



**National Highways Limited**

**NEC4 Supply Short Contract**  
(June 2017 with amendments January 2019 and October 2020)

**Contract Data**

in relation to *goods* for

**Nurseries Supplies Contract**

# Contract Data

## THE PURCHASER'S CONTRACT DATA

The <i>Purchaser</i> is	
Name	National Highways Limited
Address for communications	Bridge House, 1 Walnut Tree Close Guildford Surrey GU1 4LZ Registered number 09346363
Address for electronic communications	Henry.Penner@nationalhighways.co.uk
The <i>Purchaser</i> requires the <i>Supplier</i> to Provide the Goods when instructed by Batch Order	Yes
The <i>goods</i> are	3 million tree plants, the range of tree species as set out in the Scope.
The Scope is in	the document entitled "Scope"
The <i>law of the contract</i> is	England, subject to the exclusive jurisdiction of the Courts of England
The <i>period for reply</i> is	2 weeks
The <i>starting date</i> is	the Contract Date
The <i>delivery date</i> is	Identified in the Batch Order

The *delay damages* are

nil

per day

The *premises* are

Delivery locations to be notified prior to the delivery date, as stated in the Scope

The period for correction of Defects after the Delivery is

2

week(s)

The *defects date* is

2

weeks after Delivery

The *assessment day* is the

1st

of each month

The Price List is in the document entitled "Price List"

If the *goods* are instructed by Batch Order

The *batch order interval* is

Annual

The *end date* is

31.03.2029

The quantity range of *goods* in the Batch Order is

from

100

to

750,000

The *Adjudicator* is

Name

Chartered Institution of Arbitrators' Arbitration Rules (2000)

Address for communications	TBC	
Address for electronic communications	TBC	
The interest rate on late payments is	0.0722	% per complete week of delay

The *Supplier's* liability to the *Purchaser* for the *Purchaser's* indirect or consequential loss is limited to

£5,000,000

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

£5,000,000

**Only enter details here if the *Purchaser* is to provide insurance.**

The *Purchaser* provides this insurance

None

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

The minimum of cover for insurance against loss of or damage to property (except the *goods*, plant and materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Supplier*) arising from or in connection with the *Supplier* Providing the Goods and Services for any one occurrence

Limit of indemnity £5,000,000 in respect of any one occurrence without limit to the number of occurrences in any annual policy period,  
but £5,000,0000 any one occurrence and in the aggregate per annum in respect of liability arising out of products and pollution or contamination liability (to the extent insured by the relevant policy).

The minimum amount of cover for insurance against death of or bodily injury to employees of the *Supplier*

Not less than ten million pounds (£10,000,000) any one occurrence, the number of occurrences being unlimited during any annual period of insurance or such greater amount as is required by the applicable law for the

arising out of and in the course of their duration of the contract or such greater period as is  
employment in connection with the required by law  
contract for any one occurrence is

The *Adjudicator nominating body* is

Chartered Institute of Arbitrators

The *tribunal* is

arbitration

The *arbitration procedure* is

Chartered Institute of Arbitrators Arbitration Rules (2000)

The currency of this contract is the pound sterling (£).

#### Contract Data entries relating to Z Clauses

#### Z105 - Indexation

The <i>index</i> is	CPIH Index 00: All Items 2015 =100	provided by	the Office for National Statistics
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The *conditions of contract* are the NEC4 Supply Short Contract June 2017 (with amendments January 2019 and October 2020) and the *additional conditions of contract* clauses Z1 to Z105.

## THE SUPPLIER'S CONTRACT DATA

Completion of the data in full is essential to create a complete contract.

The *Supplier* is

Name

Address for  
communications

Address for electronic  
communications

The Quality Submission is in

The *fee percentage* is

%

The *manufacture and fabrication overhead percentage* is

%

The *people rates* are

category of person

unit

rate

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

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

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**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

*Supplier*

Consortium Member

Guarantor

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Z Clause Contents	
Number	Title
Z1	Changes to Core and Secondary Option clauses
Z2	Interpretation
Z3	Recovery of sums due from the <i>Supplier</i> .
Z4	Assignment and transfer
Z5	Not Used
Z6	Adjudication
Z7	Termination – Public Contract Regulations 2015
Z8	Subcontracting
Z9	Merger, take - over, Change of Control and financial distress
Z10	Joint ventures
Z11	Parent Company Guarantee
Z12	Discrimination, Bullying and Harassment
Z13	Intellectual Property Rights (IPRs)
Z14	Not Used
Z15	Tax Non – Compliance
Z16	Value Added Tax Recovery
Z17	Removal of <i>goods</i> from the Scope
Z18	Corruption or loss of data
Z19	Conflict of Interest
Z20 -Z53	Not Used
Z54	Not Used
Z55 – Z104	Not Used
Z105	Price Adjustment for Inflation

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

11 Identified and defined terms

11.2 Add the following defined terms:

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

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

(14) Contract Date is the date when the contract came into existence.

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

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

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

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

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

(19) 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).

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

(21) 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.

(22) Guarantor is a person who gives a Parent Company Guarantee to the *Purchaser*.

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

(24) Information Systems are the systems specified in the Scope for the

collection and storage of information regarding the *goods* or any revised systems introduced by the *Purchaser* from time to time.

(25) 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.

(26) Parent Company Guarantee is a guarantee of the *Supplier's* performance in the form set out in the Scope.

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

(28) Tax Non-Compliance is where a tax return submitted by the *Supplier* 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 *Supplier* 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 *Supplier* 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.

Amend the following terms

### **60 Compensation events**

In clause 60.1(1) at the end of the clause delete the full stop and insert

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“or, a change to the Information Systems or the introduction of a new Information System, or 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 *Supplier* that a conflict of interest may exist or arise”.

### **83 Insurance Cover**

Delete clauses 83.2, 83.3 and the Insurance Table and insert

“83.2 The *Supplier* provides the insurances as stated in the Contract Data.”

## **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 *Supplier*.**

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

### **Z4 Assignment and transfer**

Z4.1 The *Supplier* 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 *Purchaser*.

Z4.2 If requested by the *Purchaser*, the *Supplier* executes a novation agreement in the form specified in the Scope (or such other form as the *Purchaser* may reasonably require) transferring the benefit and burden of the contract to

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

### **Z5 Not used**

### **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 *Purchaser* 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 *Supplier* at the Contract Date.
- Z7.2 The *Purchaser* may terminate the contract with immediate effect
- if the contract has been subject to substantial modification which would have required a new procurement procedure pursuant to regulation 72 of the Public Contracts Regulations 2015 or
- Z7.3 The procedure and amount due on termination are the same as for
- - Reason 2 if the modification or infringement was due to a default by the *Supplier*,
  - Reason 5 if the modification or infringement was due to a default by the *Purchaser* and
  - Reason 8 if the modification or infringement was due to any other reason

## **Z8 Subcontracting**

- Z8.1 The *Supplier* assesses the amount due to a subcontractor without taking into account the amount assessed under the contract.
- Z8.2 Not Used.
- Z8.3 The *Purchaser* may, having stated the reasons, instruct the *Supplier* to remove a subcontractor (at any stage of remoteness from the *Purchaser*). The *Supplier* then arranges the removal of the subcontractor (at any stage of remoteness from the *Purchaser*) and the appointment of a replacement in accordance with the contract.
- Z8.4 Not Used.
- Z8.5 The *Supplier* does not appoint the proposed subcontractor (or allow the subcontractor to appoint the proposed subcontractor) until the *Purchaser* has accepted the submission. Reasons for not accepting the submission are that it shows that there are grounds for excluding the proposed subcontractor or subcontractor under regulation 57 of the Public Contracts Regulations 2015.
- Z8.6 If requested by the *Purchaser*, the *Supplier* provides further information to support, update or clarify a submission under clause Z8.5
- Z8.7 If, following the acceptance of a submission under clause Z8.6, it is found that one of the grounds for excluding the subcontractor under regulation 57 of the Public Contracts Regulations 2015 applies then the *Purchaser* may instruct the

*Supplier* to

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

Z8.8 The *Supplier* submits the name of each proposed subcontractor to the *Purchaser* for acceptance. A reason for not accepting the subcontractor is that

- its appointment does not allow the *Supplier* to Provide the Goods.

The *Supplier* does not appoint a proposed subcontractor until the *Purchaser* has accepted it.

Z8.9 The *Supplier* submits the proposed conditions of contract for each subcontract to the *Purchaser* for acceptance unless the *Purchaser* has agreed that no submission is required.

Z8.10 The *Supplier* does not appoint a subcontractor on the proposed subcontract conditions submitted until the *Purchaser* has accepted them. A reason for not accepting them is that

- they do not allow the *Supplier* to Provide the Goods or
- they do not include a statement that the parties to the subcontract act in a spirit of mutual trust and co-operation.

## **Z9 Merger, takeover, Change of Control and financial distress**

Z9.1 The *Supplier* notifies the *Purchaser* immediately if a Change of Control has occurred or is expected to occur except only 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 *Supplier* notifies the *Purchaser* immediately of any material change in

- the direct or indirect legal or beneficial ownership of any shareholding in the *Supplier* (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 *Supplier* (or a Consortium Member), or
- the composition of the *Supplier* or a Consortium Member. A change is material if it directly or indirectly affects the performance of this contract by the *Supplier* or is considered substantial in accordance with Regulation 72(8)(e) of the Public Contracts Regulations 2015.

Z9.3 The *Supplier* notifies the *Purchaser* immediately of any change or proposed change in the name or status of the *Supplier* or a Consortium Member.

Z9.4 The *Supplier* notifies the *Purchaser* immediately if any of the following events occurs in relation to the *Supplier*, 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 *Supplier* and the *Purchaser* 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 *Purchaser* may terminate the *Supplier's* obligation to Provide the Goods with immediate effect. In the event of a termination under this clause, the termination procedures followed are clause 91 and the amounts due on termination are 92.

Z9.6 Not Used.

Z9.7 If a Change of Control occurs, the *Supplier* provides to the *Purchaser*

- certified copies of the audited consolidated accounts of the Controller for the last three financial years,
- a certified copy of a board minute of the Controller confirming that it will give to the *Purchaser* a Parent Company Guarantee if so required by the *Purchaser*,
- any other information required by the *Purchaser* in order to determine whether the Controller meets the Financial Standing Test and
- any other information requested by the *Purchaser* in order to satisfy itself that the *Supplier* 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 *Purchaser* may require the *Supplier* to give to the *Purchaser* a Parent Company Guarantee from the Controller or (if the Controller does not meet the Financial Standing Test) an alternative guarantor proposed by the *Supplier* and accepted by the *Purchaser*.

Z9.9 A reason for not accepting an alternative guarantor proposed by the *Supplier* 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 *Purchaser*, the *Supplier* within four weeks after the *Purchaser* notifies the requirement gives to the *Purchaser* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Purchaser*.

Z9.11 The *Purchaser* may accept a Parent Company Guarantee from the Controller or an alternative guarantor proposed by the *Supplier* who does not meet the

Financial Standing Test if the *Supplier* gives to the *Purchaser* an assurance that the Controller or the alternative guarantor will meet the Financial Standing Test within 18 months of the *Purchaser'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 *Purchaser* that it will meet the Financial Standing Test by the end of that period.

- Z9.12 If
- the *Supplier* fails to notify the *Purchaser* that an event listed in clause Z9.4 has occurred,
  - neither the Controller nor any alternative guarantor proposed by the *Supplier* 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 *Supplier* does not give to the *Purchaser* a Parent Company Guarantee from the Controller or an alternative guarantor accepted by the *Purchaser* within four weeks of a request from the *Purchaser* to do so or
  - the *Supplier* fails to demonstrate to the *Purchaser* that the Controller or the alternative guarantor accepted by the *Purchaser* will meet the Financial Standing Test within 18 months of the *Purchaser's* acceptance

the *Purchaser* may treat such failure as a substantial failure by the *Supplier* to comply with its obligations.

- Z9.13 If the *Supplier*, a Consortium Member, a Guarantor or an alternative guarantor proposed by the *Supplier* (in this clause referred to as a "relevant entity") is not a company incorporated in and subject to the laws of England, the *Supplier* 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 *Purchaser*.

The legal opinion is addressed to the *Purchaser* 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 *Purchaser*.

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 Joint ventures**

- Z10.1 This clause applies if the *Supplier* is an unincorporated joint venture.
- Z10.2 Each Consortium Member is jointly and severally liable to the *Purchaser* for the performance of the *Supplier's* obligations under this contract.
- Z10.3 The *Supplier* nominates the representative named in the Contract Data for the purposes of the contract and for the giving and receiving of all notices, certificates, instructions and other communications under it. The *Supplier* acknowledges that receipt of a communication by the *Supplier's* nominated representative constitutes receipt by all the Consortium Members. The *Supplier* notifies the *Purchaser* in advance of any change to the identity of the *Supplier's*

nominated representative.

- Z10.4 The *Supplier* acknowledges that any payment made by the *Purchaser* to a Consortium Member under the contract to that extent discharges the *Purchaser's* liability to make payment to the *Supplier*.
- Z10.5 A Consortium Member gives not less than four weeks' notice to the *Purchaser* of any proposed termination of the joint venture arrangement.
- Z10.6 Termination of the joint venture arrangement for any reason is treated as a substantial failure by the *Supplier* to comply with its obligations.
- Z10.7 Where two or more Consortium Members comprise the *Supplier*, clause 90.1 & 90.2 of the conditions of contract are amended by inserting after "the other Party" the words "or in the case of the *Supplier*, any Consortium Member".

## **Z11 Parent Company Guarantee**

- Z11.1 If required by the *Purchaser*, the *Supplier* gives to the *Purchaser* a Parent Company Guarantee. If a Parent Company Guarantee was not given by the Contract Date, it is given to the *Purchaser* within four weeks of the date of award of the contract, or of the *Purchaser'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 *Purchaser* 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 *Supplier* to comply with the contract.

## **Z12 Discrimination, Bullying and Harassment**

- Z12.1 The *Supplier* indemnifies the *Purchaser* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Purchaser* 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 *Supplier* in connection with the contract.

## **Z13 Intellectual Property Rights (IPRs)**

- Z13.1 The *Purchaser* 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 *Purchaser*, the *Supplier* enters into such documents and does such acts as the *Purchaser* requests to transfer the IPRs to the *Purchaser*, and procures that its subcontractors (at any stage of remoteness from the *Purchaser*) do the same. The *Supplier* provides to the *Purchaser* the documents which transfer these IPRs to the *Purchaser*.

**Z13.2** The *Supplier* 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 *Purchaser* 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 *Supplier* or its assignees or any third party. The *Supplier* provides to the *Purchaser* the documents which license these IPRs to the *Purchaser*.

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

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

**Z14 Not used**

**Z15 Tax Non – Compliance**

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

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

- the steps the *Supplier* 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 *Purchaser*.

**Z15.3** The *Supplier* is treated as having substantially failed to comply with the contract if

- the warranty given by the *Supplier* under clause Z15.1 is untrue,
- the *Supplier* fails to notify the *Purchaser* of a Tax Non-Compliance or

the *Purchaser* decides that any mitigating factors notified by the *Supplier* 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 goods**

**Z17.1** The *Purchaser* may instruct the *Supplier* that

- part of the *goods* is to be permanently removed from the contract or

- for urgent reasons of health and safety, part of the *goods* is to be temporarily removed from the contract.

In either case the *Supplier* acknowledges that the *Purchaser* may itself, or may appoint another supplier in place of the *Supplier*, to provide goods similar to the removed *goods* (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 Reason 1, Reason 4, or Reason 7, the assessment includes a deduction of the forecast of the additional cost to the *Purchaser* of completing the removed *goods*.

Z17.3 If the *Supplier's* obligation to Provide the Goods is terminated for any reason, the *Supplier*, if instructed by the *Purchaser*

- completes the performance of providing any part of the *goods* started prior to the date of termination and
- co-operates with the *Purchaser* or any Incoming Supplier so as to ensure a smooth transfer of functions.

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

Z18.1 If any data of the *Purchaser* is corrupted, lost, stolen or sufficiently degraded as a result of the *Suppliers* default so as to be unusable, the *Supplier* immediately reports this to the *Purchaser* and

- the *Purchaser* may instruct the *Supplier* to restore the data in accordance with the *Purchaser's* requirements or
- the *Purchaser* may itself restore the data (and the *Supplier* pays to the *Purchaser* any reasonable expenses which the *Purchaser* incurs in so doing).

## **Z19 Conflict of Interest**

Z19.1 Any steps taken in accordance with paragraph S313.1 in the Scope is not a compensation event.

Z19.2 A failure to comply with paragraph S313.1 in the Scope is treated as a substantial failure by the *Supplier* to comply with the contract.

## **Z20 – Z50 Not Used**

## **Z51- Z104 Not Used**

## **Z105 Price Adjustment for Inflation**

Z105.1 The following defined terms apply to this clause

- (a) The Base Date Index (B) used at the first anniversary is the latest available *index* before the *starting date*. The Base Date Index (B) used at subsequent anniversaries is the *index* used at the previous anniversary.
- (b) The Latest Index (L) is the latest *index* available at the date of the anniversary.
- (c) The Price Adjustment Factor (PAF) is  $(L - B)/B$ .

Z105.2 If the index is changed after it has been used in calculating a PAF, the calculation is not changed. The PAF calculated at the last *assessment day* before the Delivery Date is used for calculating an amount for price adjustment after that date.

Z105.3 On each anniversary of the *starting date* until the Delivery Date

- the rates and Prices in the Price List and
- the rates in the *Supplier's Contract Data*

are changed by multiplying the rate or Price by one plus PAF. In calculating the amount due, the changed rates and Prices in the Price List are used for all supplies carried out from the anniversary until the next anniversary.

Z105.4 Compensation events are assessed using the rates and Prices current at the date they were notified by one Party to the other Party.