

Area 4 Interim

Construction Works Framework

Contract Data Part 1

CONTENTS AMENDMENT SHEET

Amend No.	Revision No.	Amendments	Initials	Date
1	0	Tender Issue	LP	01/05/20
1	1	<ul style="list-style-type: none"> • Option A added to TSC • <i>Task index</i> amended • The <i>Contractor's share percentages</i> and the <i>share ranges</i> amended 	MK	27/05/20
1	2	<ul style="list-style-type: none"> • Reference to Z57.1 removed • Additional compensation event (26) relating to Covid-19 • <i>Client's Representative</i> name change • The <i>end date</i> changed to is 2 November 2021. 	MK	24/07/20

CONTRACT DATA

Part one – Data provided by the *Client*

The Data which will apply to all work under the Framework Contract is

- The *conditions of contract* are the clauses of the NEC4 Framework Contract (June 2017) and the Z clauses in the document entitled “Z clauses (Framework Contract)”.

- The *Client* is

Name **Highways England Company Limited**

Address for communications **Bridge House
1 Walnut Tree Close
Guildford
Surrey
GU1 4LZ**

Address for electronic communications: info@highwaysengland.co.uk

- The *Client's Representative* is

Name [REDACTED]

Address for communications

**Bridge House
1 Walnut Tree Close
Guildford
Surrey
GU1 4LZ**

Address for electronic communications: [REDACTED]

- The Framework Information is in the document entitled “Framework Information”.
- The Affected Property is Highways England Area 4, more particularly described in the Framework Information.
- The *framework scope* is in the Framework Information.
- The *selection procedure* is in the Framework Information.
- The *quotation procedure* is in the Framework Information.
- The *end date* is 2 November 2021.
- The *period for reply* to a *Supplier's* quotation is two weeks.
- The language of the contract is English.

- The law of the contract is the law of England, subject to the jurisdiction of the Courts of England.
- The *period for reply* is two weeks.
- The Quality Plan for the framework contract is provided within four weeks of the date of award of the framework contract.
- The *quality table* is in the TSC Scope.
- The *currency of the contract* is the pound sterling (£).
- 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 *Senior Representatives* of the *Client* are

Name [REDACTED]

Address for communications

The Cube

199 Wharfside Street

Birmingham

B1 1RN

Address for electronic communications: [REDACTED]

Name (2) [REDACTED]

Address for communications

Picadilly Gate

Store Street

Manchester

M1 2WD

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 *Adjudicator nominating body* is the Institution of Civil Engineers.
- 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 their nominee.

- The *base date* is 1 May 2020.
- The *staff rate index* is the EARN03: Average Weekly Earnings by Industry: "Not Seasonally Adjusted Average Weekly Earnings - Index figures Excluding Bonuses, Including Arrears": Sector F – Construction: Tab 4 Column K5AH published by the Office for National Statistics.
- The *task index* is the Highways England Maintenance Cost Index (HEMCI) published by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors.

The Data which will apply to all Work Orders let under the NEC4 Term Service Contract is

- 1 General** • The *conditions of contract* are the core clauses and the clauses for main Option A, C or E (according to which main Option is stated to apply in each Task Order), dispute resolution Option W2 and secondary Options X11, X18, Y(UK)2 and Y(UK)3 of the NEC4 Term Service Contract (June 2017), together with the Z clauses in the document entitled "Z clauses (Framework Contract)", the mandatory Z clauses in the document entitled "Z clauses (Term Service Contract)" and the further secondary Options (X and Y(UK) clauses) and optional Z clauses listed in the additional Contract Data for the Work Order.

- The Scope is in the document entitled "TSC Scope".
- Early warning meetings are to be held at intervals no longer than one month.

2 The Contractor's main responsibilities

- The *Contractor* prepares forecasts of the total Defined Cost for each Task at intervals no longer than one month.

- 3 Time** • If no plan is identified in part two of the additional Contract Data for the Work Order, the period after the Contract Date within which the *Contractor* is to submit a first plan for acceptance is two weeks.

- The *Contractor* submits revised plans at intervals no longer than one month.
- The period within which the *Contractor* is to submit a Task Order

programme for acceptance is two weeks after a Task Order is issued.

- 4 Testing and Defects**
- The period after the Contract Date within which the *Contractor* is to submit a quality policy statement and quality plan is stated in the Scope.
 - The *defect correction period* is four weeks.
 - The *defects date* is 52 weeks after Scheme Completion except for
 - high friction surfacing which will have a *defects date* which is 24 months after Scheme Completion,
 - thin surface course systems which will have a *defects date* which is 60 months after Scheme Completion.
 - landscaping which will have a *defects date* which is 60 months after Scheme Completion,
 - cathodic protection which will have a *defects date* which is 24 months after Scheme Completion and
 - any other items identified in a Task Order as requiring a different *defects date*.
- 5 Payment**
- The *assessment interval* is one calendar month.
 - 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 Services Provided to Date.
- 6 Compensation events**
- These are additional compensation events
 - (19) The *Service Manager* gives an instruction for dealing with an object of value or of historical or other interest found on, in or under the Affected Property.
 - (20) 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).
 - (21) The *Service Manager* instructs the *Contractor* to search for a Defect and no Defect is found unless the search is needed only because the *Contractor* gave insufficient notice of doing work obstructing a required test or inspection.
 - (22) The *Contractor* encounters physical conditions which
 - are within the Site,
 - are not weather conditions and
 - an experienced contractor would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for them.
- Only the difference between the physical conditions encountered

and those for which it would have been reasonable to have allowed is taken into account in assessing a compensation event.

(23) A *weather measurement* is recorded

- within a calendar month,
- before the Task Completion Date and
- at the place stated in the Contract Data

the value of which, by comparison with the *weather data*, is shown to occur on average less frequently than once in ten years.

Only the difference between the *weather measurement* and the weather which the *weather data* show to occur on average less frequently than once in ten years is taken into account in assessing a compensation event.

(24) The *Service Manager* instructs the *Contractor* to re-deploy resources from the Task to other work of the *Client*.

(25) Asbestos is unexpectedly discovered in the Affected Property in the course of carrying out a Task.

(26) The *Contractor* notifies the *Service Manager* of;

a) COVID-19 Related Action which affects the Contractor's ability to Provide the Works which results in

- delays in performing the works in accordance with the Accepted Programme or
- a change in the Defined Cost of performing the works

COVID-19 Related Event is

- a epidemic,
- pandemic,
- other national or regional public health issue which results, directly or indirectly, from the strain of Coronavirus known as severe acute respiratory syndrome coronavirus 2 including any mutations of the Coronavirus recognised as the same by the World Health Organization and the government of the United Kingdom.

Coronavirus means the virus known as "Wuhan novel coronavirus (2019-nCoV)

COVID-19 Related Action is any

- action taken,
- restriction imposed or
- change in any restriction imposed

by the government of the United Kingdom to control the pandemic caused by Coronavirus / a COVID-19 Related Event.

- The place where weather is to be recorded is the Met Office Weather Station nearest to the place where the Works are performed.

- 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 Meteorological Office
- The *weather data* are the records of past *weather measurements* for each calendar month which were recorded at the Met Office weather station nearest to the place where the Works are performed and which are available from Meteorological Office¹

8 Liabilities and insurance

- These are additional *Client's* liabilities
 - Loss of or damage to any part of the Affected Property due to theft.
 - Loss of or damage to any part of the Affected Property by any cause occurring during the construction of a Scheme, including such loss or damage which results from an act, omission or default of the *Contractor* or an Other Works Contractor.
 - Loss of or wear or damage to any part of the Affected Property 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 *Contractor*.

Option X18²

- The *Contractor's* liability to the *Client* for indirect and consequential loss is limited to the contract value.
- For any one event, the *Contractor's* liability to the *Client* for loss of or damage to the *Client's* property is limited to £5,000,000.
- The *Contractor's* liability for Defects due to his design of an item of Equipment is limited to £5,000,000
- The *Contractor's* total liability to the *Client* for all matters arising under or in connection with the contract, other than the excluded matters, is limited to £10,000,000 The *end of liability date* is 12 years after the end of the *service period*.

- Clause Y(UK)1** • If Option Y(UK)1 is stated in the additional Contract Data to apply to the Work Order, the *Client* is to pay any charges made and is paid any interest paid by the *project bank*.

Clause Y(UK)3 **term** **person or organization**

The provisions of Option Y(UK)1 (if applicable) Named Suppliers

Option C • The *Contractor's share percentages* and the *share ranges* are

<i>share range</i>	<i>Contractor's share percentage</i>
less than 80%	0%
from 80% to 100%	25%
greater than 100%	25%

• The *Contractor's share* is assessed on Scheme Completion.