

Highways England Company Limited

Area 3

Scope

Maintenance and Response Contract

Annex 13

Health and Safety Requirements

CONTENTS AMENDMENT SHEET

Amend. No.	Revision No.	Amendments	Initials	Date
0	0	Contract Issue	SOS	May 2021

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1 HEALTH AND SAFETY REQUIREMENTS

1.1 Vision, Value and Consideration

- 1.1.1 The *Contractor* complies with the *Client's* health and safety requirements as detailed in this Annex and in Annex 3 (reference documents) to the Scope.
- 1.1.2 The *Contractor* complies with and operates according to all relevant and prevailing health and safety legislation, considerations, guidance and industry best practice. The *Contractor* Provides the Service in a way that aligns to the *Client's* health and safety policies and initiatives.

1.2 Management of Health and Safety

- 1.2.1 The *Contractor*:
- gains certification to ISO45001:2018 by a third-party accreditation body (accredited by UKAS or another body recognised by the *Client*) by the *access date*, unless the *Service Manager* has accepted that compliance to the standard is acceptable for a prescribed period, until certification is gained.
 - documents the systems and fully and effectively implements the health and safety management system prior to the *access date*,
 - Operates and develops its health and safety management system to meet the *Client's* requirements. The *Contractor* provides consistency of approach and interoperability with other stakeholders where appropriate, ensuring activities are consistent between all stakeholders, allowing seamless provision of *service* between different sites.
 - Health and safety management system forms part of the *Contractor's* Quality Plan as defined in Annex 16.
- 1.2.2 *Contractor's* occupational health management system:
- The *Contractor*:
- operates an occupational health management system in line with the requirements of HSE's Executive's prevailing construction occupational health management model, "Essentials of Managing Construction Health Risks", and
 - participates in *Client* working groups to improve health and safety management performance in relation to the following topics:
 - designing for health and safety in buildability and operability and maintenance, and
 - construction health and safety improvement, and
 - sustainable design and sustainable construction.

If, in the opinion of the *Client*, the *Contractor* is Providing the Service in an unsatisfactory manner or commits a breach of:

- any prevailing legislation or,
- the *Contractor's* health and safety management system or,
- a subcontractor's health and safety management system or,
- the *Client's* health and safety management system,

the *Service Manager* notifies the *Contractor* following the process set out in GG128 (Requirements for reporting incidents, events and undesirable circumstances: health, safety, wellbeing, structural and environmental) as listed in **Annex 3**. The *Contractor* raises Quality Management Points in accordance with Annex 16 and the *Client's* H&S management system assurance process.

The notification provided by the *Service Manager* to the *Contractor* sets out the breach or breaches identified with reasons and outlines the minimum steps required of the *Contractor* to rectify the breach, and a date for rectifying.

Where the *Contractor* has been given notification of a breach, the *Contractor* rectifies the breach or failure to Provide the Service, in a satisfactory manner, by the date specified by the *Service Manager*. The *Contractor* corrects other breaches that are not notified by the *Client*.

1.2.3 Subcontractors' health and safety management system

- The *Contractor* ensures that any of its subcontractors (at any stage of remoteness from the *Client*) operate a formal health and safety management system which fulfils the requirements set out above.

1.2.4 Health and safety culture and communication:

- The *Contractor* ensures that it creates a culture and communications that align to the *Client's* "Home Safe and Well" message. The *Contractor*
 - operates behavioural safety programme
 - establishes, operates and delivers health and safety employee consultation arrangements to its employees in accordance with applicable prevailing health and safety legislation
 - provides relevant health and safety training, including induction, to staff and visitors to ensure compliance with prevailing health and safety legislation and approved codes of practice and

- participates in *Client* events, programmes and initiatives as appropriate and if requested.

1.2.5 Health and safety – exchange of information:

- The *Client* provides information to the *Contractor* to enable the *service* to be performed in a safe and legally compliant manner,
- The *Contractor* provides information in the frequency and format specified in the contract, or if a different frequency and format is required, as specified by the *Service Manager*.
- The *Contractor* immediately brings to the attention of the *Service Manager* any issue or potential issue that may have a detrimental impact on the health, safety and wellbeing of any stakeholders.

1.2.6 Health and safety resources:

- The *Contractor* retains sufficient competent health and safety resource as part of its management structure.
- The minimum requirements for the *Contractor's* health and safety resources are that their leads
 - have membership of The Institution of Occupational Safety and Health (IOSH)
 - are qualified to National Examination Board in Occupational Safety and Health (NEBOSH) standard (or higher)
 - have a demonstrable working knowledge of prevailing health and safety legislation, guidance and approved codes of practice relevant to the *service*
 - have the appropriate level of competence, training and demonstrable experience in the field for which they are Providing the Service.

1.2.7 Health & safety competence of *Contractor's* employees:

- The *Contractor* ensures that its employees are competent to Provide the Service and upon request provides the *Service Manager* with information about the *Contractor's* arrangements for assuring employee competence and with employee training records.
- Before commencement of the *service* the *Contractor* provides the *Service Manager* with a statement (signed by a person authorised to sign tenders on behalf of the company) to confirm that all the *Contractor's* employees and subcontractors (at any stage of remoteness from the *Client*) are competent to undertake the roles that they are assigned to, to deliver the *service*. The *Contractor* provides

further signed statements to the *Service Manager* when any new *Contractor* employees are appointed or assigned to deliver the *service*.

- 1.2.8
- For those roles where no suitable recognised competence standards exist, the *Contractor* provides information on the selection criteria and method used to provide assurance of competence.
- 1.2.9 Health and safety in construction:
- The *Contractor* ensures that assets, including Materials and Equipment are used, installed, constructed and maintained in accordance with prevailing legal requirements, standards and specifications instructed by the *Client*.
- 1.2.10 Incident reporting, investigation, and follow-up:
- The *Contractor* complies with the *Client's* Guidance GG128 "Requirements for reporting incidents, events and undesirable circumstances: health, safety, wellbeing, structural and environmental" or its later update or replacement, including any time periods required by GG128. If a time period is not specified in GG128 then the *period of reply* applies unless otherwise accepted by the *Service Manager*.
 - Following the notification of an incident, the *Contractor*, in line with the *Client's* standards, determines if a formal investigation is required, and if necessary follows the notification, investigation and reporting procedures as set out therein.
 - The *Contractor* undertakes investigations with an independent competent person who has relevant training, knowledge and experience in effective accident/incident investigation.
 - Nothing prevents the *Contractor* from carrying out its own investigation of an incident, and in such case, the *Contractor* provides a copy of its completed incident report to the *Client*,
 - The incident report provides
 - information on the circumstances surrounding the accident/incident and any remedial measures to be taken in order to prevent a recurrence, and
 - relevant photographs and statements as an integral part of the report.
 - Where the *Contractor* is compiling a draft investigation report, the *Contractor* discusses the findings of the draft report with the *Client* prior to the production of the final draft of such a report.

- The *Contractor* implements applicable recommendations arising from incident investigations within the timescales agreed with the *Service Manager*.
- The *Client* has the right to investigate any incidents wherever they may occur.
- The *Contractor* provides the *Client* unrestricted access at all reasonable times to the facilities, equipment, materials, employees and records of the *Contractor* or the subcontractor (at any stage of remoteness from the *Client*) for this purpose (subject to any statutory or contractual obligation prohibiting this access).
- The *Contractor* provides a copy all documents related to an incident to the *Service Manager* within the timescales agreed. Any material that would otherwise fall to be disclosed by the *Contractor* to the *Client* may be withheld by the *Contractor* provided the *Contractor's* legal advisor confirms to the *Client* that the material is:
 - a confidential communication between the *Contractor* and its legal advisor for the purposes of seeking or giving legal advice that the legal advisors would normal expect to be given legal privilege in the normal course of its business with the *Contractor*, or
 - a confidential communication between the *Contractor* or its legal advisers and third party where the communication came into existence with the dominant purpose of being used in connection with contemplated, pending or actual litigation in adversarial proceedings (as opposed to investigations or inquiries).
- The *Contractor* ensures that all subcontracts (at any stage of remoteness from the *Client*) contain requirements of paragraph 1.2.10.

1.2.13 Health and safety inspections:

The *Contractor*:

- carries out formal site safety inspection as agreed with the *Service Manager* and documents the findings of these inspections,
- ensures that only competent persons carry out inspections,
- notifies the *Service Manager* in advance of the date of the inspections, and allows the *Client* to participate in inspections if the *Service Manager* requests to do so, and
- takes effective actions to ensure that any issues identified during inspections are effectively addressed within the timescales agreed with the *Service Manager*.

1.2.14 Health and safety management audit:

- The *Contractor* allows the *Service Manager* unrestricted access at all contracted hours to the premises, equipment, materials, employees and records of the *Contractor* and any Subcontractors (at any stage of remoteness from the *Client*) (unless a statutory or contractual obligation prohibits the disclosure of any such records) to audit any, or the *Contractor's* health and safety management systems. The *Contractor* includes, in all subcontracts, the rights of access for the *Service Manager*.
- The *Contractor* implements all recommendations from such audits agreed by the *Client* within a timescale mutually agreed between the *Client* and the *Contractor*.

1.2.15 Construction Design and Management (CDM) Regulations 2015 compliance:

- The *Client* appoints relevant CDM duty holders in writing, based upon a review of an organisation's ability and competence to perform the *service*.
- CDM duty holders (principal *Contractor* and principal designer) discharge their obligations under the CDM Regulations 2015 in compliance with any Approved Code of Practice or best practice guidance issued by the HSE, and provide the *Client* with evidence of such compliance, ensuring competent persons are maintained to continuously fulfil duty requirements throughout the *service*.
- Principal contractor duties (as defined by CDM 2015) are to be undertaken by the *Contractor* when instructed by the *Service Manager*. The *Contractor* refers to the Construction Industry Training Board (CITB) guidance when carrying out the principal contractor role. Where the *Contractor* is not required to undertake the principal contractor duties, the *Client* notifies the *Contractor* as to who will be undertaking this role.
- During the pre-construction phase and before setting up a construction site in the Affected Property, the *Contractor* creates a Construction Phase Plan in respect of the relevant works in compliance with Regulation 12(2) of the CDM Regulations and provides a copy of the plan to the *Service Manager*.
- Where instructed by the *Service Manager*, the *Contractor* undertakes the role of principal contractor and associated duties in respect of the *service* to which the CDM Regulations apply including:
 - work carried out by the *Client*, or
 - work carried out by Others.

1.2.16 Medical fitness:

- The *Contractor* formally advises the *Client* of any known medical disability or condition of any *Contractor* employees, or Subcontractor's employees, or employees of any other related party, which is to be risk assessed and effective controls put in place to ensure their own health, safety and wellbeing and the health, safety and wellbeing of others,
- When requested by the *Service Manager*, the *Contractor* provides such information and other evidence (anonymised and with consideration given to the protection of Personal Data at any stage of remoteness from the *Client*) as may be reasonably required by the *Client* to demonstrate compliance with the above requirement.

1.2.17 Health assessment and control:

- The *Contractor* ensures that its direct employees are provided with such health surveillance as appropriate, having regard to the risks to their health and safety which are identified by the risk assessment and in accordance with prevailing health and safety and other relevant legislation.
- The *Contractor* makes wellbeing services available to its employees and supply chain in line with, but not exhaustive of, the *Service Manager's* instructions.
- The *Contractor* monitors and records working days lost due to illness and stress-related conditions, and introduces management systems for minimising ill health. This data is supplied on request to the *Service Manager*.

1.2.18 Alcohol and substance abuse:

- The *Contractor* ensures its employees, whilst engaged in Providing the Service, are not at any time in possession of, do not take, have not taken, and are not under the influence of any intoxicating substance ('Prohibited Substance'). This requirement does not apply where the *Contractor's* employees possess a Prohibited Substance for bona fide medical reasons for which the *Service Manager* has given acceptance for such *Contractor* employees to be engaged in Providing the Service.
- The *Contractor* notifies the *Service Manager* of any its employees who are undergoing a voluntary detoxification/rehabilitation programme whereupon the *Client* has the right to prevent such *Contractor's* employees from Providing the Service.
- Where the *Service Manager* is of the opinion that any of the *Contractor* employees (or any Subcontractors involved in Providing the Service) may be in possession of, have taken, or are under the influence of any Prohibited Substance while Providing the Service,

the *Service Manager* instructs the *Contractor* to perform the following as appropriate of such *Contractor* employees:

- breath testing by breathalyser
 - urine testing by urinalysis
 - both breath testing and urinalysis
 - a search of personal possessions / work area of such *Contractor* employees for evidence of a prohibited substance.
- The *Contractor* does not subsequently employ those personnel who, whilst undergoing a pre-employment medical examination, are found to have taken any prohibited substance.
 - In the event that *Contractor* employees refuse to undertake either the foregoing medical tests and/ or search of person or possessions, or are tested positive, or are found in possession of any prohibited substance or items associated therewith, the *Client* has the right to have such *Contractor* employees immediately removed from the Affected Property.
 - Unless otherwise agreed to in advance in writing between the parties, such *Contractor* employees are thereafter not to be employed to carry out any *Client* contracted service in any location whatsoever.
 - The *Contractor* ensures that all *Contractor* employees or subcontract parties are made aware of and comply with these requirements.

1.2.19 Health and safety – charity based incentive schemes:

- The *Contractor* adopts charity-based incentive schemes covering local and national charities if requested to do so by the *Client*.

1.3 Health and Safety Maturity Matrix Action Plan

- 1.3.1 If the *Contractor* (or where there is a joint venture, each Consortium Member) does not have an agreed Health and Safety Maturity Matrix Action Plan ('HSMM Action Plan') with the *Client*, the *Contractor* (or each Consortium Member) delivers a HSMM Action Plan and submits it to the *Service Manager* not later than 6 weeks following the Contract Date.
- 1.3.2 The HSMM Action Plan is based on the Health and Safety Maturity Matrix ('HSMM') and the associated implementation plan produced by the *Contractor* (or each Consortium Member). It details the specific actions to be taken under this contract by the *Contractor* (or each Consortium Member) and its Subcontractors (at any stage of remoteness from the *Client*) in order to support delivery of the improvements identified in the implementation plans for the *Contractor* (or each Consortium Member).

- 1.3.3 The *Contractor* (or each Consortium Member) updates the HSMM Action Plan as needed to support delivery of the improvements identified in the implementation plans and on each anniversary of the Contract Date. The annual updates are based on the updated HSMM and implementation plans produced by the *Contractor* (or each Consortium Member).
- 1.3.4 The *Contractor* (or each Consortium Member) keeps a controlled copy of the HSMM Action Plan available for inspection by the *Client* at all times.
- 1.3.5 The *Service Manager* notifies the *Contractor* (or a Consortium Member) if at any time the *Client* considers that the HSMM Action Plan
- does not comply with the requirements of this contract or
 - is not capable of delivering the improvements identified in the implementation plans.
- 1.3.6 Following such notification, the *Contractor* (or each Consortium Member) reviews the HSMM Action Plan and reports to the *Service Manager* setting out proposed changes. If the *Service Manager* accepts the proposals, the HSMM Action Plan is changed within agreed timescales.
- 1.3.7 If the *Contractor* (or where there is a joint venture, each Consortium Member) does not have an agreed Health and Safety Maturity Matrix Action Plan ('HSMM Action Plan') with the *Client*, the *Contractor* (or each Consortium Member) delivers a HSMM Action Plan and submits it to the *Service Manager* within 6 weeks following the Contract Date.

1.4 Management of Road Risk

- 1.4.1 The *Contractor* ensures that it has systems in place for the effective management of occupational road safety in accordance with guidance provided by the HSE or other relevant industry guidance.
- 1.4.2 The *Contractor's* road safety management system has provision for assessing traffic management, driver competence and eligibility, driver safety training, vehicle maintenance and accident and incident investigation.

1.5 Driving for Better Business (DfBB)

- 1.5.1 The *Contractor*, as part of its organisation's health and safety at work programme
- is a member of an accredited scheme for managing "Work-Related Road Risk" (WRRR),
 - provides evidence of this to the *Service Manager* and
 - manages WRRR to an appropriate standard for the *service* that is being provided.

- 1.5.2 Within six months of the *starting date* the *Contractor*:
- registers with the “Driving for Better Business” (DfBB) Programme.
 - undertakes the DfBB risk assessment and gap analysis of their ‘driving at work’ activities which covers all drivers and vehicles that may be used on business.
 - implements a ‘driving for work’ policy that complies with “Health and Safety Executive” (HSE) guidance and applies to all areas of the business, all types of driving undertaken, and is communicated effectively to all employees who may drive for business purposes.
 - prepares a statement from the CEO or board director responsible for WRRS that outlines the importance attached to work-related road safety.
 - implements an effective system for measuring and monitoring fleet activity including the frequency and severity of any collisions, together with driver and vehicle compliance. This includes as a minimum:
 - records of crashes and investigation results
 - driver training or education supplied
 - policy acceptance
 - driver licence checking
 - vehicle checks and defect reporting, etc.
 - implements an effective system for promoting the same level of awareness regarding WRRS, and compliance with HSE guidance with Subcontractors. Subcontractors are required to complete ‘the Driving for Better Business Leadership Statement <https://www.drivingforbetterbusiness.com/getting-started/make-a-commitment/>’ a self-declaration that they manage WRRS to minimum acceptable level.
 - demonstrates to the *Client* the reduction of collisions, incidents or instances of non-compliance year on year, or provides a reasonable explanation if this is not the case.
 - includes these requirements in all subcontracts and supply agreements.
- 1.5.3 The *Contractor* shares knowledge and best practice with the DfBB community where appropriate or as advised by the *Service Manager* and attends any related events/ initiatives as instructed by the *Service Manager*.

1.6 Security

1.6.1 Security:

- The *Contractor* obtains the consent of its employees to the searching at any time by an authorised representative of the *Client* of their person or of any article including, without limitation, any container, package, box, holdall, suitcase or vehicle which is in the possession or use of *Contractor's* employees on the Affected Property, or being retained by the *Client* on behalf of the *Contractor* or *Contractor's* employees,
- Any person not complying or unwilling to comply with the requirements above, is removed from the *Client's* Premises and other facilities within the Affected Property and not permitted future access to the same.

1.7 Raising the Bar initiative

1.7.1 The *Client's* Raising the Bar Initiative and subsequent guidance documents derive from a drive to raise health and safety standards across the industry through sharing best practice approaches. Details are found in Annex 03.

1.7.2 The *Contractor* compares the Raising the Bar Initiative guidance with their own health and safety practices and provides a report to the *Service Manager* prior to the end of the Mobilisation Period detailing

- where the Raising the Bar Initiative guidance is more comprehensive than the *Contractor's*, the *Contractor* produces a remedial plan for bringing their working practices up to this minimum standard and
- where the *Contractor's* working practices surpass those set out in the guidance, the *Contractor* provides details of these to allow the *Client* to update the guidance for the benefit of all road workers.

1.7.3 The *Client* undertakes an independent audit process established to assure the implementation of Raising the Bar Initiative activities. Assessment (and expectation) levels will increase over time as health and safety standards are raised and the bar is set incrementally higher.

1.7.4 The Raising the Bar Initiative and subsequent guidance documents derive from a drive to raise health and safety standards across the industry through sharing best practice approaches. Details are found in Annex 03.

1.8 Home Safe and Well Initiative

1.8.1 The *Contractor* submits to the *Service Manager* for acceptance, a strategy of how it will operate around the *Client's* Home Safe and well initiative.

The *Contractor* commits and contributes to the *Client's* Home Safe and Well initiative by defining their own commitment to getting everyone Home Safe and Well, and considers where a positive difference can be added.

The *Contractor*:

- considers how its role in connecting the country can really make a difference and embed safety as the first imperative across all areas of responsibility,
- recognises the behaviours that enable the culture change required to achieve our vision and deliver the objectives of the organisation,
- engages and collaborates as appropriate with the wider business, supply chain and other stakeholders to promote health, safety and wellbeing, recognising behaviours that bring “Home Safe and Well” to life,
- is responsible and accountable for the health, safety and wellbeing of those employed by the *Contractor* and those the *Contractor* works with, and
- embeds the Home Safe and Well approach within the Health and Safety Maturity Matrix (HSMM) and associated implementation and action plans.

1.9 Deleterious and hazardous materials

1.9.1 Asbestos

The *Contractor* complies with the Control of Asbestos at Work Regulations 2012 and General Guidance 105 asbestos management (GG105).

<http://www.standardsforhighways.co.uk/ha/standards/dmrb/vol0/section2/GG%20105%20Asbestos%20management-web.pdf>