



**Highways England Company Limited**

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

**Contract Data**  
**Parts 1 and 2**

in relation to the *works* for

**Concrete Roads Lifecycle Extension Works**  
**Framework**

September 2020

## CONTENTS AMENDMENT SHEET

<b>Amend No.</b>	<b>Revision No.</b>	<b>Amendments</b>	<b>Initials</b>	<b>Date</b>
1	1	Inserted new definition for Fee Schedule	DC	18/09/20
2	1	Addition of A2 to amount in clause Z17.3	DC	18/09/20
3	1	Removal of Clause X22.2(5) (via clause Z1) and related Contract Data entry	DC	18/09/20

# Contract Data

## PART ONE – DATA PROVIDED BY THE *CLIENT*

### 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.

Main Option	E	Option for resolving and avoiding disputes	W2
Secondary Options	X2, X5, X10, X12, X18, X22, Y(UK)1, Trust Deed, Joining Deed, Y(UK)2, Y(UK)3 Z1 to Z150		
The <i>works</i> are	for construction of lifecycle extension works on concrete roads.		
The <i>Client</i> is	Highways England Company 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	ConcreteRoads@highwaysengland.co.uk		
The <i>Project Manager</i> is			
Name	is in the Additional Work Order Information		
Address for communications	is in the Additional Work Order Information		
Address for electronic	is in the Additional Work Order Information		

communications

The *Supervisor* is

Name

Address for communications

Address for electronic communications

The Scope is in

The Site Information is in

The *boundaries of the site* are

The *language of the contract* is

The *law of the contract* is the law of

The *period for reply* is

Matters to be included in the Early Warning Register are in the Additional Work Order Information

Early warning meetings are held at intervals no longer than

## 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 Information

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

### 3 Time

The *starting date* is Detailed below under Option X5

The access *dates* are in the Additional Work Order Information

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 Information

The *Client* is willing to take over the *works* before the Completion Date

### 4 Quality Management

The period after the Contract Date within which the *Contractor* is to submit a quality policy statement and quality plan is 4 weeks

The period between Completion of a Scheme and the *defects date* of a Scheme is 52 weeks from Completion of 3D Process Stage 6, except for to following elements of a Scheme:

- Slab replacement which is 3 years
- Thin bond repairs which is 3 years
- Thin asphalt overlays which is 3 years
- Longitudinal grinding which is 3 years
- Drainage replacement which is 3 years
- Street lighting which is 3 years
- White topping which is 3 years

The *defect correction period* is four weeks.

### 5 Payment

The *currency of the contract* is the pound sterling (£)

The *assessment interval* is

one

calendar month

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

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

the closest Met Office weather station to the Site

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 09:00 hours GMT

The *weather measurements* are supplied by

The Met Office

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

which were recorded at

The place where weather is to be recorded

and which are available from

The Met Office

Assumed values for the ten year return *weather data* for each *weather measurement* for each calendar month are

The closest Met Office weather station to the Site where such data exists

These are additional compensation events

- Coronavirus Disease 2019 (COVID-19) or any mutation thereof and in either case such is classified or advised by the world health organization and/or the government of the country in which the Site is located to be an epidemic or pandemic, or
- any change in the law of the country in which the Site is located to the extent only that such impact relates to an event described in the first bullet point.
- The secretary of state issues additional directions or guidance to the *Client* under section

<p>6 of the Infrastructure Act 2015 or changes any directions or guidance previously issued (including directions or guidance contained in the Licence).</p> <ul style="list-style-type: none"> <li>• The <i>Client</i> notifies the <i>Contractor</i> that payments under the contract will no longer be made using the Project Bank Account.</li> <li>• The <i>Project Manager</i> instructs the <i>Contractor</i> to share the Site with Others who are not Concrete Framework Suppliers for a purpose other than to Provide the Works.</li> </ul>
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## 8 Liabilities and insurance

These are no additional *Client's* liabilities

The *Contractor* provides the insurances from the Insurance Table and in accordance with the requirements in **Annex 03** of the Scope.

<p>The minimum amount of cover of insurance against loss of or damage to property (except the <i>works</i>, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the <i>Contractor</i>) arising from or in connection with the <i>Contractor</i> Providing the Works for any one occurrence is</p>	<p>Not less than the amount stated in the Additional Work Order Information in respect of any one occurrence without limit to the number of occurrences in any annual policy period.</p> <p>But the amount stated in the Additional Work Order Information 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).</p>
<p>The minimum amount of cover of insurance against death of or bodily injury to employees of the <i>Contractor</i> arising out of and in the course of their employment in connection with the contract for any one occurrence is</p>	<p>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.</p>
<p>If the <i>Client</i> is to provide Plant and Materials.</p> <p>The insurance against loss of or damage to the <i>works</i>, Plant and Materials is to include cover for Plant and Materials provided by the <i>Client</i> for an amount of</p>	<p>A sum insured to represent the reinstatement or replacement cost of the relevant insured property</p>

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

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 in the Additional Work Order Information

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

The *starting date*, *completion date*, *lump sum fee* and *target* for each section of the *works* is detailed in the Additional Work Order Information.

### 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

4 weeks

### Option X12: Multiparty collaboration

The *Promoter* is

the *Client*

The Schedule of Partners is in

The Additional Works Order Information

The *Promoter's objective* is

the Framework Objectives in the Framework Information of the Framework Contract

The Partnering Information is in

the Additional Works Order Information

The *programme information* is in

The *programme information* in the Framework Contract

### Option X18: Limitation of liability

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

the final total of the  
Prices

For any one event, the *Contractor's* liability to the *Client* for loss of or damage to the *Client's* property is limited to

£5 million

The *Contractor's* liability for Defects due to its design which are not listed on the Defects Certificate is limited to

£2 million

The *Contractor's* total liability to the *Client* for all matters arising under or in connection with the contract, other than excluded matters listed in X18.5, is limited to

£15 million

The *end of liability date* is

12

years after Completion of the whole of the *works*.

### Option X22: Early *Contractor* involvement

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

### Option Y(UK)1: Project Bank Account

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

The 20<sup>th</sup> of the month after the Contract 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*

Scope S1212 Fair Payment

- a Subcontractor
- subcontractor
- subsubcontractors

Scope S1200 Subcontracting  
Z8 Subcontracting

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 – Z150

### Contract Data entries relating to Z Clauses

Z150

The Package Budget is in the Additional Work Order Information

### Contract Data entries relating to Scope

Not Used

## PART TWO – DATA PROVIDED BY THE CONTRACTOR

### 1 General

The *Contractor is*

Name

Is in the Additional Work Order Information

Address for communications

Is in the Additional Work Order Information

Address for electronic  
communications

Is in the Additional Work Order Information

The *fee percentage* is

In the *quotation information* from the Framework Contract

The *staff rates* are

the *staff rates* from the Framework Contract

The *staff roles* are

the roles defined in the 'Staff Roles' tab in the *quotation information* from the Framework Contract

The *working areas* are

In the Additional Work Order Information

The *key persons* are identified in the Additional Work Order Information

The following matters to be included in the Early Warning Register are in the Additional Work Order Information

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

The Scope for the *Contractor's* design is in

N/A

### 3 Time

The programme identified in the Contract Data is in

the Additional Work Order  
Information

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

in the Additional Work Order  
Information

## Resolving and Avoiding Disputes

The *Senior Representatives* of the *Contractor* are in the Additional Work Order Information

## Contract Data entry relating to Data Protection Legislation

The contact details of the *Contractor's* Data Protection Officer or Data Protection nominated lead are:

In the Additional Work Order  
Information

## X10: Information modelling

The *information execution plan* identified in the Contract Data is

N/A

## X22: Early *Contractor* involvement (only used with Options C and E)

The Stage One key persons are in the Additional Work Order Information

The Pricing Information is in

The Pricing Information section of the Framework  
Information in the Framework Contract

## Option Y(UK)1: Project Bank Account

The *project bank* is

In the Additional Work Order Information

*named suppliers* are

In the Additional Work Order Information

## Data for Schedule of Cost Components

Are priced with the Proposals for Stage 2 in accordance with X22.3 and the Pricing Information

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	Confidentiality
Z6	Adjudication
Z7	Termination – Public Contract 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 Recovery
Z17	Removal of <i>works</i> from the Scope
Z18	Corruption or loss of data
Z19 – Z49	Not Used
Z50	Health and Safety Plan
Z51	Not Used
Z52	Transfer of Undertakings (Protection of Employment) Regulations (TUPE)
Z53 – Z55	Not Used
Z56	Construction Industry Scheme
Z57	Infrastructure Act 2015
Z58	Revisions to Promises Statement
Z59	Indemnified claims
Z60	Tax Arrangements of Public Appointees
Z61	Enhancements
Z62 – Z104	Not Used
Z105	Innovation - Title to Equipment
Z106 – Z149	Not Used
Z150	Option X12 Multiparty Collaboration - Package Incentive Mechanism

## **Z1 Changes to core & Secondary Option clauses**

11 Identified and defined terms

11.2 Add the following defined terms

(36) Associated Company is any of

- A Consortium Member or
- Any company, corporation, partnership, joint venture or other entity which directly or indirectly Controls, is under the Control of or is under common Control with the *Contractor* or a Consortium Member.

(37) Change of Control is an event where any single person, or group of persons acting in concert, acquires Control of the *Contractor* or a Consortium Member or acquires a direct or indirect interest in the relevant share capital of the *Contractor* or a Consortium Member, as a result of which that person or group of persons holds or controls the largest direct or indirect interest in (and in any event more than 25% of) the relevant share capital of the *Contractor* or a Consortium Member.

(38) Consortium Member is an organisation which is a member of the group of economic operators comprising the *Contractor*, whether as a participant in a non-integrated joint venture or a shareholder in a joint venture company.

(39) Control has the meaning set out in section 1124 of the Corporation Tax Act 2010.

(40) Controller is the single person (or group of persons acting in concert) that

- has Control of the *Contractor* or a Consortium Member or
- holds or controls the largest direct or indirect interest in the relevant share capital of the *Contractor* or a Consortium Member.

(41) Credit Rating is the credit rating or any revised long term credit rating issued by a rating agency accepted by the *Client* in respect of the *Contractor*, a Consortium Member or any Guarantor.

(42) The Data Protection Acts are the General Data Protection Regulation (EU 2016/679) and any other laws or regulations relating to privacy or personal data.

(43) The Discrimination Acts are the Equality Act 2010 and any provisions of any earlier statutes that are expressly preserved in force by that Act.

(44) DOTAS are the Disclosure of Tax Avoidance Schemes rules contained in Part 7 of the Finance Act 2004 and in secondary legislation made pursuant to it, as extended to National Insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012 (SI 2012/1868).

(45) 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.

(46) Enhancement is a change to the design, materials used, methods of construction or maintenance or operational performance requirements proposed by the *Contractor* or a 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 Partners

(47) EU Reference is any European Union

- regulation,
- decision,
- tertiary legislation or
- provision of the European Economic Area agreement

(48) Exit Day is the exit day as defined in section 20 of the European Union (Withdrawal) Act 2018, as amended.

(49A) Fee Schedule is the 'Fee' tab in the *quotation information* from the Framework Contract

(49B) Financial Standing Test is the financial test for the *Contractor*, a Consortium Member or a proposed guarantor used in the tender stage of the competition for this contract.

(50) Framework Contract is the framework contract under which this work order contract is let

(51) Framework Contract Date is the date of award of the Framework Contract

(52) General Anti-Abuse Rule is

- The legislation in Part 5 of the Finance Act 2013 and
- Any future legislation introduced to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions.

(53) Guarantor is a person who gives a Parent Company Guarantee to the Client.

(54) Halifax Abuse Principle is the principle explained in the CJEU case C-255/02 Halifax and others.

(55) Health and Safety Plans are

- A completed Supply Chain Health and Safety Maturity Matrix (SCMM) 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,
- 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 in order to improve the scores recorded in the SCMM 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 this 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.

(56) 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.

(57) Indemnified Claim is a matter for which the *Contractor* is liable under the contract.

(58) Information Systems are the systems specified in the 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.

(59) Innovation is an innovative solution to an issue in relation to the development of which the *Client* wishes to invest designated funds.

(60) Intellectual Property Rights or IPRs are copyright and related rights, database rights, design rights, patents, inventions, trade marks (and goodwill attaching to those trade marks), domain names, applications for and the right to apply for any of the foregoing, moral rights, confidential information and any other intellectual or industrial property rights, whether or not registered or capable of registration, whether subsisting now or in future in any part of the world.

(61) Licence is the document entitled "Highways England: Licence" dated April 2015 listed in Annex 2 to the Scope.

(62) Lump Sum Fee is the *lump sum fee* for a *section* unless later changed in accordance with the contract.

(63) Parent Company Guarantee is a guarantee of the *Contractor's* performance in the form set out in the Scope

(64) Performance Requirement is the required standard for performance of each element of the *works* as specified in the Scope.

(65) Personal Data are any data relating to an identified or identifiable individual that are within the scope of protection as "personal data" under the Data Protection Acts.

(66) Quality Management Points are points accrued by the *Contractor* in accordance with the quality table in the Scope.

(67) Related Dispute is a dispute under or in connection with a contract between a Party and Others relating to this contract.

(68) Related Dispute Adjudicator is an adjudicator appointed to determine a Related Dispute.

(69) Relevant Tax Authority is HM Revenue & Customs or, if the *Contractor* is established in another jurisdiction, the tax authority in that jurisdiction.

(70) 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).

(71) Staff are employees employed by the *Contractor* or an Associated Company or any Subcontractor to Provide the Works at any time.

(72) Starting Date is the *starting date* unless later changed in accordance with the contract

(73) The Secretary of State is the Secretary of State for Transport.

(74) Tax Non-Compliance is where a tax return submitted by the *Contractor* or a

Consortium Member to a Relevant Tax Authority on or after 1 October 2012

- Is found on or after 1 April 2013 to be incorrect as a result of a Relevant Tax Authority successfully challenging the *Contractor* or a Consortium Member under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rule or legislation with similar effect or
- The failure of an avoidance scheme in which the *Contractor* or a Consortium Member was involved which was (or should have been) notified to a Relevant Tax Authority under the DOTAS or a similar regime or
- Gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax-related offences which is not spent at the date of award of this contract or to a civil penalty for fraud or evasion.

(75) TUPE is the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Amend the following terms

### 11.2 (23) The Prices

Delete and replace with

The Prices are:

- the forecast of the total Defined Cost for the whole of the *works*, plus
- the Lump Sum Fees, plus
- the Fee for *sections* that do not have a Lump Sum Fee.

### 11.2 (24) Defined Cost

Delete definition and insert:

Defined Cost is:

- for people in the roles identified in the *staff roles*, the sum of the products of each of the *staff rates* multiplied by the total time appropriate to that rate properly spent on work on the contract, plus
- for other costs the cost of the components in the Schedule of Cost Components, less
- Disallowed Cost.

### 11.2 (26) Disallowed Cost

In the definition of “Disallowed Cost”

(i) insert an additional sub-bullet under the third main bullet point as follows

- comply with the *Client’s* Behavioural Maturity Framework described in the Scope,

(ii) 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* quality management system during any period while the number of Quality Management Points in effect is

above the 25 points.

- replacing a *key person* (and any associated costs), and
- complying with Clause 1.22.2 in Annex 15 of the Scope and resulting costs
- proposals for Stage Two in accordance with X22.3 excluding X22.3(5)

(iii) 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.

## 11.2 (31) Price for Work Done to Date

Delete definition and insert:

The Price for Work Done to Date is the total Defined Cost which the *Project Manager* forecasts will have been paid by the *Contractor* before the next assessment date plus

- for *sections* identified as having a Lump Sum Fee
  - prior to Completion of a *section*, the Fee but the Fee does not exceed the Lump Sum Fee, or
  - after Completion of the *section*, the Lump Sum Fee, and
- for other *sections*, the Fee.

## 12 Interpretation and the law

12.2 Delete & replace clause 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.

## 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

## **30 Starting, Completion, and Key Dates**

Insert new clause 30.4 “The *Contractor* does not start work on a *section* until the Starting Date.”

## **44 Correcting Defects**

44.3 In the first bullet point after “defect correction period” insert “(other than any such period relating to landscaping aftercare)”; in the second bullet point after “Defects” insert “(other than any Defects relating to landscaping aftercare)”.

## **51 Payment**

51.2 Delete the first sentence.

## **60 Compensation events**

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

or

- 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 (1) In the second main bullet point, after “design” insert “or for which the *Contractor* is responsible under clause Z104.1”.

Insert an additional sub-bullet after the second main bullet point

“in order to rectify a Defect in the design of the works,”

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”.

Insert “, Targets” after “Prices” in the following clauses: 61.3, 61.4, 62.2, 63.6, 63.10 & 66.2.

Insert “and Targets” after “Prices” in the following clauses: 63.1, 63.2, 63.3 & 63.4.

## **80 Client’s liabilities**

80.1 Insert at the end of the second main bullet point (before the full stop)

“(excluding a fault in any design for which the *Contractor* has responsibility under the contract)”.

Delete the third main bullet point.

## **83 Insurance cover**

Delete clause 83 and insert

“83.1 The Contractor provides the insurances stated in, and to comply with the requirements set out in, Annex 3 to the Scope.”

## **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 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,
- *Contractor’s* share,
- fraud or fraudulent misrepresentation,
- events for which the contract requires the *Contractor* to insure (but only up to the required level for each type of insurance stated in the Contract Data,
- 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 and
- losses caused by the *Contractor’s* illegal acts, deliberate default, deliberate abandonment or reckless misconduct.

**Option X22 Early *Contractor* Involvement**

Delete X22.1 (1), (2), X22.2 (5), X22.6, X22.7.

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.

(8) The Contractor completes any outstanding design during Stage Two.

### **Option Y(UK)1 Project Bank Account**

Y1.2 In line 1 delete “three” and insert “six”.

[Clause Y1.6 is amended by inserting the following after the second sentence. "The *Client* may propose that a Supplier is added to the Named Suppliers. The *Contractor* accepts the proposal if the addition of the Supplier to the Named Suppliers is practicable.]

Y1.9 Delete the final sentence and insert

"The *Project Manager* confirms its acceptance of the Authorisation no later than one day before the final date for payment and the *Contractor* submits it to the *project bank*. A reason for not accepting the Authorisation is that it does not match the application for payment or it does not comply with the requirements of the contract".

### **Schedule of Cost Components**

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

## **Z2 Interpretation**

Inherited from Z3 in the Framework Contract

## **Z3 Recovery of sums due from the *Contractor*.**

Inherited from Z3 in the Framework Contract

## **Z4 Assignment and transfer**

Inherited from Z4 in the Framework Contract

## **Z5 Confidentiality**

Inherited from Z5 in the Framework Contract

## **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 Contract 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 or
  - the Court of Justice of the European Union declares in a procedure under Article 258 of the Treaty on the Functioning of the European Union, that a serious infringement of the obligations under the European Union Treaties and the Public Contracts Directive has occurred.
- 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 The *Client* may terminate if a key Subcontractor or another key resource needed for the *works* is no longer available and the *Contractor* is unable to propose an alternative resource acceptable to the *Project Manager*. In the event of a termination under this clause, the termination procedures followed are P1, P2 and P3 and the amounts due on termination are A1 and A3.
- 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 European 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.

## **Z9 Change of Control and financial distress**

Inherited from Z9 in the Framework Contract

## **Z10 Joint ventures**

Inherited from Z10 in the Framework Contract

- 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*.
- Z10.7 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".

<b>Z11</b>	<b>Parent Company Guarantee</b>
	Inherited from Z11 in the Framework Contract
<b>Z12</b>	<b>Discrimination, Bullying and Harassment</b>
	Inherited from Z12 in the Framework Contract
<b>Z13</b>	<b>Intellectual Property Rights (IPRs)</b>
	Inherited from Z13 in the Framework Contract
<b>Z14</b>	<b>Project Bank Account</b>
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.
<b>Z15</b>	<b>Tax Non – Compliance</b>
	Inherited from Z15 in the Framework Contract
<b>Z16</b>	<b>Value Added Tax (VAT) Recovery</b>
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.
<b>Z17</b>	<b>Termination and removal of part of the works</b>
Z17.1	<p>The <i>Project Manager</i> may instruct the <i>Contractor</i> that</p> <ul style="list-style-type: none"> <li>part of the <i>works</i> is to be permanently removed from the contract or</li> <li>for urgent reasons of health and safety, part of the <i>works</i> is to be temporarily removed from the contract.</li> </ul> <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 Z17.1 is assessed as a compensation event, except that if the instruction is given for one of the reasons R1-R15, R18 or R22, the assessment includes a deduction of the forecast of the additional cost to the <i>Client</i> of completing the removed <i>works</i> .
Z17.3	The <i>Client</i> may terminate the <i>Contractor's</i> obligation to Provide the Works for a reason not identified in the Termination Table by notifying the <i>Project Manager</i> and the <i>Contractor</i> . If the <i>Client</i> terminates for a reason not identified in the Termination Table the termination procedure followed is P1 and the amount due on termination is A1 and A2.

- Z17.4 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* 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 - 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 after the Contract Date. This is treated as a termination because of a substantial failure of the *Contractor* to comply with his 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 Not Used**

**Z52 Transfer of Undertakings (Protection of Employment) Regulations (TUPE)**

Inherited from Z52 in the Framework Contract

**Z53 – Z55 Not Used**

**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**

- Z57.1 The *Contractor* Provides the Works in compliance with, and so as not to put the *Client* in breach of
- the Licence and
  - any other directions and guidance issued by The Secretary of State to the *Client* under section 6 of the Infrastructure Act 2015 (and notified by the *Project Manager* to the *Contractor*).
- Z57.2 The *Project Manager* notifies the *Contractor* of any notice issued by the Office of Rail and Road to the *Client* under section 11(2)(a) of the Infrastructure Act 2015 that relates to the *works*. The *Contractor* complies with the terms of any such notice and indemnifies the *Client* against any associated fine imposed on the *Client* under section 11(2)(b) of that Act.

**Z58 Revisions to Quality Statement**

Inherited from Z58 in the Framework Contract

- Z58.2 A revision to the Quality Statement accepted by the *Project Manager* is not a compensation event.

**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 Public Appointees**

Inherited from 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 Parties 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 accept 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 develop a detailed specification for and/or to carry out the trials, testing or 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.
- Z61.7 The *Client* 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 under the contract, 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 Partners, clause Z61 applies except that
- the outline and detailed business case are prepared jointly by the *Contractor* and the relevant Partners,
  - the detailed business case includes a proposal for how the Incentive Amount is to be shared between the *Contractor* and the relevant Partners,
  - the *Client* may instruct the *Contractor* or any 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 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 – Z149 Not Used

### Z150 Option X12 Multiparty Collaboration - Package Incentive Mechanism

- Z150.1 Delete Clause X12.4 (1) and (2), and insert
- (1) Insert new Definitions:
- Package Budget is the items and amounts stated in the Contract Data unless the amounts are later changed in accordance with the contract.
- Package Cost is the total paid by the *Client* to the *Contractor* and Others for the items included in the Package Budget.
- Partner Fee is the total of
- the Lump Sum Fees for *sections* identified as having a Lump Sum Fee, plus
  - for other *sections* the Fee,
- paid under this contract and the *Contractor's* other Own Contracts for sections for

items included in the Package Budget.

(2) The *Project Manager* may give an instruction changing the *programme information*. If the *Project Manager* gives an instruction changing the *programme information*, the *Project Manager* and the *Contractor* discuss different ways of dealing with changes to the Package Budget which are practicable.

(3) The *Project Manager* and the *Contractor* agree changes to the Package Budget within four weeks of the event arising which changes the Package Budget. If the *Project Manager* and the *Contractor* cannot agree the changes to the Package Budget the *Project Manager* assesses the change based on the forecast Package Cost and notifies the *Contractor* of the assessment.

(4) A Partner is paid or pays the amount stated in the Schedule of Partners. Payment of the amount is due as stated in the Schedule of Partners and is made as part of the amount due in the Partner's Own Contract.



## Annex One

### Schedule of Cost Components

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.

In this schedule the *Contractor* means the *Contractor* and Associated Companies, but not its Subcontractors.

#### 1 People

The following components of

- the cost of people who are directly employed by the *Contractor* (excluding people identified in the Fee Schedule) and whose normal place of working is within the Working Areas,
- the cost of people who are directly employed by the *Contractor* (excluding people identified in the Fee Schedule) 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, and
- the cost of people undertaking design who are directly employed by the *Contractor* (excluding people identified in the Fee Schedule) and who are Providing the Works outside the Working Areas, proportionate to the time they spend working,

who are not included in the *staff roles*.

- 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) overtime
  - (b) working in special circumstances
  - (c) special allowances
  - (d) absence due to sickness and holidays
  - (e) statutory redundancy and notice severance on a pro rata basis for the period engaged in order to Provide the Works where redundancy arises because the

person is no longer required to be employed to Provide the Works and that person cannot be deployed elsewhere. The amount of the statutory redundancy and notice severance will relate only to the length of service of that person in order to Provide the Works.

- 13 Payments made in relation to people in accordance with their employment contract for
- (a) travel, subsistence and lodging in accordance with the *Client's* Travel and Subsistence policy
  - (b) relocation
  - (c) medical examinations
  - (d) passports and visas
  - (e) travel insurance
  - (f) items (a) to (e) for dependents
  - (g) protective clothing
  - (h) contributions, levies or taxes imposed by law
  - (i) pensions and life assurance excluding payments made in relation to any pensions deficits
  - (j) death benefit
  - (k) occupational accident benefits
  - (l) medical aid and health insurance
  - (m) a vehicle
  - (n) safety training specific to Providing the Works.
- 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*.

## **2 Equipment**

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.

22 Payments for Equipment which is not listed in the Contract Data but is

- owned by the *Contractor*,
- purchased by the *Contractor* under a hire purchase or lease agreement or
- hired by the *Contractor* from the *Contractor's* ultimate holding company or from a company with the same ultimate holding company
- at open market rates, multiplied by the time for which the Equipment is required.

23 Payments for Equipment purchased for work included in 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.

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 Plant and Materials**

The following components of the cost of Plant and Materials.

- 31 Payments for
- purchasing Plant and Materials,
  - delivery to and removal from the Working Areas,
  - providing and removing packaging and
  - samples and tests.
- 32 Cost is credited with payments received for disposal of Plant and Materials unless the cost is disallowed.

### **4 Subcontractors**

The following components of the cost of Subcontractors.

- 41 Payments to Subcontractors (excluding Associated Companies and people in the *staff roles*), 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 Charges**

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 *Supervisor's* offices.

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

55 Cost is credited to the value of payments made by the *Client* for the recovery of any vehicles within the Site.

**6 Manufacture and fabrication**

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.

**7 Design**

Not Used

**8 Insurance**

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.