



**Historical Railway Estate (HRE)**  
**Professional Services Contract**

**NEC4 Professional Service Contract**  
**(June 2017 with amendments January 2019)**

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

in relation to a *service* for  
Historical Railway Estate (HRE) Professional Services Contract

**CONTENTS AMENDMENT SHEET**

<b>Issue No.</b>	<b>Revision No.</b>	<b>Amendments</b>	<b>Initials</b>	<b>Date</b>
1	1	Inclusion of secondary options Y(UK)2 and Y(UK)3	MT	25/06/2020
1	1	Inclusion of total liability value	MT	25/06/2020
1	1	Paragraph 11.2.36 amended the time charge definition to include disallowed cost	MT	25/06/2020
1	1	Removal of Z51	MT	25/06/2020
1	1	Option E: Cost reimbursable contract, please note removal of 'Delete clause 11.2(18)'	MT	25/06/2020

## Contract Data

### 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 Professional Service Contract June 2017 with amendments January 2019.

Main Option	E	Option for resolving and avoiding disputes	W2
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Secondary Options	X2, X9, X11 Y(UK)1 Y(UK)2, Y(UK)3 Z1 to Z102
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The <i>service</i> is	The provision of professional services in relation to the Historical Railways Estate
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The *Client* is

Name	Highways England Company Limited
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Address for communications	Bridge House, 1 Walnut Tree Close Guildford Surrey GU1 4LZ Registered number 09346363
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Address for electronic communications	
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The *Service Manager* is

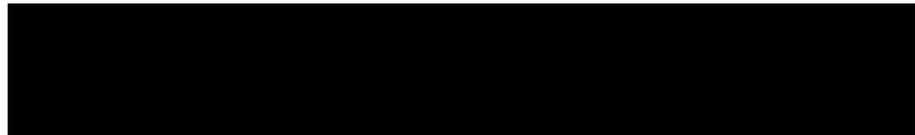
Name

Fiona Smith

Address for communications

Highways England  
37 Tanner Row  
York  
YO1 6WP

Address for electronic communications



The Scope is in

the document entitled HRE Professional Services Contract - Scope

The Affected Property is

Highways England Historical Railways Estate

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 except that

The *period for reply* for

[...] is [...]

The *period for reply* for

[...] is [...]

The *period for retention* is

12 year(s) following Completion or earlier termination

The following matters will be included in the Early Warning Register

[...]

Early warning meetings are to be held at intervals no longer than

one month

## 2 The *Consultant'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

*condition* to be met

*key date*

(1)

[...]

[...]

(2)

[...]

[...]

(3)

[...]

[...]

The *Consultant* prepares forecasts of the total *expenses* at intervals no longer than

4 weeks

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

4 weeks

## 3 Time

The *starting date* is

[...]

The *Client* provides access to the following persons, places and things

access

*access date*

(1)

Access to relevant *Client* information and key staff in [REDACTED], during normal working hours and with a minimum 24 hours prior notice

Two weeks after the starting date

(2)

Other *access dates* will be specified to the successful *Consultant* in individual task-briefs where appropriate.

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

One month

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

364 weeks after the Contract Date

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

4 weeks

#### 4 Quality management

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

4 weeks

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

52 weeks

#### 5 Payment

The *currency of the contract* is the

Pound sterling (£)

The *assessment interval* is

1 calendar month

The *expenses* stated by the *Client* are

Item

amount

Travel and Subsistence

Solicitors/Legal Fees – using *Client's* appointed solicitor

Debt Collectors

Invoices for Repair Works (including Demolition) on Properties/Land over £2,000

Safety Checks (gas and electric appliances plus oil fired boilers and immersion heaters) by qualified personnel

Specialist environmental works (e.g. weed clearance or waste removal)
Specialist work for asbestos (type 2 or 3 surveys, testing or asbestos removal)
Tree surgery/removal
Specialist Work associated with cultural heritage assets
Physical action to remove illegal occupants
Agreed property specialists (e.g. valuers, estate agents, auctioneers)
Charges from developers, local authorities or planning authorities
Costs for providing a temporary traffic regulation order and temporary traffic management
Site Investigation work as required
Environmental Survey
Tunnel Radar Survey
Fees or payments to access or copy information for tunnel history research
Charges for utilities on vacant properties (Council Tax/Business Rates/Water, etc.)



The *interest rate* is, (unless the provisions of the Late Payment of Commercial Debts (Interest) Act 1998 otherwise require) is [redacted] % per annum (not less than 2) above the

[redacted] base rate of the [redacted] Bank of England in force from time to time

If the period in which payments are made is not three weeks and Y(UK)2 is not used.

The period within which payments are made is [redacted] -

The *exchange rates* are those published in [redacted] The Financial Times

on [redacted] The assessment date when the payment in another currency is in Price for

Service Provided to Date

## 6 Compensation events

These are additional compensation events

- [...]

## 8 Liabilities and insurance

These are additional *Client's* liabilities

(1)

[...]

(2)

[...]

(3)

[...]

The minimum amount of cover and the periods for which the *Consultant* maintains insurance are:

Event	Minimum amount of cover	Period following completion of the whole of the service or termination
The <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i>	A limit of indemnity of not less than ten million pounds (£10,000,000) in respect of any one claim without limit to the number of claims in any annual policy period, but ten million pounds (£10,000,000) any one claim and in the aggregate per annum for liability arising out of pollution or contamination (to the extent insured by the relevant policy) and one million pounds (£1,000,000) any one claim and in the aggregate per annum in respect of liability arising out of asbestos (to the extent insured by the relevant policy).	From the starting date until Twelve (12) years following completion of the whole of the <i>service</i> of earlier termination.

<p>death of 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></p>	<p>A limit of indemnity of not less than ten million pounds (£10,000,000) in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, but ten million pounds (£10,000,000) any one occurrence and in the aggregate per annum in respect of products and pollution liability (to the extent insured by the relevant policy).</p> <p>In respect of use of motor vehicles a limit of indemnity as required by statute.</p>	<p>from the <i>starting date</i> until all notified Defects have been corrected or earlier termination</p>
<p>Death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract</p>	<p>Employers Liability Insurance with a limit of indemnity of ten million pounds (£10,000,000) any one occurrence the number of occurrences being unlimited in any annual policy period or as required by statute whichever is the higher.</p>	<p>from the <i>starting date</i> until all notified Defects have been corrected or earlier termination</p>

The *Consultant'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

### 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)

Martyn Gannicott

Address for communications

The Cube  
199 Wharfside Street  
Birmingham  
B1 1RN

Address for electronic communications



Name (2)

Senior Representative from Business Area

Address for communications

[...]

Address for electronic communications

[...]

The *Adjudicator* is

Name

[...]

Address for communications

[...]

Address for electronic communications

[...]

The *Adjudicator nominating body* is

The Institution of Civil Engineers

**X2: Changes in the law**

The *law of the project* is

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

**Y(UK)1: Project Bank Account**

Charges made and interest paid by the *project bank*

The *Consultant* is to pay any charges made and to be paid any *project bank*.

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

If Option Y(UK)2 is used and the final date for payment is not fourteen days after the date on which payment becomes due

The period for payment is

[...]

which payment becomes due

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

Term

*beneficiary*

Fair payment

A Subcontractor  
subcontractors  
subsubcontractors

Subcontracting

A Subcontractor  
subcontractors  
subsubcontractors

[...]

[...]

Term

*beneficiary*

The provisions of Options Y(UK)1

Named Suppliers

**Contract Data entries relating to Z Clauses**

The extension period is

Up to 3 years

The *staff rates* are

the rates calculated using the method set out in the document entitled [REDACTED]  
[REDACTED] A *staff rate* except for a specialist role does not exceed the relevant *maximum staff rate*.

The *maximum staff rates* are

the rates for the Highways England roles stated in the [REDACTED] within the document entitled [REDACTED]

The index is

EARN 03

### Z: Additional conditions of contract

The *additional conditions of contract* are clause Z1 to Z102.

**PART TWO – DATA PROVIDED BY THE CONSULTANT**

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

**1 General**

The *Consultant* is

Name

Jacobs U.K. Limited

Address for communications

20 George Hudson Street, York YO1 6WR

Address for electronic communications



The *fee percentage* is



The *key persons* are

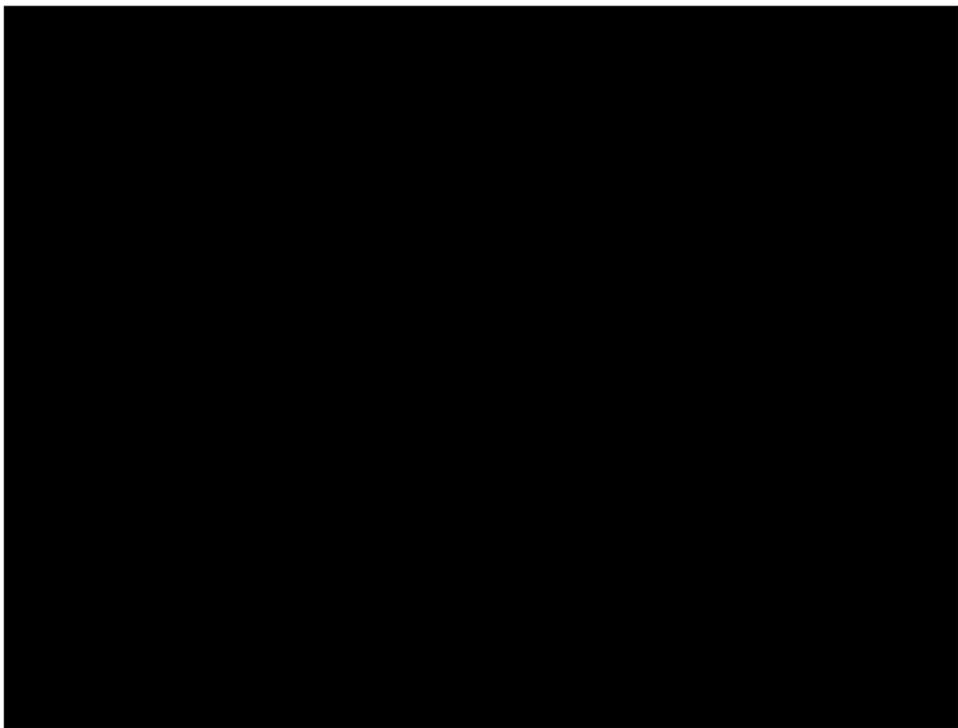
Name (1)

Nigel Robson

Job

Project Manager

Responsibilities



Qualifications

Experience

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Name (2)	<input type="text" value="James Wilson"/>
Job	<input type="text" value="Design Lead and Site Investigation Lead"/>
Responsibilities	
Qualifications	
Experience	

The following matters will be included in the Early Warning Register

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None at this stage

**2 The Consultant's main responsibilities**

The Scope provided by the *Consultant* is in

Not applicable

**3 Time**

The programme identified in the Contract Data is

To be agreed per time charge or lump sum task

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

Not applicable

**4 Quality Management**

The Quality Statement is in

The file uploaded called

**5 Payment**

The *expenses* stated by the *Consultant* are any

item

amount

[Redacted]

The tendered total of the  
Prices is



**Resolving and avoiding disputes**

The *Senior Representatives of the Consultant* are

Name (1)

Nigel Robson

Address for communications

20 George Hudson Street, York YO1 6WR

Address for electronic communications



Name (2)

James Wilson

Address for communications

20 George Hudson Street, York YO1 6WR

Address for electronic communications



**Contract Data entry relating to Data Protection Legislation**

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

Nigel Robson



**X10: Information modelling**

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

Not applicable

**Y(UK)1: Project Bank Account**

The *project bank* is

Not applicable

*named suppliers* are

Not applicable

**Contract Data entries relating to Z Clauses**

Z9 The *credit ratings* at the Contract Date and rating agencies issuing them are

party	rating agency	credit rating
<p><i>Consultant</i> Jacobs U.K. Limited</p>	<p>Dun &amp; Bradstreet (Delinquency Score Formerly Commercial Credit Score)</p>	<p>84%</p>
<p>Consortium Member</p>	<p>Not applicable</p>	
<p>Guarantor Jacobs UK Holdings Limited</p>	<p>Dun &amp; Bradstreet (Delinquency Score Formerly Commercial Credit Score)</p>	<p>17%</p>

Z102 The *task schedule* is

Contained within the uploaded file called

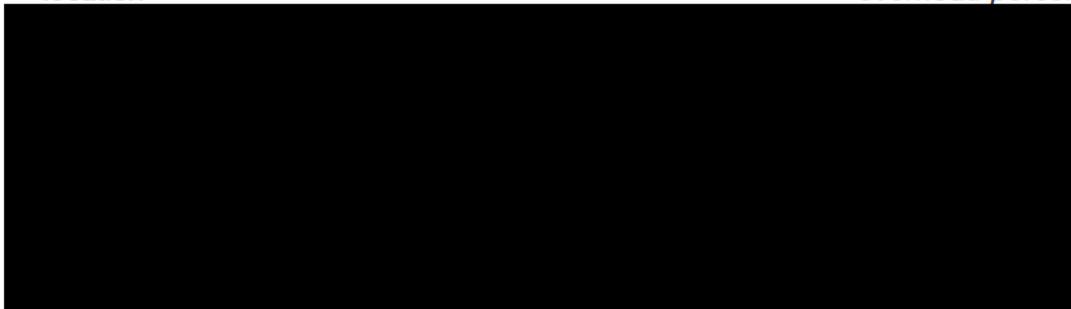


**Data for the Schedule of Cost Components**

The *overhead percentages* for the cost of support people and office overhead are location

location

*overhead percentage*



<b>Z Clause Contents</b>	
<b>Number</b>	<b>Title</b>
Z1	Changes to Core and Secondary Option clauses
Z2	Interpretation
Z3	Recovery of sums due from the <i>Consultant</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	Not Used
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	Termination and removal of part of the <i>service</i>
Z18	Corruption or loss of data
Z19	Conflict of Interest
Z20 – Z49	Not Used
Z50	Health and Safety Plan
Z51	Not Used
Z52	Transfer of Undertakings (Protection of Employment) Regulations (TUPE)
Z53	Not Used
Z54	Extension to the Completion Date
Z55 – Z99	Not Used
Z100	Indexation
Z101	Not Used
Z102	Tasks

## Z1 Changes to core & Secondary Option clauses

11 Identified and defined terms

11.2 Add the following defined terms:

11.2.1 Affected Property is property of the *Client* or Others which is affected by the work of the *Consultant* or used by the *Consultant* in Providing the Service and which is identified in the Contract Data.

11.2.2 Associated Company is

- 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 *Consultant* or a Consortium Member.

11.2.3 Change of Control is an event where any single person, or group of persons acting in concert, acquires Control of the *Consultant* or a Consortium Member or acquires a direct or indirect interest in the relevant share capital of the *Consultant* 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 *Consultant* or a Consortium Member.

11.2.4 Consortium Member is an organisation which is a member of the group of economic operators comprising the *Consultant*, whether as a participant in a non-integrated joint venture or a shareholder in a joint venture company(??) Control has the meaning set out in section 1124 of the Corporation Tax Act 2010.

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

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

11.2.6 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 *Consultant*, a Consortium Member or any Guarantor.

11.2.7 The Data Protection Legislation is

- The General Data Protection Regulation (EU 2016/679);
- The Law Enforcement Directive (LED) (Directive EU 2016/680);
- The Data Protection Act 2018; and

Any other data protection laws and regulations applicable in England

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

11.2.9 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).

11.2.10 Enforcement Action is enforcement action brought by a regulatory authority against the *Consultant* 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.

11.2.11 EU Reference is any European Union

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

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

11.2.13 Financial Standing Test is the financial test for the *Consultant*, a Consortium Member or a proposed guarantor used in the tender stage of the competition for this contract.

11.2.14 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.

11.2.15 Guarantor is a person who gives a Parent Company Guarantee to the *Client*.

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

11.2.17 Health and Safety Plans are

- A completed Supply Chain Health and Safety Maturity Matrix (SCMM) for the *Consultant* 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 *Consultant* 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 *Consultant* 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 *Consultant* or each Consortium Member.

11.2.18 Incoming Consultant is any consultant appointed by the *Client* to Provide the Service or part of it (or a similar service or part of it) [in relation to the Affected Property (or part of it)] in place of the *Consultant*.]

11.2.19 Information Systems are the systems specified in the Scope for the collection and storage of information regarding the *service* or any revised systems introduced by the *Client* from time to time.

11.2.20 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.

11.2.21 Parent Company Guarantee is a guarantee of the *Consultant's* performance in the form set out in the Scope. Performance Requirement is the required standard for performance of each element of the *service* as specified in the Scope.

11.2.22 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 Legislation.

11.2.23 Quality Management Points are points accrued by the *Consultant* in accordance with the quality table in the Scope.

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

11.2.25 Related Dispute Adjudicator is an adjudicator appointed to determine a Related Dispute.

11.2.26 Relevant Tax Authority is HM Revenue & Customs or, if the *Consultant* is established in another jurisdiction, the tax authority in that jurisdiction.

11.2.27 RIDDOR Incident is an incident occurring under any contract between

- The *Consultant* 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 *Consultant* is responsible under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (or any replacement of it).]

11.2.28 The Secretary of State is the Secretary of State for Transport.

11.2.29 A Task is work within the *service* which the *Service Manager* may instruct the *Consultant* to carry out within a stated period of time.]

11.2.30 Task Completion is when the *Consultant* has done all the work which the Task Order requires it to do by the Task Completion Date, and corrected Defects which would have prevented the *Client* or Others from using the *service* and Others from doing their work.]

11.2.31 Task Completion Date is the date for completion stated in the Task Order unless later changed in accordance with the contract.]

11.2.32 A Task Order is the *Service Manager's* instruction to carry out a Task.]

11.2.33 The Task Schedule is the *task schedule* unless later changed in accordance with the contract.]

11.2.34 Tax Non-Compliance is where a tax return submitted by the *Consultant* 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 *Consultant* 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 *Consultant* 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.

11.2.35 Threshold Level is the threshold level of Quality Management Points stated in the Scope.

11.2.36 The Time Charge is 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 unless Disallowed Cost.

11.2.37 TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006.]

Amend the following terms

### **11.2 (18) 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
  - complying with Clause 1.22.2 in Annex 15 of the Scope and resulting costs,
  - implementing any modifications or enhancements to the *Consultant'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 *Consultant's* quality management system during any period while the number of Quality Management Points in effect is above the Threshold Level,
  - replacing a *key person* (and any associated costs)]

## **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.

### **23 Subcontracting**

23.3 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.

### **25 Assignment**

Delete clause 25

### **26 Disclosure**

Delete clause 26

### **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 (4) Insert at the end (before the full stop)

“unless the instruction relates to a notification from the *Consultant* that a conflict of interest may exist or arise”.

In the second bullet point of clause 61.2 delete “Defined Cost” and insert “the *Consultant’s* costs”.

In the sixth bullet point of clause 61.4 delete “Defined Cost” and insert “the *Consultant’s* costs”.

In each of the first and second bullet points of clause 63.1 delete “Defined Cost” and insert “Time Charge”.

In clause 63.3 delete “Defined Cost” in line 1 and insert “Time Charge”.

In clause 63.4

delete “Defined Cost” in line 1 and insert “Time Charge” and

after “Scope” in the first bullet point insert “or the Task”.

At the end of the first paragraph of clause 63.5 insert the following additional paragraph

A delay to the Task Completion Date is assessed as the length of time that, due to the compensation event, planned Task Completion is later than planned Task Completion as shown on the Accepted Programme current at the dividing date.

In line 2 of clause 63.9 delete “Defined Cost” and insert “*Consultant’s* costs”.

After clause 63.11 insert the following clause

63.15 Assessments for changed Prices for compensation events are in the form of changes to the Task Schedule.

In line 1 of clause 66.2 after “Completion Date” insert “, the total of the Prices for the Task, the Task Completion Date, the programme for the Task”.

## **87 Limitation of liability**

In line 2 of clause 87.1 delete “the contract” and insert “each Task”.

At the end of clause 87, insert the following additional excluded matters

- loss of or damage to the *Client’s* property,
- fraud or fraudulent misrepresentation,
- events for which the contract requires the *Consultant* to insure but only up to the required level for each type of insurance stated in the Contract Data,
- loss or damage 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 *Consultant’s* illegal acts, deliberate default, deliberate abandonment or reckless misconduct.

## **93 Payment on termination**

In the second bullet point of clause 93.1 delete “Defined Cost” and insert “the Time Charge”.

In the fifth line of clause 93.2 delete “The *fee percentage* applied to”.

In the second bullet point of clause 93.2 delete “any excess ... less the Fee” and insert “the fee element (being an amount calculated by reference to the relevant profit percentages stated in the Task Schedule) of any excess of the first forecast of the Time Charge for the *service* over the Time Charge for work which has been completed on time based items on the Task Schedule”.

## **Option E: Cost reimbursable contract**

Delete clause 11.2(17).

Delete the definition of the Price for Service Provided to Date in clause 11.2(21) and insert

The Price for Service Provided to Date is, for each Task, the total of

- the Time Charge for work which has been completed on time based items on the Task Schedule,
- the total of the monthly lump sum prices for each monthly lump sum item on the Task Schedule for the period since the *starting date* and
- a proportion of the lump sum price for each other item on the Task Schedule which is the proportion of work completed on that item.

Delete the definition of the Prices in clause 11.2(23) and insert

The Prices are

- the Time Charge for items described as time based on the Task Schedule and
- the lump sum price in the Task Schedule for each other item.

In line 1 of clause 20.5 delete “Defined Cost” and insert “Time Charge”.

In line 1 of clause 50.8 delete “of Defined Cost” and after “*Consultant*” insert “for

staff whose *staff rate* in the Contract Data or items whose prices in the Task Schedule are stated”.

Delete the second sentence of clause 50.8.

In clause 50.9

delete “Defined Cost” where it appears (four instances) and in each case insert “the Time Charge” and

delete “the cost” in the fifth bullet point and insert “(as appropriate) the *Consultant’s* original or corrected assessment”.

In the first bullet point of clause 52.3 delete “Defined Cost” and insert “the Time Charge”.]

### **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 *Consultant* prior to the Contract Date”.

### **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 *Consultant* accepts the proposal if the addition of the Supplier to the Named Suppliers is practicable.]

## **Z2 Interpretation**

- Z2.1 In the contract, except where the context shows otherwise
- references to a document include any revision made to it in accordance with the contract,
  - references to a statute or statutory instrument include any amendment or re-enactment of it from time to time and any subordinate legislation or code of practice made under it,
  - references to a British, European or International standard include any current relevant standard that replaces it,
  - references to persons or organisations include bodies corporate, unincorporated associations, partnerships and any other legal entity, and
  - the words “includes” or “including” are construed without limitation.

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

- Z3.1 Where, under the contract a sum of money is recoverable from or payable by the *Consultant*, 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 *Consultant* under the contract or any other contract with the *Client*.

## **Z4 Assignment and transfer**

- Z4.1 The *Consultant* does not assign, transfer or charge the benefit of the contract or any part of it or any benefit or interest under it without the prior agreement of the

*Client.*

Z4.2 If the *Consultant* wishes to transfer the benefit and burden of the contract to a new contractor, it seeks the *Client's* agreement to do so. The *Consultant* explains the reasons for the proposed transfer and provides the *Client* with all such information as the *Client* may require in order to make its decision. If the *Client* (in its absolute discretion) agrees to the proposed transfer, the Parties and the new contractor execute a novation in the relevant form set out in the Scope or such other form as the *Client* may reasonably require.

Z4.3 If requested by the *Service Manager*, the *Consultant* executes a novation agreement transferring the benefit and burden of the contract to

- a Department or Office of Government,
- a local authority,
- an organisation established to take over the *Client's* functions or part of them or
- another public body or organisation exercising similar functions.

The novation agreement is in the form set out in the Scope or such other form as the *Client* may reasonably require.

## Z5 Confidentiality

Z5.1 The *Consultant* keeps (and ensures that anyone employed by it or acting on its behalf keeps) confidential and does not disclose to any person

- the terms of this contract and
- any confidential or proprietary information (including Personal Data) provided to or acquired by the *Consultant* in the course of Providing the Service

except that the *Consultant* may disclose information

- to its legal or other professional advisers,
- to anyone employed by it or acting on its behalf as needed to enable the *Consultant* to Provide the Service
- where required to do so by law or by any professional or regulatory obligation or by order of any court or governmental agency, provided that prior to disclosure the *Consultant* consults the *Client* and takes full account of the *Client's* views about whether (and if so to what extent) the information should be disclosed,
- which it receives from a third party who lawfully acquired it and who is under no obligation restricting its disclosure,
- which is in the public domain at the time of disclosure other than due to the fault of the *Consultant* or
- with the consent of the *Client*.

Z5.2 The *Consultant* does not (and ensures that anyone employed by it or acting on its behalf does not) use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Service.

## 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 *Consultant* at the Contract Date.

Z7.2 The *Client* may terminate the contract if

- 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 *Consultant*,
- 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 *Consultant* assesses the amount due to a subcontractor without taking into account the amount assessed under the contract.

Z8.2 If the *Consultant* subcontracts work to an Associated Company, the Time Charge of the work subcontracted is assessed as if the work had not been subcontracted unless otherwise agreed by the *Client*.

Z8.3 The *Client* may, having stated the reasons, instruct the *Consultant* to remove a subcontractor. The *Consultant* then arranges the removal of the subcontractor 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 *service* is no longer available and the *Consultant* is unable to propose an alternative resource acceptable to the *Service Manager*. In the event of a termination under this clause, the termination procedures followed are P1 and P2 and the amounts due on termination are A1 and A2.

Z8.5 Before

- appointing a proposed Subcontractor or
- allowing a Subcontractor to appoint a proposed subsubcontractor

the *Consultant* submits to the *Service 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 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
- 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 *Consultant* does not appoint the proposed Subcontractor (or allow the Subcontractor to appoint the proposed subsubcontractor) until the *Service 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
- the *Service Manager* is not satisfied that the proposed Subcontractor or subsubcontractor has put in place adequate measures to ensure that the RIDDOR Incident or Enforcement Action will not recur

Z8.7 If requested by the *Service Manager*, the *Consultant* 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 the RIDDOR Incident or Enforcement Action will not recur

the *Service Manager* may instruct the *Consultant* to

- replace the Subcontractor or
- require the Subcontractor to replace the subsubcontractor.

**Z9 Change of Control and financial distress**

- Z9.1 The *Consultant* notifies the *Client* immediately if a Change of Control has occurred or is expected to occur except to the extent that (and for as long as) it is prevented from doing so by any disclosure restriction imposed on it by any tribunal or regulatory authority.
- Z9.2 The *Consultant* notifies the *Client* immediately of any material change in
- the direct or indirect legal or beneficial ownership of any shareholding in the *Consultant* (or a Consortium Member). A change is material if it relates directly or indirectly to a change of 3% or more of the issued share capital of the *Consultant* (or a Consortium Member), or
  - the composition of the *Consultant* or a Consortium Member. A change is material if it directly or indirectly affects the performance of this contract by the *Consultant* or is considered substantial in accordance with Regulation 72(8)(e) of the Public Contracts Regulations 2015.
- Z9.3 The *Consultant* notifies the *Client* immediately of any change or proposed change in the name or status of the *Consultant* or a Consortium Member.
- Z9.4 The *Consultant* notifies the *Client* immediately if any of the following events occurs in relation to the *Consultant*, a Consortium Member or a Guarantor
- its Credit Rating falls below the relevant *credit rating*,
  - there is a further fall in its Credit Rating below the relevant *credit rating*,
  - it issues a profits warning to a stock exchange or makes any other public announcement about a material deterioration in its financial position or prospects,
  - it is subject to a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety,
  - it commits a material breach of its covenants to its lenders or
  - its financial position or prospects deteriorate to such an extent that it would not meet the Financial Standing Test.
- Z9.5 If a Change of Control occurs and is likely to give rise to an actual or potential conflict of interest, the *Consultant* and the *Service Manager* meet within one week to discuss the actions to be taken by either Party in order to overcome or mitigate the conflict. If the Parties do not agree and implement the actions needed to overcome or mitigate the conflict, the *Client* may terminate the *Consultant's* obligation to Provide the Service with immediate effect. In the event of a termination under this clause, the termination procedures followed are P1 and P2 and the amounts due on termination are A1 and A2.
- Z9.6 Not used
- Z9.7 If a Change of Control occurs, the *Consultant* provides to the *Client*:
- certified copies of the audited consolidated accounts of the Controller for the last three financial years,
  - a certified copy of the board minute of the Controller confirming that it will give to the *Client* a Parent Company Guarantee if so required by the

*Client and*

- any other information required by the *Client* in order to determine whether the Controller meets the Financial Standing Test and
- any other information requested by the *Client* in order to satisfy itself that the *Consultant* remains in a position to perform its obligations under this contract.

Z9.8 If a Change of Control or any of the events listed in clauses Z9.2 to Z9.4 occurs, the *Client* may require the *Consultant* to give to the *Client* a Parent Company Guarantee from the Controller or (if the Controller does not meet the Financial Standing Test) an alternative guarantor proposed by the *Consultant* and accepted by the *Client*.

Z9.9 A reason for not accepting an alternative guarantor proposed by the *Consultant* is that it does not

- meet the Financial Standing Test,
- provide the legal opinion required in clause Z9.13 or

have a Credit Rating at least equal to the *credit rating* for the person to whom the event listed in clause Z9.4 has occurred.

Z9.10 If so required by the *Client*, the *Consultant* within four weeks after the *Client* notifies the requirement gives to the *Client* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Client*.

Z9.11 The *Client* may accept a Parent Company Guarantee from the Controller or an alternative guarantor proposed by the *Consultant* who does not meet the Financial Standing Test if the *Consultant* gives to the *Client* an assurance that the Controller or the alternative guarantor will meet the Financial Standing Test within 18 months of the *Client's* acceptance. If so, the Parties agree a process for reviewing the financial standing of the Controller or the alternative guarantor during that period in order to demonstrate to the *Client* that it will meet the Financial Standing Test by the end of that period.

Z9.12 If

- the *Consultant* fails to notify the *Client* that an event listed in clause Z9.4 has occurred,
- neither the Controller nor any alternative guarantor proposed by the *Consultant* complies with the Financial Standing Test within the timescale stated in clause Z9.11 or fails to provide the legal opinion required by clause Z9.13
- the *Consultant* does not give to the *Client* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Service Manager* within four weeks of a request from the *Service Manager* to do so or
- the *Consultant* fails to demonstrate to the *Service Manager* that the Controller or the alternative guarantor accepted by the *Service Manager* will meet the Financial Standing Test within 18 months of the *Service Manager's* acceptance

the *Client* may treat such failure as a substantial failure by the *Consultant* to

comply with its obligations.

Z9.13 If the *Consultant*, a Consortium Member, a Guarantor or an alternative guarantor proposed by the *Consultant* (in this clause referred to as a “relevant entity”) is not a company incorporated in and subject to the laws of England and Wales, the *Consultant* provides a legal opinion from a lawyer or law firm which is

- qualified and registered to practise in the jurisdiction in which the relevant entity is incorporated and
- accepted by the *Client*.

The legal opinion is addressed to the *Client* on a full reliance basis and the liability of the lawyer or law firm giving the opinion is not subject to any financial limitation unless otherwise agreed by the *Client*.

The legal opinion confirms that the method of execution of the Parent Company Guarantee is valid and binding under applicable local law and in particular covers the matters listed in the Scope.

**Z10 Not used**

**Z11 Parent Company Guarantee**

Z11.1 If required by the *Client*, the *Consultant* gives to the *Client* a Parent Company Guarantee. If a Parent Company Guarantee was not given by the Contract Date, it is given to the *Client* within four weeks of the Contract Date or of the *Client*'s request, whichever is later.

Parent Company Guarantees are given for:

- a standalone company – from its Controller, or
- a joint venture (whether incorporated or unincorporated) – from the Controller of each Consortium Member.

In all cases it is for the *Client* to decide whether it will accept a Parent Company Guarantee from a company other than the Controller.

Z11.2 A failure to comply with this condition is treated as a substantial failure by the *Consultant* to comply with its obligations.

**Z12 Discrimination, Bullying and Harassment**

Z12.1 The *Consultant* indemnifies the *Client* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Client* arising out of or in connection with

- any investigation or proceedings under the Discrimination Acts or
- an allegation of bullying or harassment

resulting from any act or omission of the *Consultant* in connection with the contract.

**Z13 Intellectual Property Rights (IPRs)**

Z13.1 The *Client* owns (or will own) all IPRs in material prepared in connection with this contract, except as stated otherwise in the Scope. To the extent that these IPRs do not automatically belong to the *Client*, the *Consultant* enters into such documents and does such acts as the *Client* requests to transfer the IPRs to the

*Client*, and procures that its subcontractors (at any stage of remoteness from the *Client*) do the same. The *Consultant* provides to the *Client* the documents which transfer these IPRs to the *Client*.

- Z13.2 The *Consultant* obtains perpetual, royalty-free, non-exclusive, assignable and irrevocable licences (capable of being sub-licensed to a third party, who shall also have the right to grant further sub-licences) of other IPRs for the *Client* as stated in the Scope. Any licence granted under this clause survives the termination or expiry of the contract and cannot be terminated by the *Consultant* or its assignees or any third party. The *Consultant* provides to the *Client* the documents which license these IPRs to the *Client*.

The *Consultant's* or third party licensor's exclusive remedies for any breach by the *Client*, or any sub-licensee, of any licence granted under this clause are damages and equitable relief.

- Z13.3 The *Consultant* ensures that any subcontract (at any stage of remoteness from the *Client*) contains a right for the *Client* (enforceable in accordance with the Contracts (Rights of Third Parties) Act 1999) to enforce the obligations in this clause.

#### **Z14 Project Bank Account**

- Z14.1 The *Client* may at any time notify the *Consultant* that payments under this contract will no longer be made using the Project Bank Account. This notice is a compensation event. Within one week of the *Client's* notice, the *Consultant* 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 their contracts.

#### **Z15 Tax Non – Compliance**

- Z15.1 The *Consultant* warrants that it has notified the *Client* of any Tax Non-Compliance or any litigation in which the *Consultant* (or a Consortium Member) is involved relating to any Tax Non-Compliance prior to the Contract Date.

- Z15.2 The *Consultant* notifies the *Client* within one week of any Tax Non-Compliance occurring after the Contract Date and provides details of

- the steps the *Consultant* is taking to address the Tax Non-Compliance and to prevent a recurrence,
- any mitigating factors that it considers relevant and
- any other information requested by the *Client*.

- Z15.3 The *Consultant* is treated as having substantially failed to comply with its obligations if
- the warranty given by the *Consultant* under clause Z15.1 is untrue,
  - the *Consultant* fails to notify the *Client* of a Tax Non-Compliance or the *Client* decides that any mitigating factors notified by the *Consultant* are unacceptable.

#### **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 service**

- Z17.1 The *Service Manager* may at any time instruct the *Consultant* that
- part of the *service* is to be permanently removed from the Scope or
  - for urgent reasons of health and safety, part of the *service* is to be temporarily removed from the Scope.

in either case the *Consultant* acknowledges that the *Client* may itself, or may appoint another supplier in place of the *Consultant* to provide services similar to the removed *service* (or part of it).

- 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 *Client* of completing the removed *service*.

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

#### **Z18 Corruption or loss of data**

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

#### **Z19 Conflict of Interest**

- Z19.1 Any steps taken in accordance with paragraph S558 in the Scope is not a compensation event.

- Z19.2 A failure to comply with paragraph S558 in the Scope is treated as a substantial failure by the Consultant comply with its obligations.

#### **Z20 - Z49 Not Used**

#### **Z50 Health and Safety Plan**

- Z50.1 The *Client* may terminate if the *Consultant* 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 *Consultant* 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 *Service Manager* and the *Consultant* agree to the extension before the Health and Safety Plans are due. The *Client* notifies the extension that has been agreed to the *Consultant*.
- Z50.3 If the *Client* does not terminate, one quarter of the Price for Service Provided to Date is retained in assessments of the amount due until the *Consultant* 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)**

Z52.1 The *Consultant* provides to the *Client* within 10 days of the *Client's* request such information in connection with TUPE as the *Client* may require. The *Consultant* promptly notifies the *Client* of any later change to information provided by it.

Z52.2 The *Consultant* acknowledges that the *Client* may disclose information provided by the *Consultant* to

- any replacement provider of *service* similar to the *service* and
- any person tendering to become a replacement provider.

The *Client* obtains undertakings from any person to whom the information is disclosed not to disclose it to any other person (unless required to do so by law).

Z52.3 During the 8 month period immediately prior to the Completion Date, the *Consultant* submits for the acceptance of the *Client* any proposals to

- materially amend the terms and conditions of employment of any employee whose work, wholly or mainly falls within the Scope of this contract,
- materially increase the number of employees whose work (or any part of it) is work undertaken for the purposes of this contract or
- move or deploy any key person away from the performance of the service.

The *Client* may withhold acceptance if the proposal would increase the cost to the *Client* of this or any future contract for the *service*.

Z52.4 The *Consultant* does not do anything which may adversely affect the orderly transfer of responsibility for provision of the *service*.

Z52.5 The *Consultant* complies with, and ensures that any Subcontractor complies with, the Code of Practice on Workforce Matters in Local Customer Service Contracts (as currently contained in COPM Circular 3/03, Annex O) or any similar code applicable to persons engaged on service contracts for any department or office of Her Majesty's Government.]

**Z53 Not used**

**Z54 Extension to the Completion Date**

- Z54.1 The *Client* may notify the *Consultant* that the Completion Date is to be extended by the extension period or such lesser period as the *Client* may specify.
- Z54.2 If the Completion Date is extended by less than the extension period, the *Client* may further extend the Completion Date so that the total period of extension does not exceed the extension period.
- Z54.3 The *Client* does not notify the *Consultant* of any extension or further extension to the Completion Date later than [6 months] before the expiry of the Completion Date.

**Z55-Z99 Not Used**

**Z100 Indexation**

- Z100.1 On each anniversary of the Contract Date, the *Consultant* calculates a price adjustment factor, equal to  $(L-B)/B$ , where L is the last published value of the *index* and B is the last value of the *index* published before the Contract Date.
- If an *index* is changed after it has been used in calculating a price adjustment factor, the calculation is repeated and a correction included in the next assessment of the amount due.
- The price adjustment factor calculated at the Completion Date for the whole of the *service* is used for calculating adjustments after this date.
- Z100.2 After each anniversary of the Contract Date, each *maximum staff rate* is adjusted by an amount for price adjustment which is the product of the *maximum staff rate* multiplied by the price adjustment factor calculated at the last anniversary. The adjusted *maximum staff rate* is the Maximum Staff Rate.
- Z100.3 Each amount due after the anniversary includes an amount for price adjustment which is the sum of
- for the lump sum items on the Task Schedule, the change in the lump sums included in the Price for Service Provided to Date since the last assessment of the amount due multiplied by the price adjustment factor calculated at the last anniversary before the assessment and
  - the amount for price adjustment included in the previous amount due.
- Z100.4 The Time Charge for compensation events relating to lump sum items on the Task Schedule is assessed using the staff rates current at the time of assessing the compensation event adjusted to the Contract Date by dividing by  $(1+PAF)$ , where PAF is the price adjustment factor calculated at the last anniversary.

**Z101 Not used**

**Z102 Tasks**

- Z102.1 [The *Service Manager* may issue a Task Order to the *Consultant*. Before issuing a Task Order, the *Service Manager* instructs the *Consultant* to submit a quotation for the Task. The instruction includes

- a detailed description of the work in the Task and the Task starting date and Task Completion Date.

Z102.2 The *Consultant* submits a quotation for a Task within three weeks of being instructed to do so by the *Service Manager*. The *Consultant* submits details of its assessment with the quotation. The *Service Manager* replies within two weeks of the submission. The reply is

- acceptance of the quotation and the issue of the Task Order,
- an instruction to submit a revised quotation,
- that the *Service Manager* will be making the assessment or

a notification that the Task will not be instructed.

Z102.3 The *Service Manager* instructs the *Consultant* to submit a revised quotation only after explaining the reasons for doing so to the *Consultant*. The *Consultant* submits the revised quotation within three weeks of being instructed to do so.

Z102.4 The *Service Manager* extends the time allowed for

- the *Consultant* to submit quotations for a Task or
- the *Service Manager* to reply to a quotation

if the *Service Manager* and the *Consultant* agree to the extension before the submission or reply is due. The *Service Manager* informs the *Consultant* of the extension which has been agreed.

Z102.5 The *Service Manager* assesses the pricing for the Task if

- the *Consultant* has not submitted a quotation and details of its assessment within the time allowed or
- the *Service Manager* decides that the *Consultant* has not assessed the Task correctly in a quotation and has not instructed the *Consultant* to submit a revised quotation.

The *Service Manager* notifies the *Consultant* of the assessment of the pricing for a Task, gives details of the assessment and issues the Task Order within the period allowed for the *Consultant's* submission of its quotation for the same Task. This period starts when the need for the *Service Manager's* assessment becomes apparent.

Z102.6 The assessment of a Task is in the form of a Task price list. Where items of work in the Task price list are covered by rates in the Task Schedule, the items are priced using those rates. The prices for items in the Task price list which are not taken from the Task Schedule are assessed in the same way as a compensation event is assessed.

Z102.7 When a Task Order is issued

- the Task price list is inserted in the Task Schedule and
- the work involved is added to the Scope.

The issue of a Task is not a compensation event.

Z102.8 The *Consultant* does not start any work included in the Task until it has received the Task Order, and does the work so that Task Completion is on or before the

Task Completion Date. No Task Order is issued after the Completion Date. \_\_\_\_\_

Z102.9 The *Service Manager* may instruct the *Consultant* to carry out a Task in an emergency before the requirements of clauses Z59.1 to Z59.5 have been fully complied with. If so

- the *Service Manager* provides any of the matters listed in clause Z59.1 which it has not provided and

the *Consultant* submits its quotation for the Task as soon as practical after the Task Order is issued.

Z102.10 The *Consultant* provides information which shows how each item included in a Task relates to the operations on each programme which it submits for acceptance.

Z102.11 Clause X10 applies to a Task if the Task Order states or if the *Service Manager* issues an instruction to the *Consultant* to use information modelling for the Task. The *Service Manager's* instruction is a compensation event.]