

Highways England

Operational Excellence Strategic Delivery Partner (OESDP) Contract

Scope

October 2017

Highways England Consultancy Contract Scope

Contents amendment sheet

Amend. No.	Issue Date	Amendments	Initials	Date
0	17/10/17	Tender Issue	JM	17/10/17
1	03/11/17	2.1.2 amended to clarify requirements for submitting task proposals 2.9.1A added	JM	03/11/17

1. INTRODUCTION AND BACKGROUND

1.1 Description of the services

1.1.1 The Operational Excellence Strategic Delivery Partner (OESDP) (the *Consultant*) will advise and support the *Employer* as it develops implements and embeds the operational excellence transformation programme, ready for Roads Period 2, whilst leaving a sustainable legacy of change and improvement capability in Operations. It will enable us to deliver more effectively against our three imperatives of safety, customer and delivery, and our core KPIs.

1.1.2 Copies of the following documents have been included with the tender documents to provide background to the activities:

- Scope Annex A East Midlands update
- Scope Annex B Investment Decision Committee Milestone Chart
- Scope Annex C Asset Delivery briefing

1.1.3 The *Consultant* provides the *Employer* with access to resources that have direct experience of leading and managing transformation processes and with a relevant technical background and the right cultural behaviours.

1.1.4 The *Consultant* assists the *Employer* in all aspects of operational excellence development and implementation including:

- Optimising how we work;
- Focussing on the customer;
- Getting planning and performance right;
- Building the capability of our people;
- Managing this Programme.

1.2 *Employer's objectives*

1.2.1 The *Consultant* assists the *Employer* in the delivery of the following 'Employer's objectives' for each of the six priority work stream projects:

1.2.2 Enhance Capital Planning – Existing suppliers are helping *the Employer* to develop an embed capability for better planning into Operations in the regions and centre. The Consultant will not work in this area directly but must ensure any solutions produced are integrated with these activities.

1.2.3 Better Renewals Planning - The capital renewals fund supports circa 1800 schemes per annum that must be planned in consideration with the

available fund, asset need, outcomes and availability of occupancy.

- 1.2.4 Building integrated and sustainable (Totex) plans – Developing a full capability (from policy to process) that enables freedom in spending funds available to maximise the “value” to corporate outcomes.
- 1.2.5 Enhance performance reporting - Capital Delivery is accurately monitored for variance against cost, output, time and quality. Operational metrics demonstrate improving service delivery. Customer Service metrics exist for performance. All parts of the business monitor people, SH&W.
- 1.2.6 Efficiency and productivity improvement - One of the central outcomes of RIS 1 is a corporate efficiency saving of £1.2bn. Collation of how work is now more efficient, together with real productivity change is key to this outcome.
- 1.2.7 Improve knowledge sharing - The enrichment of what we do through sharing knowledge. This must include the capture and embedding of ideas and value from the service providers into the way we work.
- 1.2.8 Enhance day to day delivery of operational maintenance on the SRN - shifting the balance from reactive to proactive maintenance, to improve operational outcomes and an improving impact on customers.

1.3 **Background**

- 1.3.1 We are adopting an operational excellence approach that will enable us to deliver more effectively against our three imperatives of safety, customer and delivery, and our core KPI's.
- 1.3.2 The benefits to be derived from this approach are many and include but not limited to:
 - Improve our safety performance
 - the management of a flat operating expense profile during the Road Investment Period 1;
 - delivery of an aspired target of up to 30% total expenditure efficiencies for reinvestment;
 - better asset management by building greater capability with clearly defined end to end processes; and by helping people understand their role, responsibilities and accountabilities in the organisation through clear role profiles.
 - Delivering an improved customer experience
- 1.3.3 We want to achieve this by becoming a world class asset management and network operations organisation through:

- Clearly defined end to end processes consistently applied across the network
- Ensuring people have the required capabilities and understand their roles, responsibilities and accountabilities within the organisation
- Utilising effective and efficient systems to support our people and processes

1.4 Parent Company Guarantee

1.4.1 The form of parent company guarantee is set out in [Appendix 2](#)

1.5 Form of Novation

1.5.1 The form of novation is set out in [Appendix 3](#)

2. GENERAL REQUIREMENTS

2.1 Task Orders

2.1.1 Before issuing a Task Order, the *Employer* issues a Task brief to the *Consultant*. The Task brief includes

- a description of the service required,
- the information to be provided to the *Consultant* by the *Employer*,
- contact details,
- the timescale in which the work is to be carried out,
- deliverables and any associated tests and
- the timescale for the return of the Task proposal.

2.1.2 The *Consultant* responds to the brief with a Task proposal, containing the following information

- scope of the work,
- methodology (including timescales),
- personnel to manage and undertake the work including any additional specialists (along with CVs and proposed grade) not named in this contract,
- an estimate of the total of the Prices to undertake the work
- reporting regime and
- detailed breakdown of the build-up of the Task's total of the Prices.

The *Consultant* submits the task proposal normally to the *Employer's* procurement officer using the *Employer's* e-tendering portal.

- 2.1.3 The Task proposal may then be the subject of discussions to clarify the extent and scope of the work, proposed timescales or other matters. Following agreement, the *Employer* issues the Task Order to the *Consultant* using the *Employer's* Task Order form

2.2 **Quality Management**

- 2.2.1 The *Consultant* Provides the Services under a quality management system which

- complies with BS EN ISO 9001:2008 (or the current standard that replaces it),
- incorporates an environmental management system consistent with ISO 14001 (or current standard that replaces it),
- has third party certification from a an accreditation body approved by the applicable national member of the European Co-operation on Accreditation or is operating in preparation for accreditation within 12 months of the Contract Date; and
- includes processes for delivering continual improvement following the guidance in ISO 9004 or any equivalent standard which is generally recognised as having replaced it and
- complies with good industry practice.

- 2.2.2 The quality plan incorporates the proposals in the Quality Statement and is sufficiently detailed to demonstrate how the *Consultant* will achieve each of the commitments in the Quality Statement and meet the *Employer's* objectives for the contract.

- 2.2.3 The *Employer* notifies the *Consultant* if he considers that the quality plan does not comply with the requirements of this contract. Following such notification the *Consultant* reviews the quality plan and reports to the *Employer* setting out his proposed changes. If the *Employer* accepts the proposals the quality plan is changed.

- 2.2.4 The *Employer* may carry out audits of the *Consultant's* quality management system from time to time. The *Consultant* allows access at any time within working hours to any place where he or any Subconsultant carries out any work that relates to this contract for the *Employer* to carry out audits, to inspect work and materials and generally to investigate whether the *Consultant* is performing his obligations under this contract. The *Consultant* provides all facilities necessary to allow such audits and inspections to be carried out.

- 2.2.5 Following notification of a Defect, the *Consultant* submits to the *Employer* for acceptance the corrective and preventative action that he proposes to take to deal with the nonconformity. The *Consultant* does not take action to deal with the nonconformity until the *Employer* has accepted his proposals.
- 2.2.6 Within one week of the *Consultant* submitting the proposed corrective and preventative action to him for acceptance, the *Employer* either accepts the proposal or notifies the *Consultant* of his reason for not accepting it. A reason for not accepting the proposed action is that
- it does not take action required to ensure that nonconformities do not recur or
 - it does not comply with the Scope.
- 2.2.7 If the *Employer* does not accept the proposed action, the *Consultant* submits a revised proposal to the *Employer* for acceptance within one week.
- 2.2.8 The *Consultant* corrects nonconformities and takes action to eliminate the causes of actual or potential nonconformities within a time which minimises the adverse effect on the *Employer* or Others and in any event before carrying out any operation the same or similar as that in respect of which the nonconformity occurred.
- 2.2.9 The *Consultant* notifies the *Employer* when the proposed actions have been taken and provides with his notification verification that the defective part of the *services* has been corrected.

2.3 Continual Improvement

- 2.3.1 The *Consultant* operates processes for delivering continual improvement following the guidance in ISO 9004 and below.
- 2.3.2 Purpose

This sets out the *Employer's* minimum requirements in relation to the *Contractor's* continual improvement of the delivery of all of the *services*.

Continual improvement under this heading comprises four parts:

- (i) Outcome Requirements
- (ii) Strategic Objectives
- (iii) The Method
- (iv) Lean Measurement

(i) Outcome Requirements

The primary outcome from using continual improvement is the generation and realisation of reductions in the cost of delivering the *services* for the benefit of both the *Employer* and the *Consultant*.

An additional outcome is the improvement of quality in delivering the *services*, at either no additional cost or reduced cost to the *Employer*.

(ii) Strategic Objectives

The following strategic objectives in support of the above outcome are to be delivered by the *Consultant*:

- engagement of the *Consultant's* executive leadership to ensure these continual improvement requirements are fulfilled
- proactive management and engagement of the *Consultant's* supply chain in support of reductions in the cost of delivering the *services* enabled by a reduction in the supplier's cost charged to the *Consultant*
- a systematic and prioritised approach to the improvement of all of the processes contained in the *Consultant's* quality plan
- the identification of improvement opportunities that primarily have the potential to generate reductions in the cost of delivering the *services*
- realisation of the reduction in the cost of delivering the *services* by a measurable reduction in cost
- realisation of other benefits that result in an improvement to the quality of the *services*, at no additional cost to the *Employer*

(iii) The Method

The *Consultant* executes the following method, although it is accepted that it may adopt, at its own discretion, additional methods to deliver the above outcome requirements and strategic objectives.

Lean is a method of delivering the above outcome requirements and strategic objectives, and is a way of doing more with less. It produces what a customer wants, when it is required, with a minimum of waste, and to a high level quality. Lean works through a relentless elimination of waste and reduction of variation.

The *Consultant* uses lean tools to systematically address, in a planned sequence, the processes in its quality plan in order to identify customer requirements, establish and optimise the execution of value adding activity, identify and minimise non-value adding activity, and eliminate waste.

The *Consultant*:

- (a) DEPLOYS A STRATEGIC USE OF LEAN
 - adopts lean principles as part of formal strategic plans for the *Consultant's* business
 - employs formal processes for determining customer/client value
- (b) ENSURE LEAN LEADERSHIP
 - ensures senior leaders and management within the *Consultant's* organisation enthusiastically embrace the concept of Lean and support a transformation to a Lean culture in the organisation
- (c) DELIVER CUSTOMER VALUE
 - ensures value streams of all stakeholder processes have been mapped and value adding activities are identified and optimised

- ensures critical interactions and interdependences are identified
- ensures opportunities for minimising non value adding activity and eliminating waste are identified and realised
- (d) ADOPT LEAN STRUCTURE AND BEHAVIOUR
 - revises policies and procedures to promote, encourage and support Lean behaviour
 - delegates decision making to lowest practical level, with appropriate training
 - encourages prudent risk taking
 - implements a comprehensive programme of innovation/improvement initiatives and measure their impact
- (e) ENSURE PROCESS FLOW
 - designs processes along value streams encouraging customer/client pull with minimum waste
 - minimises travel distance or time delay
 - ensures continuous flow through all value streams
 - ensures demand is aligned to customer pull in order to provide a balanced workload with minimum stock levels
- (f) CREATE STANDARD WORK PRACTICES
 - standardizes processes across sites and departments
 - standardizes tools and systems used throughout the *Consultant's* organisation
- (g) ENSURE PROCESS CONTROL AND QUALITY
 - reduces process variation throughout the *Consultant* organization
 - analyses the root cause of defects and nonconformities, implement corrective action and update processes with lessons learned
 - ensures all processes include mistake proofing with preventative measures maintaining optimal process conditions
 - delegates authority for quality to lowest practical level minimising secondary inspection
- (h) ENSURE PLANNING DESIGN AND CONSTRUCTION TAKES ACCOUNT OF CUSTOMER/CLIENT REQUIREMENT
 - continually evaluate customer/client needs with formal feedback
 - ensures customer/client is represented on integrated product/project teams
 - integrates planning/design/construction teams
 - identifies and quantify priorities of downstream stakeholders
 - ensures services to sites are designed to be in line with demand

usage to minimise inventory

(i) DEPLOY EFFECTIVE EQUIPMENT MAINTENANCE

- ensures equipment is in a condition to contribute to quality and provide a high level of availability. Keep records of defects to target proactive maintenance
- ensures employees have full ownership and care for processes and maintain process performance
- evaluates repair/maintenance schedules in line with available capacity and ensure risk contingency

(j) MAINTAIN EFFECTIVE SUPPORTING INFRASTRUCTURE

- ensures financial/measurement system supports lean transformation and is readily accessible to stakeholders
- ensures information systems are easily accessible and compatible with stakeholder communications and analysis needs
- ensures personnel practices make suitable skills available
- ensures education and training programmes support the needs of the enterprise transformation plan
- makes resources and support available to employees to contribute to Lean improvement
- develops supply chain small enough to be effectively managed
- defines, develops and integrates supplier network to ensure efficient creation of value for enterprise stakeholders

In carrying out the above process the *Consultant* assists and enables its supply chain in the adoption of lean methodologies and approaches, and engaging in lean improvement projects.

(iv) Lean Measurement

The *Consultant* records and measure the benefits realised from the execution of continual improvement process in accordance with the *Employer's* Lean Benefits Realisation Guide.

The *Consultant*:

- captures and records the reductions in cost
- captures and records any other benefits
- ensures results are recorded showing general details about the improvement, planned/targeted benefits, and actual/realised benefits with supporting calculations
- reviews and reports on performance on a monthly basis

2.3.3 The *Consultant* adjusts its delivery of continual improvement process based on lessons learned from the measurement of its performance.

2.3.4 The *Consultant* measures their adoption of a continual improvement culture using the *Employer's* Lean Maturity Assessment.

<https://www.gov.uk/guidance/highways-england-lean-maturity-assessment-helma#HALMAT>

2.4 Project Performance Indicators

- 2.4.1 The *Consultant* records performance against each of the indicators (the Project Performance Indicators”) in the latest version of the “Collaborative Performance Framework” (CPF) and assists the *Employer* in the development of this measurement Toolkit by proposing and developing ways in which improvements can be made to the Toolkit. No changes are implemented unless agreed.
- 2.4.2 Interim assessments are made by the *Consultant* at monthly intervals and are reported in advance of progress meetings. If the interim assessments indicate that a performance target is not likely to be met, the *Consultant* submits proposals for changes to procedures to the *Employer* for acceptance.
- 2.4.3 Not Used.
- 2.4.4 On each anniversary of the Contract Date the *Consultant* submits proposals for improvements for the following year in order to meet the requirement for continual improvement in performance.

2.5 Financial Management

- 2.5.1 The *Consultant* includes on his invoices the requisition number and, where appropriate, the purchase order number. The *Consultant* submits with each invoice such records as the *Employer* requires, including time sheets and details of expenses.
- 2.5.2 The *Consultant* notifies the *Employer* of the name and address of his bank, the account name and number, the bank sort code and any other details required to make direct payments into that account.

2.6 Health and safety requirements

- 2.6.1 The *Consultant* complies with the *Employer's* rules, regulations, health and safety policies and any safety and security instructions notified to the *Consultant*.
- 2.6.2 The *Consultant* reports to the *Employer* any accidents to people employed by the *Consultant* which require to be reported in accordance with relevant health and safety legislation.
- 2.6.3 The *Consultant* and the *Employer* notify each other of any known special health and safety hazards which may affect the performance of the *services*. The *Consultant* informs and instructs people employed by him on the hazards and any necessary associated safety measures.

- 2.6.4 The *Consultant* complies with *Employer's* Interim Advice Note 128/15AR Highways England Supply Chain Health and Safety Incident Reporting ("**IAN 128**"), or its later update or replacement, including any time periods required by IAN 128. If no time period is specified in IAN 128 the *period of reply* applies unless agreed otherwise by the *Employer*.
- 2.6.5 If any incident occurs that the *Consultant* considers is not within the remit of IAN 128 the *Consultant*
- notifies the *Employer* of the incident and
 - reports the incident as if the incident was in the remit of IAN 128 if required by the *Employer*
- 2.6.6 Any document that would otherwise fall to be disclosed by the *Consultant* to the *Employer* may be withheld by the *Consultant* provided the *Consultant's* legal advisor confirms to the *Employer* that the document is
- a confidential communication between the *Consultant* and its legal advisor for the purpose of seeking or giving legal advice that the legal advisor would normal expect to be given legal privilege in normal course of its business with the *Consultant* or
 - a confidential communication between the *Consultant* or its legal advisors and third party where the communication came into existence with the dominant purpose of being used in connection with contemplated, pending or actual litigation in adversarial proceedings (as opposed to investigations or fact finding inquiries).
- 2.6.7 The *Consultant* ensures that all subcontracts (at any stage of remoteness from the *Employer*) contain requirements similar to paragraphs 2.6.4 to 2.6.6.
- 2.6.8 The *Consultant* does not
- appoint a Subconsultant or
 - allow a Subconsultant to appoint a sub-subconsultant (at any stage of remoteness from the *Employer*)

Until the *Consultant* has demonstrated to the *Employer* that the subcontract (at any stage of remoteness from the *Employer*) complies with paragraph 2.6.7.

2.7 **Environmental management and related aspects**

- 2.7.1 In Providing the Services the *Consultant* complies with the *Employer's* environmental policy, which is to conserve energy, water and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

2.7.2 Paper for written outputs produced by the *Consultant* in connection with the contract complies with the relevant Government Buying Standard (<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>) and is used on both sides where appropriate.

2.7.3 Goods purchased by the *Consultant* on behalf of the *Employer* (or which will become the property of the *Employer*) comply with the relevant minimum environmental standards specified in Government Buying Standard (<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>).

2.8 Energy Efficiency

2.8.1 The *Consultant* complies with PPN 7/14

- In Providing the Services and
- in the purchase of products for use by the *Consultant* partially or wholly for the purpose of Providing the *Services* comply with the standards for products in Directive 2012/27/EU.

2.8.2 The *Consultant* demonstrates to the *Employer* how, through Providing the *Services*, any new products purchased by the *Consultant* for use partially or wholly for the purpose of Providing the *Services*, complies with the requirements of Procurement Policy Note 7/14 entitles "Implementing Article 6 of the Energy Efficiency Directive". (<https://www.gov.uk/government/publications/procurement-policy-note-0714-implementing-energy-efficiency-directive-article-6>)

2.9 Project Management

Right to use material

2.9.1 The *Employer* may use material provided by the *Consultant* under this contract for any purpose.

2.9.1A The *Consultant* may only use any materials provided by him under this contract with the prior consent of the *Employer*. The *Consultant* complies with any constraint placed upon the use of such materials by the *Employer*. If the *Consultant* breaches any constraint placed upon him for the use any materials provided by him under this contract then the *Consultant* is not permitted to use such materials.

Working with Others

2.9.2 The *Consultant* does not enter into commitments when dealing with third parties that might impose any obligations on the *Employer* except with the consent of the *Employer*.

Meetings and reports

- 2.9.3 The *Consultant* reports on the performance of the *services* and attends all meetings arranged by the *Employer* for the discussion of matters connected with the performance of the *services*.

Drawings, specifications, software, designs and other data

- 2.9.4 The *Consultant* delivers to the *Employer* on Completion the final 'deliverable' version of any data in an agreed format.
- 2.9.5 If this contract is terminated the *Consultant* delivers to the *Employer* working versions of each deliverable that has not been completed.
- 2.9.6 If information is to be exchanged electronically, the *Consultant* complies with the *Employer's* procedures for safeguarding the connection and the format of transmitted data.
- 2.9.7 The *Consultant* provides to the *Employer* copies of such records and documents as the *Employer* requests.

2.10 Information security

- 2.10.1 The *Consultant* prepares a robust information security plan complying with the *Employer's* security policy and submits it to the *Employer* for acceptance. The *Consultant* includes the security plan in its quality management system. The security plan includes procedures which
- ensure compliance with the Data Protection Acts,
 - protect information against accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of Personal Data,
 - ensure that unauthorised persons do not have access to Personal Data or to any equipment used to process Personal Data,
 - protect IT systems from viruses and similar threats and
 - provide for the vetting of its employees and Subconsultants' staff in accordance with the *Employer's* staff vetting procedures.
- 2.10.2 The *Consultant* provides training for its employees and subconsultants (at any stage of remoteness from the *Employer*) in accordance with the security plan.
- 2.10.3 2.10.3 The *Employer's* security policy is set out in the documents "Statement of Highways England's IT Security Policy" and Chief Information Officer Memos 01/09, 05/08 and 04/08. The *Employer's* personnel security procedures are set out in [Appendix 1](#).
- 2.10.4 On Completion or earlier termination of the *Consultant's* obligation to Provide the Services, the *Consultant* gives to the *Employer* all Personal

Data held by it and destroys electronic and paper copies of such data in a secure manner.

2.11 **Consultant's premises and Access and Storage to Employer's Data**

2.11.1 Any Risk Assessment is carried out by the *Employer* in accordance with HMG Security Policy Framework (SPF) including HMG IA Standard No. 1 - Technical Risk Assessment, October 2009, Issue No: 3.51 and ICT Offshoring (International Sourcing) Guidance dated July 2011 or any later revision or replacement.

2.11.2 Except as expressly specified otherwise in this contract, the *Consultant* provides all premises necessary to Provide the Services.

2.11.3 The *Consultant* does not use any premise to Provide the Services until

- the premise has successfully passed the Risk Assessment. The *Employer* may request the *Consultant* to provide any information required to support any Risk Assessment or
- the *Employer* has confirmed that a premise does not require to be assessed in accordance with the Risk Assessment.

2.11.4 The *Consultant* provides the *Employer* with any information required to support any Risk Assessment.

2.11.5 The *Consultant* does not store any of the *Employer's* data that is classified as Official or higher in accordance with "Government Security Classifications" dated April 2014 (or any later revision or replacement

- offshore or
- in any that it could be accessed from an off shore location

until the *Employer* has confirmed to the *Consultant* that either

- the *Employer* has gained approval for such storage in accordance with "*Offshoring information assets classified at OFFICIAL*" dated November 2015 (or any later revision or replacement) or
- such approval is not required.

2.11.6 The *Consultant* complies with a request from the *Employer* to provide any information required to allow the *Employer* to gain approval for storing data or allowing access to data from an Offshore location in accordance with 2.11.5.

2.12 **Insurance**

2.12.1 The supply to the *Employer* of any evidence of insurance cover in compliance with requirements of this Clause 81.2 shall not imply acceptance by the *Employer* that the extent of insurance cover is sufficient or that the

terms and conditions thereof are satisfactory nor be a waiver of the *Consultant's* liability under the contract.

2.12.2 The insurance shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international market

2.12.3 The *Consultant* shall notify the *Employer* at least ten (10) days prior to cancellation, suspension, termination or non-renewal of any of the insurances required by the contract.

2.12.4 The *Consultant* shall not (and the *Consultant* shall ensure that none of its subcontractors of any tier) take any action or fail to take any action or, insofar as is reasonably within its power, permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the insurances required by this contract.

2.12.5 The *Consultant* discharges all its obligations under the Insurance Act 2015 when placing, renewing, amending or maintaining any insurances required by this contract, including

- complying with the duty of fair presentation to insurers and
- taking the actions needed to protect the *Employers* separate interests where the *Employer* is required to be named as an insured party.

2.13 **Legal Opinion for non- England and Wales Registered Companies**

2.13.1 Any legal opinion provided by the *Consultant* in support of a Parent Company Guarantee from a company not registered in England and Wales includes (among others the following matters)

- confirmation that
 - the Controller is a corporation duly incorporated in the relevant jurisdiction, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated,
 - the Controller has full power to execute, deliver, enter into and perform its obligations under the Parent Company Guarantee,
 - all necessary corporate, shareholder and other action required to authorise the execution and delivery by the Controller of the Parent Company Guarantee and the performance by it of its obligations under it have been duly taken,
 - execution by the proposed signatories in accordance with the method of execution proposed will constitute valid execution by the Controller,
 - the execution and delivery by the Controller of the Parent Company Guarantee and the performance of its obligations under it will not conflict with or violate
 - the constitutional documents of the Controller,

- any provision of the laws of the jurisdiction in which it is incorporated,
- any order of any judicial or other authority in the jurisdiction in which it is incorporated or
- any mortgage, contract or other undertaking which is binding on the bidder or its assets and
 - (assuming that it is binding under English law) the Parent Company Guarantee constitutes legal, valid and binding obligations of the Controller enforceable in accordance with its terms,
- notification of any other formalities to be complied with under local law which may be necessary to enforce the Parent Company Guarantee in the Controller's place of incorporation, including (for example) notarisation, legalisation or registration of the Parent Company Guarantee,
- notification of whether withholding is required to be made by the Controller in relation to any monies payable to *Employer* under the Parent Company Guarantee,
- confirmation of whether the *Employer* will be deemed to be resident or domiciled in the foreign jurisdiction by reason of its entry into the Parent Company Guarantee and
- confirmation that the Controller and its assets are not entitled to immunity from suit, pre-judgment attachment or restraint or enforcement of a judgment on grounds of sovereignty or otherwise in the courts of England and Wales in respect of proceedings against it in relation to the Parent Company Guarantee.

2.14 **Conflict of Interest**

The *Consultant* does not take an action which would cause a conflict of interest to arise in connection to this contract. The *Consultant* notifies the *Employer* if there is any uncertainty about whether a conflict of interest may exist or arise.

The *Employer* notifies the employees and Subconsultants (at any stage of remoteness from the *Employer*), and ensures any Subconsultant informs its employees, who are Providing the Service, that they do not take an action which would cause an actual or potential conflict of interest to arise in connection with the *services*.

The *Consultant* ensures that any employee and that any Subconsultant (at any stage of remoteness from the *Employer*) ensures any of its employees, who are Providing the Service, completes a declaration of interests and conflict of interests in the form set out in [Appendix 4](#). The *Consultant* issues to the *Employer* any completed declaration of interests and conflict of interests.

The *Consultant*

- procures any Subconsultant (at any stage of remoteness from the *Employer*) immediately notifies the *Consultant* and *Employer* if there is any uncertainty about whether a conflict of interest may exist or arise and

If the *Consultant* or Subconsultant (at any stage of remoteness from the *Employer*) notifies the *Employer*, the *Employer* may

- require the *Employer* to stop Providing the Service until any conflict of interest is resolved
- require the *Consultant* to submit to the *Employer* for acceptance a proposal to remedy the actual or potential conflict of interest.

A reason for not accepting the submission is that it does not resolve any conflict of interest. The *Consultant* amends the proposal in response to any comments from the *Employer* and resubmits it for acceptance by the *Employer*. The *Consultant* complies with the proposal once it has been accepted.

.

3. EMPLOYER'S REQUIREMENTS

3.1 Consultant's Role

- 3.1.1 The *Employer* intends to establish a highly professional and motivated operational excellence Implementation Team that is focused on the delivery of the *Employer's* objectives. In establishing the operational excellence implementation team the *Employer* makes use of the expertise it has available in-house and from the *Consultant*.
- 3.1.2 The *Consultant* works with the *Employer* to form a seamless, highly professional and integrated operational excellence implementation team, which works together to achieve the *Employer's* objectives. The *Consultant* challenges, supports and advises on all aspects of operational excellence development and implementation.
- 3.1.3 The *Consultant* provides appropriately skilled and experienced resources with the leadership competencies, technical skills and cultural behaviour as required by the *Employer*. The *Consultant* helps the *Employer* to develop the desired collaborative culture to support the successful delivery of the *Employer's* objectives.

3.2 Delivery Phases: Managing This Programme

- 3.2.1 The *Consultant* delivers each of the aspects of operational excellence development and implementation to first design (Phase 1) and then deliver (Phase 2) the programme.
- 3.2.2 The aspects of operational excellence are outlined in [Appendix 5](#).

3.3 Phase 1: Design The Programme

- 3.3.1 Phase 1 is to be completed by 31 March 2018
- 3.3.2 Define the baseline and target performance for the programme and crystallise the required work streams
 - (a) Conduct an extensive diagnostic of current performance against our key metrics to establish the baseline performance, identify improvement levers and a simple set of effective key performance indicators
 - (b) Use best practice benchmarks and real life examples from other institutions to define the target impact

against our key performance metrics of safety, customer experience and delivery and then align the business on these targets, who will own them, how they will be measured, and the performance process around them

- (c) Establish and launch the required multiple work streams to deliver the operational improvements ensuring each has well defined targets, objectives and clear leadership with the skill, will and resources necessary for successful delivery.
- 3.3.3 Develop and continually refine and prioritise the key initiatives and operating model that will drive value in the business
- (a) Identify the 10 to 15 key end to end processes that drive value within the organisation and opportunities for step change improvements by addressing key pain points and identifying required digital improvements wherever beneficial to do so
 - (b) Design the changes to the target operating model that will be required to deliver on the key business processes
 - (c) Develop the portfolio of initiatives that will deliver on the aspiration and ensure each has clearly defined impacts, resource requirements, implementation plans and performance metrics
 - (d) Prioritise the initiatives into 3 month delivery chunks considering the *Employer's* current capability and capacity.
 - (e) Supporting roll out to regions of existing initiatives which are ready for wider implementation.
- 3.3.4 Establish the programme structure and Transformation Management Office (TMO) to deliver the expected impact
- (a) Establish the required governance forums and operating cadence to drive the programme at pace, and the inputs, outputs and supporting reporting process
 - (b) Implement an appropriate communications and change management programme to ensure

alignment of key stakeholders and engagement of the workforce

- (c) Enhance and upskill the existing TMO with the required resources, processes and tools to drive the programme
- (d) Clarify resource requirements, both for the OESDP and across the *Employer's* organisation, that will be needed to deliver the impact

3.4 Phase 2: Deliver the programme with tangible results every three months.

3.4.1 The *Employer* may issue Task Orders to deliver Phase 2

3.4.2 The *Consultant* implements initiatives through a tailor made and innovative programme working hand in hand with the *Employer's* teams and the *Consultant*

- Develops a tailor made approach appropriate for the *Employer* to drive impact fast, at scale and in a complex and multi region environment taking account of the mix of asset support contracts and asset delivery models operating the *Employer's* network during this period
- Creates and implement innovative solutions using, for example, process simplification, digitisation opportunities, engineering solutions, advanced analytics, technology and design thinking and other relevant tools to support the effectiveness and efficiency of the operations
- Works with the *Employer's* teams in combined teams to drive key projects to implementation whilst building the *Employer's* capability to ensure long term sustainability and demonstrating measurable impact with tangible results and milestones delivered every three months
- Delivers the required capability, culture and performance management activities to enable the success of the programme:
- Develops and implements a capability building programme covering operations leadership team to frontline staff, to enable the *Employer* to continue to

deliver sustainable impact and continuously improve into roads investment strategy period 2 and beyond

- Diagnoses the effectiveness of company practices and culture within the *Employer's* organisation using global best practice benchmarking, and design actionable, evidence based changes that will develop the *Employer* into a world-class executing organisation
- Embeds a performance management system to track output, productivity, quality and delivery of the *Employer's* mandate and embed financial steering to ensure focus on the highest impact initiatives

4. Consultant's staff

4.1 The *Consultant* provides a team of staff from the Contract Date. The team shall be based in Birmingham but travel may be required to *the Employer's* offices in other locations from time to time.

4.2 The *Consultant's* team is divided into senior leadership, subject matter experts and project management/consultant support.

4.3 The *Consultant* ensures its senior leadership and the subject matter experts are *key people*.

4.4 The senior leadership team comprises approximately five individuals who will spend significant time on the transformation and carry personal responsibility for the success. The *Consultant* ensures its leadership team has robust experience in the following:

- Implementing multi-year transformation programmes in complex, multi-regional organisations in productivity increase and cost reduction situations
- Implementing operational improvement projects in UK infrastructure or UK public sector organisations
- International projects utilising global best practices in strategic infrastructure or highways, relevant for this transformation
- Coaching and building client capability, from top team to front line, to achieve significant cultural and performance changes during long and complex transformations in the UK public sector

4.5 The *Consultant* clearly identifies subject matter experts (maximum 5 from within their business or any partner businesses) who they will leverage to

support in guiding the programme. The *Consultant* articulates what relevant experience they will bring and how they will be engaged to bring this experience to the *Employer*.

- 4.6 The *Consultant* clearly identifies project management and consultant support who have relevant experience such as operations transformations, public sector, transport and infrastructure projects

5. *Consultant's Resource Schedule*

- 5.1 From the Contract Date, the *Consultant's* prepares and updates at the commencement of each month a resource schedule of the *Consultant's* planned activities for phase 1, detailing all of the staff resources required to complete each activity. The *Consultant's* activities represent all the agreed *Consultant's* activities required to Provide the Services to complete all aspects of operational excellence phase 1.

- 5.2 The *Employer* requires the Task Orders to deliver the activities for Phase 2 and any other proposed changes to the services to be supported by detailed resource projections in the manner described above. The *Consultant* submits such projections to the *Employer*.

6. *Consultant's Employees Register*

- 6.1 The *Consultant* maintains a register of its employees from the Contract Date until the Completion Date. The register contains details of the *Consultant's* employees used to Provide the Services.
- 6.2 The register contains at least the following information – name; employer; position; grade; start and end dates; and principal duties under this contract. The register is available for inspection by the *Employer* and its representatives at all times.

7. *Additional Resources*

- 7.1 At any time the *Employer* may require the *Consultant* to provide additional resources to directly support the activities of the operational excellence

implementation team. The *Employer* instructs and agrees any additional resource requirements.

8. Exit Strategy

8.1 As required by the *Employer* the *Consultant* supports the *Employer* with the development of an exit strategy that sets out the rules of disengagement at the end of the commission, including:

- a plan to ensure effective disengagement once all requirements and obligations have been fulfilled; and enabling lessons learned to be recorded and carried forward to future programmes.

8.1.1 Appendix 1 – BPSS Compliance

Annex A

General notes for hiring managers

- You must see original documents, copies are not acceptable.
- All the time you need to check that birth dates, signatures and photos match. Any discrepancies then call the [Security Team](#) for advice.
- You must comply with the Data Protection Act. Therefore remember to delete any electronic versions of this form/personal documents and securely destroy paper copies of documents when they are no longer relevant. UK Visas and Immigration provide advice on how long to keep copies of nationality and right to work documents:
<https://www.gov.uk/government/collections/employers-illegal-working-penalties#guidance-and-codes-of-practice>
- Once your *Consultant* starts work, you will need to email the Amey helpdesk to request that their photo is taken for their building pass.
- If you are not located in the same building as your *Consultant*, you will need to make sure there is someone available to greet them at reception and undertake an induction. You will also need to make sure that reception is aware of the date your *Consultant* is starting.

If you have any questions regarding this form or the check itself, the Security Team (SecurityTeam@highwaysengland.co.uk) are happy to help.

If you'd prefer to speak to someone, please state this in your email and a member of the team will call you as soon as they can.



Annex B

Section 1: Application details and identity verification – guidance notes

Generally one document which contains a photo or 2 documents without photos will provide adequate proof of identity.

However not all documents are of equal value, therefore we have listed below some examples of documents that are from reliable sources, difficult to forge and dated. These documents must be current and ideally issued within last 6 months.

Good examples of identity documents that contain a photo:

- Current UK photo-card driving licence.
- A current passport. Please include the country of issue in section 1.3 (eg British passport, South African passport)

If the applicant is a citizen of the United Kingdom, Switzerland or one of the European Economic Area countries (see [Annex D](#)), their passport can also be used as proof of their 'right to work'. This means that no additional documentation is required to prove nationality.

Good examples of identity documents without photos include:

- Birth certificate, adoption certificate, gender recognition certificate
- Marriage licence, divorce or annulment papers
- Current full UK driving licence (old 'paper' version)
- A recent utility bill or council tax bill (valid for current year)
- Bank, building society or credit union statement or passbook containing current address
- Current benefit book or card or original notification letter from the DWP confirming the right to benefit.
- Police registration document or HM Forces identity card

This is not an exhaustive list and if none of these documents are available, please contact the [Security Team](#) for further advice.

What to look for:

- The documents shown to you must be originals. If you are unsure, consider comparing them to other examples you may have to hand
- Check that the paper and typeface of the document are similar to any others you may have to hand or may have examined recently
- Examine the documents for alterations or signs that the photograph and/or signature have been removed and replaced.

- Check that any signature on the documents tallies with other examples in your possession. If you're unsure, ask the applicant to sign something in your presence
- Check that details given on the documents corresponds with what you already know about the individual
- Check the date of issue on each document. If all documents are new and there are only minimal references available, please contact the [Security Team](#) for more advice.

If you have any doubts about the documents you've been given, please contact the [Security Team](#), before confronting the applicant.

Young Applicants

It can be difficult for young applicants to supply most of the documents listed above. If this appears to be a genuine problem, ask the applicant to supply a passport-sized photo, endorsed on the back with the signature of someone of standing in the applicant's community, e.g. a justice of the peace, doctor, member of the clergy, teacher etc. The signatory should have known the applicant for a minimum of three years.

The photo must be accompanied by a signed statement from the signatory giving their full name, address and phone number and confirming the period they have known the applicant.



Annex C

Section 2: Nationality and right to work- guidance notes

The current advice from UK Visas and Immigration is available on their website:

<https://www.gov.uk/government/collections/employers-illegal-working-penalties#guidance-and-codes-of-practice>

In addition, please note:

- You must be satisfied that each document produced relates to the individual, and you will need to check that all documents contain the same date of birth, photo and the person's appearance looks the same.
- It is not necessary to send copies of these documents to the [Security Team](#). However, if you are unsure or unfamiliar with the documents you've been given, the [Security Team](#) are happy to advise you. Please contact us first and we'll ask you to scan the relevant parts of the documents in question.
- UK Visas and Immigration provide advice on how long to keep copies of nationality and right to work documents:
<https://www.gov.uk/government/collections/employers-illegal-working-penalties#guidance-and-codes-of-practice>



Annex D

European Economic Area (EEA) Countries

Citizens of the United Kingdom, Switzerland or one of the following European Economic Area (EEA) countries, have the right to work in the UK:

- Austria
- Belgium
- Bulgaria
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovakia
- Slovenia
- Spain
- Sweden



Annex E

Employment history and personal references – guidance notes

- All employment history should be confirmed with previous employers, including overseas appointments (where the applicant was abroad for over 6 months).
- A template to send to previous employers and personal referees can be found in [Annex F](#). However most companies will now only provide official confirmation (on letter headed paper) of when an individual worked for them. This is acceptable.
- Reasonable steps should be taken to ensure that the reference is genuine. References that are handwritten, not on headed paper, contain spelling or grammatical errors or just not convincing for any reason, should be followed up directly with the individual(s) concerned.
- If the applicant has been unemployed, or his previous employer is no longer in business, a personal reference (see below) can be obtained instead. This is not necessary if the period involved is less than 6 months.
- If the applicant has only worked for one organisation in the last 3 years, then one reference from this company is sufficient.
- Where an applicant has been in full time education during the period, confirmation must be obtained from the relevant school or other academic institution.
- Where an applicant has been overseas during the last 3 years, it is sufficient to see the entry visa. Some countries no longer issue exit visas.
- Where a young person has difficulty in providing both evidence of identity and adequate referee coverage, it may be appropriate to obtain both from the same referee.

Personal references

- Personal references are acceptable when no other reference is available. Family members (including in-laws) are not suitable for references.
- The applicant should provide the details of someone of professional standing (eg solicitor, civil servant, teacher, accountant, bank manager, doctor, officer of the armed forces) who has sufficient knowledge of the applicant to provide a considered reference. If the applicant is unable to nominate such a person, then references should be obtained from personal acquaintances. Personal acquaintances cannot provide references if they are involved in any financial arrangements with the applicant.



Annex F

Personal reference template

You can use this template to send to both previous employers and personal referees. You will need to include a covering letter, explaining that you are requesting this information in relation to the applicant's proposed role in Highways England.

.....

Dear

SUBJECT: _____

1. Over what period have you known the subject and in what capacity?

From:

To:

Capacity:

2. Are you related to the subject? If so, please state your relationship.

3. Do you believe the subject to be honest, conscientious and discreet?

I declare that the information I have given on this form is true to the best of my knowledge.

Name:

Signature:

Date:

Address:

Tel No:

Email:

8.1.2 **Appendix 2 Form of Parent Company Guarantee**

DATED [●]

HIGHWAYS ENGLAND COMPANY LIMITED

as Employer

[●]
as Guarantor

PARENT COMPANY GUARANTEE

relating to a term contract for the provision of
consultancy services in respect of []

DATED [●]

PARTIES

- (1) **HIGHWAYS ENGLAND COMPANY LIMITED** (company no 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ (the “**Employer**”)
- (2) [●] (company no [●]) whose registered office is at [●] (the “**Guarantor**”)

BACKGROUND

- (A) By the Contract, the Employer has employed the Consultant to Provide the Services.
- (B) The Guarantor is the ultimate parent company of the Consultant.
- (C) The Guarantor has agreed to guarantee the due performance by the Consultant of his obligations under the Contract in the manner set out in this deed.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1. Unless the contrary intention appears, the following definitions apply:

“**Contract**” means the contract dated [●] between the Employer (1) and the Consultant (2) under which the Consultant has agreed to Provide the Services.

“**Consultant**” means [●] (company no [●]) whose registered office is at [●].

“**Insolvency Event**” means the Consultant being unable to pay its debts (as defined by Sections 123(1) and 268(1) of the Insolvency Act 1986) or any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Consultant other than a solvent liquidation or reorganisation of the Consultant;
 - (b) a composition, assignment or arrangement with any creditor of the Consultant;
 - (c) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Consultant or any of its assets; or
 - (d) enforcement of any security over any assets of the Consultant,
- or any analogous procedure or step is taken in any jurisdiction.

“**Services**” means the services to be provided by the Consultant pursuant to the Contract.

- 1.2. The clause headings in this deed are for the convenience of the parties only and do not affect its interpretation.
- 1.3. Words importing the singular meaning include the plural meaning and vice versa.
- 1.4. Words denoting the masculine gender include the feminine and neuter genders and words denoting natural persons include corporations and firms and all such words shall be construed interchangeably.
- 1.5. References in this deed to a clause are to a clause of this deed.
- 1.6. References in this deed to any statute or statutory instrument include and refer to any statutory amendment or re-enactment for the time being in force.

2. GUARANTEE

- 2.1. In consideration of the Employer agreeing to enter into the Contract with the Consultant, the Guarantor irrevocably and unconditionally guarantees and undertakes to the Employer that:
 - a) the Consultant will perform and observe all his obligations under the Contract at the times and in the manner provided in the Contract; and
 - b) in the event of any breach of such obligations by the Consultant, the Guarantor shall procure that the Consultant makes good the breach or otherwise cause it to be made good and shall indemnify the Employer against any loss, damage, demands, charges, payments, liability, proceedings, claims, costs and expenses suffered or incurred by the Employer arising from or in connection with it.
- 2.2. The Guarantor shall also indemnify the Employer against:
 - a) any costs, losses and expenses (including legal expenses) which may be suffered or incurred by the Employer in seeking to enforce and enforcing (i) this Guarantee and/or (ii) any judgment or order obtained in respect of this Guarantee; and
 - b) any loss or liability suffered or incurred by the Employer if any of the obligations of the Consultant under the Contract is or becomes illegal, invalid or unenforceable for whatsoever reason as if such obligations were not illegal, invalid or unenforceable.
- 2.3. Except in the case of an action under clause 2.2 or clause 5, any limitation or defence which would have been available to the Consultant in an action under the Contract shall likewise be available to the Guarantor in a corresponding action under this deed.

3. GUARANTOR'S LIABILITY

- 3.1. The obligations of the Guarantor under this deed are in addition to and independent of any other security which the Employer may at any time hold in respect of the Consultant's obligations under the Contract and may be enforced against the Guarantor without first having recourse to any such security.
- 3.2. The obligations of the Guarantor under this deed are in addition to and not in substitution for any rights or remedies that the Employer may have against the Consultant under the Contract or at law.
- 3.3. The liability of the Guarantor under this deed shall in no way be discharged, lessened or affected by:
- a) an Insolvency Event;
 - b) any change in the constitution, status, function, control or ownership of the Consultant or any legal limitation, disability or incapacity relating to the Consultant or any other person;
 - c) the Contract or any of the provisions of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
 - d) any time given, waiver, forbearance, compromise or other indulgence shown by the Employer to the Consultant;
 - e) the assertion or failure to assert or delay in asserting any rights or remedies of the Employer or the pursuit of any right or remedy of the Employer;
 - f) the giving by the Consultant of any security or the release, modification or exchange of any such security or the liability of any person; or
 - g) any other act, event, omission or circumstance which but for this provision might operate to discharge, lessen or otherwise affect the liability of the Guarantor,
- 3.4. in each case with or without notice to, or the consent of, the Guarantor and the Guarantor unconditionally and irrevocably waives any requirement for notice of, or consent to, such matters.
- 3.5. Any decision of an adjudicator, expert, arbitral tribunal or court in respect of or in connection with the Contract and any settlement or arrangement made between the Employer and the Consultant shall be binding on the Guarantor.

4. VARIATIONS TO THE CONTRACT

- 4.1. The Guarantor authorises the Consultant and the Employer to make any addition or variation to the Contract, the due and punctual performance of

which shall likewise be guaranteed by the Guarantor in accordance with the terms of this deed. The liability of the Guarantor under this deed shall in no way be discharged or lessened by any such addition or variation.

5. LIQUIDATION/DETERMINATION

5.1. The Guarantor covenants with the Employer that:

- a) if a liquidator is appointed in respect of the Consultant and the liquidator disclaims the Contract; or
- b) if the Consultant's employment under the Contract is determined for any reason,

the liability of the Guarantor under this deed shall remain in full force and effect.

6. WAIVER

6.1. The Guarantor waives any right to require the Employer to pursue any remedy (whether under the Contract or otherwise) which it may have against the Consultant before proceeding against the Guarantor under this deed.

7. RIGHTS OF GUARANTOR AGAINST CONSULTANT

7.1. The Guarantor shall not by any means or on any ground seek to recover from the Consultant (whether by instituting or threatening proceedings or by way of set-off or counterclaim or otherwise) or otherwise to prove in competition with the Employer in respect of any payment made by the Guarantor under this deed nor be entitled in competition with the Employer to claim or have the benefit of any security which the Employer holds for any money or liability owed by the Consultant to the Employer. If the Guarantor shall receive any monies from the Consultant in respect of any payment made by the Guarantor under this deed, the Guarantor shall hold such monies in trust for the Employer for so long as the Guarantor remains liable or contingently liable under this deed.

8. CONTINUING GUARANTEE

8.1. The terms of this deed are a continuing guarantee and shall remain in full force and effect until each part of every obligation of the Consultant under the Contract has been performed and observed and until each and every liability of the Consultant under the Contract has been satisfied in full.

9. THIRD PARTY RIGHTS

9.1. Unless the right of enforcement is expressly granted, it is not intended that any third party should have the right to enforce any provision of this deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

10. NOTICES

- 10.1. Any notice or other communication required under this deed shall be given in writing and shall be deemed to have been properly given if compliance is made with section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962 and the Postal Services Act 2000).

11. GOVERNING LAW

- 11.1. The application and interpretation of this deed shall in all respects be governed by English law and any dispute or difference arising under it shall be subject to the exclusive jurisdiction of the courts of England and Wales save that any decision, judgment or award of such courts may be enforced in the courts of any jurisdiction.

This deed has been executed as a deed and delivered on the date stated at the beginning of this deed.

EXECUTION PAGE

Executed as a deed by
[GUARANTOR] acting by [*name of*
director] in the presence of: Director

Name of witness:
Signature of witness:
Address:

Occupation:

or

Executed as a deed by **[GUARANTOR]**)
acting by:)

Director

Director/Secretary

8.1.3 **Appendix 3 Form of novation agreement**

DATED [●]

HIGHWAYS ENGLAND COMPANY LIMITED
as Old Employer

[●]
as New Employer

[●]
as Consultant

DEED OF NOVATION

relating to a term contract for
the provision of consultancy services in respect of [●]

DATED [●]

PARTIES

- (1) **HIGHWAYS ENGLAND COMPANY LIMITED** (company no 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ (the “**Old Employer**”)
- (2) [*insert details of replacement authority*] (the “**New Employer**”)
- (3) [●] (company no [●]) whose registered office is at [●] (the “**Consultant**”)

BACKGROUND

- (A) By the Contract, the Old Employer has employed the Consultant to Provide the Services.
- (B) The Old Employer has agreed (with the consent of the Consultant) to transfer all its rights and obligations under the Contract to the New Employer and the Consultant has agreed to accept the liability of the New Employer in place of the liability of the Old Employer under the contract upon and subject to the terms of this deed, which is supplemental to the Contract.

1. DEFINITIONS AND INTERPRETATION

- 1.1. Unless the contrary intention appears, the following definitions apply:

“**Contract**” means the term contract dated [●] between the Employer (1) and the Consultant (2) (including any further agreement varying or supplementing the Contract) under which the Consultant has agreed to Provide the Services.

“**Services**” means the services to be provided by the Consultant pursuant to the Contract.

- 1.2. The clause and paragraph headings in this deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
- 1.3. Words in this deed denoting the singular include the plural meaning and *vice versa*.
- 1.4. References in this deed to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it.
- 1.5. Words in this deed importing one gender include both other genders and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and *vice versa*.

2. NOVATION

- 2.1. The Old Employer and the Consultant release and discharge each other from the further performance of their respective obligations under the Contract and the Consultant acknowledges and accepts the liability of the New Employer in place of the liability of the Old Employer under the Contract.
- 2.2. The Consultant undertakes to be bound to the New Employer by the terms of the Contract in every way as if the New Employer was and always had been a party to the Contract in place of the Old Employer.
- 2.3. The Consultant acknowledges and warrants to the New Employer that it has duly observed and performed and will continue duly to observe and perform all its obligations under the Contract.

3. NEW EMPLOYER'S UNDERTAKING

- 3.1. The New Employer undertakes to be bound to the Consultant by the terms of the Contract and to perform the obligations on the part of "the Employer" under the Contract in every way as if the New Employer was and always had been a party to the Contract in place of the Old Employer.

4. PAYMENT OF SUMS DUE

- 4.1. The Consultant and the Old Employer agree that the total amount to be paid by the Old Employer to the Consultant for Services provided under the Contract prior to the date of this deed is £[●]. The Consultant acknowledges that the Old Employer has paid the sum of £[●] prior to the date of this deed. The balance of £[●] shall be invoiced by the Consultant to the Old Employer and paid by the Old Employer in accordance with the Contract.
- 4.2. The Consultant and the New Employer agree that the New Employer shall be solely responsible (to the exclusion of the Old Employer) for payment of all sums due to the Consultant under the Contract for Services provided after the date of this deed.
- 4.3. [Where, under Clause 2.2 above or under any other contract between the New Employer and the Consultant, any sum of money is recoverable from or payable by the Consultant to the New Employer, such sum may be deducted from or reduced by the amount of any sum then due or which may at any time become due from the New Employer to the Consultant under Clause 4.2 above or under any other contract with any Department or Office of Her Majesty's Government.]¹

5. NOTICES

- 5.1. Any notice or other communication required under this deed shall be given in writing and shall be deemed to have been properly given if compliance is made with section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962).

¹ Delete if not novated to a Department or Office of Her Majesty's Government

6. GOVERNING LAW AND DISPUTES

- 6.1. The application and interpretation of this deed shall in all respects be governed by English law and any dispute or difference arising under this deed shall be subject to the jurisdiction of the English courts.

This Deed has been executed as a deed and delivered on the date stated at the beginning of this Deed.

EXECUTION PAGE

OPTION 1a *[execution by a Highways*)
England under seal])

Executed as a deed by **HIGHWAYS**
ENGLAND COMPANY LIMITED by affixing
his common seal in the presence of:

Director

Director/Secretary

OPTION 1b *[execution by a Highways*)
England under seal])

Executed as a deed by **HIGHWAYS**
ENGLAND COMPANY LIMITED by affixing
his common seal in the presence of:

Authorised Signatory

Authorised Signatory

OPTION 2a Executed as a deed by)
HIGHWAYS ENGLAND COMPANY)
LIMITED acting by:

Director

Director/Secretary

OPTION 2b Executed as a deed by)
HIGHWAYS ENGLAND COMPANY)
LIMITED acting by:

Authorised Signatory

Authorised Signatory



Executed as a deed by **[NEW EMPLOYER]**)
in the presence of:)

Authorised Signatory

Authorised Signatory

Executed as a deed by **[CONSULTANT]**)
in the presence of:)

Director

Director/Secretary

Official-Sensitive
(only when not a nil return)

8.1.4 Appendix 4 Declaration of Interests

Highways England Company Limited Declaration of Interest Form
(for use by individuals with non-employment contract status)

Purpose

This form asks you to provide information in respect of actual, potential or perceived conflicts of interest in line with the Public Contracts Regulations 2015, the Concession Contract Regulations 2016 and Highway England's own policies including in regard to procurement and transparency.

The fact that you have an actual, potential or perceived conflict of interest is not necessarily a barrier to your involvement in a particular decision. The nature of action taken, when handling conflicts of interest, will depend on a number of factors which will be considered by Highways England and the decision of Highways England will be final.

1. Personal details (for Highways England and statutory records, please advise any subsequent changes)	
a) Role/service provided	
b) Present surname and any former surname(s)	
c) Present forename(s) and any former forename(s)	
d) Phone Numbers a) landline b) mobile (Highways England restricted use only)	
e) Date form completed	
2. Directorships	
Are you a director or a "shadow director" ¹ of any company? YES/NO	If YES, please provide the names of the companies, business sector, and date you became a director.

¹ "shadow director " means a person in accordance with whose instructions the directors of the company are accustomed to act. If you are a director or a shadow director of a company and, as a consequence are also a director or shadow director of several subsidiaries, a general description of the subsidiaries will suffice.

3. Other business interests	
Are you a partner, employee or a consultant (paid or otherwise) in any business? YES/NO	If YES state the names and give the nature of the businesses where this is not indicated in the title and the nature and start date of your involvement with each partnership, employment or consultancy.
Have you held any fiduciary office or position of trust (paid or otherwise) in the last 10 years? YES/NO Include public and any political offices.	If YES please give details and if you no longer hold the position, describe the circumstances in which you ceased to do so.
Do you have a direct shareholding in any company in the sector in which Highways England operates? YES/NO	I hold the following shares/I do not hold any shares in the sector in which Highways England operates.
4. Voluntary work	
Are you involved in or a member of any professional bodies, charities, special interest or political groups in the sector which Highways England operates? YES/NO.	If YES provide details.
5. Other	
Are there any other matters which you, or a reasonable member of the public might perceive that Highways England should be aware of which might impact on your role as a consultant to Highways England or the reputation of Highways England? YES/NO	If YES provide details.

<p>Are there any matters or relevant interests, (including significant interests of close ¹² members of your family) which might influence your judgement, deliberation or action in providing services to/your role in Highways England or be perceived by a reasonable member of the public as doing so? YES/NO</p> <p>Please include information on any directorships and business interests in respect of close members ² of your family in respect of the sphere in which Highways England operates.</p>	<p>If YES provide details.</p>
<p>6. Connected persons</p>	
<p>Please confirm (in the box to the right) that, in relation to the questions contained in sections 3, 4, 6, above, no additional information would need disclosure in relation to any connected person.</p>	<p>I confirm that no additional information requires disclosure.</p> <p>I have provided additional information above.</p>

² Close members means a) an individual's domestic partner and children b) children of individuals domestic partner c) or independents domestic partners, d) parents and in-laws and e) siblings.

Declaration

1. I declare that to the best of my knowledge and belief (having taken all reasonable care to ensure that such is the case) the answers to all of the above questions are true and not misleading.
2. I shall not communicate to any person, firm, company or other legal entity other than Highways England employees or consultants engaged by or on behalf of Highways England in connection with the same matter any commercially sensitive or confidential information in connection with my work at Highways England (unless Highways England grants permission in writing to share commercially sensitive or confidential information with such person, firm, company or other legal entity).
3. During and for a period of 12 months following the expiry of my appointment to work for Highways England, I shall not seek to obtain any commercial advantage for myself, my employer or any connected persons, or personal advantage, from my work at Highways England.
4. During and for a period of 12 months following the expiry of my appointment to work for Highways England, I shall not assist my employer, any organisation connected with my employer, or any other organisation or

person in tendering for any contract opportunity with Highways England that I have worked on in my capacity as a consultant to Highways England.

5. I shall not pay, give, receive or offer to pay, give, receive any sum of money or other consideration directly or indirectly to any person whatsoever for any act described in paragraphs 2, 3 and 4 above. If any offer is made to me to breach this declaration, I shall report it immediately to Highways England.
6. All documentation that I have access to in my role as a consultant to Highways England shall be made available to Highways England to form part of any relevant tender information pack. Any information that may give me, my employer or a third party any advantage in a tender process shall be returned to Highways England.
7. I understand that I may only be involved in the evaluation of a tender for Highways England where expressly sanctioned in writing by Highways England. I understand that I will not be involved in the process for agreeing any extension to my contract or the contract of any consultant who shares with me the same employer.
8. I understand that I am not to be involved in looking at the route to market for any contract, project or task for which I or my employer may wish to tender and not to be involved in the assessment of resources being proposed for such contract, project or task. I agree to remove myself from any discussions relating to the procurement route for any contract, project or task for which I or my employer may wish to tender and I agree not to discuss these matters with my employer or with the team responsible for managing the contract, project or task in my firm.
9. Should any of the information on this declaration change or should I become aware of a potential, perceived or actual conflict of interest I will immediately contact Highways England to inform them and will take all reasonable steps to mitigate or remove the potential, perceived or actual conflict of interest.
10. I understand that if I do not comply with the statements in this declaration I may prejudice my employers ability to participate in tendering for contract opportunities with Highways England, I may have my contract with Highways England terminated and could face legal action.
11. I confirm that I have read and understood the requirements related to conflicts of interest in the contract between my employer and Highways England for the provision of the services.

Signed by the <i>Consultant</i>	
Date	

Acknowledged by the <i>Employer</i>	
Date	

For Highways England's use only - Only applicable when involved in the tendering process

Acceptance/ Non-acceptance

I have considered the impact on the assessment and the risks to the Highways England objectives.

☐ I am willing to accept this supplier for this assessment as a result of this consideration.

☐ I am not willing to accept this supplier for this assessment as a result of this consideration.

Please record reasoning for decision:

--

Signed:

Name in Block Capitals:

Post and Grade: ²

² This section of the agreement must be countersigned by PB8 SSD, or if one not available a PB8 PLT Member.

8.1.5 **Appendix 5 The Aspects of Operational Excellence Development and Implementation**

1. Optimising how we work

Work stream Projects:

- 1.1 Optimise Operations – the creation and embedding of a consistent structure in Operations that optimises the way that we work, regardless of delivery / contracting model. Third party suppliers are assisting Highways England in development of role profiles and processes and governance to support the design. The Consultant will take account of and integrate their solutions with these developments
- 1.2 Asset Delivery – the programme of work required in the continuing roll out of Asset Delivery into North West, East, South East, North East and Midlands regions. This includes implementing a new delivery model, insourcing people and capability from the supply chain and procurement of new service partners in a collaborative delivery community. Already supported externally. The Strategic Delivery Partner will need to build on and help develop existing models and integrate their solutions with them.
- 1.3 Focussing on the few – the rationalisation of change activity and projects across the Operations business into a prioritised few that will have the most impact on the RIS outcomes and our successful entry into RIS2.
- 1.4 Developing a shared culture – the creation of a shared culture across all Operations team that is asset led, customer focussed, is proactive and owns service delivery, and lives our values (Safety, Passion, Ownership, Teamwork, Integrity).

2. Focusing on the customer

Work stream projects:

- 2.1 Enhance Network Control function - to better coordinate Operations network response and improve customer service outcomes, integrate and develop the national and regional network control function and capability, and increase efficiency and effectiveness of the network control function in the regions and nationally.
- 2.2 Develop customer service overview – to develop and embed customer centric practices and improvement initiatives that deliver measureable customer experience and customer service benefits. Includes defining the customer service approach, developing improved ways of working across the organisation, and identifying customer touchpoints in Operations.
- 2.3 Becoming a single operations business - Operations was formed as the joining of Customer Services and NDD. Create an integrated alignment of activities through the new directorate that maximum benefit to outcomes.
- 2.4 Customer experience and customer service benefits - We know that there are things that our customers don't like – be that little, poor communications, or

lack of information about our capital works. This is to demonstrate customers are considered in our decision making.

- 2.5 Embedding customer centric practices – building into our Operations processes actions that will drive customer centric behaviour.

3. Getting planning and performance right

Work stream projects:

- 3.1 Enhance Capital Planning - To develop and embed the capability for better planning into Operations in the regions and centre. Already supported externally, Third party suppliers are assisting Highways England in development of role profiles and processes and governance to support this. The Consultant will take account of and integrate their solutions with these developments.
- 3.2 Better Renewals Planning - The capital renewals fund supports circa 1800 schemes per annum that must be planned in consideration with the available fund, asset need, outcomes and availability of occupancy.
- 3.3 Building integrated and sustainable (Totex) plans – Develop a full capability (from policy to process) that enables freedom in spending funds available to maximise the “value” to corporate outcomes.
- 3.4 Enhance performance reporting - Capital Delivery is accurately monitored for variance against cost, output, time and quality. Operational metrics demonstrate improving service delivery. Customer Service metrics exist for performance. All parts of the business monitor people, SH&W.
- 3.5 Efficiency and productivity improvement - One of the central outcomes of RIS 1 is a corporate efficiency saving of £1.2bn. Collation of how work is now more efficient, together with real productivity change is key to this outcome.
- 3.6 Improve knowledge sharing - The enrichment of what we do through sharing knowledge. This must include the capture and embedding of ideas and value from the service providers into the way we work.

4. Building the capability of our people

Work stream projects:

- 4.1 Build contract management & commercial capability - to create best in class capability in this area of managing our service providers and enable Highways England to fairly and robustly manage the delivery of time, cost, quality and outputs.
- 4.2 Build asset management & integrated planning capability - to increase the capability, data availability, insight and use of asset management techniques in Operations teams to enhance service delivery and outcomes, and create best in class capability in this area that is able to develop investment plans which deliver the best balance of operating expenditure and capital expenditure investment, and whole life costs.

- 4.3 People - Create the coaching / tools and training that Operations will need for the role modelling of strong shared behaviours from every person necessary to succeed.

5. Managing this Programme

Work stream projects

- 5.1 Share the goal - operational excellence is new, and needs to become the driving force for change in Operations, understood by all and part of our narrative. Third party suppliers are assisting Highways England in development of role profiles and processes and governance to support this. The Consultant will take account of and integrate their solutions with these developments
- 5.2 Operational excellence TMO / Governance - To provide overview and governance of the operational excellence programme for its duration through a small cross work stream TMO.
- 5.3 Operational excellence design authority - The creation of the “brain” that supports the operational excellence programme as the glue that joins parts together to a product greater than the sum of its parts and controls change to the operating model.
- 5.4 PMO programme support - The provision of best in class support to the overall programme as described by MSP techniques.

6. Key project dates and milestones table

This table is also provided at a larger scale in Scope Annex B Investment Decision Committee Milestone Chart.

Workstream Name		Programme Period									
Workstream Name	Workstream Project Name	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20
	Overarching milestones	▲ Service Delivery Partner appointed (Nov 17)									
		▲ Timetable for TOM* rollout agreed (Oct 17)									
		▲ Operational Excellence plan agreed									
		▲ Capability mapping starts									
Optimising how we work	Focussing on the few	▲ Programme Definition (Jan 18)									
	Developing a shared culture	▲ Benchmarking maturity assessment (75% increase)									
Focussing on the customer	Enhance Network Control Function	▲ Develop ROC** processes									
	Develop customer service overview	▲ Customer Service Plan developed									
	Becoming a single operations business	▲ Outline key business processes (Jan 18)									
	Customer experience and customer service benefits	▲ Develop plan for improving customer information dissemination									
	Embedding customer centric practices	▲ Embed practices into processes									
Getting planning and performance right	Enhance Capital Planning	▲ Identify & develop capital planning training (Apr 18)									
	Better Renewals Planning	▲ Identify & develop renewals planning training (Apr 18)									
	Building integrated and sustainable (Totex) plans	▲ Identify & develop Totex planning training (Apr 18)									
	Enhance performance reporting	▲ Develop customer service metric for Operations									
	Efficiency and productivity improvement	▲ Develop process to improve approach to efficiency identification & implementation									
	Improve knowledge sharing	▲ Develop knowledge sharing programme									
Building the capability of our people	Building contract management & commercial capability	▲ Identify suitable contract management & commercial training (Feb 18)									
	Building asset management & integrated planning capability	▲ Identify suitable asset management & integrated planning training (Feb 18)									
	People	▲ Develop workbooks for all key roles									

* TOM = Target Operating Model

** ROC = Regional Operations Centre