

Delivery Agreement Part A

Provision of Professional Services

between

Driver & Vehicle Standards Agency

and

Perfect Circle JV Ltd

DVSA Maintenance Backlog 3 Package:
CDMA + Site Visits / Handover Support

DVSA contract reference: K280021240

Document History

Issue	Date	Comment	Author	Chk'd
0	16/12/20	Draft	JE	SF

Delivery Agreement

THIS AGREEMENT is made 22 December 2020

BETWEEN:

(1) **Driver and Vehicle Standards Agency** of Berkeley House, Croydon Street, Bristol BS5 0DA
(the 'Employer') AND

(2) **Perfect Circle JV Ltd** (company number **10219126**) whose registered office is at Halford House, Charles Street, Leicester, LE1 1HA (the 'Consultant') for the Services of **Programme, Contract Administration and Cost Consultancy services**

Whereas:

This Delivery Agreement is made pursuant to the Framework Agreement dated 5th October 2016 made between Scape Procure Limited and the Consultant (the "Framework Agreement") and incorporates those provisions of the Model Delivery Agreement set out in Part A of Schedule 3 to the Framework Agreement.

IT IS AGREED as follows:

1. The *Consultant's* obligations

The *Consultant* provides the Services and complies with his obligations in accordance with the conditions of contract set out in the Contract Data attached as Appendix 1.

2. The *Employer's* obligations

The *Employer* pays the amount of money and complies with its obligations in accordance with the conditions of contract set out in the Contract Data attached as Appendix 1.

Signed for and on behalf of **Driver and Vehicle Standards Agency**

The terms of this Delivery Agreement are acknowledged and we agree to abide by its terms.
Signed for and on behalf of **PERFECT CIRCLE JV LTD**

XXXXXX Redacted under FOIA section 40

XXXXXX Redacted under FOIA section 40

Signature

Signature

XXXXXX Redacted under FOIA section 40
Name

XXXXXX Redacted under FOIA section 40
Name

Senior Commercial Category Manager – Estates Services

Authorised Signatory
Position

22.December 2020
Date

22 December 2020
Date

Appendix 1

Part A - NEC Professional Services Contract

Contract Data: Part One – Data provided by the Employer

1. General

The *conditions of contract* are (as each has been amended by Option Z in the Model Delivery Agreement) the core clauses and the clauses for main Options **A**, dispute resolution Option W2 and secondary Options X1, X2, ~~X5, X12~~ X8, X9, ~~X10~~, X11, X18, ~~Y(UK)1~~, Y(UK)2, Y(UK)3 of the NEC3 Professional Services Contract April 2013.

- The *Employer* is

Name: **Driver and Vehicle Standards Agency**

Address: **Berkeley House, Croydon Street, Bristol BS5 0DA**

- The *Adjudicator* is *not named*

—Name

Address

- The *services* are **CDM Advisor & Site Visits / Handovers in relation to 12 no. sites within the Maintenance Backlog 3 programme**
- The Scope is set out in **Perfect Circle Fee Proposal, (Rev 0 date 16.12.20) included in Appendix A of this agreement**
- The *language* of this contract is English
- The *law* of the contract is the law of England and Wales
- The *period for reply* is **2** weeks
- ~~The *period for retention* is **12** years following Completion or earlier termination~~
- The *Adjudicator nominating body* is **the Royal Institution of Chartered Surveyors**
- The *tribunal* is **the Courts**
- The following matters will be included in the Risk Register **None**

2. The Parties' main responsibilities

- The *Employer* provides access to the following persons, places and things:

To be agreed between the Parties prior to commencing each task in accordance with section 4.2 of the Consultant's proposal.

3. Time

- The starting date is **1ST January 2021**
- The *Consultant* submits revised programmes at intervals no longer than **n/a**

4. Quality

- The quality policy statement and quality plan are provided within **[n/a]** weeks of the Contract Date.
- The *defects date* is **[n/a]** weeks after Completion of the whole of the services.

5. Payment

- The *assessment interval* is monthly
- The *currency* of the contract is **the pound sterling**
- The *interest rate* is 3% per annum above the base rate in force from time to time of the Bank of England.

6. Indemnity, insurance and liability

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

Event	Minimum Amount of Cover	Period Following Completion or Earlier Termination
Liability of the <i>Consultant</i> for claims made against him arising out of his failure to use the skill and care required by this contract.	£ XXXXXX Redacted under FOIA section 43 in respect of each and every claim or series of claims arising out of the same original cause or source (or equivalent), without limit to the number of claims, save that there may be lower and/or annual aggregate limits of cover in respect of asbestos, pollution and contamination related claims and similar where such limited cover is the norm	12 years
death or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	£ XXXXXX Redacted under FOIA section 43 in respect of each claim, without limit to the number of claims	12 years
death or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	The greater of the amount required by law and £ XXXXXX Redacted under FOIA section 43 in respect of each claim, without limit to the number of claims	12 years

- The *Employer* provides the following insurances:

Insurance for all existing buildings and property existing within the Site or at the sole discretion of the *Employer* he may elect to 'self-insure' such existing buildings and property and in doing so accepts all of the *Employer's* associated risks arising out of or in relation to such 'self-insurance'. In accordance with an *Employer's* decision to 'self-insure' they do not accept any additional insurance premium/cost from the *Consultant*. The *Consultant* is to assume the *Employer* insures or "self-insures" as set out above
- The *Consultant's* total liability to the *Employer* for all matters arising under or in connection with this contract, other than the excluded matters is limited to £ XXXXXX Redacted under FOIA section 43, the level of its professional indemnity insurance.

Optional statements (The following optional clauses apply)

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

- The **completion date** for the whole of the **services** is **30th June 2021**

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

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

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

- The **key dates and conditions** to be met are

Condition to be met

Key Date

Completion and handover

30th June 2021

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

- The period for payment is **30** days

If the **Employer** states any **expenses**:

- The **expenses** stated by the **Employer** are:

Item

Amount

1

.....

2

.....

3

.....

All **expenses** are included in the tendered total of the **Prices**

If **Option C, E or G** is used:

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

If **Option X1** is used

- The **index** is the **BCIS Labour Cost Index** published by the **Building Cost Information Service** of the **Royal Institution of Chartered Surveyors**

Option X2

- The **law of the project** is the law of **England and Wales**

If **Option X8** is used

- The **collateral warranty agreements** are:

Agreement Reference

Third Party

Part B Schedule 5 of Framework Agreement:
Warranty to be provided by Consultant

Employer

[The forms of the *collateral warranty agreements* are as attached at Schedule 5 to the Framework Agreement]

If Option X18 is used

- The *Consultant’s* liability to the *Employer* for indirect or consequential loss is
 - o £XXXXXX Redacted under FOIA section 43
- The *Consultant’s* liability to the *Employer* for Defects that are not found until after the *defects date* is
 - o £ XXXXXX Redacted under FOIA section 43
- The end of liability date is 12 years after Completion of the whole of the services (unless the Delivery Agreement is executed under hand in which case the end of liability will be 6 years after Completion of the whole of the services).

If Option Y(UK)3 is used

Term	Person or Organisation
.....
.....
.....
.....
.....

Option Z

1. The additional Conditions of Contract are identified by the amendments, alterations, additions and deletions as contained in the Framework Agreement Schedule 3 Part A apply and take priority over the standard form NEC Professional Services Contract Option A/C/E/G.

2. Amendment to conditions of contract

11.2(14) Insert a new definition:

“Cladding Claims shall mean any claim in respect of:
 The combustibility of any Aluminium Composite Panels (and associated core/filler and insulation) which failed the BRE testing programme undertaken on behalf of The Department for Communities and Local Government in July & August 2017 or fails any BS8414 test set out in the current Building Regulations guidance.”

3. In addition, the parties have agreed the following:

Z.3 General Data Protection Regulations (GDPR)

Z.3.1 The Consultant warrants that it shall under this Contract :

Z.3.1.A Process only on documented instructions by the Employer, including regarding international transfers (unless, subject to certain restrictions, legally required to transfer to a third country or international organisation);

- Z.3.1.B ensure those processing personal data are under a confidentiality obligation (contractual or statutory);
- Z.3.1.C appoint a suitably qualified data protection representative to manage the data;
- Z.3.1.D keep records of their data processing activities performed under this Contract in order to be able to provide information included in those records to the Data Protection Authorities, upon request. Records should include:
- (1) details of the data controller and data processor and their representatives;
 - (2) the categories of processing activities that are performed;
 - (3) information regarding cross-border data transfers and;
 - (4) a general description of the security measures that are implemented;
- Z.3.1.E take all measures required under the security provisions which includes pseudonymising and encrypting personal data as appropriate;
- Z.3.1.F only use a sub-processor with the Employer formal written consent (specific or general, although where general consent is obtained processors must notify all and any changes to the Employer, giving them an opportunity to object);
- Z.3.1.G flow down the same contractual obligations to sub-processors;
- Z.3.1.H notify the Employer without undue delay data breaches;
- Z.3.1.I assist the Employer in responding to requests from individuals (data subjects) exercising their rights; assist the Employer in complying with the obligations relating to security, breach notification, DPIAs and consulting with supervisory authorities;
- Z.3.1.J delete or return as instructed Employer all personal data at the end of the Contract (unless storage is required by EU/member state law);
- Z.3.1.K make available to the Employer all information necessary to demonstrate compliance; allow/contribute to audits (including inspections); and inform the Employer if its instructions infringe data protection law.
- Z.3.2 The Employer may require further assurances during the contract, though a series of questions as to the Consultant GDPR compliance.
- Z.3.3 Notwithstanding any other remedies available to the Employer, will be liable to the Employer as a result of any such breach of the General Data Protection Regulations (GDPR), by the Consultant or any other party used by the Consultant in its performance of the Contract that results in the Employer reasonable suffering fines, loss or damages.
- Z.3.4 For the avoidance of doubt this clause shall require the Consultant to ensure that this Contract from its commencement shall be performed in such a way so as to be compliant with any existing Data Protection Act and will meet the requirements of the GDPR when this comes into force and supersedes as appropriate any existing Data Act.

Contract Data: Part Two – Data provided by the Consultant

Statements given in all contracts

- The *Consultant* is:

Name: Perfect Circle JV Ltd

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

- The key persons are:

Name: XXXXXX Redacted under FOIA section 40

Job: Project Director

Qualifications: MSc Project and Enterprise Management, BSc (Hons) Architectural Design and Technology, MCIAT

Experience: 15 years

Name: XXXXXX Redacted under FOIA section 40

Job: Health & Safety Consultant

Qualifications: BSc (Hons) MSc CMIOSH

Experience: 15 years

- The staff rates are as per the **Perfect Circle Fee Proposal, issue 0 dated 16/12/20** included in **Appendix A of this agreement (and as noted below)**

Grade	(£) Hourly Rate	(£) Hourly Rate in client office
Associate /Principal Consultant	£XXXXXX Redacted under FOIA section 40	£XXXXXX Redacted under FOIA section 40
Consultant	£XXXXXX Redacted under FOIA section 40	£XXXXXX Redacted under FOIA section 40
Equity Partner / Managing Director	£XXXXXX Redacted under FOIA section 40	
Graduate	£XXXXXX Redacted under FOIA section 40	
Junior Technician	£XXXXXX Redacted under FOIA section 40	
Salaried Partner/ Director	£XXXXXX Redacted under FOIA section 40	
Senior Consultant	£XXXXXX Redacted under FOIA section 40	£XXXXXX Redacted under FOIA section 40
Senior Technician	£XXXXXX Redacted under FOIA section 40	
Technician	£XXXXXX Redacted under FOIA section 40	

- The following matters will be included in the Risk Register

Potential for delay and abortive cost to DVSA where site works are incomplete due to contractor delay or poor communication .

Optional Statements

N/A

If the Consultant states any expenses

- ~~The expenses stated by the Consultant for Employer approved travel and accommodation will be repaid at cost provided copies of tickets, receipts and statements are provided:~~

If the Consultant requires additional access

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

Access to the CEMAR Contract Administration tool (if required) for the duration of this Delivery Agreement

If Option G is used

- ~~The task schedule is as stated in Appendix B (where tasks are known)~~

Appendix A

Fee Proposal