

Contract Title: RIBA 4 Design of New Facility

Supplier: Morgan Sindall

Contract Start Date: 14th Oct 2025

Contract End Date: 3rd June 2027

Contract Value: £2,865,186.39

This contract was awarded under the Terms and Conditions of NEC4 Professional Service Contract Option A and utilised the copyrighted NEC Forms of Contract.

The following amendments/additions were made by the SCAPE Framework & DSTL to the standard Terms and Conditions of NEC4 Professional Service Contract –

11.2 (2) Insert a further bullet point:

- Provided or procured all X8 Undertakings which the Consultant is obliged under this contract to provide or procure

11.2 (13) First bullet, change ‘service’ to ‘service’

The following two clause changes apply to Option A Service Agreements only

11.2(16) At the end of the sentence add:

‘less Disallowed Cost.’

11.2(18) Insert a new clause 11.2(18)

‘Disallowed Cost is cost which

- is included within the Commercial Inclusions Tables of the Framework Agreement’s

Pricing Procedures,

- unless the Client otherwise agrees, exceed the relevant People Rates for the applicable role and seniority stated in the relevant table of the Framework Commercial Model,

- is not justified by the Consultant’s accounts and records,

- should not have been paid to the Subcontractor or supplier in accordance with its contract,

- was incurred only because the Consultant did not

- follow an acceptance or procurement procedure stated in the Scope,

- give an early warning which the contract required it to give or

- give notification to the Service Manager of the preparation for and conduct of an adjudication or proceedings of a tribunal between the Consultant and a

Subcontractor or supplier

and the cost of

- correcting Defects after Completion,
- correcting Defects caused by the Consultant not complying with a constraint on how it is to Provide the Service stated in the Scope,
- resources not used to Provide the Service (after allowing for reasonable availability and utilisation) and
- preparation for and conduct of an adjudication or proceedings of the tribunal between the Parties.'

11.2(24) Insert a new clause 11.2(24):

'Framework Agreement' is the framework agreement between Scape Procure Limited and the Consultant and terms defined in the Framework Agreement have the same meanings in this Contract unless a contrary intention is apparent.

11.2(25) Insert a new clause 11.2(25):

Framework Commercial Model as included in the Framework Agreement between Scape Procure Limited and the Consultant.

11.2 (26) Insert a new clause 11.2(26)

Data Protection Legislation means all applicable privacy and data protection laws including:

- i. the General Data Protection Regulation (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/68) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications as amended, replaced or updated from time to time;
- ii. the UK GDPR;
- iii. the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy;
- iv. the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426);
- v. all applicable law about the processing of personal data and privacy; and
- vi. any laws that replace, extend, re-enact, consolidate or amend any of the foregoing.

11.2(27) Insert a new clause 11.2(27)

UK GDPR means the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, as updated, superseded or repealed from time to time.

11.2 (28) Insert a new clause 11.2(28)

Data Subject has the meaning given to it in the Data Protection Legislation.

11.2 (29) Insert a new clause 11.2(29)

Personal Data has the meaning given to it in the Data Protection Legislation.

12.4 Insert at the end:

‘provided Clauses 23 (Convictions), 28 (Governing Law and Dispute Resolution), 29 (Statutory Requirements), 30 (Competition Law, Corrupt Gifts and Payments), 31 (Modern Slavery), 33 (Confidentiality and Freedom of Information), 35 (Intellectual Property Rights), 36 (Personal data) and 38.11 (Miscellaneous: Whistle Blowing) of the Framework Agreement shall be deemed incorporated into this contract, mutatis mutandis, as if references to ‘Scape’ were to ‘the Client’ and references to the ‘Agreement’ were to ‘the contract’.’

12.5 Insert a new clause 12.5:

‘A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment of it.’

13.10 Insert a new clause, 13.10

‘The following communications shall be deemed to have no effect if made by electronic mail transmission:

- Any notification of a wish to terminate this contract or the employment of the Consultant under it
- Any notification by the Consultant of his intention to suspend performance of his obligations under this contract
- Any invoking by either party of the procedures applicable under this contract to the

resolution of disputes or differences

- Any agreement between the parties amending the provisions of this contract'

(Z Clause 13.10 may be deleted at the Client's sole discretion).

14.1 Add after the final sentence:

'Notwithstanding any other provision of this contract, the terms 'acceptance', 'approval' or similar when used in the context of any acceptance or approval to be given by or on behalf of the Service Manager has the meaning 'acceptance of general principles only' and no such acceptance or approval shall diminish or relieve the Consultant from any of the Consultant's obligations or liabilities under this contract.'

19. Insert a new Clause 19:

Data Protection

19.1. Both Parties will comply with all applicable requirements of the Data Protection Legislation.

These clauses are in addition to, and does not relieve, remove or replace, each Party's obligations under the Data Protection Legislation. It is agreed that:

19.2. Without prejudice to the generality of Clause 19.1, both Parties will ensure that they have all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data to each other for the duration and purposes of this agreement.

19.3. Without prejudice to the generality of Clause 19.1, the Consultant shall, in relation to any Personal Data processed in connection with the performance by the Consultant of its obligations under this agreement:

19.3.1. Process that Personal Data only on the written instructions of the Client and only as required for the purpose of the performance of this agreement;

19.3.2. Ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client , to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be

restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

19.3.3. Ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

19.3.4. Not transfer any Personal Data outside of the UK or European Economic Area;

19.3.5. Assist the Client, at the Consultant's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with the Information Commissioner supervisory authorities or regulators;

19.3.6. Notify the Client without undue delay on becoming aware of a Personal Data breach;

19.3.7. At the written direction of the Client delete or return Personal Data and copies thereof to the Client on termination of the agreement; and

19.3.8. Maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Client or the Client's designated auditor.

19.4. The Client does not consent to the Consultant appointing any third-party processor of Personal Data under this agreement.

20. The Consultant's main responsibilities

20.2 Delete and replace with:

'The Consultant's obligation is to exercise (and warrant that it has exercised) all the reasonable skill, care and diligence normally used by competent and appropriately qualified professionals experienced in providing services similar to the service.'

20.5 Insert a new Clause 20.5:

'The Consultant checks the Scope provided by the Client and satisfies itself that its own provision of the service, including any proposals, designs and Scope documents for a subsequent Project Agreement meet the Client's Scope with no discrepancy within and or between the Scope and the service. Where there is ambiguity, inconsistency or conflict between these documents the Client's Scope will prevail'.

23.5 Insert a new Clause 23.5:

'The Consultant, in relation to any subletting of any portion of the service:

- Procures that the relevant subcontract contains such obligations as necessary to ensure that it is in all respects compatible with the terms of this contract and, without

limitation, steps down the obligation to use the degree of skill, care and diligence specified in this contract and that requires Undertakings (collateral warranties) in favour of the Client to be provided in the forms specified in the Framework Agreement and with any amendments as permitted by the Framework Agreement.

- Procures that all relevant subcontracts shall be executed and delivered as a deed
- Warrants each sub-consultant's and supplier's compliance with this contract's Modern Slavery requirements
- Warrants that all sub-consultants and suppliers are fully aware of their obligations under the CDM Regulations and are fully competent and are adequately resourced to meet those obligations
- Provides to the Service Manager a certified copy of any subcontract (save for particulars of the cost of such subcontract service unless other provisions of this contract or the Framework Agreement oblige the Consultant to disclose them)'

The Consultant does not appoint a sub-consultant or supplier if there are compulsory grounds for excluding the sub-consultant or supplier under Regulation 57 of the Public Contracts Regulations 2015.'

23.6 Insert a new clause, 23.6

'The Consultant includes in any subcontract awarded by him provisions requiring that:

- payment due to the Sub-contractor under the sub-contract is made no later than 30 days after receipt of a valid and undisputed invoice unless the Framework Agreement required the Consultant to make earlier payment to the Sub-contractor
- Invoices for payment submitted by the sub-consultant or supplier are considered and verified by the Consultant in a timely fashion
- Undue delay in considering and verifying invoices is not sufficient justification for failing to regard an invoice as valid and undisputed, and
- Any contract awarded by the sub-consultant or supplier for work included in this contract includes provisions to the same effect as these provisions.'

25.1 Line 2: Change 'right' to 'any rights'

Line 3: Change 'rights' to 'right'

5. Payment

51.6 Insert a new clause as follows:

'In addition to any other legal rights and remedies of the Client, whenever any sum of money is recoverable from or payable by the Consultant under this contract that sum may be deducted from any sum then due, or which at any time thereafter becomes due to the Consultant under this contract provided that the Service Manager notifies the Consultant in writing not later than three days before the final date for payment of the amount to be paid and the basis on which it is calculated.'

53.3 In the first line replace the word 'contact' with 'contract'

Last bullet, change 'tribunal' to 'tribunal'

6. Compensation Events

63.5 Delete third paragraph and substitute

'The assessment takes into account

o any delay caused by the compensation event already in the Accepted Programme and

- events which have happened between the date of the Accepted Programme and the dividing date.'

8 Liabilities and insurance

83.3 delete the words 'and care normally used by professionals' in the first insurance of the Insurance Table and replace with:

', care and diligence normally used by competent and appropriately qualified professionals experienced in'

84.1 Delete the words 'policies and' between the words 'the Client accepts the' and 'certificates if the insurance complies'

9 Termination

90.2 Termination table, change procedure against the Client R17 or R20 to 'P1'

91.9 Insert the following new clause: 91.9

'The Public Contracts Regulations 2015

The Client may terminate the Consultant's obligation to Provide the Service if any of the provisions of Regulation 73(1) of The Public Contracts Regulations 2015 apply.

If the Client terminates under the provisions of Regulation 73(1)(b) of the Public Contracts Regulations 2015 as a result of information not disclosed by the Consultant at the Contract Date, the procedures and amounts due on termination are the same as if the Consultant has substantially failed to comply with his obligations (R11).

If the Client otherwise terminates under the provisions of Regulation 73(1) of the Public Contracts Regulations 2015, the termination procedure followed is P1 and the amounts due on termination are A1 and A3.'

OPTION W2

W2.1(1) Add a new sentence at the end of the clause 'A Party may replace a Senior Representative after notifying the other Party of the name of the replacement'.

W2.3(2) In the second bullet, change 'Adjudicator' to 'Adjudicator'

W2.3(2) The final two sentences of Clause W2.3(2) are deleted.

W2.3(4): Clause W2.3(4) is deleted and replaced by

'The Adjudicator decides the procedure and timetable to be followed in the adjudication.

In doing so the Adjudicator may

- take the initiative in ascertaining the facts and the law related to the dispute and
- instruct a Party to take any other action within a stated time which is necessary to reach a decision.'

W2.3(8): The final sentence of W2.3(8) is deleted and replaced by

'The Adjudicator may in the decision

- review and revise any action or inaction of the Service Manager related to the dispute,
- alter a matter which has been treated as accepted or correct and
- allocate the Adjudicator's fees and expenses between the Parties.'

X7 Delay Damages

X7.1 The clause is deleted and replaced by the following.

The Consultant: pays delay damages at the rate stated in the Contract Data for each day from the Completion Date until the earlier of

- Completion and
- The date on which the Service Manager issues a termination certificate

X10 Information Modelling

X10.7 (1) the first bullet is replaced with the following:

"a fault in the Information Model not caused by a Defect in the Project Information."

X10.7 (2) delete 'skill and care normally used by professionals' and add the following:

'reasonable skill, care and diligence normally used by competent and appropriately qualified professionals, experienced in'

In the first line the words

“fault or error”

Are replaced with

“Defect”

OPTION X11 Termination by the Client

X11.1 (1) The clause is deleted and replaced with the following :

The Client may terminate the Consultant’s obligation to Provide the Service for a reason not identified in the Termination Table by notifying the Service Manager and the Consultant.

OPTION X29 Climate Change

Identified and defined terms

X29.1(1) The Climate Change Requirements are the requirements relating to climate change stated in the Scope.

(2) The Climate Change Plan is the climate change plan or is the latest climate change plan accepted by the Service Manager. The latest climate change plan accepted by the Service Manager supersedes previous Climate Change Plans.

(3) The Climate Change Partners are the people or organisations who contribute to the achievement of the Climate Change Requirements and are identified in the Climate Change Requirements.

(4) The Performance Table states the targets the Consultant is to achieve in Providing the Service and sets out the adjustment to payment if a measured performance is higher, the same or lower than its target. The Performance Table is the performance table unless later changed in accordance with the contract.

Collaboration

X29.2 The Consultant collaborates with other Climate Change Partners as stated in the Climate Change Requirements.

Early warning

X29.3 The Consultant and the Service Manager give an early warning by notifying the other as soon as either becomes aware of any matter which could adversely affect the achievement of the Climate Change Requirements.

Climate change plan

X29.4(1) If a climate change plan is not identified in the Contract Data, the Consultant submits a first climate change plan to the Service Manager for acceptance within the period stated in the Contract Data.

(2) The Climate Change Plan shows how the Consultant plans to meet the Climate Change Requirements.

(3) Within two weeks of the Consultant submitting a climate change plan for acceptance, the Service Manager notifies the Consultant of the acceptance of the climate change plan or the reasons for not accepting it. A reason for not accepting a climate change plan is that

- it does not comply with the Climate Change Requirements or
- it will not allow the Consultant to Provide the Service.

(4) The Consultant submits a revised climate change plan to the Service Manager for acceptance

- within the period for reply after the Service Manager has instructed it to and
- when the Consultant chooses to.

Disclosure

X29.5 The Parties may use, disclose and publicise information relating to climate change as stated in and for the purposes stated in the Climate Change Requirements.

Acceleration and accepting Defects

X29.6 Quotations for acceleration and accepting Defects include any proposed changes to the Performance Table.

If the quotation is accepted the Service Manager changes the Performance Table accordingly.

Notifying compensation events

X29.7(1) For compensation events notified by the Service Manager that only affect the Performance Table, the Service Manager instructs the Consultant to submit quotations if the event does not arise from a fault of the Consultant, at the time of the notification of the compensation event.

(2) If the Consultant does not notify a compensation event within eight weeks of becoming aware that the event has happened, the Performance Table is not changed unless the event arises from the Service Manager giving an instruction or notification or changing an earlier decision.

(3) If a compensation event notified by the Consultant only affects the Performance Table the Service Manager notifies the Consultant that the event is a compensation event and includes in the notification an instruction to the Consultant to submit quotations unless the event

- arises from a fault of the Consultant,
- has not happened and is not expected to happen,
- has not been notified within the timescales set out in these conditions of contract or
- is not one of the compensation events stated in the contract

in which case the Service Manager notifies the Consultant that the Performance Table is not to be changed and states the reasons in the notification. The notification is issued within one week of the Consultant's notification of the compensation event.

Quotations for compensation events

X29.8 Quotations for compensation events include proposed changes to the Performance Table assessed by the Consultant.

Assessing compensation events

X29.9 (1) A change to the Performance Table is assessed as the effect of the compensation event upon the targets, amounts and dates stated in the Performance Table.

(2) The rights the Client and the Consultant have in respect of a compensation event include the right to changes to the Performance Table.

(3) A compensation event which is an instruction to change the Scope in order to resolve an ambiguity or inconsistency is assessed as if the Performance Table were for the interpretation most favourable to the Party which did not provide the Scope.

Implementing compensation events

X29.10 When a compensation event is implemented the Performance Table is changed accordingly.

Consultant's proposals

X29.11(1) The Consultant may propose to the Service Manager that the Scope is changed in order to reduce the impact of the service on climate change. The Service Manager considers the change and if it is of interest instructs

- a change to the Scope or
- the Consultant to submit a quotation for a proposed change to the Scope.

Performance measurements

X29.12(1) From the starting date until Completion of the whole of the service, the Consultant reports to the Service Manager its performance against the targets in the Performance Table.

Reports are provided at the intervals stated in the Performance Table.

(2) If the Consultant's performance against a target in the Performance Table is not achieving or is forecast not to achieve the performance target stated, it submits to the Service Manager for acceptance its proposals for improving performance.

A reason for not accepting the proposals is that they will not provide the improvement in performance needed to achieve the target in the Performance Table.

(3) At the dates stated in the Performance Table,

- if the relevant performance does not meet the target stated in the Performance Table, the Consultant pays the amount stated in the Performance Table,
- if the relevant performance exceeds or meets the target stated in the Performance Table, the Consultant is paid the amount stated in the Performance Table.

(4) Information in the Performance Table is not Scope.

Limitation of liability

X29.13 An excluded matter is the amounts stated in the contract as payable by the Consultant in accordance with the Performance Table.

OPTION Y(UK)1 Project Bank Account

Trust Deed In the third bullet under Agreement, change 'service' to 'service'

OPTION Y(UK) 1: Project Bank Account

The secondary Option is deleted and replaced with

Defined terms

Y1.1

(1) Joining Deed is an agreement in the form set out in the contract under which the Supplier joins the Trust Deed.

(2) Named Suppliers are named suppliers and other Suppliers who have signed the Joining Deed.

(3) The Payment Schedule is a list of payments to be made to the Consultant and Named Suppliers from the Project Bank Account.

(4) Project Bank Account is the account used to receive payments from the Client and the

Consultant and to make payments to the Consultant and Named Suppliers.

(5) Project Bank Account Tracker is a register of all payments made to and from the Project Bank Account and the date each payment was made and is in the form stated in the Scope.

(6) A Supplier is a person or organisation who has a contract to

- provide a service or
- provide a service to Provide the Service.

(7) Trust Deed is an agreement in the form set out in the contract which contains provisions for administering the Project Bank Account.

Project Bank Account

Y1.2 The account holder establishes the Project Bank Account with the project bank within eight weeks of the Contract Date.

Y1.3 Unless stated otherwise in the Contract Data, the Consultant pays any charges made and is paid any interest paid by the project bank. The charges and interest by the project bank are not included in the assessment of the amount due.

Y1.4 If the account holder is the Consultant, it submits to the Service Manager for acceptance details of the banking arrangements for the Project Bank Account. A reason for not accepting the banking arrangements is that they do not provide for payments and inspections to be made in accordance with the contract. The Consultant provides to the Service Manager copies of communications with the project bank in connection with the Project Bank Account.

Named Suppliers

Y1.5 The Consultant includes in its contracts with Named Suppliers the arrangements in the contract for the operation of the Project Bank Account and Trust Deed. The Consultant informs the Named Suppliers it appoints, the details of the Project Bank Account and the arrangements for payment of amounts due under their contracts.

Y1.6 The Consultant submits proposals for adding a Supplier to the Named Suppliers to the Project Manager for acceptance. A submission includes the Suppliers stated in the Scope and other Suppliers requested by the Contractor. A reason for not accepting a submission is that the addition of a Supplier does not comply with the Scope. The Client, the Consultant and the Supplier sign the Joining Deed after acceptance.

Payments

Y1.7 Until the Project Bank Account is established, payment is made by the Client to the Consultant.

Y1.8 The Consultant shows in the application for payment the amounts due to Named Suppliers in accordance with their contracts.

Y1.9 Within the time set out in the banking arrangements to allow the project bank to make payment to the Consultant and Named Suppliers in accordance with the contract,

- the Consultant prepares the Payment Schedule, provides a copy to the Service Manager and provides the information in the Payment Schedule to the project bank,
- the Client makes payment to the Project Bank Account of the amount which is due to be paid under the contract and
- the Consultant makes payment to the Project Bank Account of any amount which the Client has informed the Consultant it intends to withhold from the certified amount and which is required to make payment to Named Suppliers.

Y1.10 The Consultant notifies the Service Manager if the amount due to any Named Supplier stated in the Payment Schedule is different from that in the payment certificate and provides reasons for the change.

Y1.11 If the account holder is the Consultant, it authorises payment in accordance with the Payment Schedule no later than one day before the final date for payment. Following payment, the Client checks the amounts paid to the Named Suppliers by inspecting the Project Bank Account.

Y1.12 If the account holder is the Parties, they jointly authorise payment in accordance with the Payment Schedule no later than one day before the final date for payment.

Y1.13 Following authorisation, the Consultant and Named Suppliers receive payment from the Project Bank Account of the sums set out in the Payment Schedule as soon as practicable after the Project Bank Account receives payment.

Y1.14 The Consultant updates the Project Bank Account Tracker and submits it to the Client within one week of any payment being made from the Project Bank Account.

Y1.15 A payment which is due from the Consultant to the Client is not made through the Project Bank Account.

Effect of Payment

Y1.16 Payments made from the Project Bank Account are treated as payments from the Client to

the Consultant in accordance with the contract. A delay in payment due to a failure of the Consultant to comply with the requirements of this clause is not treated as late payment under the contract.

Trust Deed

Y1.17 The Client, the Consultant and named suppliers sign the Trust Deed within two weeks of the Contract Date.

Termination

Y1.18 If the Service Manager issues a termination certificate, no further payment is made into the Project Bank Account.

Addendum 2b - Project specific additional conditions of contract agreed between the Client and the Contractor

11.2(30) Insert new definition

“Client’s Security Procedures” shall mean any security procedure specific to any Client’s premises or data.

11.2(31) Insert new definition

“Information” means information of any nature, and includes (but is not limited to) information in the form

of data, databases, software (excluding third party software), designs, models, interventions, drawings,

details, plans, reports, records, calculations, schedules, specifications, bills of quantities, levels and setting out details and other documents (whether or not in electronic format).

11.2(32) Insert new definition

“Change of Control” means where that person who controls the Consultant ceases to do so or where another person(s) acquires control of the Consultant, where control means the power to ensure that the

affairs of the Consultant are conducted in accordance with the wishes of that person by virtue of the holding of shares, or the possession of voting powers in, or relation to, Consultant, or by virtue of any

power or Client conferred by the constitutional corporate, or any other documents, regulating the Consultant.

11.2.(33) Insert new definition

“Documents” means all Information of any nature whatsoever provided by or used by or on behalf of the

Consultant in the course of performing its obligations under this contract”.

11.2.(34) Insert new definition

“Foreground Information” means all Information in Documents which is generated in the performance of

the services under this contract.

11.2.(35) Insert new definition

“Background Information” means all Information in Documents which is not Foreground Information.

11.2.(36) Insert new definition

“Transparency Information” shall mean the content of this Contract in its entirety, including from time to

time agreed changes to the Contract, and details of any payments made by the Client to the Consultant

under the Contract

11.2.(37) Insert new definition

“Client’s IT Systems” means the computer hardware and software and networks used by the Client in the

course of its business.

11.2.(37) Insert new definition

“Employer” means Client.

11.2.(38) Insert new definition

“Authority” means Client.

11.2 (39) Insert new definition

“Prohibited Materials” means materials not in conformity with the law of the contract, European and/or

British Standards, Codes of Practice or which at the date of use are deleterious to the health and safety

and/or to the durability of buildings and/or in the particular circumstances in which those materials are to

be used.

11.2 (40) Insert new definition

“Provisional sum” means a sum designated as such and included in the contract as either:

a) a specific allowance for undefined work which may be wholly or partially used or exceeded or not used on the instruction of the Service Manager or,

b) an allowance for defined work included in the contract to be wholly or partially used or exceeded or

not used on the instruction of the Service Manager. The description of the provisional sum shall identify

which of the above categories it constitutes. An instruction by the Service Manager to implement or omit

work included in a provisional sum shall constitute a compensation event. Quotations for work included

as provisional sums are in accordance with the procedures for compensation events in the conditions of

contract and the procedures in the Scope.

22 Working with the Client and Others

22.4 Insert a new clause

“The Consultant shall carry out the services, to the extent reasonably practical considering their nature, so as to cause minimum disruption to the Client's activities on their premises and elsewhere.

If the Consultant anticipates any such disruption, the Consultant will issue an early warning notice to enable the Client to plan in advance, if necessary, for such disruption.”

22.5 Insert a new clause

“The Consultant shall co-operate with the requirements of all Client boards of inquiry and shall use all

reasonable endeavours to procure the attendance of such of its employees, agents or Sub consultants who may be invited by the Client to attend as witnesses at boards of inquiry or similar proceedings. This obligation shall survive the expiry or early termination of the services. The Client shall reimburse the Consultant their reasonable external costs of such attendance.”

22.6 Insert a new clause:

“The Consultant acknowledges that it will not have exclusive rights to occupy any accommodation provided by the Client and that any such accommodation will only be used for the purpose of the services.”

22.7 Insert a new clause:

“All fossils, antiquities, and other objects having antiquarian, artistic, historic, archaeological or monetary value, which may be found on, or at the Client premises shall remain the property of the Client.”

23 Subcontracting

23.5 4 Insert a new bullet point:

- Procures that all relevant subcontracts shall contain equivalent contractual obligations as imposed on the Consultant relating to Fraud, Client's Security Procedures, use of Client's IT Systems, intellectual property rights confidentiality, publicity and law of contract.

26 Disclosure

Delete and replace with:

26.1 Except with the written consent of the Client, the Consultant shall not disclose the services to any

person other than a person employed by the Consultant or a Subconsultant. Disclosure shall be confined

to those members of staff whose access to the information is essential for performance of the services.

26.2 Subject to clause 26.5, 26.6 and 26.7, each Party:

a) shall treat in confidence all Information it shall receive from the other;

b) shall not disclose any of that Information to any third party without the prior written consent of the

other Party, which consent shall not be unreasonably withheld, except that the Consultant may disclose Information in confidence, without prior consent, to such persons as and to such extent as may be necessary for the performance of the services;

c) shall not use any of that information otherwise than for the purpose of performing the services; and

d) shall not copy any of that Information except to the extent necessary for the purpose of exercising its rights of use and disclosure under this agreement.

26.3 The Consultant shall take all reasonable precautions necessary to ensure that all the Information

disclosed to the Consultant by or on behalf of the Client under or in connection with this agreement:

a) is disclosed to its employees and Subconsultants only to the extent necessary for the performance of the services;

b) is treated in confidence by them and not disclosed except with prior written consent or used otherwise than for performing work or having work performed for the Client under this agreement or

any subconsultancy agreement.

c) is returned to the Client by the Consultant on Completion of the whole of the Services

26.4 The Consultant shall ensure that its employees, and its Subconsultants and their employees, are aware of its arrangements for discharging the obligations under clause 26.1, 26.2 and 26.3 before they

receive Information and take such steps as may be reasonably practical to enforce such arrangements.

26.5 Clause 26.2 and 26.3 shall not apply to the Information to the extent that either Party:

- a) exercises rights of use or disclosure granted otherwise than in consequence of, or, this agreement;
- b) has the right to use or disclose the Information in accordance with other conditions of this agreement
- c) can show:
 - i) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of this agreement or any other agreement between the Parties;
 - ii) that the Information was already known to it (without restrictions on disclosure or use) prior to it receiving it under or in connection with the services;
 - iii) that the Information was received without restriction on further disclosure from a third party who lawfully acquired it and who is itself under no obligation restricting its disclosure; or
 - iv) from its records that the same information was derived independently of that received under or in connection with the services; provided the relationship to any other Information is not revealed.

26.6 Neither Party shall be in breach of this Clause 26 where it can show that any disclosure of Information was made solely and to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure

that the recipient of the Information is made aware of and asked to respect its confidentiality. Such disclosures shall in no way diminish the obligations of the Parties under this Clause.

26.7 The Client shall not be in breach of this Clause 26 where it can show that any disclosure of Information is made solely and to the extent necessary to comply with the Freedom of Information Act

2000 ("the Act") or the Environmental Information Regulations 2004 ("the Regulations"). To the extent

permitted by the time for compliance with the Act or the Regulations, the Client shall consult the Consultant where the Client is considering the disclosure of Information under the Act or the Regulations

and, in any event, shall provide prior notification to the Consultant of any decision to disclose the Information. The Consultant acknowledges and accepts that its representations on disclosure during consultation may not be determinative and that the decision whether to disclose Information in order to

comply with the Act or the Regulations is a matter in which the Client shall exercise its own discretion,

subject always to the provisions of the Act or the Regulations. For the avoidance of doubt, nothing in this condition shall affect the Consultant's rights at law.

26.8 Nothing in this Clause shall affect the Parties' obligations of confidentiality where information is disclosed orally in confidence.

6 Compensation Events

63.1 Delete the full stop after "the resulting Fee" and replace with a semi-colon.

Insert the following immediately before the last sentence: "except that for a compensation event to implement or omit work included in a provisional sum, the amount included in the provisional sum for the

work is deducted from the total of the Prices and the Prices are then changed by the effect upon

- The actual Defined Cost of the work already done.
- The forecast Defined Cost of the work not yet done and
- The resulting fee

To implement or omit as the relevant work included in the provisional sum.

63.4 After "Scope" insert "or a provisional Sum"

7 Rights to Material

70 Delete and replace with:

70.1 All Foreground Information and intellectual property rights therein shall vest in and be the property of the Client on their creation.

70.2 To the extent that any intellectual property rights in any of the Foreground Information does not

automatically vest in the Client, the Consultant shall with full title guarantee, assign or procure the assignment to the Client of all intellectual property rights in such Foreground Information free from lien,

charge or encumbrance.

70.3 The Client hereby grants to the Consultant for the contract period and free of charge a non exclusive royalty free licence, together with a sub-licence to Subconsultants, to use such of the

Foreground Information as the Consultant reasonably requires for the purposes of performing the services.

70.4 The Consultant hereby grants to the Client, subject to the rights of third parties, a perpetual, irrevocable and royalty free licence to use the Background Information and any intellectual property rights therein as required to use the Foreground Information and/or the Documents for any purpose.

70.5 The Consultant shall highlight to the Client any third party intellectual property rights which appear to be relevant to the Clients use of the Foreground Information and/or the Documents, and following consultation with the Client and insofar as reasonably practicable the Consultant shall secure a

licence on behalf of the Client to use the third party intellectual property rights.

70.6 The Consultant shall, following consultation with the Client and insofar as reasonably practicable,

secure a licence on behalf of the Client to use any third party software (except for commonly used and

commercially available software) used by the Consultant and its Subconsultants in performing the services,

70.7 All licences shall be purchased in consultation with the Client so that licence terms appropriate to

the intended use of such intellectual property rights or software are obtained.

70.8 The Consultant shall indemnify the Client and keep the Client fully indemnified against all losses which the Client may sustain or incur that arise out of allegations that the Client has infringed the intellectual property rights of any third party in using the Documents in accordance with this Clause.

70.9 The Consultant shall mark any copyright works comprising Foreground Information with the legend © Crown Copyright (insert year of generation of the works)

Z: The additional conditions of contract stated in the Contract Data are part of this contract.

Z1 The Consultant warrants that they have not done and will not do anything that would result in a breach of the Client's Security Procedures or the Official Secrets Act.

Z2 The Consultant warrants that it has not done and will not do any of the following (hereafter referred to as "Prohibited Acts"):

a) offered, given or agreed to give to any Crown servant any gift or consideration of any kind as an inducement or reward;

i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or

execution of this or any other contract with the Crown; or

ii) for showing or not showing favour or disfavour to any person in relation to this or any other contract with the Crown;

b) entered into this or any other contract with the Crown in connection with which commission has been paid or has been agreed to be paid by it or on its behalf, or to its knowledge, unless before the contract is made particulars of such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Client, and in respect of any

breach of any of the above warranties and undertakings the Consultant acknowledges that the Client will be entitled to claim damages against the Consultant.

Z3 In performing the services the Consultant shall not use Prohibited Materials or produce designs that may use Prohibited Materials.

Z4 The Consultant shall inform the Client, as soon as practicable, in writing of any Change of Control.

Z5 Where any investigation is conducted or proceedings are brought which arise directly or indirectly out of any act or omission of the Consultant, its agents or Subconsultants, or key people, and where there is a finding against the relevant party in such investigation or proceedings, the Consultant shall indemnify the Client with respect to all costs, charges and expenses (including legal and administrative

expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Client may have been ordered or required to pay to a third

party.

Z6 The Consultant shall ensure at no extra cost to the Client that for the purposes of carrying out any audit, the Client's internal and nominated external auditors are given access to inspect and examine

such documents (save for commercially sensitive information) as may reasonably be required which are

owned, held or otherwise within the control of the Consultant. The Consultant shall also promptly provide

such oral and written explanations as it is considered necessary in order to assist the auditors referred to

above to carry out their functions.

Z7 The Consultant shall for the purpose of carrying out any audit provide, at no additional cost to the Client, such facilities for representatives of the Client as the Client may reasonably require.

Z8 Fraud

At all stages of its involvement under and in connection with the services, the Consultant shall take all practicable steps to prevent fraud and/or the risk of fraud arising. If in the reasonable opinion of

the Client the Consultant commits any fraud (as defined by the Law of the Contract) in relation to the

services or any contract with the Client or any other public body then the Client may terminate the services for the Consultant's default by giving 10 Working Days' notice to the Consultant. The Consultant

shall keep and maintain all relevant records, invoices, approvals, notes; minutes of meetings and all such other original documents as may be required to verify the services carried out by the Consultant

and its Subconsultants so that they may be provided upon request by the Client. The Consultant shall immediately report to the Client any circumstances giving rise to fraud within its own organisation, that of

its Subconsultants, the Client or otherwise in relation to the services and shall provide all such relevant

information which may assist the Client in dealing with such report efficiently and effectively. The Client

shall be entitled to set-off, deduct, abate or recover as a debt against the Consultant all losses howsoever arising in connection with or sustained as a consequence of fraud including all associated investigation costs.

Z9 Use of Information Technology (IT)

The Consultant and its Subconsultants may use any of the Client's IT Systems including connections to the internet or intranet services, with express permission from the Client, and appropriate

security clearance and only for the performance of the services. Use of a third party's computer equipment and software, including any connections to the internet or intranet services, on the Client's

premises, is subject to the approval of the Client and said third party. The Consultant shall procure that

its employees, and its Subconsultants and their employees, comply with the Client's policies, procedures

and instructions in respect of computer hardware and software, including any connections to the internet

or intranet services. The Client may on reasonable notice from time to time make reasonable or necessary amendments to such policies, procedures and instructions. The Consultant shall take all reasonably practicable precautions to ensure that its employees, and its Subconsultants and their employees, do not use computer hardware or software, including any connections to the internet or intranet services, unlawfully or for unlawful purposes. The Consultant shall not cause or allow any of its

employees, or its Subconsultants and their employees, to bring the reputation of the Client into disrepute

by any action, activity or behaviour in connection with computer hardware or software. Failure by the

Consultant to comply with this Clause shall constitute a material breach of this agreement which may

lead to termination.

Z10 Transfer

Neither Party to this contract shall give, bargain, sell, assign, or otherwise dispose of this contract or any part thereof, or the benefit or advantage of this contract or any part thereof, without the previous

consent in writing of the other Party.

Z11 Mitigation

Each of the Parties shall at all times take all reasonable steps to minimise and mitigate any loss which the relevant Party is entitled to recover from the other Party pursuant to this contract.

Z12 Contractors Personnel at Government Establishments

The Consultant shall comply with DEFCON 76 (edition as at date of contract award) which can be found at www.gov.uk

Z13 Cyber

The Consultant shall comply with DEFCON 658 (edition as at date of contract award) which can be found at www.gov.uk

Z14 Official Sensitive Security Requirements

The Consultant shall comply with DEFCON 660 (edition as at date of contract award) which can

be found at www.gov.uk

Z15 VAT

The Client confirms that for the purposes of section 55A VAT Act 1994 reverse charge for building and

construction services it is an end user in respect of the services to be supplied by the Contractor

pursuant to this Contract and accordingly the parties agree that the reverse charge for VAT will not apply

to the services supplied under this Contract. The Client will promptly inform the Contractor if the Client

no longer qualifies as an end user.

Z16 Russian/Belarusian Suppliers

16.1 The Consultant shall, and shall procure that their Sub-contractors shall notify the Client in writing as

soon as they become aware that:

a. the Contract Deliverables and/or Services contain any Russian/Belarusian products and/or services;

or

b. that the Consultant or any part of the Consultant's supply chain is linked to entities who are constituted

or organised under the law of Russia or Belarus, or under the control (full or partial) of a

Russian/Belarusian person or entity. Please note that this does not include companies:

(1) registered in the UK or in a country with which the UK has a relevant international agreement providing reciprocal rights of access in the relevant field of public procurement; and/or

(2) which have significant business operations in the UK or in a country with which the UK has a relevant

international agreement providing reciprocal rights of access in the relevant field of public procurement.

16.2 The Consultant shall, and shall procure that their Sub-contractors shall, include in such notification

(or as soon as reasonably practicable following the notification) full details of the Russian products, services and/or entities and shall provide all reasonable assistance to the Client to understand the nature, scope and impact of any such products, services and/or entities on the provision of the Contract

Deliverables and/or Services.

16.3 The Client shall consider the notification and information provided by the Consultant and advise the

Consultant in writing of any concerns the Client may have and/or any action which the Client will require

the Consultant to take. The Consultant shall be required to submit a response to the concerns raised by

the Client, including any plans to mitigate those concerns, within 14 business days of receipt of the Client's written concerns, for the Client's consideration.

16.4 The Consultant shall include provisions equivalent to those set out in this clause in all relevant Sub contracts.

Z17 Timber and Wood-Derived Products

The Consultant shall comply with the requirements of DEFCON 691 (Timber and Wood-Derived Products), edition as at date of contract award, which can be found at www.gov.uk

Z18 Conflicts of Interest

The Consultant shall comply with the requirements of DEFCON 540 (Conflicts of Interest), edition as at

date of contract award, which can be found at www.gov.uk