



Framework: Client Support Framework
Supplier: Arcadis Consulting (UK) Ltd

Company Number: 09818546

Geographical Area: National

Project Name: ECC Project Manager Services PCM NW Projects

Project Number: ENVIMNW000840

Contract Type: Professional Service Contract

Option: Option E

**Contract Number:** 

Stage: Study\_or\_Service\_NOT\_Design

Revision	Status	Originator	Reviewer	Date

### PROFESSIONAL SERVICE CONTRACT - Under the Client Support Framework CONTRACT DATA

**Project Name** 

ECC Project Manager Services PCM NW Projects

**Project Number** 

ENVIMNW000840

This contract is made on between the Client and the Consultant

- This contract is made pursuant to the Framework Agreement (the "Agreement") dated 02nd day of July 2019 between the Client and the Consultant in relation
  to the Client Support Framework. The entire Agreement and the following schedules are incorporated into this contract by reference
- Schedules 1 through to 14 inclusive of the Framework schedules are relied upon within this contract.
- The following documents are incorporated into this contract by reference ECC Project Manager Services PCM NW Projects

The following matters will be included in the Early Warning Register

### Part One - Data provided by the Client

Statements given in all Contracts

1 General

The conditions of contract are the core clauses and the clauses for the following main Option, the Option for resolving and avoiding disputes and secondary Options of the NEC4 Professional Service Contract June 2017.

Main Option	Option E	Option for avoiding of	r resolving and disputes
Secondar	y Options		
	X2: Changes in th	e law	
	X9: Transfer of rig	phts	
	X11: Termination	by the <i>Client</i>	
	X18: Limitation of	liability	
	Y(UK)2: The Hous	ing Grants, Construct	tion and Regeneration Act 1996
	Y(UK)3: The Cont	racts (Rights of Third	Parties) Act 1999
	Z: Additional cond	litions of contract	
The service	is		tive of this commission is to enable the efficient delivery of construction projects and/or environmental ment measures. One Project Manager is required to work primarily on the Preston South Ribble Flood Risk
The Client is	s		
Address for	communications		Richard Fairclough House Knutsford Road
			Warrington
			Cheshire WA4 1HG
Address for	electronic communic	cations	
The Service	Manager is		
Address for	communications		Horizon House
			Deanery Way Bristol
			BS1 5AH
Address for	electronic communic	cations	
The Scope is			
Bravo Proje	ct file - visible to buy	/ers	
The languag	ge of the contract is	English	
The law of t	he contract is		
the law of E	ingland and Wales, s	ubject to the jurisdict	tion of the courts of England and Wales
The period f	for reply is	2 weeks	
The period f	for retention is	6 years	following Completion or earlier termination
		SIGNATURE OF THE STATE OF	

Early warning meetings are to be held at intervals no longer than 2 weeks

#### 2 The Consultant's main responsibilities

The  $\ensuremath{\textit{key dates}}$  and  $\ensuremath{\textit{conditions}}$  to be met are

condition to be met key date

'none set' 'none set' 'none set' 'none set' 'none set' 'none set'

The  ${\it Consultant}$  prepares forecasts of the total Defined Cost plus Fee and  ${\it expenses}$  at intervals no longer than

4 weeks

All UK Offices

3 Time

The starting date is 15 November 2021

The  ${\it Client}\,$  provides access to the following persons, places and things

access date access

The  ${\it Consultant}$  submits revised programmes at

intervals no longer than

15 November 2023 The completion date for the whole of the service is

The period after the Contract Date within which the *Consultant* is to

submit a first programme for acceptance is 4 weeks

#### 4 Quality management

The period after the Contract Date within which the  ${\it Consultant}$  is to submit a quality policy statement and quality plan is

4 weeks

The period between Completion of the whole of the  $\ensuremath{\textit{service}}$  and the  $\ensuremath{\textit{defects date}}$  is

26 weeks

5 Payment

The currency of the contract is the £ sterling

The assessment interval is Monthly

The expenses stated by the Client are as stated in Schedule 6.

The interest rate is 2.00% per annum (not less than 2) above the

rate of the Bank of England Base

The locations for which the Consultant provides a charge for the cost of support people and office overhead are

The exchange rates are those published in

#### 6 Compensation events

These are additional compensation events

1. 'not used'

'not used'

3. 'not used'

'not used'

#### 8 Liabilities and insurance

These are additional Client's liabilities

'not used'

2. 'not used' 'not used'

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

FVFNT The Consultant's failure to use the skill and care normally used by professionals providing services similar to the service

MINIMUM AMOUNT OF in respect of each claim, without limit to the number of claims

PERIOD FOLLOWING COMPLETION OF THE WHOLE OF THE SERVICE OR TERMINATION

Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of each claim, without limit of the Consultant) arising from or in connection with the Consultant Providing the Service

Which ever is the greater of or the amount required by law in respect

Death of or bodily injury to Which ever is the greater of For the period required by employees of the

Consultant arising out of and in the course of their

or the amount required by law in respect of each claim, without limit employment in connection to the number of claims with the contract

The Consultant's total liability to the Client for all matters arising under or in connection with the contract. other than the excluded matters is limited to

#### Resolving and avoiding disputes

The tribunal is litigation in the courts

The Adjudicator is 'to be confirmed' Address for communications 'to be confirmed

Address for electronic communications 'to be confirmed'

The  $Adjudicator\ nominating\ body\$ is The Institution of Civil Engineers

### Z Clauses

#### Z1 Disputes

Delete existing clause W2.1

### **Z2** Prevention

The text of clause 18 Prevention is deleted.

- Delete the text of clause 60.1(12) and replace with:
  The service is affected by any of the following events

   War, civil war, rebellion, revolution, insurrection, military or usurped power;
- Strikes, riots and civil commotion not confined to the employees of the Consultant and sub consultants,
   Ionising radiation or radioactive contamination from nuclear fuel or nuclear waste resulting from the combustion of nuclear fuel,
   Radioactive, toxic, explosive or other hazardous properties of an explosive nuclear device,
- Natural disaster.
- Fire and explosion,
   Impact by aircraft or other aerial device or thing dropped from them.

#### **Z3 Disallowed Costs**

In second bullet of 11.2 (18) add:

(including compensation events with the Subcontractor, i.e. payment for work that should not have been undertaken).

Add the following additional bullets after 'and the cost of ':

Mistakes or delays caused by the Consultant's failure to follow standards in Scopes/quality plans.

- Reorganisation of the Consultant's project team.
   Additional costs or delays incurred due to Consultant's failure to comply with published and known guidance or document formats.
   Exceeding the Scope without prior instruction that leads to abortive cost
   Re-working of documents due to inadequate QA prior to submission, i e. grammatical, factual arithmetical or design errors.
- Re-working or occuments due to inadequate QA prior to submission, i.e. grammatical, factual arithmetical or design errors.
   Production or preparation of self-promotional material.
   Excessive charges for project management time on a commission for secondments or full time appointments (greater than 5% of commission value)
   Any hours exceeding 8 per day unless with prior written agreement of the Service Manager
   Any hours for travel beyond the location of the nearest consultant office to the project unless previously agreed with the Service Manager
   Attendance of additional individuals to meetings/ workshops etc who have not been previously invited by the Service Manager
   Costs associated with the attendance at additional meetings after programmed Completion, if delay is due to Consultant performance.

- Costs associated with rectifications that are due to Consultant error or omission.
- Costs associated with the identification of opportunities to improve our processes and procedures for project delivery through the Consultant's involvement
   Was incurred due to a breach of safety requirements, or due additional work to comply with safety requirements
   Was incurred as a result of the Client issuing a Yellow or Red Card to prepare a Performance Improvement Plan

- Was incurred as a resulting of rectifying a non-compliance with the Framework Agreement and/or any call off contracts following an audit

### **Z5 Secondments**

When appointing *Consultants* on a secondment basis only:

19.1 The Client will from starting date to Completion Date indemnify the Consultant against any and all liabilities, proceedings, costs, losses, claims and demands whatsoever arising directly or indirectly out of the activities of the Consultant in providing the services save where such claims, in the reasonable opinion of the Client, arise from or are contributed to by:

19.1.1 Misrepresentation or negligence by or on behalf of the Consultant;

19.1.2 The Consultant has acted contrary to the Service Manager's reasonable instructions or wholly outside the scope of the Consultant's duties as defined by the Service Manager.

### **Z6** The Schedule of Cost Components

The Schedule of Cost Components are as detailed in the Framework Schedule 6.

#### **Z7** Linked contracts

Issues requiring redesign or rework on this contract due to a fault or error of the Consultant under this contract or a previous contract will neither be an allowable cost under this contract or any subsequent contract, nor will it be a Compensation event under this contract or any subsequent contract under this project or programme.

Insert the following sentence at the end of clause 51.1:

The Party to which payment is due submits an invoice to the other Party for the amount to be paid within one week of the Service Manager's certificate. Delete existing clause 51.2 and insert the following:

- 51.2 Each certified payment is made by the later of
  one week after the paying Party receives an invoice from the other Party and
  three weeks after the assessment date, or, if a different period is stated in the Contract Data, within the period stated.

If a certified payment is late, or if a payment is late because the Service Manager has not issued a certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made

#### **Z9** Conflict of Interest

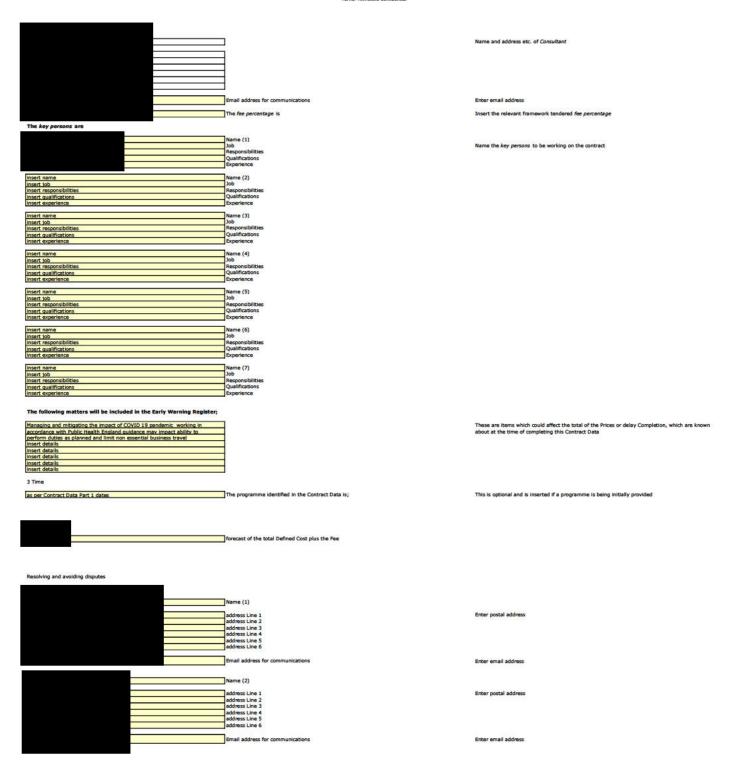
The Consultant immediately notifies the Client of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the Consultant (including without limitation its reputation and standing) and/or the Client of which it is aware or which it anticipates may justify the Client taking action to protect its interests. Should the Parties be unable to remove the conflict of interest to the satisfaction of the Client, the Client, in its sole discretion, may terminate this Contract.

#### Z10 Change in Control

The Consultant shall notify the Client as soon as reasonably practicable, in writing, of any agreement, proposal or negotiations which will or may result in a Consultant Change in Control and shall give further notice to the Client when any Change in Control has occurred. The Client may terminate this contract with immediate effect by notice in writing and without compensation to the Consultant within six (6) months of being notified that a Change of Control has occurred, or, where no notification has been made, the date that the Client becomes aware of the Change of Control, but shall not be permitted to terminate where the Client's prior written acceptance was granted prior to the Change in Control. A Change of Control is defined as per the Deed of Agreement, Z14.4.

### Z12 Waiver

No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party by the Service Manager in writing in accordance with the Contract, and with express reference to Clause Z12. The failure of either party to insist upon strict performance of the Contract, or any failure or delay in exercising any right or remedy shall not constitute a waiver or dimunition of the obligations established by the Contract.



### **Secondary Options**

### **OPTION X2: Changes in the law**

The *law of the project* is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

### **OPTION X18: Limitation of liability**

The Consultant's liability to the Client for indirect or consequential loss is limited to

Consultant's liability to the Client for Defects that are not found until after the defects date is limited to

The *end of liability date* is Completion of the whole of the *service* 

after the

### Y(UK2): The Housing Grants, Construction and Regeneration Act 1996

The period for payment is 14 Days after the date on which payment becomes due

### Y(UK3): The Contracts ( Rights of Third Parties Act) 1999

term *beneficiary* 

### Part Two - Data provided by the Consultant

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

#### 1 General

The Consultant is

Name and company number

Address for communications

Address for electronic communications

The fee percentage is

The key persons are

Name (1)
Job
Responsibilities
Qualifications
Experience

The key persons are

Name (2) Job Responsibilities Qualifications Experience

The key persons are

Name (3) Job Responsibilities Qualifications Experience

The key persons are

Name (4) Job Responsibilities Qualifications Experience

The key persons are

Name (5) Job Responsibilities Qualifications Experience

The key persons are

Name (6) Job Responsibilities Qualifications Experience

The key persons are

Name (7) Job Responsibilities Qualifications Experience

The following matters will be included in the Early Warning Register

Managing and mitigating the impact of COVID 19 pandemic, working in accordance with Public Health England guidance may impact ability to perform duties as planned and limit non essential business travel

3 Time

The programme identified in the Contract Data is

as per Contract Data Part 1 dates

5 Payment

The activity schedule is

The forecast of the Prices is £235,860.14

Resolving and avoiding disputes

The Senior Representatives of the Consultant are

Name (1)
Address for communications

Address for electronic communications

Name (2)
Address for communications

Address for electronic communications

## **Contract Execution**

**Client** execution



### **Consultant** execution

Signed Underhand by [PRINT NAME] for and on behalf of Arcadis Consulting (UK) Ltd

# **PSC** scope template – **ECC** PM

## **NEC4** professional services contract (PSC)

412\_13\_SD06

Use the template on the pages that follow to assist you when preparing the scope for an NEC4 professional services contract (PSC).

## Environment Agency NEC4 professional services contract (PSC) Scope

### Project / contract information

Project name	ECC Project Manager Services PCM NW Projects
Project SOP reference	ENVIMNW000840
Contract reference	34276
Date	29/9/2021
Version number	1
Author	

### **Revision history**

Revision date	Summary of changes	Version number	
	First issue		

This Scope should be read in conjunction with the version of the Minimum Technical Requirements current at the Contract Date. In the event of conflict, this Scope shall prevail. The *services* are to be compliant with the version of the Minimum Technical Requirements.

Document	Document Title	Version No	Issue date
LIT13258	Minimum Technical Requirements	11	05/21

### 1 Objectives of the project (project outcomes)

### 1.1 Objective

A number of construction projects are being delivered in the North West of England.

An ECC *Project Manager* is required to help manage these projects during the design, construction and defects stages.

The contract will be let under the Client Support Framework (CSF) and will be compliant with the overarching terms and conditions of this framework.

### 1.2 Outline of Requirements

The Consultant is required to:

- Undertake the role of ECC Project Manager (the Project Manager under a NEC3 and/or NEC4 Engineering and Construction Contract), or the Client's representative under the NEC3 and/or NEC 4 Engineering and Construction Short Contract.
- Review of contract documentation for construction work to check for ambiguities or conflicts that may give potential opportunities for compensation events
- Undertake an assessment with the project team to ensure all risks and costs are clearly understood
- Review *Contractor's* proposed methodology in building the scheme(s) to drive efficiencies and identify potential opportunities for efficiencies
- Separate site reporting based on the individual requirements of the projects
- Support the *Client* in agreeing the allocation of risk during the agreement of the final target cost
- Produce the Cost Manager's Final Audit Report

The overall objective of this commission is to enable the efficient delivery of construction projects and/or environmental protection/enhancement measures.

One *Project Manager* is required to work primarily on the Preston South Ribble Flood Risk Management Scheme. This is a full time role commencing in November 2021 with a 2 year contract duration. There is potential for the contract to be extended subject to performance and ongoing workload. The *Project Manager* will be given additional projects to ensure they are fully utilised.

The *Project Manager* shall have a minimum of 10 years' *Project Manager* experience, ideally more. They shall have a track record for the delivery of highly complex and high value (£20M+) construction schemes. They shall have very detailed knowledge and insight of the NEC4 ECC contract and be expert in its application. They shall have excellent communication skills, with evidence of working well within integrated client and supplier teams. The ability to form productive working relationships is vital to the role.

### 2 Project team

- 1 The design consultant is various
- 2 The Contractor is various

- 3 The Supervisor various
- The Contractor will be appointed using the NEC3 or NEC4 Engineering and Construction Contract option C most normally but can be Option E), or another version of the NEC4 suite of contracts (e.g. smaller projects may use the NEC3 or NEC4 Engineering and Construction Short Form contract)
- Cost management will be provided by either the Programme and Contract Management (PCM) project cost advisor or the co-located cost manager
- 6 Principal Designer is various
- 7 BIM Information Manager the EA Project Manager
- 8 The Environmental Clerk of Works is various

### 3 Consultant provides the services

- Carry out the duties of *Project Manager* as required by the *Client's* NEC3/NEC4 Engineering and Construction Contract. The *Project Manager* is to maintain close contact with the *Client* in order that their actions reflect the *Client's* objectives for the project.
- The *Project Manager* is to carry out their duties strictly in accordance with the *Client's* version of the ECC. This is particularly important when dealing with Early Warnings and Compensation Events.
- The *Project Manager* is to carry out their duties adhering and applying the *Client's* procedures, guidance and best practice, particularly in relation to the Safety, Health, Environment and Wellbeing Code of Practice and the Construction, Design and Management Regulations.
- If the *Project Manager* believes it is necessary to act other than strictly in accordance with the Contract they must seek and obtain written confirmation in advance from the *Client's* project manager and project executive.
- The *Project Manager* is to report monthly on the tasks they have undertaken and time to be charged for that month and provide a forecast of the final cost for their services all as detailed in the *Client's* NEC4 Professional Services Contract.
- During construction of the works the *Project Manager* is to chair all contract progress meetings and produce & distribute meeting minutes. For typical meeting agendas see Pre-Start meeting and Progress meeting agenda [413\_13\_SD13].
- In addition during the construction period the *Project Manager* will report monthly on the construction works using the *Client's* Monthly Work Progress Summary(MWPS) [*Client* document ref 413\_13\_SD15] and Tracker Schedule for Early Warnings & Compensation Events [on Asite NEC4 Manager]. Post-construction this report should be updated when changes (eg to costs, forecasts, defect corrections etc) occur.
- Note that the *Project Manager* needs to discharge the duties they have under the modifications made by the *Client* to the NEC3/NEC4 ECC including their additional conditions of contract (Z clauses). Some examples are:
  - Certification under the *Client* NEC ECC The target cost figure used should only include Compensation Events that have been implemented.

- Completion may not be awarded until the Contractor has provided the *Client* with two copies of the As-built H&S File and O&M Manual. Population of the *Client's* latest version of the Project Cost Tool, Carbon Tool and BIM information has been uploaded onto the *Client's* data storage system. These are an absolute requirement of Completion.
- 9 The *Consultant* is also required to provide the following additional services for this project:
  - Lessons learnt meeting & report after completion
  - Updating efficiency register and reporting monthly during construction
  - Co-ordination of performance assessment/KPIs and reporting quarterly
  - Report on Contractor's compliance with S 905 to the Client

### 4 Definition of completion and defects

- 1 Completion is only achieved when all of the *services* have been provided and accepted by the *Client*. Population of the *Client*'s latest version of the Project Cost Tool, is an absolute requirement of Completion.
- 2 A defect is part of the services which is not in accordance with the Scope or the applicable law.

### 5 Constraints on how the consultant provides the services

1 The *Project Manager* is not to delegate their duties or powers without prior written agreement from the *Client*.

### 6 Standards to be achieved

### 6.1 Health and safety

Health, safety, environment and welfare is of paramount importance to the *Client* and one of the objectives for the contract is that the works should be undertaken in a manner that achieves highest possible standards. Health, safety and welfare provisions must be seen as integral parts of carrying out the works and not as stand-alone considerations. The *Project Manager* will take reasonable steps, when considering documents supplied to them by the Contractor, that the **management arrangements** adopted by the Contractor for safety are suitable.

The contract requires the Contractor to produce a schedule of activities for which risk assessments and method statements must be prepared. The schedule and method statements will meet the dual requirements of the Construction Design and Management Regulations and the requirements of sub-clause 31.2 of the contract.

The Contractor will be free to add to the schedule as the work progresses. Prior to the start of construction work, and again after any revisions prior to implementation of the revisions, the Contractor must forward the schedule to you, with the programme for acceptance.

The level of detail required will depend on the activity. As a minimum the Contractor must ensure that risk assessments and method statements are prepared and submitted for review in accordance with the ECC Scope covering:

 full, timing and sequence of construction including the use and design of temporary works, materials, plant and equipment proposed by the Contractor;  Indication of activities that represent a higher than normal level of health and safety risk.

Some additional information may be required in respect of compliance with the environmental action plan and the minimisation of environmental impacts of the activities.

Method statements supplied in support of the ECC Scope are to be formatted for the benefit of those personnel undertaking the works, and contain language and detail appropriate for those individuals. They shall take account of experience, to ensure that account is taken of the matters identified above

In particular the *Project Manager* will be required to:

 before the start of construction work, or thereafter in the case of a proposal for a revision, receive from the Contractor the schedule of risk assessments and method statements for acceptance;

Take reasonable steps to ensure that the persons carrying out risk assessment on behalf of the Contractor are competent for the type of risks, and have adequate resources including time, to properly consider, in an appropriate time, risks identified in the schedule.

Take reasonable steps, for ensuring the effectiveness of method statements as regards language, appropriate detail and quality of briefing arrangements for example by review at progress meetings of risk assessments and method statements to be employed for higher risk or unusual tasks in the coming period.

- Seek a more specialised opinion, about the content of a submission from the Principal Designer, *Client* project manager and/or ncpms safety advisor or safety, health and environment manager as appropriate.
- Ensure that the Contractor completes, updates and holds on behalf of the *Client*, the schedule of risk assessments and method statements.

### 6.2 Co-operation with the Principal Designer

There will be a Principal Designer for this scheme. The Principal Designer duties will include for a review of any site based works and notifying the HSE of these, as well as a review of the design. The Principal Designer will comment and include for any work required following review. The ECC PM will need to ensure that any instructions from the Principal Designer are properly administered

### 6.3 Specifications or standards to be used

In managing the Contract the ECC PM and Contractor should make full use of the *Client* ECC standard commercial and contract forms that have been developed for this purpose. Some examples are:

- Contract administration must always be done with reference to the contract including the Standard ECC Scope[Client document ref 412\_13\_SD03]
- Project Manager's Instruction [Client's Contract Management system]
- Contractor's Technical Query [Client's Contract Management system]
- Weekly Site Record [Client document ref 413 13 SD14]

- Early Warning [Client's Contract Management system]
- Compensation Event [Client's Contract Management system]

The ECC PM is to make full use of the *Client's* web based project collaboration tool. Whenever practical all contract records are to be distributed and stored using this project collaboration tool.

### 7 Requirements of the programme

### 7.1 A programme is not required

### 8 Services and other things provided by the Client

### 8.1 Contract to be administered

The *Client* will provide a bound copy of the contract to be administered to the ECC PM / Supervisor. This will include the ECC Scope and Site Information. Other information referred to in the contract will be available on Project Collaboration Tool.

### 8.2 Training to be provided by the *Client*

The Client will provide access to and training on their web based Project Collaboration Tool.

### 8.3 Data and information management and intellectual property rights

All of the data listed as being supplied to the *Consultant* as part of this study remains the Intellectual Property of the *Client*.

### 8.4 Data custodianship

The data custodian for project deliverables from this commission will be the area PSO team.

### 8.5 Licensing information

Licences for LiDAR Data, Ordnance Survey mapping, model, survey, hydrometric and historical data will be provided to the *Consultant* upon award of this commission.

### 8.6 Metadata

The *Client* populates a metadata database called the Information Asset Register (IAR). It is a requirement that all information produced by modelling work is appropriately tagged with metadata. The *Client* project manager will supply an IAR spreadsheet (and any supplementary local metadata requirements if appropriate) where all relevant metadata can be recorded and handed over on project completion.

### 8.7 Data security

All model and survey information will be provided to the *Consultant* in an encrypted format (using WinZip 128 bit encryption) according to *Client* data security policy. It is expected that once the commission is completed, all the original data sent to the *Consultant*, which is classed as commercially sensitive, is returned in an encrypted format using WinZip 128 bit encryption.

Project deliverables such as model files, survey data or anything of a personal nature such as questionnaires or address data must also be returned in an encrypted format using WinZip 128 bit encryption.

Further details regarding security measures will be discussed at the start-up meeting for this commission

### 8.8 Timesheets

Timesheets as normally utilised by the *Consultant* shall be submitted with fee notes unless otherwise agreed with the *Client's* project manager. Electronic submissions would be acceptable.

### 8.9 Payment procedure

Payment is subject to the procedure agreed in or under the framework

### 8.10 Quality

The quality management system complies with the requirements of ISO9001 and ISO14001.

Please detail any other requirements of the Quality Pan.

### **Appendices**

**Appendix 1 BIM Protocol – Production and Delivery Table** 

All *Client* issued information referenced within the Information Delivery Plan requires verifying by the *Consultant* unless it is referenced elsewhere within the *Scope*.

www.Pow.bim4.info

You need google chrome for this link to work. Once the table is completed it should be printed for issue in the tender document, so that the correct baseline position can be seen by suppliers