



National Highways Limited

Pavement Delivery Framework

NEC4 Engineering and Construction Contract
(June 2017 with amendments January 2019
and October 2020)

Contract Data Part One
in relation to *works*

CONTENTS AMENDMENT SHEET

Amend. No.	Revision No.	Amendments	Initials	Date
0	0	Tender Issue	JW	15/03/2022

Contract Data

This is the “ECC Contract Data” referred to in the framework contract applicable to Lots 1-9.

PART ONE – DATA PROVIDED BY THE *CLIENT*

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

1 General

The *conditions of contract* are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Engineering and Construction Contract June 2017 including amendments dated January 2019 and October 2020.

Main Option	C or E or where clause X22 applies Main Option E for Stage One and Main Option C for Stage Two, in each case as stated in the Additional Work Order	Option for resolving and avoiding disputes	W2
Secondary Options	X2, X10, X11, and X18, apply to all Work Orders; X5, X8 and X22 apply where selected in the Additional Work Order. Y(UK)1, Trust Deed, Joining Deed, Y(UK)2, Y(UK)3 Z1 to Z108 (inclusive)		
The <i>works</i> are	As detailed in the Scope and the Additional Work Order		
The <i>Client</i> is	National Highways Limited, a company incorporated in and in accordance with the laws of England, having as its registered number (company No. 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ		
Address for electronic communications	<div></div>		

The *Project Manager* is

Name

is in the Additional Work Order

Address for
communications

is in the Additional Work Order

Address for
electronic
communications

is in the Additional Work Order

The *Supervisor* is

Name

is in the Additional Work Order

Address for
communications

is in the Additional Work Order

Address for
electronic
communications

is in the Additional Work Order

The Scope is in

the document entitled "PDF ECC Scope" and the Additional Work Order

The Site
Information is in

the Additional Work Order

The *boundaries of
the site* are

in the Additional Work Order

The *language of
the contract* is

English

The *law of the
contract* is the law
of

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

The *period for reply* is

two weeks

The following matters will be included in the Early Warning Register

As detailed in the Additional Work Order

Early warning meetings are held at intervals no longer than

one month

2 The *Contractor's* main responsibilities

If the *Client* has identified work which is set to meet a stated *condition* by a *key date*.

The *key dates* and *conditions* to be met are in the Additional Work Order

The *Contractor* prepares forecasts of Defined Cost for the *works* at intervals no longer than one month.

3 Time

The *starting date* is

as detailed in the Additional Work Order

The access *dates* are in the Additional Work Order

The *Contractor* submits revised programmes at intervals no longer than

one month

The *completion date* for the whole of the *works* is

In the Additional Work Order

The *Client* is not willing to take over the *works* before the Completion Date.

The period after the Contract Date within which the *Contractor* is to submit a first programme for acceptance is

2 weeks

4 Quality Management

The period after the Contract Date within which the *Contractor* is to submit a quality policy statement and quality plan is

Stated in the Additional Work Order under which the *Contractor* is instructed to prepare the quality policy statement and quality plan

The period between Completion of the whole of the *works* and the *defects date* is

52

weeks

The *defect correction period* is four weeks.

5 Payment

The *currency of the contract* is the

pound
sterling (£)

calendar month

The *assessment interval* is

One
calendar
month

The *first assessment date* is

6th

of the next month following
the *starting date*

The *interest rate* is, unless the provisions of the Late Payment of Commercial Debts (Interest) Act 1998 otherwise require,

3

% per annum above the Bank
of England base rate in force
from time to time

Where Option C applies, including pursuant to clause X22A.1, the *Contractor's share percentages* and the *share ranges* are:

share range

Contractor's share percentage

less than

85%

0%

from

85% to 95%

25%

from

95% to 105%

50%

greater than

105%

25%

The *exchange rates* are those published in the Financial Times on the assessment date when the payment in another currency is included in the Price for Work Done to Date

6 Compensation events

The place where
weather is to be
recorded is

See Additional Work Order

The *weather measurements* to be recorded for each calendar month are

- the cumulative rainfall (mm)
- the number of days with rainfall more than 5 mm
- the number of days with minimum air temperature less than 0 degrees Celsius
- the number of days with snow lying at 12:00 hours GMT

The *weather measurements* are
supplied by

Met Office, Fitzroy Road Exeter, Devon, EX1 3PB.
Telephone 0870 900 0100

The *weather data* are the records of past *weather measurements* for each calendar month

which were recorded at

See Additional Work Order

and which are available from

Met Office, Fitzroy Road Exeter, Devon, EX1 3PB.
Telephone 0870 900 0100

These are additional compensation events

- (22) The *Client* notifies the *Contractor* that payments under the contract will no longer be made using the Project Bank Account.
- (23) The Secretary of State issues additional directions or guidance to the *Client* under section 6 of the Infrastructure Act 2015 or changes any directions or guidance previously issued (including directions or guidance contained in the Licence).
- (24) The *Project Manager* instructs the *Contractor* to re-deploy resources from the *works* to other work of the *Client*.
- (25) An instruction under Z160 of the framework contract which changes the Framework Information.

8 Liabilities and insurance

These are additional *Client's* liabilities

- | | |
|-----|--|
| (1) | Loss of or damage to any part of the Working Area due to theft. |
| (2) | Loss of or damage to any part of the Working Area by any cause occurring during the construction of a Scheme, excluding such loss or damage which results from an act, omission or default of the <i>Contractor</i> or another works contractor. |
| (3) | Loss of or wear or damage to any part of the Working Area by any other cause, except loss, wear or damage which is due to any act, omission, default or breach of contract on the part of the <i>Contractor</i> . |

The *Contractor* provides the insurances from the Insurance Table below and in accordance with NEC 4 ECC clause 83:

The minimum amount of cover of insurance against loss of or damage to property (except the *works*, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor* Providing the Works for any one occurrence is

Unless stated otherwise in the Additional Work Order (in which case the sums stated in the Additional Work Order applies), not less than ten million pounds £10,000,000 in respect of any one occurrence without limit to the number of occurrences in any annual policy period.

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

The *Client* reserves the right to vary the level of insurance under any Work Order requirement under the framework contract based upon the insurable risk profile represented by the *Client* requirement. The *Client* may also be obliged to take into account the insurance requirements of others, for any work over, under, or in the vicinity of the railway Network Rail may require a third party public and products liability insurance limit of not less than £155,000,000 in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, and with Network Rail to be as a named insured party in any relevant policy of insurance. This will be advised in the Additional Work Order.

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

Unless stated otherwise in the Additional Work Order (in which case the sums stated in the Additional Work Order applies), not less than ten million pounds (£10,000,000) any one occurrence, the number of occurrences being unlimited during any annual period of insurance or such greater amount as is required by the applicable law for the duration of the contract or such greater period as is required by law.

If the *Client* is to provide Plant and Materials.

The insurance against loss of or damage to the *works*, Plant and Materials is to include cover for Plant and Materials provided by the *Client* for an amount of

None

If the *Client* is to provide any of the insurances stated in the Insurance Table below:

The *Client* provides these insurances from the Insurance Table

(1) Insurance against

None

Minimum amount of cover is

N/A

The deductibles are

N/A

If additional insurances are to be provided:

The *Client* provides these additional insurances

(1) Insurance against

None

Minimum amount of cover is

N/A

The deductibles are

N/A

The *Contractor* provides these additional insurances

(1) Insurance against

None

Minimum amount of cover is

N/A

The deductibles are

N/A

Resolving and avoiding disputes

The *tribunal* is

arbitration

The *arbitration procedure* is

The Institution of Civil Engineers Arbitration Procedure (April 2012).

The place where *arbitration* is to be held is

London

The person or organisation who will choose an arbitrator if the Parties cannot agree a choice or if the *arbitration procedure* does not state who selects an arbitrator is

the President for the time being of the Institution of Civil Engineers or his nominee

The *Senior Representatives* of the *Client* are

Name (1)

[REDACTED]

Address for
communications

[REDACTED]

Address for electronic
communications

[REDACTED]

Name (2)

[REDACTED]

Address for
communications

[REDACTED]

Address for electronic
communications

[REDACTED]

The *Adjudicator* is the person chosen by

the Parties from the list of adjudicators published by the Institution of Civil Engineers

The person or organisation who will choose an *Adjudicator* if the Parties cannot agree a choice is

the President for the time being of the Institution of Civil Engineers or his nominee

The *Adjudicator nominating body* is

the Institution of Civil Engineers

Option X5: Sectional Completion

If Option X5 is selected, the *completion date* for each *section* of the *works* is detailed in the Additional Work Order.

Option X8: Undertakings to the *Client* or Others

The undertakings to Others are provided to

As stated in the Additional Work Order, if any.

The *Subcontractor undertaking to Others* are

works

provided to

As stated in the Additional Work Order, if any.

As stated in the Additional Work Order, if any.

The *Subcontractor undertaking to the Client* are

works

As stated in the Additional Work Order, if any.

Option X10: Information modelling

The period after the Contract Date within which the *Contractor* is to submit a first Information Execution Plan for acceptance is

four weeks

Option X18: Limitation of liability

The *Contractor's* liability to the *Client* for indirect and consequential loss is limited to

£5 million

For any one event, the <i>Contractor's</i> liability to the <i>Client</i> for loss of or damage to the <i>Client's</i> property is limited to		£5 million
The <i>Contractor's</i> liability for Defects due to its design which are not listed on the Defects Certificate is limited to		N/A
The <i>Contractor's</i> total liability to the <i>Client</i> for all matters arising under or in connection with the contract, other than excluded matters listed in X18.5, is limited to		£10 million
The <i>end of liability date</i> is	12	years after Completion of the whole of the <i>works</i> .

Option X22: Early *Contractor* involvement

If X22 is selected:

The *Contractor* prepares forecasts of the total Defined Cost of the work to be done in Stage One at intervals no longer than

1 month

The *Contractor* prepares forecasts of the total Defined Cost of the work to be done in Stage Two at intervals no longer than

1 month

The Pricing Information is in

The Pricing Information section of the Framework Information

Option Y(UK)1: Project Bank Account

The *account holder* is the *Contractor*.

The *Contractor* is to pay any charges made and to be paid any interest paid by the *project bank*.

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

The first *invoice date* is

on or before the 23rd of month after the *first assessment date*

Later *invoice dates* occur on the same day of each calendar month after the first *invoice date* until all amounts due to the *Contractor* under the contract have been paid.

Option Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

term

beneficiary

Prompt Payment in Scope section S 1212

- a Subcontractor
- subcontractor
- sub subcontractors

Subcontracting in Scope section S 1200

a Subcontractor

The provisions of Option Y(UK)1

Named Suppliers

Option Z: Additional conditions of contract

The *additional conditions of contract* are the following clauses

Z1 – Z108 (inclusive)

Contract Data entries relating to Z Clauses

Clause Z107 Network Rail Possessions

The Network Rail possession charge is

Type x £ as stated in the Additional Work Order

per possession

Type y £ as stated in the Additional Work Order

per possession

Clause Z108 Adjustment of Prices

The *base date* is

May 2022

Contract Data entries relating to Scope

Z Clause Contents	
Number	Title
Z1	Changes to Core and Secondary Option Clauses
Z2	Interpretation
Z3	Recovery of sums due from <i>Contractor</i>
Z4	Assignment and transfer
Z5	Not Used
Z6	Adjudication
Z7	Termination – Public Contracts Regulations 2015
Z8	Subcontracting
Z9	Change of Control and financial distress
Z10	Joint ventures
Z11	Parent Company Guarantee
Z12	Discrimination, Bullying and Harassment
Z13	Intellectual Property Rights (IPRs)
Z14	Project Bank Account
Z15	Tax Non-Compliance
Z16	Value Added Tax (VAT) Recovery
Z17	Termination and Removal of Part of the <i>works</i>
Z18	Corruption or loss of data
Z19	Conflict of interest
Z20 – Z49	Not Used
Z50	Health and Safety Plan
Z51 – Z54	Not Used
Z55	Payment of the Contractor's share
Z56	Construction Industry Scheme
Z57	Infrastructure Act 2015
Z58	Revisions to Quality Submission
Z59	Indemnified Claims
Z60	Tax Arrangements of Appointees
Z61	Enhancements
Z62 – Z104	Not Used
Z105	Innovation – Title to Equipment
Z106	Not Used
Z107	Network Rail Possessions
Z108	Adjustment of Prices

Z1 Changes to Core and Secondary Option clauses

- 11 Identified and defined terms
- 11.2 Add the following defined terms
- (36) Associated Company is defined in Z1 of the framework contract.
 - (37) Building Cost Information Service (BCIS) is part of RICS. Data sets available from www.rics.org/uk/products/data-products.
 - (38) Community Partner is an organisation (other than the *Contractor*) notified by the *Client* to the *Contractor* with whom the *Client* has entered into contracts for the provision of construction works, design, specialist support and other services in connection with the maintenance, repair, renewal and improvement of the network.
 - (39) Consortium Member is defined in Z1 of the framework contract.
 - (40) Control has the meaning set out in section 1124 of the Corporation Tax Act 2010.
 - (41) Contract Management Points are defined in Z1 of the framework contract.
 - (42) Enforcement Action is enforcement action brought by a regulatory authority against the Contractor or an Associated Company under any health and safety or environmental legislation, including a successful prosecution or the issue of a prohibition or improvement notice under any contract.
 - (43) Enhancement is a change to the design, materials used, methods of construction or maintenance or operational performance requirements proposed by the *Contractor* or a Community Partner which has not previously been adopted by the *Client* and which (if implemented by the *Client*) is expected to provide a significant long-term benefit to the *Client* in terms of
 - reducing the cost to the *Client* of the *works*,
 - improving the quality or effectiveness of delivery of the *works*
 - otherwise enhancing the achievement of the *Client's* vision, outcomes and key objectives,
 but excludes design solutions proposed by the *Contractor* in the course of developing the design for works relating to the Site intended to be carried out by any Community Partners.
 - (44) EU Reference is defined in Z1 of the framework contract.
 - (45) Exit Day is defined in Z1 of the framework contract.
 - (46) Fee Schedule is the table of that title in the *quotation information* as contained in the framework contract.

- (47) framework contract means the agreement entered into by the *Client* and the *Contractor* pursuant to which the contract has been entered into by the Parties.
- (48) Framework Information means the document of that title appended to the framework contract.
- (49) Health and Safety Plans are
- a completed Supply Chain Maturity Matrix Action Plan (referred to as the SCMM Action Plan) for the *Contractor* or each Consortium Member in the form required by the *Client*, recording the level of safety maturity within the organisation at the date of the SCMM Action Plan,
 - an implementation plan, setting out the actions to be taken by the *Contractor* or each Consortium Member over a period of 12 months following the date of the SCMM Action Plan in order to improve the scores recorded in the SCMM Action Plan by not less than the percentage specified from time to time by the *Client*, including the timescale for each action and
 - an action plan, setting out the specific actions to be taken under the contract by the *Contractor* 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.
- (50) Incentive Amount is an amount (not exceeding £1,000,000 in respect of any one Enhancement) payable to the *Contractor* if an Enhancement is successfully implemented.
- (51) Incoming Contractor is any contractor appointed by the *Client* to Provide the Works or part of it (or a similar service or part of it) in place of the *Contractor*.
- (52) Indemnified Claim is a matter for which the *Contractor* is liable under the contract.
- (53) Information Systems are the systems specified in the Framework Information and Scope for the collection and storage of information regarding the Site and the works or any revised systems introduced by the *Client* from time to time.
- (54) Innovation is an innovative solution to an issue in relation to the development of which the *Client* wishes to invest designated funds.
- (55) Intellectual Property Rights is defined in Z1 of the framework contract.
- (56) Licence is defined in Z1 of the framework contract.
- (57) Maximum Staff Rate has the meaning given in the framework contract.
- (58) Quality Warning Notice is a warning given in accordance with **Appendix 04** of the Framework Information.

- (59) *quotation information* has the meaning given in the framework contract.
- (60) Related Dispute is a dispute under or in connection with a contract between a Party and Others relating to the contract.
- (61) Related Dispute Adjudicator is an adjudicator appointed to determine a Related Dispute.
- (62) RIDDOR Incident is an incident occurring under any contract between
- the *Contractor* or an Associated Company and
 - the *Client* or any other person
- which results in death or serious injury to any worker or non-worker and for which the *Contractor* is responsible under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (or any replacement of it).
- (63) Scheme Completion is when the *Project Manager* certifies that all the work comprised in a Scheme has been completed and that any defects in the Scheme (including any Defects), that would have prevented the *Client* and Others from using the strategic road network and associated assets or Others from doing their work, have been corrected.
- (64) Schedule of Rates is the *schedule of rates* in the *quotation information* as adjusted in accordance with the contract and framework contract.
- (65) The Secretary of State is defined in Z1 of the framework contract.
- (66) Supply Chain Maturity Matrix Action Plan is the document of that name included in **Appendix 02** reference documents.
- (67) Threshold Level is defined in Z1 of the framework contract.

Amend the following terms

11.2 (24) **Defined Cost**

In the definition of “Defined Cost” after the words “Schedule of Cost Components” insert the words “(applying the Schedule of Rates and Maximum Staff Rate in accordance with such Schedule of Cost Components)”.

11.2 (26) **Disallowed Cost**

In the definition of “Disallowed Cost”

(i) after “and the cost of” insert the following additional bullet points

- “implementing any modifications or enhancements to the *Contractor’s* data collection systems (or those of a subcontractor, at any stage of remoteness from the *Client*) to meet the *Client’s* requirements as stated in the Scope,
- carrying out additional audits of the *Contractor’s* contract management system during any period while the number of

Contract Management Points in effect is above the Threshold Level,

- correcting Defects after Scheme Completion,
- complying with sections 9.40 (regarding substance abuse etc) and section 9.45 (security) of the Framework Information and resulting costs,
- replacing a *key person* (and any associated costs),
- cost of people in excess of the Maximum Staff Rates (as further set out in the Schedule of Cost Components),
- taxes and registration requirements arising in the country where the *Contractor* or a Consortium Member is registered through the execution or delivery of the contract or through the enforcement of any claims by or against the *Contractor* and
- wherer Option X22 applies, proposals for Stage Two in accordance with X22.3 excluding X22.3(5)

(ii) after the last bullet point insert an additional paragraph as follows, “and any other cost stated in the *additional conditions of contract* as being a disallowed cost.”

12 Interpretation and the law

12.2 Delete existing clause and replace it with

“The contract is governed by the *law of the contract*. In the contract, unless the context otherwise requires, any reference which immediately before Exit Day is a reference to (as it has effect from time to time)

- any EU References which are to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 and are read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time and
- any European Union
 - institution,
 - authority or
 - other such body

is read on and after Exit Day as a reference to the United Kingdom institution, authority or body to which its functions are transferred.”

15 Early Warning

15.1 In the second bullet point after “Completion” insert “or delay Scheme Completion”.

15.4 In line 3 after “Scope” insert “or any Work Order”.

26 Subcontracting

- 26.3 Insert an additional bullet point after “A reason for not accepting the subcontract documents is that”

- “they do not include all the provisions specified in the Scope.”

28 Assignment

Delete clause 28.

29 Disclosure

Delete clause 29.

44 Correcting Defects

- 44.2 Insert at the end of the first sentence before the full-stop “or such other time period as is specified by the *Project Manager* to minimise the adverse effect on the *Client* or Others”; in the second line before “Completion” in both instances insert “Scheme”.

50 Assessing the amount due

Delete the existing wording in Clause 50.1, 50.2, 50.3 and 50.6 and replace with:

- 50.1 The *Project Manager* assesses the amount due at the last day of the calendar month before each *assessment date*. The first assessment date is stated in the Contract Data. Later assessment dates occur on the 6th of each calendar month after the end of each *assessment interval* until

- the *Supervisor* issues the Defects Certificate or
- the *Project Manager* issues a termination certificate.

In assessing the amount due, the *Project Manager* considers an application for payment submitted by the *Contractor* that is date compliant and detail compliant.

If the *Contractor* submits an application for payment which is not in accordance with the contract, the *Project Manager* is not obliged to ascertain (on behalf of the *Contractor*) the amount the *Contractor* considers is due at the last day of the calendar month before each assessment date.

- 50.2.1 The *Contractor* submits an application for payment to the *Project Manager* no earlier than the 1st day of each calendar month and before each assessment date setting out the amount the *Contractor* considers is due at the last day of the calendar month before the *assessment date*.

An application for payment that is not submitted, is submitted earlier than the 1st day of each calendar month, is submitted on or after each assessment date, is not in accordance with the contract. The *Project Manager* issues a payment notice pursuant to clause 50.4. An application for payment that is submitted earlier than the 1st day of each

calendar month or is submitted on or after each assessment date is assessed at the next *assessment interval*.

A date non-compliant application for payment is not construed by the *Project Manager* as a date compliant application for payment until the assessment date falling one calendar month after the date of receipt of the date non-compliant application for payment.

- 50.2.2. The *Contractor's* application for payment includes details of how the amount has been assessed and all information, in the required format, stated in the Scope.

An application for payment that does not include details of how the amount has been assessed and all information, in the required format, stated in the Scope is not in accordance with the contract. The *Project Manager* issues a payment notice pursuant to clause 50.4.

- 50.3 If the *Contractor* submits an application for payment in accordance with the contract, the amount due at the last day of the calendar month before the assessment date is

- the Price for Work Done to Date,
- plus other amounts to be paid to the *Contractor*,
- less amounts to be paid by or retained from the *Contractor*.

- 50.6 The *Project Manager* corrects any incorrectly assessed amount due in a later payment notice (or pay less notice as appropriate).

51 Payment

Delete Clause 51.1 and 51.2 and replace with:

- 51.1 The *Project Manager* certifies a payment on or before the 19th of each calendar month. The first payment is the amount due. Other payments are the change in the amount due since the previous assessment. A payment is made by the *Contractor* to the *Client* if the change reduces the amount due. Other payments are made by the *Client* to the *Contractor*. The Party to which payment is due submits an invoice to the other Party for the amount due (stated in the Payment Notice) on or after receipt of the *Project Manager's* certificate but no later than the 23rd of each calendar month. Payments are in the *currency of the contract* unless otherwise stated in the contract.

- 51.2 If a certified payment is late, or if a payment is late because the *Project Manager* has not issued a certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made.

60 Compensation events

- 60.1(1) In clause 60.1(1) delete “or” at the end of the first bullet point and insert a comma. At the end of the clause delete the full stop and insert
- “a change to the Information Systems or the introduction of a new Information System,
 - a change to the method of or requirements for performance measurement or
 - a change which is stated elsewhere in these *conditions of contract* not to be a compensation event.”
- 60.1(4) In clause 60.1(4) insert at the end (before the full stop)
“unless the instruction relates to a notification from the *Contractor* that a conflict of interest may exist or arise”.

82 Recovery of costs

- 82.1 Delete clause 82.1 and replace it with
- “82.1 Any
- cost which the *Client* has paid or will pay as a result of an event for which the *Contractor* is liable or
 - costs, losses, liabilities, fines, penalties and expenses (including legal expenses) which might be suffered or incurred by the *Client* in connection with taxes or registration requirements arising in the country where the *Contractor* or a Consortium Member is registered through the execution or delivery of the contract or through the enforcement of any claims against the *Contractor*
- is paid by the *Contractor*.”

90 Termination

- 91.2 At the end of the first bullet, before, after “its obligations” and before “(R11)” insert “or substantially failed to comply with an obligation in the framework contract”.

Option X2 Changes in the law

- X2.1 In line 2 after “Contract Date” add “unless the change and its effects could reasonably have been anticipated by the *Contractor* prior to the Contract Date”.

Option X10 Information modelling

- X10.7(3) Delete this sub-clause.

Option X11 Termination by the *Client*

- X11.2 In line 2 delete “A1, A2 and A4” and insert “A1 and A2”.

Option X18 Limitation of liability

- X18.5 Delete the bullet points and insert in its place
- “loss of or damage to the *Client*’s property,
 - delay damages if Option X7 applies,
 - low performance damages if Option X17 applies,
 - *Contractor*’s share where Option C or D applies,
 - fraud or fraudulent misrepresentation,
 - infringement of the rights of Others,
 - loss or damage
 - to third party property or
 - due to pollution,
 - loss arising from breach of
 - confidentiality or data protection obligations or
 - anti-bribery or anti-corruption obligations,
 - interest on debt,
 - losses caused by the *Contractor*’s illegal acts, deliberate default, deliberate abandonment, wilful misconduct or reckless misconduct,
 - death of or bodily injury to a person other than an employee of the *Contractor* and
 - other events for which the contract requires the *Contractor* or *Client* to insure (but excluded only up to the minimum amount of cover for each type of insurance stated in the Scope or Contract Data).”

Option X22 Early *Contractor* Involvement

- X22 Delete X22.1 (1), (2), X22.6, X22.7.
- Insert a new clause X22A.1 after clause X22.1 as follows:
- “Where Option X22 applies under the contract, the Parties acknowledge and agree that:
- (1) For the purposes of:
- Stage One, the Main Option that applies to the contract is Option E; and
 - Where the *Client* confirms that the Parties will proceed to Stage Two, the Main Option that applies to the contract is Option C;
- (2) The definition of the Prices in clause 11.2 (32), is deleted and replaced with the following:
- “(32) The Prices are: (i) for Stage One, the total of the Defined Cost paid or due pursuant to the contract prior to the *Client* instructing the *Contractor* to proceed with Stage Two; and (ii) the lump sum prices for

each of the activities on the Activity Schedule unless later changed in accordance with the contract.”

Delete X22.3 and replace with:

“X22.3 Proposals for Stage Two

- (1) The *Client* submits its design for Stage Two to the *Contractor*.
- (2) The *Contractor* assesses the total of the Prices for Stage Two and provides other information in accordance with Pricing Information stated in the Contract Data, and submits this to the *Project Manager* for acceptance.
- (3) If the submission is not accepted, the *Project Manager* gives reasons. A reason for not accepting a *Contractor’s* submission is that
 - it does not comply with the Scope,
 - it will cause the *Client* to incur unnecessary costs to Others or
 - the *Project Manager* is not satisfied that the Prices or any changes to the Prices have been properly assessed.
- (4) The *Contractor* makes a revised submission taking account of the *Project Manager’s* reasons.
- (5) The *Contractor* obtains approvals and consents from Others as stated in the Scope.
- (6) The *Client’s* design for Stage Two becomes Scope, however this is not a compensation event.
- (7) The *Contractor* submits the total of the Prices for Stage Two, in accordance with the Pricing Information, to the *Project Manager* together with the Activity Schedule.”

Delete clause X22.5(1) and replace with the following:

“The *Project Manager* issues a notice to proceed to Stage Two when:

- the *Contractor* has obtained approvals and consents from Others as stated in the Scope;
- the *Project Manager* and the *Contractor* have agreed the total of the Prices for Stage Two and the *Client* has assessed such changes in accordance with the Pricing Information;
- the *Client* has confirmed the *works* are to proceed.”

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

Y2.1

At the end of the clause, before the full-stop, insert

“and a reference to “invoice” shall mean an “electronic invoice” where an invoice has been issued transmitted and received in a structured electronic format which allows for its automatic and electronic processing. The invoice is an electronic invoice if it complies with the standard on electronic invoicing. An electronic invoice complies with the standard on electronic invoicing where it complies with the European

standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.”

Delete clause Y2.2 and replace with:

Y2.2 The due date for payment is the 17th of each calendar month. The due date for payment of a final payment is

- if the *Project Manager* makes an assessment after the issue of a Defects Certificate, five weeks after the issue of the Defects Certificate,
- if the *Project Manager* does not make an assessment after the issue of a Defects Certificate, one week after the *Contractor* issues its assessment or
- if the *Project Manager* has issued a termination certificate, fourteen weeks after the issue of the certificate.

The final date for payment is thirteen (13) days after the due date for payment.

The *Project Manager's* certificate is the payment notice specifying the amount due at the due date for payment (the notified sum, which may be zero) and stating the basis on which the amount was calculated.

If the *Project Manager* does not certify and issue the payment notice in accordance with the contract, then, subject to clause 50.2.1, *Contractor's* application for payment is the payment notice.

Delete clause Y2.3 and replace with the following;

“Y2.3 If either Party intends to pay less than the notified sum, it issues a pay less notice to the other Party on or before the 27th of each calendar month by stating the amount considered to be due or to have been due on the date the pay less notice is served and the basis on which that sum is calculated. A Party does not withhold payment of an amount due under the contract unless it has notified its intention to pay less than the notified sum as required by the contract.”

Schedule of Cost Components

Delete it and replace with the document entitled “Schedule of Cost Components (SoCC)” in Annex A.

Z2 Interpretation

See Z2 in the framework contract.

Z2.4 In Providing the Works the *Contractor* complies with all its obligations under the framework contract.

Z3 Recovery of sums due from the *Contractor*

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

Z4 Assignment and transfer

See Z4 in the framework contract

Z5 Not used

Z6 Adjudication

Z6.1 The NEC4 Dispute Resolution Service Contract (June 2017) includes the following additional condition of contract:

“Any information concerning the contract obtained by either the *Adjudicator* or any person advising or aiding him is confidential, and is not used or disclosed by the *Adjudicator* or any such person except for the purposes of this Agreement. The *Adjudicator* complies, and takes all reasonable steps to ensure that any persons advising or aiding him comply, with the Official Secrets Acts 1911 to 1989.”

Z6.2 If a dispute under the contract raises issues that are substantially the same as or connected with issues in a Related Dispute and the Related Dispute has been referred to adjudication, the dispute under the contract is referred to the Related Dispute Adjudicator and the Related Dispute Adjudicator becomes the *Adjudicator*.

Z7 Termination - Public Contracts Regulations 2015

Z7.1 The *Client* may terminate if one of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applied to the *Contractor* at the Contract Date.

Z7.2 The *Client* may terminate the contract with immediate effect if the contract has been subject to substantial modification which would have required a new procurement procedure pursuant to regulation 72 of the Public Contracts Regulations 2015.

Z7.3 The procedure and amount due on termination are the same as for

- R18 if the modification or infringement was due to a default by the *Contractor*,
- R19 if the modification or infringement was due to a default by the *Client* and
- R20 if the modification or infringement was due to any other reason.

Z8 Subcontracting

Z8.1 The *Contractor* assesses the amount due to a subcontractor without taking into account the amount assessed under the contract.

Z8.2 If the *Contractor* subcontracts work to an Associated Company, the Defined Cost of the work subcontracted is assessed as if the work had not been subcontracted unless otherwise agreed by the *Project Manager*.

- Z8.3 The *Project Manager* may, having stated the reasons, instruct the *Contractor* to remove a subcontractor (at any stage of remoteness from the *Client*). The *Contractor* then arranges the removal of the subcontractor (at any stage of remoteness from the *Client*) and the appointment of a replacement in accordance with the contract.
- Z8.4 Not used.
- Z8.5 Before
- appointing a proposed subcontractor or
 - allowing a subcontractor to appoint a proposed subsubcontractor
- the *Contractor* submits to the *Project Manager* for acceptance
- either
 - a Single Procurement Document (as described in regulation 59 of the Public Contracts Regulations 2015) in respect of the proposed subcontractor or subsubcontractor or
 - other means of proof (as specified in regulations 60(4) and 60(5) of the Public Contracts Regulations 2015) that none of the mandatory or discretionary grounds for exclusion referred to in regulation 57 of the Public Contracts Regulations 2015 applies to the proposed subcontractor or subsubcontractor and
 - details of any RIDDOR Incident under any contract for which the proposed subcontractor or subsubcontractor is responsible and of any Enforcement Action brought against the proposed subcontractor or subsubcontractor.
- Z8.6 The *Contractor* does not appoint the proposed subcontractor (or allow the subcontractor to appoint the proposed subsubcontractor) until the *Project Manager* has accepted the submission. A reason for not accepting the submission is that
- it shows that there are grounds for excluding the proposed subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015 or
 - the *Project Manager* is not satisfied that the proposed subcontractor or subsubcontractor has put in place adequate measures to ensure that similar matters to the RIDDOR Incident or the event giving rise to Enforcement Action will not occur.
- Z8.7 If requested by the *Project Manager*, the *Contractor* provides further information to support, update or clarify a submission under clause Z8.5.
- Z8.8 If, following the acceptance of a submission under clause Z8.6, it is found that
- one of the grounds for excluding the subcontractor or subsubcontractor under regulation 57 of the Public Contracts Regulations 2015 applies or
 - the subcontractor or subsubcontractor has not put in place adequate measures to ensure that similar matters to the RIDDOR Incident or the event giving rise to Enforcement Action will not occur
- the *Project Manager* may instruct the *Contractor* to
- replace the subcontractor or
 - require the subcontractor to replace the subsubcontractor.

- Z8.9 The *Contractor* submits the name of each proposed subcontractor to the *Client* for acceptance. A reason for not accepting the subcontractor is that
- its appointment will not allow the *Contractor* to Provide the Works.
- The *Contractor* does not appoint a proposed subcontractor until the *Project Manager* has accepted it.
- Z8.10 The *Contractor* submits the proposed conditions of contract for each subcontract to the *Project Manager* for acceptance unless the *Project Manager* has agreed that no submission is required.
- Z8.11 The *Contractor* does not appoint a subcontractor on the proposed subcontract conditions submitted until the *Project Manager* has accepted them. A reason for not accepting them is that
- they will not allow the *Contractor* to Provide the Works or
 - they do not include a statement that the parties to the subcontract shall act in a spirit of mutual trust and co-operation.

Z9 Change of Control and financial distress

See Z9.1 - Z9.13 in the framework contract.

- Z9.14 Failure to comply Z9.1 to Z9.13 may be treated by the *Client* as the *Contractor* substantially failing to comply with its obligations.

Z10 Joint ventures

- Z10.1 This clause applies if the *Contractor* is an unincorporated joint venture.
- Z10.2 Each Consortium Member is jointly and severally liable to the *Client* for the performance of the *Contractor's* obligations under the contract.
- Z10.3 The *Contractor* nominates the representative named in the Contract Data for the purposes of the contract and for the giving and receiving of all notices, certificates, instructions and other communications under it. The *Contractor* acknowledges that receipt of a communication by the *Contractor's* nominated representative constitutes receipt by all the Consortium Members. The *Contractor* notifies the *Client* in advance of any change to the identity of the *Contractor's* nominated representative.
- Z10.4 The *Contractor* acknowledges that any payment made by the *Client* to a Consortium Member under the contract to that extent discharges the *Client's* liability to make payment to the *Contractor*.
- Z10.5 A Consortium Member gives not less than four weeks' notice to the *Client* of any proposed termination of the joint venture arrangement.
- Z10.6 Termination of the joint venture arrangement for any reason is treated as the *Contractor* substantially failing to comply with its obligations.
- Z10.7 Where two or more Consortium Members comprise the *Contractor*, clause 90.1 & 91.1 of the conditions of contract are amended by inserting after "the other Party" the words "or in the case of the *Contractor*, any Consortium Member".

Z11	Parent Company Guarantee
Z11.1	Z11 in the framework contract.
Z11.2	
Z11.3	If the <i>Contractor</i> fails to comply with Z11, such failure may be treated by the <i>Client</i> as by the <i>Contractor</i> substantially failing to comply with its obligations.
Z12	Discrimination, Bullying and Harassment
	See Z12 in the framework contract.
Z13	Intellectual Property Rights (IPRs)
	See Z13 in the framework contract.
Z14	Project Bank Account
Z14.1	The <i>Client</i> may at any time notify the <i>Contractor</i> that payments under the contract will no longer be made using the Project Bank Account. This notice is a compensation event. Within one week of the <i>Client's</i> notice, the <i>Contractor</i> notifies the Named Suppliers that the Project Bank Account is no longer to be used and proposes an alternative method to ensure that the Named Suppliers receive payments in accordance with its contracts.
Z15	Tax Non-Compliance
Z15.1- Z15.3	See Z15 in the framework contract.
Z15.4	If the <i>Contractor</i> fails to comply with Z15, such failure may be treated by the <i>Client</i> as the <i>Contractor</i> substantially failing to comply with its obligations.
Z16	Value Added Tax (VAT) Recovery
Z16.1	An amount due under the contract calculated by reference to a sum incurred by any person includes value added tax only to the extent that it is not recoverable as input tax by that person (or a member of the same tax group) by set-off or repayment.
Z17	Termination and Removal of Part of the works
Z17.1	<p>The <i>Project Manager</i> may at any time instruct the <i>Contractor</i> that</p> <ul style="list-style-type: none"> part or all of the remaining <i>works</i> is to be permanently removed from the contract or for urgent reasons of health and safety, part of the <i>works</i> is to be temporarily removed from the contract. <p>In either case the <i>Contractor</i> acknowledges that the <i>Client</i> may itself, or may appoint another supplier in place of the <i>Contractor</i> to provide works similar to the removed <i>works</i> (or part of it).</p>
Z17.2	An instruction given under clause 17.1 is assessed as a compensation event, except that if the instruction is given for one of the reasons R1-R15, R18, R22 or the <i>Contractor</i> has a Quality Warning Notice, the assessment includes a deduction of the

forecast of the additional cost to the *Client* of completing the removed *works*, and if all of the remaining *works* is to be permanently removed, the *Contractor* agrees that it is not entitled to any loss of profit or any other form of compensation including if the *Client* appoints another contractor to complete the *works* or any part of them.

- Z17.3 If the *Contractor's* obligation to Provide the Works is terminated for any reason, the *Contractor* if instructed by the *Project Manager*
- completes the performance of any part of the *works* started prior to the date of termination and
 - co-operates with the *Client* or any Incoming Contractor so as to ensure a smooth transfer of functions.

Z18 Corruption or loss of data

- Z18.1 If any data of the *Client* is corrupted, lost or degraded as a result of the *Contractor's* default so as to be unusable, the *Contractor* immediately reports this to the *Project Manager* and
- the *Project Manager* may instruct the *Contractor* to restore the data in accordance with the *Project Manager's* requirements (and any cost incurred by the *Contractor* in so doing is Disallowed Cost) or
 - the *Client* may itself restore the data (and the *Contractor* pays to the *Client* any reasonable expenses which the *Client* incurs in so doing).

Z19 Conflict of interest

- Z19.1 – See Z19 in framework contract.
Z19.2

- Z19.3 If the *Contractor* fails to comply with Z19, such failure may be treated by the *Client* as the *Contractor* substantially failing to comply with its obligations.

Z20 - Z49 Not Used

Z50 Health and Safety Plan

- Z50.1 The *Client* may terminate if the *Contractor* has not produced all the Health and Safety Plans in the form which the contract requires within six weeks of the Contract Date. This is treated as a substantial failure of the *Contractor* to comply with its obligations.
- Z50.2 The period for producing the Health and Safety Plans may be extended by not more than four weeks if the *Project Manager* and the *Contractor* agree to the extension before the Health and Safety Plans are due. The *Project Manager* notifies the extension that has been agreed to the *Contractor*.
- Z50.3 If the *Client* does not terminate, one quarter of the Price for Work Done to Date is retained in assessments of the amount due until the *Contractor* has produced all the Health and Safety Plans in the form which the contract requires.

Z51 – Z54 Not Used

Z55 Payment of the *Contractor's* share (where Option C applies only)

- Z55.1 If, prior to Completion of the whole of the *works*, the Price for Work Done to Date exceeds the total of the Prices, the *Project Manager* makes an assessment of the *Contractor's* share of the difference between the total of the Prices and the Price for Work Done to Date at each assessment date. The total of the Prices includes the *Project Manager's* interim assessment of the changes to the Prices for a compensation event which has not been implemented at the assessment date.

This share is included in the amount due to the *Contractor*.

Z56 Construction Industry Scheme

- Z56.1 In this clause (but not otherwise)
- the “Act” is the Finance Act 2004 and
 - the “Regulations” are the Income Tax (Construction Industry Scheme) Regulations 2005 (SI 2005/2045).
- Z56.2 The contract falls within the scope of the Construction Industry Scheme provided for by Chapter 3, Part 3 of the Act.
- Z56.3 The *Contractor* provides the information required by the Regulations to enable the *Client* to verify (in accordance with paragraph 6 of the Regulations) whether the *Contractor* under the Act
- is registered for gross payment,
 - is registered for payment under deduction,
 - is exempt from registration as a local authority or other public body or
 - is neither registered nor exempt from registration.
- Z56.4 If the *Contractor* is registered for payment under deduction or is neither registered nor exempt from registration
- the *Contractor* submits an application for payment which separately identifies the cost of labour and
 - the *Client* deducts the relevant percentage from the payment in accordance with the Act and the Regulations.

Z57 Infrastructure Act 2015

See Z57 in the framework contract.

Z58 Revisions to Quality Submission

See Z58 in the framework contract.

Z59 Indemnified Claims

- Z59.1 The *Client* notifies the *Contractor* as soon as practicable of any notice or demand which it receives in respect of a matter for which the *Contractor* is liable under the contract (an Indemnified Claim).
- Z59.2 The *Contractor* may elect to conduct the defence of any Indemnified Claim (including any settlement negotiations) in the name of the *Client*. The *Client* co-operates with and gives reasonable assistance to the *Contractor* in defending the Indemnified Claim.

- Z59.3 The *Contractor* keeps the *Client* fully and regularly informed and consults with the *Client* as appropriate in relation to the conduct of any Indemnified Claim.
- Z59.4 Where the *Contractor* is diligently conducting the defence of an Indemnified Claim, the *Client* does not settle nor agree to make a payment in respect of the Indemnified Claim without the prior consent of the *Contractor*.
- Z59.5 The *Contractor* bears the costs which it incurs in defending an Indemnified Claim. The *Contractor* indemnifies the *Client* against any costs incurred by the *Client* arising out of the *Contractor's* defence of the Indemnified Claim.
- Z59.6 The *Client* may, at any time prior to the settlement of an Indemnified Claim, give the *Contractor* notice that it is taking over the conduct of an Indemnified Claim. On receipt of the *Client's* notice the *Contractor*
- takes all the steps necessary to transfer the conduct of the Indemnified Claim to the *Client* and
 - co-operates with and gives reasonable assistance to the *Client* in defending the Indemnified Claim.
- Z59.7 Where the reason for the *Client's* notice is not due to the fault of the *Contractor* in conducting the Indemnified Claim, the *Contractor* is released from its indemnity to the *Client* in respect of it.

Z60 Tax Arrangements of Appointees

See Z60 in the framework contract.

Z61 Enhancements

- Z61.1 The *Contractor* may at any time submit to the *Project Manager* a proposal for an Enhancement.
- Z61.2 Before developing a proposed Enhancement, the *Contractor* prepares and submits to the *Project Manager* an outline business case setting out brief details of
- the proposed change to the design, materials used, methods of construction or maintenance or operational performance requirements,
 - the expected long-term benefit to the *Client* if the proposed Enhancement is implemented,
 - any significant risks to the successful development and implementation of the proposed Enhancement,
 - any resulting change to the Prices or the *Client's* other costs and
 - any incentive payment which the *Contractor* proposes should be paid to it if the proposed Enhancement is successfully implemented.
- Z61.3 The *Project Manager* and the *Contractor* jointly review the *Contractor's* outline business case. The *Project Manager* assesses whether the Enhancement is likely to achieve the expected benefits and (based on that assessment) indicates to the *Contractor* whether the *Client* is likely to agree the proposed Enhancement.
- Z61.4 The *Contractor* continually monitors the development of a proposed Enhancement to assess whether it is likely to achieve the expected benefits and takes all necessary

steps to mitigate any costs and risks associated with its development.

- Z61.5 The *Contractor* may propose to the *Project Manager* that trials, testing or a pilot project be carried out to assist with the development of a proposed Enhancement. If the *Project Manager* agrees, it may instruct the *Contractor* to undertake any or all of the following
- develop a detailed specification for the Enhancement,
 - and to carry out the trials, testing or
 - a pilot project.
- Z61.6 The *Contractor* may prepare and submit to the *Project Manager* a detailed business case for the proposed Enhancement. A detailed business case includes
- full details of the revised design, materials used, methods of construction or maintenance or operational performance requirements,
 - full details of the expected long-term benefit to the *Client* if the Enhancement is implemented and the period over which the benefit is to be assessed,
 - how any risks associated with the implementation of the Enhancement are to be allocated,
 - a cost benefit analysis,
 - any resulting change to the Prices,
 - any expected change to the *Client's* other costs and the timescale over which the change will occur and
 - the proposed Incentive Amount and a proposal as to how it is to be paid to the *Contractor* if the Enhancement is successfully implemented.
- The *Project Manager* and the *Contractor* may discuss the detailed business case and the *Contractor* updates the business case following the discussion.
- Agreement of the business case is at the sole discretion of the *Project Manager*.
- Z61.7 The *Project Manager* decides whether (and if so on what terms) to implement the proposed Enhancement. The *Project Manager* instructs the implementation of an agreed Enhancement as a change to the Scope.
- Z61.8 If the *Contractor* decides not to pursue a proposed Enhancement, the *Client* may take forward the proposal and arrange for a detailed business case to be prepared by Others. If so, the *Client* may use or adapt any material submitted by the *Contractor* as part of its proposal and outline business case.
- Z61.9 Other than where instructed by the *Project Manager* to carry out trials, testing or a pilot project under clause Z61.5, the *Contractor* is not entitled to payment for the design or development of an Enhancement (including the preparation of business cases), nor for the use or adaptation by the *Client* of the *Contractor's* proposal and outline business case under clause Z61.8.
- Z61.10 A change to the Scope instructed by the *Project Manager* under clause Z61.7 following the submission of a detailed business case by the *Contractor* is not a compensation event.
- Z61.11 If an Enhancement instructed by the *Project Manager* under clause Z61.7 following the submission of a detailed business case by the *Contractor* delivers the benefits

described in the *Contractor's* detailed business case before the *defects date*, the *Client* pays to the *Contractor* the Incentive Amount. If such an Enhancement delivers part of the benefits so described, the *Client* pays to the *Contractor* a proportionate part (as assessed by the *Project Manager*) of the Incentive Amount.

- Z61.12 The Incentive Amount (or the proportionate part assessed by the *Project Manager*) is included in the final amount due, except that the Parties may agree to include it in an earlier amount due if the *Client* has actually received the full benefit of the Enhancement by an earlier date.
- Z61.13 In consideration of the *Client's* agreement to pay the Incentive Amount (or a proportionate part) to the *Contractor*, the *Contractor* assigns to the *Client* the Intellectual Property Rights in the Enhancement.
- Z61.14 Where an Enhancement is proposed jointly by the *Contractor* and one or more Community Partners, clause Z61 applies except that
- the outline and detailed business case are prepared jointly by the *Contractor* and the relevant Community Partners,
 - the detailed business case includes a proposal for how the Incentive Amount is to be shared between the *Contractor* and the relevant Community Partners,
 - the *Client* may instruct the *Contractor* or any Community Partner (or a combination of them) to develop a detailed specification for and/or to carry out any trial, testing or pilot project under clause Z61.5 and
 - if the Enhancement delivers the benefits (or part of the benefits) described in the detailed business case before the *defects date*, the Incentive Amount (or the proportionate part of it) is shared among the *Contractor* and the relevant Community Partners in the proportions stated in the detailed business case.

**Z62-
Z104** **Not Used**

Z105 **Innovation – Title to Equipment**

- Z105.1 At Completion or (if earlier) when an Innovation is removed from the Working Areas, the *Project Manager* may instruct the *Contractor* to transfer to the *Client* the title in any Equipment used in the development of the Innovation. The *Contractor* ensures that the legal and beneficial title in the relevant Equipment transfers from the *Contractor* or a subcontractor to the *Client* free of all liens, charges, options, encumbrances, rights, claims and other interests of any third party.

Z106 **Not Used**

Z107 **Network Rail Possessions**

- Z107.1 The *Contractor* pays the *Client* the relevant *Network Rail possession charge* for each additional possession required over and above the number of *Network Rail possessions* stated in the Contract Data. The number of *Network Rail possessions* is adjusted if additional possessions are required as a result of a compensation event.
- Z107.2 In clause 25.3 of the conditions of contract insert an additional bullet before the first bullet
- “by paying fines or charges to Others”.

Z108 Adjustment of Prices (including non-bitumen adjustment)

Z108.1 The indices used to adjust the non People items in the Schedule of Rates are

- PAF1 - Price Adjustment Formulae Indices (Highways Maintenance) 2010 Series, Highway Maintenance Resource Cost Indices (2010), R10/15 Bitumen
- PAF2 - Price Adjustment Formulae Indices (Highways Maintenance), Series 4 - Highways Maintenance Work Category Indices, 4/HM/WC/04 Machine Surfacing, and
- PAF3 - Price Adjustment Formulae Indices (Highways Maintenance), Series 4 - Highways Maintenance Work Category Indices, 4/HM/WC/02 Renewals and Construction Works

unless altered in accordance with the contract.

All the above indices are published by the Building Cost Information Service (BCIS).

Z108.2 For items within the Schedule of Rates containing bitumen the indexation is split in to two components

- component 1 is calculated as 40% of the rate for each item containing bitumen in the Schedule of Rates and is adjusted using the PAF1
- component 2 is calculated as 60% of the rate for each item containing bitumen in the Schedule of Rates and is adjusted using the PAF2

The price adjustment factor for items containing bitumen is calculated as the product of $((L1 - B1)/B1) \times 0.4 + ((L2 - B2)/B2) \times 0.6$ at each *assessment date*,

Where the

- base date (B1) is the latest available PAF1 index before the *base date* and where latest Index (L1) is the latest available index PAF1 before the *assessment date*, and
- base date (B2) is the latest available PAF2 index before the *base date* and where latest Index (L2) is the latest available index PAF2 before the *assessment date*.

Z108.3 For items within the Schedule of Rates not containing bitumen the price adjustment factor is calculated as the sum of $((L3 - B3)/B3)$ at each *assessment date*.

Where the

- base date (B3) is the latest available PAF3 index before the *base date*, and

- latest Index (L3) is the latest available index PAF3 before the *assessment date*.

- Z108.4 If an index is changed after it has been used in calculating a PAF, the calculation is not changed. The PAF calculated at the last *assessment date* before the Completion Date for the whole of the *works* is used for calculating an amount for price adjustment after that date.
- Z108.5 At each *assessment date*, the relevant rates within the Schedule of Rates are adjusted (whether increased or decreased) in order to apply the procedure set out in this clause Z108.

Annex A

Schedule of Cost Components

CONTENTS

- 1.0 Preamble applicable to all Schedule of Cost Components**
- 2.0 ECC Schedule of Cost Components; NEC4 Option C; framework contract mobilisation**
- 3.0 ECC Schedule of Cost Components; NEC4 Option C; construction delivery activities (3D stages 5 and 6)**
- 4.0 ECC Schedule of Cost Components; NEC4 Option E; Early Contractor Involvement (3D stages 1 to 3)**
- 5.0 ECC Schedule of Cost Components; NEC4 Option E; construction delivery activities (3D stage 7)**

1.0 Preamble applicable to all Schedule of Cost Components

To the extent that there is a rate stated in the Schedule of Rates which relates to an item in this Schedule of Cost components (or to the extent that a rate applies pursuant to paragraph 6.3.2 of the Framework Information), the Parties acknowledge and agree that the rates stated in the Schedule of Rates apply to determine the Defined Cost which is due and payable to the *Contractor* under the contract. This does not apply to the cost of people to which the Maximum Staff Rates apply as set out below.

In respect of the cost of people to whom the Maximum Staff Rates apply the Parties acknowledge and agree that the *Contractor* is entitled to Defined Cost calculated in accordance with the Schedule of Cost Components provided that the Defined Cost does not exceed the amounts calculated by applying the Maximum Staff Rates (and any amount in excess of the Maximum Staff Rates is deemed to be Disallowed Cost).

This schedule is part of the *conditions of contract*.

An amount is included;

- only in one cost component, and
- only if it is incurred in order to Provide the Works.

2.0 ECC Schedule of Cost Components; NEC4 Option C; framework contract mobilisation

Preamble

The *Contractor's* people employed to undertake framework contract mobilisation activities will be located in the *Contractor's* head / home / regional / local office(s) remote from the Working Area prior to the *go live date*.

2.1 People

Preamble

The cost of people (as calculated in accordance with section 2.1 below) shall not exceed the Total Hourly Bill Rate (or Maximum Staff Rate) for the same or equivalent role, as detailed within the *quotation information*.

The *maximum staff rates* shall be adjusted annually for inflation, in accordance with framework contract Clause Z100.

Where the *Contractor* proposes, and the *Project Manager* agrees that additional staff roles are required outside of those identified in the *quotation information* in order to undertake part of the work identified in an Work Order, the *Contractor* proposes a new *maximum staff rate* for the role. The new *maximum staff rate* is calculated in accordance

with the contract, using the same principles and templates as those used to calculate the *maximum staff rates* within the *quotation information*.

The *Project Manager* either accepts or does not accept the proposed *maximum staff rate*. The reasons for not accepting the proposed *maximum staff rate* are;

- the rate is not representative of the “market rate” for such a role. The *Contractor* shall demonstrate, through benchmarking or other methods, that the *maximum staff rate* is in line with the market for such a person,
- a rate for the proposed role or a similar and equivalent role has already been agreed,
- the proposed role will not be used to undertake part of the work identified in an Option C Work Order or is already recovered in the overheads or fee or,
- the rate is not calculated in accordance with the contract.

If accepted by the *Project Manager*, the *maximum staff rate* for the new staff role is added to the *quotation information*.

- 1 The following components of;
 - the cost of people who are directly employed by the *Contractor* (excluding people identified in the Fee Schedule) and who are undertaking framework contract mobilisation activities entirely within the located in the *Contractor's* head / home / regional / local office(s), proportionate to the time they spend working.
- 11 Wages, salaries and amounts paid by the *Contractor* for people paid according to the time worked on the contract.
- 12 Payments related to work on the contract and made to people for;
 - (a) bonuses and incentives,
 - (b) enhanced or increased amounts paid for overtime and unsocial hours in addition to the rate paid for normal time,
 - (c) working in special circumstances,
 - (d) special allowances,
 - (e) absence due to sickness and annual leave and/or holidays, including but not limited to maternity leave, paternity leave, jury service and the like, and
 - (f) Severance, including but not limited to statutory redundancy, related to work on the contract.
- 13 Payments made in relation to *people* in accordance with their employment contract for;
 - (a) travelling to and from the *Contractor's* head / home / regional / local office(s); in accordance with the *Client's* Travel and Expenses policy (see Appendix 02).

Travel and subsistence will not be payable for staff travelling between their home and normal place of work; which could include the *Contractor's* head / home / regional / local office(s).

Travel and subsistence will be payable for staff travelling to any office (other internal (non-base office), external party sites, or *Client* offices on an ad hoc basis for the purposes of the contract

2.0 ECC Schedule of Cost Components; NEC4 Option C; framework contract mobilisation (*Continued*)

2.1 People (*Continued*)

- 13 Payments made in relation to people in accordance with their employment contract for;
 - (b) subsistence and lodging; shall be in accordance with the *Client's* Travel and Expenses policy.
 - (c) relocation,
 - (d) medical examinations,
 - (e) passports and visas
 - (f) travel insurance,
 - (g) items 13 (a) to 13 (f) for dependants,
 - (h) protective clothing, including but not limited to personal protective equipment (PPE),
 - (i) contributions, levies or taxes imposed by law,
 - (j) pensions and life assurance, including but not limited to top up payments to under-funded pension schemes and/or payments made in relation to any pensions deficits,
 - (k) death benefit,
 - (l) occupational accident benefits,
 - (m) medical aid and health insurance,
 - (n) a vehicle, including but not limited to company car/vehicle costs and the like),
 - (o) health and safety training,
 - (p) medical aid, dental care and health insurance and the like,
 - (q) a vehicle (including but not limited to company car/vehicle costs and the like),
 - (r) any additional payments, including but not limited to benefits and costs, such as insurances, national insurance payments and the like,
 - (s) end-of-contract gratuity and mandatory provident fund
 - (t) housing benefits and the like,
 - (u) children education benefits, passages, and the like,
 - (v) office expenses, non-recoverable staff time, and the like,
 - (w) mobile phones, communication devices, and the like,
 - (x) training courses generally; including but not limited to all out of pocket expenses attending training courses,
 - (y) additional national insurance payments and PAYE payments as a result of breach of the HMRC 24-month location rule, and
 - (z) any payments not detailed above in respect of costs relating to a spouse or dependants.
- 14 The following components of the cost of people who are not directly employed by the *Contractor* but are paid for by the *Contractor* according to the time worked while they are within the Working Areas.
 - Amounts paid by the *Contractor*.
 - All costs as stated above under 13, where applicable to the employment of staff not directly employed by the *Contractor*.

2.0 ECC Schedule of Cost Components; NEC4 Option C; framework contract mobilisation (*Continued*)

2.2 Equipment

Equipment costs are considered not applicable to framework contract mobilisation activities, as duties are to be undertaken outside of the Works Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the *go live date*.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Equipment for NEC4 Engineering and Construction Contract, Option C; Schedule of Cost Components; construction delivery activities, detailed elsewhere within this document.

2.3 Plant and Materials

Plant and Materials costs are considered not applicable to framework contract mobilisation activities, as works/services are to be undertaken outside of the Works Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the *go live date*.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Plant and Materials for NEC4 Engineering and Construction Contract, Option C; Schedule of Cost Components; construction delivery activities, detailed elsewhere within this document.

2.4 Subcontractors

Subcontractors costs are considered not applicable to framework contract mobilisation activities, as works/services are to be undertaken outside of the Works Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *go live date*.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Subcontractors for NEC4 Engineering and Construction Contract, Option C; Schedule of Cost Components; construction delivery activities, detailed elsewhere within this document.

2.5 Charges

Charges costs are considered not applicable to framework contract mobilisation activities, as works/services are to be undertaken outside of the Works Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *go live date*.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Charges for NEC4 Engineering and Construction Contract, Option C; Schedule of Cost Components; construction delivery activities, detailed elsewhere within this document.

2.0 ECC Schedule of Cost Components; NEC4 Option C; framework contract mobilisation (*Continued*)

2.6 Manufacture and Fabrication

Manufacture and fabrication costs are considered not applicable to framework contract mobilisation activities, as works/services are to be undertaken outside of the Working Area and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *go live date*.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Manufacture and fabrication for NEC4 Engineering and Construction Contract, Option C; Schedule of Cost Components; construction delivery activities, detailed elsewhere within this document.

2.7 Design

Design activities are considered not applicable to framework contract mobilisation activities.

2.8 Insurance

- 8 The following are deducted from cost;
- the cost of events for which the contract requires the *Contractor* to insure, and
 - other costs paid to the *Contractor* by insurers,
 - the cost of events for which the *Contractor* is liable.

3.0 ECC Schedule of Cost Components; NEC4 Option C; construction delivery activities

3.1 People

Preamble

The cost of people (as calculated in accordance with section 3.1 below) shall not exceed the Total Hourly Bill Rate (or Maximum Staff Rate) for the same or equivalent role, as detailed within the *quotation information*.

The *maximum staff rates* shall be adjusted annually for inflation, in accordance with framework contract Clause Z100.

Where the *Contractor* proposes, and the *Project Manager* agrees that additional staff roles are required outside of those identified in the *quotation information* in order to undertake part of the work identified in a Work Order, the *Contractor* proposes a new *maximum staff rate* for the role. The new *maximum staff rate* is calculated in accordance with the contract, using the same principles and templates as those used to calculate the *maximum staff rates* within the *quotation information*.

The *Project Manager* either accepts or does not accept the proposed *maximum staff rate*. The reasons for not accepting the proposed *maximum staff rate* are;

- the rate is not representative of the “market rate” for such a role. The *Contractor* shall demonstrate, through benchmarking or other methods, that the *maximum staff rate* is in line with the market for such a person,
- a rate for the proposed role or a similar and equivalent role has already been agreed,
- the proposed role will not be used to undertake part of the work identified in an Option C Work Order or is already recovered in the overheads or fee or,
- the rate is not calculated in accordance with the contract.

If accepted by the *Project Manager*, the *maximum staff rate* for the new staff role is added to the *quotation information*.

- 1 The following components of;
 - the cost of people who are directly employed by the *Contractor* and whose normal place of working is within the Working Areas undertaking the *works* for the contract and,
 - the cost of people who are directly employed by the *Contractor* and whose normal place of working is not within the Working Areas but who are working in the Working Areas, proportionate to the time they spend working in the Working Areas undertaking the *works* for the contract.
- 11 Wages, salaries and amounts paid by the *Contractor* for people paid according to the time worked on the contract.

-
- 12 Payments related to work on the contract and made to people for;
- (a) bonuses and incentives,
 - (b) enhanced or increased amounts paid for overtime and unsocial hours in addition to the rate paid for normal time,
 - (c) working in special circumstances,
 - (d) special allowances,
 - (e) absence due to sickness and annual leave/holidays, including but not limited to maternity leave, paternity leave, jury service and the like, and
 - (f) Severance, including but not limited to statutory redundancy, related to work on this contract.
- 13 Payments made in relation to people in accordance with their employment contract for;
- (a) travelling to and from the Working Areas; in accordance with the *Client's* Travel and Expenses policy.
- Travel and subsistence will not be payable for staff travelling between their home and normal place of work; which could include a regional / base office and a project office.
- Travel and subsistence will be payable for staff travelling to any office (other internal (non-base office), external party sites, or *Client* offices on an ad hoc basis for the purposes of the contract
- (b) subsistence and lodging; shall be in accordance with the *Client's* Travel and Expenses policy.
-

3.0 ECC Schedule of Cost Components; NEC4 Option C; construction delivery activities (*Continued*)

3.1 People (*Continued*)

- 13 Payments made in relation to people in accordance with their employment contract for;
- (c) relocation,
 - (d) medical examinations,
 - (e) passports and visas,
 - (f) travel insurance,
 - (g) items 13 (a) to 13 (f) for dependants,
 - (h) protective clothing, including but not limited to personal protective equipment (PPE),
 - (i) contributions, levies or taxes imposed by law,
 - (j) pensions and life assurance, including but not limited to top up payments to under-funded pension schemes and/or payments made in relation to any pensions deficits,
 - (k) death benefit,
 - (l) occupational accident benefits,
 - (m) medical aid and health insurance,
 - (n) a vehicle, including but not limited to company car/vehicle costs and the like),
 - (o) health and safety training,
 - (p) medical aid, dental care and health insurance and the like,
 - (q) a vehicle (including but not limited to company car/vehicle costs and the like),
 - (r) any additional payments, including but not limited to benefits and costs, such as insurances, national insurance payments and the like,
 - (s) end-of-contract gratuity and mandatory provident fund
 - (t) housing benefits and the like
 - (u) children education benefits, passages, and the like
 - (v) office expenses, non-recoverable staff time, and the like
 - (w) mobile phones, communication devices, and the like
 - (x) training courses generally; including but not limited to all out of pocket expenses attending training courses
 - (y) additional national insurance payments and PAYE payments as a result of breach of the HMRC 24-month location rule
 - (z) any payments not detailed above in respect of costs relating to a spouse or dependants
- 14 The following components of the cost of people who are not directly employed by the *Contractor* but are paid for by the *Contractor* according to the time worked while they are within the Working Areas.
- Amounts paid by the *Contractor* and,
 - All costs as stated above under 13, where applicable to the employment of staff not directly employed by the *Contractor*.

3.0 ECC Schedule of Cost Components; NEC4 Option C; construction delivery activities (*Continued*)

3.2 Equipment

Preamble

Payment for equipment generally as prescribed hereafter; shall exclude the cost of replacement and/or repair and/or theft, loss and/or damage.

2 The following components of the cost of Equipment which is used within the Working Areas.

- 21 Payments for the hire or rent of Equipment not owned by;
- the *Contractor*,
 - the *Contractor's* ultimate holding company or
 - a company with the same ultimate holding company

at the hire or rental rate multiplied by the time for which the Equipment is required.

Hire periods shall be deemed to mean the number of weeks and part weeks. A part week is measured in half days and is expressed as one twelfth of a week. A part half day is taken as a half day. Where the unit of measure is hours, the hire period will be assessed in hours.

- 22 Payments for Equipment which is not listed in the Contract Data but is;
- owned by the *Contractor*,
 - purchased by the *Contractor* under a hire purchase or lease agreement or
 - hired by the *Contractor* from the *Contractor's* ultimate holding company or from a company with the same ultimate holding company

at open market rates, multiplied by the time for which the Equipment is required.

The above reference to "open market rates" shall be deemed to mean equipment costs assessed on the basis of competitive tendered rates and/or costs, including the provision of three prices, obtained and evidenced by the *Contractor* from their supply chain that are able to provide and supply the required equipment, including deductions for length of hire, spend based and other discounts, unless otherwise agreed by the *Project Manager*.

The *Contractor* shall notify the *Project Manager* in writing when an internal hire rate is higher than an external hire rate, and provides details showing the benefit to the *Client* of using the *Contractor's* Equipment. Where such a benefit can be established, instructions will be issued by the *Project Manager* for the selection and use of such Equipment.

3.0 ECC Schedule of Cost Components; NEC4 Option C; Construction Delivery activities (*Continued*)

3.2 Equipment (*Continued*)

- 23 Payments for Equipment purchased for work included in the contract listed with a time- related on cost charge, in the Contract Data, of;
- the change in value over the period for which the Equipment is required, and
 - the time-related on cost charge stated in the Contract Data for the period for which the Equipment is required.

The change in value is the difference between the purchase price and either the sale price or the open market sale price at the end of the period for which the Equipment is required. Interim payments of the change in value are made at each assessment date. A final payment is made in the next assessment after the change in value has been determined.

If the *Project Manager* agrees, an additional item of Equipment may be assessed as if it had been listed in the Contract Data.

The above reference to “open market sale price” shall be deemed to mean equipment costs assessed on the basis of competitive tendered rates and/or costs, including the provision of three prices, obtained and evidenced by the *Contractor* from their supply chain that are able to provide and supply the required equipment, including deductions for length of hire, spend based and other discounts, unless otherwise agreed by the *Project Manager*.

- 24 Payments for special Equipment listed in the Contract Data. These amounts are the rates stated in the Contract Data multiplied by the time for which the Equipment is required.

If the *Project Manager* agrees, an additional item of special Equipment may be assessed as if it had been listed in the Contract Data.

- 25 Payments for the purchase price of Equipment which is consumed.

- 26 Unless included in the hire or rental rates, payments for;
- transporting Equipment to and from the Working Areas other than for repair and maintenance,
 - erecting and dismantling Equipment, and
 - constructing, fabricating or modifying Equipment as a result of a compensation event.

- 27 Payments for purchase of materials used to construct or fabricate Equipment.

- 28 Unless included in the hire rates, the cost of operatives is included in the cost of *people*.

3.0 ECC Schedule of Cost Components; NEC4 Option C; construction delivery activities (*Continued*)

3.3 Plant and Materials

3 The following components of the cost of Plant and Materials.

31 Payments for;

- purchasing Plant and Materials,
- delivery to and removal from the Working Areas,
- providing and removing packaging,
- samples and tests, and
- purchasing Plant and Materials,

32 Cost is credited with payments received for disposal of Plant and Materials unless the cost is disallowed.

3.4 Subcontractors

4 The following components of the cost of *Subcontractors*.

41 Payments to *subcontractors* for work which is subcontracted without taking into account any amounts paid to or retained from the *subcontractor* by the *Contractor*, which would result in the *Client* paying or retaining the amount twice.

3.5 Charges

5 The following components of the cost of charges paid or received by the *Contractor*.

51 Payments for the provision and use in the Working Areas of;

- water,
- gas,
- electricity,
- telephone, and
- internet.

52 Payments to public authorities and other properly constituted authorities of charges which they are authorised to make in respect of the works.

53 Payments for;

- (a) cancellation charges arising from a compensation event,
- (b) buying or leasing land or buildings within the Working Areas,
- (c) compensation for loss of crops or buildings,
- (d) royalties,
- (e) inspection certificates
- (f) charges for access to the Working Areas,
- (g) facilities for visits to the Working Areas by Others,
- (h) consumables and equipment provided by the *Contractor* for the *Client's Project Manager's* and/or *Supervisor's* offices (and others as may be required by the *Client*).

3.0 ECC Schedule of Cost Components; NEC4 Option C; Construction Delivery activities (*Continued*)

3.5 Charges (*Continued*)

- 54 Payments made and received by the *Contractor* for the removal from Site and disposal or sale of materials from excavation and demolition.

3.6 Manufacture and Fabrication

- 6 The following components of the cost of manufacture and fabrication of Plant and Materials by the *Contractor* which are;
- wholly or partly designed specifically for the *works*, and
 - manufactured or fabricated outside the Working Areas.
- 61 Amounts calculated by multiplying each of the rates for *people* in the Contract Data by the total time appropriate to that rate spent on manufacture and fabrication of Plant and Materials outside the Working Areas.

3.7 Design

Design activities are considered not applicable to the *works* for the contract.

3.8 Insurance

- 8 The following are deducted from cost;
- the cost of events for which the contract requires the *Contractor* to insure, and
 - other costs paid to the *Contractor* by insurers.
 - the cost of events for which the *Contractor* is liable

4.0 ECC Schedule of Cost Components; NEC4 Option E; Early Contractor Involvement

Preamble

The *Contractor's* people employed to undertake Early Contractor Involvement activities will be located in either;

- the organisations head / home / regional / local office(s) remote from the Working Area during the *works*, and
- the Working Area.

The cost of people (as calculated in accordance with section 4.1 below) shall not exceed the Total Hourly Bill Rate (or Maximum Staff Rate) for the same or equivalent role, as detailed within the *quotation information*.

The *maximum staff rates* shall be adjusted annually for inflation, in accordance with framework contract Clause Z100.

Where the *Contractor* proposes, and the *Project Manager* agrees that additional staff roles are required outside of those identified in the *quotation information* in order to undertake part of the work identified in an Work Order, the *Contractor* proposes a new *maximum staff rate* for the role. The new *maximum staff rate* is calculated in accordance with the contract, using the same principles and templates as those used to calculate the *maximum staff rates* within the *quotation information*.

The *Project Manager* either accepts or does not accept the proposed *maximum staff rate*. The reasons for not accepting the proposed *maximum staff rate* are;

- the rate is not representative of the “market rate” for such a role. The *Contractor* shall demonstrate, through benchmarking or other methods, that the *maximum staff rate* is in line with the market for such a person,
- a rate for the proposed role or a similar and equivalent role has already been agreed,
- the proposed role will not be used to undertake part of the work identified in an Option E Work Order or is already recovered in the overheads or fee or,
- the rate is not calculated in accordance with the contract.

If accepted by the *Project Manager*, the *maximum staff rate* for the new staff role is added to the *quotation information*.

4.1 People

- 1 The following components of;
 - the cost of people who are directly employed by the *Contractor* and whose normal place of working is within the Working Areas undertaking Early Contractor Involvement activities,
 - the cost of people who are directly employed by the *Contractor* and whose normal place of working is not within the Working Areas but who are working in the Working Areas, proportionate to the time they spend working in the Working Areas undertaking Early Contractor Involvement activities, and

-
- the cost of people who are directly employed by the *Contractor* (excluding people identified in the Fee Schedule) and who are undertaking Early Contractor Involvement activities entirely outside the Working Areas, proportionate to the time they spend working.
- 11 Wages, salaries and amounts paid by the *Contractor* for people paid according to the time worked on the contract.
- 12 Payments related to work on the contract and made to people for;
- (a) bonuses and incentives,
 - (b) enhanced or increased amounts paid for overtime and unsocial hours in addition to the rate paid for normal time,
 - (c) working in special circumstances,
 - (d) special allowances,
 - (e) absence due to sickness and annual leave/holidays, including but not limited to maternity leave, paternity leave, jury service and the like,
 - (f) Severance, including but not limited to statutory redundancy, related to work on this contract,
-

4.0 ECC Schedule of Cost Components; NEC4 Option E; Early Contractor Involvement (*Continued*)

4.1 People (*Continued*)

13 Payments made in relation to people in accordance with their employment contract for;

- (a) travelling to and from the Working Areas; shall be in accordance with the *Client's* Travel and Expenses policy.

Travel and subsistence will not be payable for staff travelling between their home and normal place of work; which could include a regional / base office and a project office.

Travel and subsistence will be payable for staff travelling to any office (other internal (non-base) office), external party sites, or *Client's* offices on an ad hoc basis for the purposes of the contract.

- (b) subsistence and lodging; shall be in accordance with the *Client's* Travel and Expenses policy.
- (c) relocation.
- (d) medical examinations,
- (e) passports and visas,
- (f) travel insurance,
- (g) items 13 (a) to 13 (f) for dependants,
- (h) protective clothing, including but not limited to personal protective equipment (PPE),
- (i) contributions, levies or taxes imposed by law,
- (j) pensions and life assurance, including but not limited to top up payments to under-funded pension schemes and/or payments made in relation to any pensions deficits,
- (k) death benefit,
- (l) occupational accident benefits,
- (m) medical aid and health insurance,
- (n) a vehicle, including but not limited to company car/vehicle costs and the like),
- (o) health and safety training,
- (p) medical aid, dental care and health insurance and the like,
- (q) a vehicle (including but not limited to company car/vehicle costs and the like),
- (r) any additional payments, including but not limited to benefits and costs, such as insurances, national insurance payments and the like,
- (s) end-of-contract gratuity and mandatory provident fund,
- (t) housing benefits and the like,
- (u) children education benefits, passages, and the like,
- (v) office expenses, non-recoverable staff time, and the like,
- (w) mobile phones, communication devices, and the like
- (x) training courses generally; including but not limited to all out of pocket expenses attending training courses

4.0 ECC Schedule of Cost Components; NEC4 Option E; Early Contractor Involvement (*Continued*)

4.1 People (*Continued*)

- 13 Payments made in relation to people in accordance with their employment contract for (*Continued*);
- (y) additional national insurance payments and PAYE payments as a result of breach of the HMRC 24-month location rule
 - (z) any payments not detailed above in respect of costs relating to a spouse or dependants
- 14 The following components of the cost of people who are not directly employed by the *Contractor* but are paid for by the *Contractor* according to the time worked while they are within the Working Areas.
- Amounts paid by the *Contractor* and
 - All costs as stated above under 13, where applicable to the employment of staff not directly employed by the *Contractor*.

4.2 Equipment

Equipment costs are considered not applicable to Early Contractor Involvement activities, as works/services are to be undertaken outside of the Working Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *works* for the contract.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Equipment for NEC4 Engineering and Construction Contract, Option E; Schedule of Cost Components; construction delivery stage, detailed elsewhere within this document.

4.3 Plant and Materials

Plant and Materials costs are considered not applicable to Early Contractor Involvement activities, as works/services are to be undertaken outside of the Works Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *works* for the contract.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Plant and Materials for NEC4 Engineering and Construction Contract, Option E; Schedule of Cost Components; construction delivery stage, detailed elsewhere within this document.

4.0 ECC Schedule of Cost Components; NEC4 Option E; Early Contractor Involvement (*Continued*)

4.4 Subcontractors

Subcontractors costs are considered not applicable to Early Contractor Involvement activities, as works/services are to be undertaken outside of the Working Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *works* for the contract.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Equipment for NEC4 Engineering and Construction Contract, Option E; Schedule of Cost Components; construction delivery stage, detailed elsewhere within this document.

4.5 Charges

Charges costs are considered not applicable to Early Contractor Involvement activities, as works/services are to be undertaken outside of the Works Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *works* for the contract.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Charges for NEC4 Engineering and Construction Contract, Option E; Schedule of Cost Components; construction delivery stage, detailed elsewhere within this document.

4.6 Manufacture and Fabrication

Manufacture and fabrication costs are considered not applicable to Early Contractor Involvement activities, as works/services are to be undertaken outside of the Working Areas and in the organisations head / home / regional / local office(s) remote from the Working Area prior to the commencement of the *works* for the contract.

Notwithstanding the above, should any such requirement become necessary it will be assessed under that stated for Manufacture and fabrication for NEC4 Engineering and Construction Contract, Option E; Schedule of Cost Components; construction delivery stage, detailed elsewhere within this document.

4.7 Design

Design activities are considered not applicable to Early Contractor Involvement activities.

4.8 Insurance

- 8 The following are deducted from cost;
- the cost of events for which the contract requires the *Contractor* to insure, and
 - other costs paid to the *Contractor* by insurers,
 - the cost of events for which the *Contractor* is liable.
-

5.0 ECC Schedule of Cost Components; NEC4 Option E; construction delivery activities

The cost of people (as calculated in accordance with section 5.1 below) shall not exceed the Total Hourly Bill Rate (or Maximum Staff Rate) for the same or equivalent role, as detailed within the *quotation information*.

The *maximum staff rates* shall be adjusted annually for inflation, in accordance with framework contract Clause Z100.

Where the *Contractor* proposes, and the *Project Manager* agrees that additional staff roles are required outside of those identified in the *quotation information* in order to undertake part of the work identified in an Work Order, the *Contractor* proposes a new *maximum staff rate* for the role. The new *maximum staff rate* is calculated in accordance with the contract, using the same principles and templates as those used to calculate the *maximum staff rates* within the *quotation information*.

The *Project Manager* either accepts or does not accept the proposed *maximum staff rate*. The reasons for not accepting the proposed *maximum staff rate* are;

- the rate is not representative of the “market rate” for such a role. The *Contractor* shall demonstrate, through benchmarking or other methods, that the *maximum staff rate* is in line with the market for such a person,
- a rate for the proposed role or a similar and equivalent role has already been agreed,
- the proposed role will not be used to undertake part of the work identified in an Option E Work Order or is already recovered in the overheads or fee or,
- the rate is not calculated in accordance with the contract.

If accepted by the *Project Manager*, the *maximum staff rate* for the new staff role is added to the *quotation information*.

5.1 People

- 1 The following components of;
 - the cost of people who are directly employed by the *Contractor* and whose normal place of working is within the Working Areas undertaking construction delivery activities, and
 - the cost of people who are directly employed by the *Contractor* and whose normal place of working is not within the Working Areas but who are working in the Working Areas, proportionate to the time they spend working in the Working Areas undertaking construction delivery activities.
- 11 Wages, salaries and amounts paid by the *Contractor* for people paid according to the time worked on the contract.
- 12 Payments related to work on the contract and made to people for;
 - (a) bonuses and incentives,
 - (b) enhanced or increased amounts paid for overtime and unsocial hours in addition to the rate paid for normal time,
 - (c) working in special circumstances,
 - (d) special allowances,

-
- (e) absence due to sickness and annual leave/holidays, including but not limited to maternity leave, paternity leave, jury service and the like, and
 - (f) Severance, including but not limited to statutory redundancy, related to work on this contract.
- 13 Payments made in relation to people in accordance with their employment contract for;
- (a) travelling to and from the Working Areas; shall be in accordance with the *Client's* Travel and Expenses policy.
- Travel and subsistence will not be payable for staff travelling between their home and normal place of work; which could include a regional / base office and a project office. Travel and subsistence will be payable for staff travelling to any office (other internal (non-base office), external party sites, or *Client* offices on an ad hoc basis for the purposes of the contract,
- (b) subsistence and lodging; shall be in accordance with the *Client's* Travel and Expenses policy.
-

5.0 ECC Schedule of Cost Components; NEC4 Option E; construction delivery activities (*Continued*)

5.1 People (*Continued*)

- 13 Payments made in relation to people in accordance with their employment contract for;
- (c) relocation,
 - (d) medical examinations,
 - (e) passports and visas,
 - (f) travel insurance,
 - (g) items 13 (a) to 13 (f) for dependants,
 - (h) protective clothing, including but not limited to personal protective equipment (PPE),
 - (i) contributions, levies or taxes imposed by law,
 - (j) pensions and life assurance, including but not limited to top up payments to under-funded pension schemes and/or payments made in relation to any pensions deficits,
 - (k) death benefit,
 - (l) occupational accident benefits,
 - (m) medical aid and health insurance,
 - (n) a vehicle, including but not limited to company car/vehicle costs and the like),
 - (o) health and safety training,
 - (p) medical aid, dental care and health insurance and the like,
 - (q) a vehicle (including but not limited to company car/vehicle costs and the like),
 - (r) any additional payments, including but not limited to benefits and costs, such as insurances, national insurance payments and the like,
 - (s) end-of-contract gratuity and mandatory provident fund,
 - (t) housing benefits and the like,
 - (u) children education benefits, passages, and the like,
 - (v) office expenses, non-recoverable staff time, and the like,
 - (w) mobile phones, communication devices, and the like,
 - (x) training courses generally; including but not limited to all out of pocket expenses attending training courses,
 - (y) additional national insurance payments and PAYE payments as a result of breach of the HMRC 24-month location rule,
 - (z) any payments not detailed above in respect of costs relating to a spouse or dependants.
- 14 The following components of the cost of *people* who are not directly employed by the *Contractor* but are paid for by the *Contractor* according to the time worked while they are within the Working Areas.
- Amounts paid by the *Contractor*.
 - All costs as stated above under 13, where applicable to the employment of staff not directly employed by the *Contractor*.

5.0 ECC Schedule of Cost Components; NEC4 Option E; construction delivery activities (*Continued*)

5.2 Equipment

Preamble; Payment for equipment generally as prescribed hereafter; shall exclude the cost of replacement and/or repair and/or theft, loss and/or damage.

2 The following components of the cost of Equipment which is used within the Working Areas.

- 21 Payments for the hire or rent of Equipment not owned by;
- the *Contractor*,
 - the *Contractor's* ultimate holding company or
 - a company with the same ultimate holding company

at the hire or rental rate multiplied by the time for which the Equipment is required.

Hire periods shall be deemed to mean the number of weeks and part weeks. A part week is measured in half days and is expressed as one twelfth of a week. A part half day is taken as a half day. Where the unit of measure is hours, the hire period will be assessed in hours.

- 22 Payments for Equipment which is not listed in the Contract Data but is;
- owned by the *Contractor*,
 - purchased by the *Contractor* under a hire purchase or lease agreement, or
 - hired by the *Contractor* from the *Contractor's* ultimate holding company or from a company with the same ultimate holding company.

at open market rates, multiplied by the time for which the Equipment is required.

The above reference to "open market rates" shall be deemed to mean equipment costs assessed on the basis of competitive tendered rates and/or costs, including the provision of three prices, obtained and evidenced by the *Contractor* from their supply chain that are able to provide and supply the required equipment, including deductions for length of hire, spend based and other discounts, unless otherwise agreed by the *Project Manager*.

- 23 Payments for Equipment purchased for work included in the contract listed with a time- related on cost charge, in the Contract Data, of;
- the change in value over the period for which the Equipment is required, and
 - the time-related on cost charge stated in the Contract Data for the period for which the Equipment is required.

The change in value is the difference between the purchase price and either the sale price or the open market sale price at the end of the period for which the Equipment is required. Interim payments of the change in value are made at each assessment date. A final payment is made in the next assessment after the change in value has been determined.

5.0 ECC Schedule of Cost Components; NEC4 Option E; construction delivery activities (*Continued*)

5.2 Equipment (*Continued*)

23 *Continued...*

If the *Project Manager* agrees, an additional item of Equipment may be assessed as if it had been listed in the Contract Data.

The above reference to “open market sale price” shall be deemed to mean equipment costs assessed on the basis of competitive tendered rates and/or costs, including the provision of three prices, obtained and evidenced by the *Contractor* from their supply chain that are able to provide and supply the required equipment, including deductions for length of hire, spend based and other discounts, unless otherwise agreed by the *Project Manager*.

- 24 Payments for special Equipment listed in the Contract Data. These amounts are the rates stated in the Contract Data multiplied by the time for which the Equipment is required.

If the *Project Manager* agrees, an additional item of special Equipment may be assessed as if it had been listed in the Contract Data.

- 25 Payments for the purchase price of Equipment which is consumed.

- 26 Unless included in the hire or rental rates, payments for;
- transporting Equipment to and from the Working Areas other than for repair and maintenance,
 - erecting and dismantling Equipment, and
 - constructing, fabricating or modifying Equipment as a result of a compensation event.

- 27 Payments for purchase of materials used to construct or fabricate Equipment.

- 28 Unless included in the hire rates, the cost of operatives is included in the cost of *people*.

5.3 Plant and Materials

- 3 The following components of the cost of Plant and Materials.

- 31 Payments for;
- purchasing Plant and Materials,
 - delivery to and removal from the Working Areas,
 - providing and removing packaging,
 - samples and tests, and
 - purchasing Plant and Materials.

- 32 Cost is credited with payments received for disposal of Plant and Materials unless the cost is disallowed.

5.0 ECC Schedule of Cost Components; NEC4 Option E; construction delivery activities (*Continued*)

5.4 Subcontractors

- 4 The following components of the cost of *Subcontractors*.
- 41 Payments to *Subcontractors* for work which is subcontracted without taking into account any amounts paid to or retained from the *Subcontractor* by the *Contractor*, which would result in the *Client* paying or retaining the amount twice.

5.5 Charges

- 5 The following components of the cost of charges paid or received by the *Contractor*.
- 51 Payments for the provision and use in the Working Areas of;
- water,
 - gas,
 - electricity,
 - telephone, and
 - internet.
- 52 Payments to public authorities and other properly constituted authorities of charges which they are authorised to make in respect of the *works*.
- 53 Payments for;
- (a) cancellation charges arising from a compensation event
 - (b) buying or leasing land or buildings within the Working Areas
 - (c) compensation for loss of crops or buildings
 - (d) royalties
 - (e) inspection certificates
 - (f) charges for access to the Working Areas
 - (g) facilities for visits to the Working Areas by Others
 - (h) consumables and equipment provided by the *Contractor* for the *Project Manager's* and/or *Supervisor's* offices (and others as may be required by the *Client*).
- 54 Payments made and received by the *Contractor* for the removal from Site and disposal or sale of materials from excavation and demolition.

5.6 Manufacture and Fabrication

- 6 The following components of the cost of manufacture and fabrication of Plant and Materials by the *Contractor* which are;
- wholly or partly designed specifically for the *works* and
 - manufactured or fabricated outside the Working Areas.
- 61 Amounts calculated by multiplying each of the rates for people in the Contract Data by the total time appropriate to that rate spent on manufacture and fabrication of Plant and Materials outside the Working Areas.

5.0 ECC Schedule of Cost Components; NEC4 Option E; Construction Delivery activities (*Continued*)

5.7 Design

Design activities are considered not applicable to construction delivery activities.

5.8 Insurance

- 8 The following are deducted from cost;
- the cost of events for which the contract requires the *Contractor* to insure,
 - other costs paid to the *Contractor* by insurers, and
 - the cost of events for which the *Contractor* is liable.

