



OFFICE OF RAIL AND ROAD

ORR/CT/17-48

OFFICE OF RAIL AND ROAD

and

Frazer-Nash Consultancy

AGREEMENT

FOR PROVISION OF SERVICES

AGREEMENT REFERENCE

ORR/CT/17-48 — CONSULTANCY

AGREEMENT FOR PROVISION OF SERVICES

DATE: 25/01/2018

PARTIES

- (1) **Office of Rail and Road** whose registered office is at One Kemble Street, London WC2B 4AN (“**ORR**”);
- (2) Frazer-Nash Consultancy of 1 Lower Lamb Street, Bristol, BS1 5UD. (“**Consultant**”).

RECITALS

- (A) ORR has requested the Consultant to provide it with advisory services and the Consultant has agreed to provide such services for the consideration and upon the terms and conditions contained below.

IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement the following words and expressions shall have the following meanings save where the context provides otherwise:

“Commencement Date”

29/01/2018

“Key Personnel”

those employees of the Consultant as set out in the Schedule

“Services”

the services of the Consultant to ORR set out in the Schedule and such other consultancy services as may be required by ORR from time to time in accordance with the terms of this Agreement;

“Termination Date”

23/03/2018

2. APPOINTMENT

- 2.1 ORR hereby confirms the appointment of the Consultant from the Commencement Date upon the terms and conditions contained in this Agreement. The Consultant undertakes to use its best endeavours to perform and observe all its obligations under this Agreement.
- 2.2 Subject to termination in accordance with the terms of this Agreement, such appointment will have effect from the Commencement Date and will continue until the Termination Date or the services are no longer required or unless terminated by ORR by notice in writing.
- 2.3 The Consultant will provide the Services under this Agreement using the Key Personnel and will not assign or sub-contract such Services to any other person, firm, company or organisation without the prior written consent of ORR and undertakes to perform the Services efficiently and to the best of the Consultant's ability.

3. FEE

- 3.1 The total consultancy fee chargeable under this Agreement shall not exceed £16,920 inclusive of expenses exclusive of VAT.
- 3.2 The Consultant will submit an invoice on the delivery to and acceptance by the ORR of all agreed outputs.
- 3.3 The Consultant will not be entitled to any other fees or payments save as expressly stated in Clause 3.1 or Clause 4.1.

4. EXPENSES

- 4.1 The Consultant shall not be entitled to claim expenses under this Agreement.

5. STATUS

- 5.1 The relationship of the Consultant to ORR will be that of independent Consultant and at no time will the Consultant hold itself, or its Key Personnel out as being an employees of ORR.

6. CONSULTANT'S OBLIGATIONS

- 6.1.1 The Consultant agrees that it will during the term of this Agreement:
- 6.1.2 render and perform the Services to the best of its skill, ability, knowledge and experience;
- 6.1.3 the Consultant will utilise the Key Personnel on the delivery of the subject of the Agreement as set out in the Schedule. Where a member of the Key Personnel are unable to provide the services due to ill health, termination of employment, resignation or otherwise the Consultant, subject to ORR's approval, will substitute that member with a suitably qualified and experienced individual;
- 6.1.4 promptly give to ORR all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services or the business of ORR;

- 6.1.5 Where the Consultant engages an individual identified as Key Personnel and where the Consultant is not responsible for that individual's Tax and National Insurance it shall ensure that the individual complies with Clause 7.1, 7.2, 7.3 and 7.4. Where the individual concerned does not provide the information under Clause 7.3 and 7.4, then the ORR reserves the right to terminate the agreement under Clause 7.5.

7. CONSULTANT'S OBLIGATIONS REGARDING THE PAYMENT OF TAX AND NATIONAL INSURANCE

- 7.1 Where the Consultant is an individual and is liable to be taxed in the UK in respect of consideration received under this Agreement, he/she shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.
- 7.2 Where the Consultant is an individual and is liable to National Insurance Contributions (NICs) in respect of consideration received under this Agreement, he/she shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 7.3 ORR may, at any time during the term of this contract, request the Consultant to provide information which demonstrates how he/she complies with Clauses 7.1 and 7.2 above or why those Clauses do not apply to it.
- 7.4 A request under Clause 7.3 above may specify the information which the Consultant must provide and the period within which that information must be provided.
- 7.5 ORR may terminate this Agreement if-
- (a) in the case of a request mentioned in Clause 7.3 above-
 - (i) he/she fails to provide information in response to the request within a reasonable time, or
 - (ii) he/she provides information which is inadequate to demonstrate either how the Consultant complies with Clauses 7.1 and 7.2 above or why those Clauses do not apply to him or her;
 - (b) in the case of a request mentioned in Clause 7.4 above, the Consultant fails to provide the specified information within the specified period, or
 - (c) it receives information which demonstrates that, at any time when Clauses 7.1 and 7.2 apply to the Consultant, he or she is not complying with those Clauses.
- 7.6 The ORR may supply any information which it receives under Clause 7.3 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

8. CONFIDENTIALITY

- 8.1 Other than in the circumstances set out in paragraph 8.2, the Consultant and Key Personnel undertakes not to disclose in any way or form whether before or after the Termination Date to any person, firm or company any information which is acquired either directly or indirectly

by the Consultant or Key Personnel as a result of the provision of the Services or the performance of the Consultant's obligations under this Agreement.

8.2 The Consultant may only provide information to any person, firm or company to the extent strictly necessary in the performance of the Services, to the extent required by law, or to the extent specifically authorised in writing by ORR.

8.3 The Consultant acknowledges that in providing the Services they are government contractors to whom the Official Secrets Act 1989 applies and that it may be an offence under that Act to disclose information other than in accordance with paragraph 8.2.

9. PUBLICATION OF AGREEMENT DOCUMENTS

9.1 Notwithstanding any other term of the Agreement, the Consultant hereby gives its consent for ORR to publish the Agreement in part or in its entirety, including from time to time agreed changes to the Agreement, to the general public.

10. TERMINATION

10.1 Notwithstanding any other provision in this Agreement, ORR will be entitled to terminate this Agreement with immediate effect if the Consultant:

10.1.1 commits a serious breach of any of the provisions of this Agreement or failing for whatever reason to perform the Services adequately or at all; or

10.1.2 is guilty of conduct tending to bring himself/herself or ORR into disrepute or being convicted of a criminal offence; or

10.1.3 becomes bankrupt or making any arrangement or composition with its creditors or taking advantage of any statute for the time being in force affording relief for instalment debtors.

10.1.4 Notwithstanding any other provision in this Agreement, ORR will be entitled to terminate this Agreement with immediate effect if the Consultant is in breach of any of its obligations under this Agreement,

11. MISCELLANEOUS

11.1 This Agreement constitutes the entire agreement between the parties with respect to its subject matter and shall have effect to the exclusion of any other memorandum, agreement or understanding of any kind between the parties preceding the date of this Agreement in respect to the subject matter.

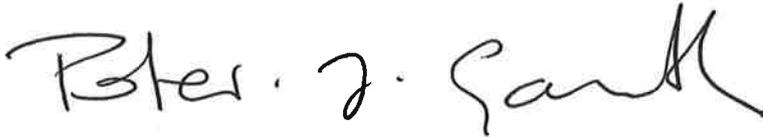
11.2 This Agreement may only be amended, superseded, cancelled or any of its terms and conditions waived by written instrument signed by or on behalf of ORR and the Consultant or, in the case of waiver, of the party waiving compliance.

11.3 The failure or the delay on the part of any party to exercise or enforce any right, power or privilege under this Agreement will not operate as a waiver, nor will the single or partial exercise of any right, power or privilege preclude any other or further exercise of that or any other right, power or privilege. If any party expressly waives any breach, such waiver will

not operate as a waiver of a similar breach on another occasion or as a waiver of any other breach.

- 11.4 The parties will pay their own legal, professional and other costs in connection with the preparation and completion of this Agreement.
- 11.5 This Agreement will be governed and construed in accordance with the Laws of England and the parties to this Agreement submit to the exclusive jurisdiction of the English Courts.
- 11.6 The ORR will own the intellectual property rights in all reports written under this Agreement and reserves the right to publish in part or in full any report at its absolute discretion. As such, all reports produced must be in a format eligible for publication without the need for reworking.

This Agreement has been entered into the day and year first above written.



SIGNED by
Peter Gamble
for and on behalf of
Office of Rail and Road



SIGNED by
Philip Harris
for and on behalf of
Frazer-Nash Consultancy Limited

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SCHEDULE

SERVICES

The Consultant is to undertake a formal review and gap analysis on the documentation, policies, schematics and processes ORR has created as part of its transition to a multi-vendor model of IT operations and provide a detailed report to capture and identify gaps and offer guidance on areas of improvement or additional requirement needed.

The outcome of the project is for ORR to conform to ITIL process regarding process and documentation retention and a detailed repository of information that can be called upon when required by audit or for future service improvement as well as day-to-day review on how ORR's support model works.

Outputs and Deliverables

The Consultant will deliver:

- Interim report which details its findings, conclusions, risks and issues and recommendations in a RAG based format (so that ORR has the opportunity to provide comments before the report is finalised)
- Interim presentation detailing emerging findings and areas of improvement
- Final report which incorporates the amendments from ORR which details the findings, conclusions and recommendations including what has been completed meets IT standard and requirement and which areas need review and additional detail. This should be supported by a full list of policies and processes with RAG ratings and identified risks/issues and mitigating activities for each
- A workshop to address the outlined steps from the recommendations to ORR
- Survey and statistical analysis
- The Consultant is to prepare and maintain project plan.

Delivery Timetable

To be agreed between the parties

KEY PERSONNEL

Mark Hawksfield
Martin Palmer
Alasdair Wylie

