's Project Brief          No  
been appended?

Has a Scheme Layout been          No  
appended?

If yes, upload document

If yes, please provide  
commentary

Other Document Upload 1

Other Document Upload 2

Other Document Upload 3

Are there Client Proposed          No  
Organisations?

Document Upload 1

Document Upload 1

Comments

Document Upload 2

Document Upload 2

Comments

Document Upload 3

Document Upload

## Part B - Pre-Engagement Activity Checklist

No

Are Pre-Engagement Matters  
required?

## Part C - Detailed Service Requirements

1.1 Project Overview/Background Defence Infrastructure Organisation (DIO) requires support to manage and oversee Critical Infrastructure Asset activity being delivered by Maintenance Management Organisations (MMOs) for DIO at sites throughout the MOD Estate. This activity seeks to remedy legacy compliance shortcomings which require a high level of industry knowledge and expertise that is not readily available within the Department without impacting upon extant business areas and operational outputs. This commission is for FY22/23.

1.2 Objectives/Outcomes To complete agreed Task Schedule, in relation to DIO RD Interventions Team requirements as directed by Infrastructure Compliance Committee (ICC).

2.0 Health, Welfare, Safety, Environment and Sustainability Considerations As per MOD/DIO policy.

### 3.0 Value for Money Statement

Direct award justification - Only one supplier (SCAPE Framework) can carry out this work as SCAPE has gathered considerable insight through their recent involvement. They are security cleared, have proprietary knowledge and key stakeholder relationships. No other supplier has access to this knowledge and evidence. For other suppliers to replicate, this is not economically viable within the time available to maintain project momentum combined with continuance of the SCAPE SQEP, prevents the reversals of benefits, which have been realised as a result of the SCAPE SQEP direct engagement with the key stakeholders and the expectation which has been set around DIO RD performance requirements set up iaw ASIP.

In addition, this offer can be viewed as the most economically advantageous solution: increased assurance and active risk management of achieving the stated and contracted outcomes (estimated at 99% confidence versus 50% confidence based upon previous delivery experience).

The client has selected the following Value Drivers that best match its organisation's key objectives for the successful delivery of the commission. These should be referenced by the Client during any subsequent feedback to gauge whether Value for Money has been achieved.

Value for Money Driver (1)	1) Speed of appointment and delivery
Value for Money Driver (2)	4) Working with stakeholders
Value for Money Driver (3)	5) Best practice and knowledge transfer

Client specific Value for Money Driver	None identified.
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4.0 Sub-consultant Selection and Competitive Tender Award Criteria	Not applicable for this commission.
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5.0 Appointment of Principal Designer	Not applicable for this commission.
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6.0 Task Schedule	See Task Schedule at Appendix C.
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7.0 Delivery Team	REDACTED REDACTED REDACTED
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See Appendix D for CVs

Delivery Team - document Upload

## Delivery Agreement Professional Services Contract Model

8.0 Delivery Agreement Professional Service Contract Model. A description of the contracting options available to you can be found in Appendix B. We are proposing that this appointment is placed using the following:	Option G NEC3 Professional Service Contract (Term Service DA)
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Appendix A  
Scope of Service: Not Used

Appendix B



# NEC Professional Services Contract Options

## Introduction

Services provided by Perfect Circle JV Limited (the Consultant) to Clients using the Consultancy Framework shall (unless otherwise directed by Scape) be based on the terms of one of four Model Delivery agreements. Perfect Circle JV Ltd will in turn enter into an agreement with each Supplier providing the services, under which the delivery Agreement obligations are “stepped down”.

## The four Model Delivery Agreements available are:

- 1:NEC4 Professional Services Short Contract (PSSC)- Short Service Delivery Agreement
  - 2:NEC4 Professional Services Contract (PSC) Option A - Priced Contract with Activity Schedule
  - 3:NEC4 Professional Services Contract (PSC) Option C - Target Contract
  - 4:NEC3 Professional Service Contract Option G -Term Service Delivery Agreement
- A commission that does not have an engrossed Delivery Agreement between Perfect Circle JV Ltd and the Client is non-compliant.

## 1: NEC4 Professional Services Short Contract (PSSC)

The PSSC is simplified version of the Professional Services Contract which is suitable for less complex appointments.

The PSSC is for use on commissions that impose only low risks on both the client and the Consultant.

## 2: NEC4 Professional Services Contract (PSC) - Option A

### Priced Contract with Activity Schedule

A lump sum priced contract, in which the risks of being able to provide the service at the agreed prices in the Activity Schedule are largely borne by the Consultant.

The Client carries some risk through the compensation event procedures.

This contract is only used when the scope of work at tender stage is fully known and capable of being priced and programmed.

This option should also be used where the prices are based on the cost of construction (percentage fee). Please note the consultant fees vary in accordance with the construction cost.

## 3: NEC4 Professional Services Contract(PSC) - Option C

### Target Contract

A target fee contract in which the financial risks (savings or over-spend) are shared by the Client and the Consultant.

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

Share range	Consultant's Share Percentage
Less than 95%	10%
From 95% to 100%	40%
From 100% to 102.5%	40%
Greater than 102.5%	100%

This contract can only be used when good estimates of scope and price can be made at tender stage or where the cost of construction (percentage fee) is used to set the target.

Also used when the scope of work is finalised after some initial work is undertaken under through a PSSC time charge arrangement, or similar. The target is adjusted for compensation events other than changes in Scope approved by the Client which are proposed by the Consultant which reduce the total Time Charge. This provides an incentive to Consultants to propose changes to reduce costs.

## 4: NEC3 Professional Service Contract Option G

### Term Contract

Provides the ability to agree a long-term call-off arrangement using Task Orders.

Option G contains options for time charge and lump sum fee arrangements. The tasks must be defined in the Task Schedule and Delivery Agreement.

This type of contract lends itself to a programme of works where the same contract terms apply for all orders. The Task Schedule should define the projects, the anticipated services required and an outline budget and programme

## Summary

For each of the above model contracts, Scape has prescribed through the Framework Agreement several Optional clauses, the inclusion or otherwise is at the discretion of Clients. Other than the above, no other variation to the terms of the Model Delivery Agreements shall be made without the agreement of Scape.

In accordance with the Access Agreement, Client's are entitled to obtain and review a copy of the Framework Agreement to assist them in understanding a Delivery Agreement. The Client should advise the Consultant of the Options that are at the Client's discretion prior to preparation of the Delivery Agreement.

## Appendix C - Task Schedule

This Task Schedule provides the flexibility to call off professional services on a defined programme of works (as individual projects or activities) as well as calling off professional services on a defined projection a progressive phase-by-phase basis.

Background / Project Information	Perfect Circle has been appointed to undertake technical deliverables in support of a defined programme of activity
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This will include the Services described in Schedule 1 of the Framework Agreement. The Authority may instruct the Consultant, by way of a purchase order, to carry out the following Tasks:

The fees for the Task Schedule listed below are only indicative fee estimates. Unless agreed otherwise, indicative fee estimates shall not be regarded as fixed quotes for each task. There is no obligation for the Client to call off any or all of these tasks, and no obligation for the Consultant to provide the services until a Task Order is executed for each of the required task.

**Task Schedule**

Task No	Task Description	Location	Services Estimated Start Date	Estimated End Date	Indicative Fee Value (£)
001	Asbestos  Portfolio ASISP 22/23 - Deliver 6 number RD Integrated ('Big 6') Compliance Review s - Deliver new Asbestos Management Surveys - Deliver Asbestos Containing Materials (ACMs) 'High Risk' removals	DIO Estate Wide	01 Apr 2022	31Dec 2022	REDACTED
002	Legionella  Portfolio ASISP - Deliver 6 number RD Integrated ('Big 6') Compliance Review s - Monitor targeted remedials following sampling survey - Programme and monitor remedials from Risk Assessments - Lead in Water - Sampling Survey across the UK estate (inc UK DTE)	DIO Estate Wide	01 Apr 2022	31 Dec 2022	REDACTED
003	Fire Portfolio ASISP 22/23 - Scope and complete sample destructive investigations on fire door surround; Roll out Remedial Action Plan across wider estate - Phase 2, assessment of buildings by Fire Engineers, subject to availability and capacity of resource - Phase 3, remediation works, subject to availability and capacity of resource - Support implementation of a comprehensive fire Infrastructure maintenance audit and assurance programme	DIO Estate Wide	01 Apr 2022	31 Dec 2022	REDACTED

## Appendix D - CVs for Key Staff

CV Document Upload (1) **REDACTED** - CV.docx (88 KB)  
CV Document Upload (2) **REDACTED** - CV.docx (52 KB)  
CV Document Upload (3) **REDACTED** - CV.docx (57 KB)  
CV Document Upload (4)  
CV Document Upload (5)

## Part D - Statement of Key Outputs

### **The Client and Perfect Circle have used all reasonable endeavours to capture the following requirements in Part C of the document:**

A summary of the Commission including the extent of the Commission with, a statement of values, performance measures/targets and, as appropriate a sketch layout(s), outline budget(s) and programme for the Commission and any subsequent project(s) which includes estimate for the works or services etc.

Where the execution of an element of the Commission is not a settled matter, the strategy for taking the matter forward, including details of client approval processes.

The Partner's resourcing proposals and supply-chain Procurement Schedule for provision of most economically advantageous service.

On approval of this Service Request, Perfect Circle will draft a Delivery Agreement ready for execution which includes the following where appropriate to the commission:

- The agreed Scope which shall detail the requirements for the carrying out of the Service including agreed outcomes/deliverables, resources, Quality Policy Statement and Quality Plan requirements including roles and responsibilities for the whole team and covering the whole service.
- A programme for the Delivery Agreement.
- An activity schedule Price List or task schedule, as appropriate to the proposed form of contract and the pricing processes of the Agreement.
- A fully completed Tendered Total Model as required by the Framework Agreement including justification and details of any derogations from the Framework Commercial Model.
- The initial NEC3 PSC Risk Register or NEC4 PSC Early Warning Register.
- Any other documents required by the Delivery Agreement, Collateral Warranties etc
- A completed and agreed Value for Money Statement (must be offered on projects > £20k, but mandatory over £500k)