

'Z' Clauses, for use with CON19002 TSC4 Contract Data Part 1

Additional Conditions of Contract

The *additional conditions of contract* stated in the Contract Data are part of this contract.

Z.1 Freedom of Information Act and the Environmental Information Regulations

Z.1.1 The *Contractor* shall provide all assistance to enable the *Client* and/or its *clients* to comply with any request received under the Freedom of Information Act 2000 and/or the Environmental Information Regulations should either be applicable to the *Client*.

Z.1.2 In no event shall the *Contractor* or its Subcontractors respond directly to a Request for Information unless expressly authorised to do so by the *Client*.

Z.2 Transparency

Z.2.1 In order to comply with the Government's policy on transparency in the areas of procurement and contracts the *Contractor* agrees that the *Client* and the sourcing documents issued by the *Client* which led to its creation will be published by the *Client* on a designated web site.

Z.2.2 The entire Contract and all the sourcing documents issued by the *Client* will be published on the designated web site save where to do so would disclose information the disclosure of which would:

- (i) contravene a binding confidentiality undertaking that protects information which the *Client*, at the time when it considers disclosure, reasonably considers to be confidential to the *Contractor*;
- (ii) be contrary to regulation 21 of the Public Contracts Regulations 2015 as amended; or
- (iii) in the reasonable opinion of the *Client* be prevented by virtue of one or more of the exemptions in the FOIA or one or more of the exceptions in the Environmental Information Regulation (EIR).

Z.2.3 If any of the situations in (i), (ii), (iii) apply the *Contractor* consents to the Contract or sourcing documents being redacted by the *Client* to the extent necessary to remove or obscure the relevant material and being published on the designated website subject to those redactions.

Z.2.4 In this entire clause the expression "sourcing documents" means the advertisement issued by the *Client* seeking expressions of interest, any pre-qualification questionnaire stage and the invitation to tender.

Z.3 Termination

Z.3.1 The *Client* may terminate the Contract by written notice to the *Contractor* in any of the following circumstances:

- (i) Where it considers that the Contract has been subject to a substantial modification which would have required a new procurement procedure in

- accordance with Regulation 72(9) of the Public Contracts Regulations 2015 (as amended) ("PCR 2015");
- (ii) Where it considers that the *Contractor* has at the time of the award of the Contract been in one of the situations referred to in Regulation 57(1) of the PCR 2015, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure;
 - (iii) Where the Contract should not have been awarded to the *Contractor* in view of a serious infringement of the obligations under the EU Treaties and Directive 2014/24/EU of the European Parliament and of the Council that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU;
 - (iv) Where the European Commission sends a reasoned opinion to the United Kingdom or brings the matter before the Court of Justice of the European Union under Article 258 of the TFEU alleging that the Contract should not have been awarded to the *Contractor* in view of a serious infringement of the obligations under the Treaties and Directive 2014/24/EU of the European Parliament and of the Council; or
 - (v) Where a third party starts court proceedings against the *Client* seeking a declaration that the Contract is ineffective or should be shortened under Regulations 98 to 101 of the PCR 2015, which the *Client* considers have a reasonable prospect of success.

Z.3.2 Such termination shall be effective immediately or at such later date as is specified in the notice. The *Client* shall not incur any liability to the *Contractor* by reason of such termination and shall not be required to pay any costs, losses or damage to the *Contractor*. Termination under this clause shall be without prejudice to any other rights of the *Client*.

Z.4 Payment to other parties

Z.4.1 The *Contractor* shall ensure, pursuant to obligations imposed on the *Client* under Regulation 113(2)(c) of the Public Contracts Regulations 2015 (as amended), that any subcontract awarded by the *Contractor* contains suitable provisions to impose, as between the parties to the subcontract, requirements that –

- (i) any payment due from the *Contractor* to the subcontractor under the subcontract is to be made no later than the end of a period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed;
- (ii) any invoices for payment submitted by the subcontractor are considered and verified by the *Contractor* in a timely fashion and that undue delay in doing so is not to be sufficient justification for failing to regard an invoice as valid and undisputed; and
- (iii) any subcontractor will include, in any subcontract which it in turn awards, suitable provisions to impose, as between the parties to that subcontract, requirements to the same effect as those imposed in paragraphs (i), (ii) and (iii) of this Clause Z.4, subject to suitable amendment to reflect the identities of the relevant parties.

Z.4.2 For the avoidance of doubt, in any situations that the *Client* is making payments to the *Contractor* without being presented with an invoice, the absence of an invoice does not waive any obligation regarding payments made by the *Contractor* to its subcontractors or supply chain.

Z.5 Sub-contractors

Z.5.1 The *Client* may (without cost to or liability of the *Client* require the *Contractor* to replace any subcontractor where in the reasonable opinion of the *Client* any mandatory or discretionary grounds for exclusion referred to in Regulation 57 of the Public Contracts Regulations 2015 (as amended) apply to the subcontractor.

Z.6 Modern Slavery Act 2015

Z.6.1 The *Contractor* agrees that during any term or extension it shall complete and return a report as advised below, covering the following, but not limited to areas as relevant and proportionate to the Contract evidencing the actions taken, relevant to the *Contractor* and your supply chain associated with this Contract.

- Impact assessments undertaken
- Steps taken to address risk/actual instances of modern slavery and how actions have been prioritised
- Evidence of stakeholder engagement
- Evidence of ongoing awareness training
- Business-level grievance mechanisms in place to address modern slavery
- Actions taken to embed respect for human rights and zero tolerance of modern slavery throughout the organisation

Z.6.2 The *Client* reserve the right to audit any and all reports submitted by the *Contractor* to an extent as deemed necessary and the *Contractor* shall unreservedly assist *Client* in doing so.

Z.6.3 Note: The *Client* also reserves the right to amend or increase these frequencies, as it deems necessary to secure assurance in order to comply with the MSA. The *Client* requires such interim assurances to ensure that the *Contractor* is compliant and is monitoring its supply chain, so as to meet the requirements of the above Act.

Z.6.4 The *Contractor* shall complete and return the report to the contact named in the Contract on the anniversary of the commencement of the Contract.

Z.6.5 The *Contractor* agrees that any financial burden associated with the completion and submission of this report and associated assistance at any time, shall be at the *Contractor* cost to do so and will not be reimbursable.

Z.7 Taxation obligations of the Contractor

Z.7.1 The relationship between *Client* and the *Contractor* shall be that of “independent contractor” which means that the *Contractor* is not a *Client* employee, worker, agent or partner, and the *Contractor* shall not give the impression that they are.

Z.7.2 As this is not an employment Contract, the *Contractor* shall be fully responsible for all their own tax, including any national insurance contributions arising from carrying out the Services.

- (1) The *Contractor* in respect of consideration received under this Contract, the *Contractor* shall at all times comply with the Income Tax (Earnings and

- Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.
- (2) Where the *Contractor* is liable to National Insurance Contributions (NICs) in respect of consideration received under this Contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
 - (3) The *Client* may, at any time during the term, completion extension or post termination of this Contract, request the *Contractor* to provide information which demonstrates how the Contractor complies with its obligations under tax and National insurance Clauses (1) and (2) above or why those Clauses do not apply to it.

Z.7.3 A request under Clause (3) above may specify the information which the *Contractor* shall provide and the period within which that information must be provided.

Z.7.4 In the case of a request mentioned in clause (3) above, the provision of inadequate information or a failure to provide the information within the requested period, during any term or extension, may result in the *Client* terminating the Contract.

Z.7.5 Any obligation by the *Contractor* to comply with Clause (1), (2), (3) shall survive any term, extension, completion or termination and the *Contractors* obligations to Indemnify the *Client* shall survive without limitation until such time as any of these obligations are complied with.

Z.7.6 The *Client* may supply any information, including which it receives under Clause (3) to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

Z.7.7 If the *Client* has to pay any such obligations owed by the *Contractor* under Clauses (1) and (2) then the *Contractor* shall pay back to the *Client* in full, any money that the Client has to pay, and the *Contractor* shall also pay back the *Client* for any fine or compensate the *Client* for any other punishment imposed on the *Client* because the tax or national insurance due was not paid by the *Contractor*.

Z.8 Assignment and Subcontracting

The *Client* or UK SBS acting as an agent on behalf of the *Client* may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of their rights or obligations under the Contract.

The *Contractor* may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract, without prior written consent from the *Client* or UK SBS, acting as an agent on behalf of the *Client*.

The *Client* or UK SBS acting as an agent on behalf of the *Client* may (without cost to or liability of the *Client* or UK SBS) require the *Contractor* to replace any subcontractor where in the reasonable opinion of the *Client* or UK SBS acting as an agent on behalf of the *Client* any mandatory or discretionary grounds for exclusion referred to in Regulation 57 of the Public Contracts Regulations 2015 (as amended) apply to the subcontractor.