

EXECUTION VERSION

Dated _____ 2015

BAZALGETTE TUNNEL LIMITED
and
CH2M HILL UNITED KINGDOM

PROJECT MANAGEMENT CONTRACT

relating to the Thames Tideway Tunnel Project

Linklaters

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Ref C Morgan / A Penfold

Form of Contract

This Form of Contract is entered into on the24.....day of 2015

BY AND BETWEEN:

1. **Bazalgette Tunnel Limited** (company number 9553573), a company organised and existing under the laws of England & Wales, having its registered office at Level 1, Exchange House, Primrose Street, London, United Kingdom, EC2A 2EG (the "**Employer**"); and
 2. **CH2M HILL United Kingdom** (company number 02533469), a company organised and existing under the laws of England and Wales, having its registered office at 43 Brook Green, Elms House, Hammersmith, London, W6 7EF (the "**Consultant**").
- (each a "**Party**" and together the "**Parties**").

THE PARTIES AGREE AS FOLLOWS:

1. The *Employer* will pay the *Consultant* the amount due and carry out his duties in accordance with this Form of Contract and the conditions of contract at Annexure 1 to this Form of Contract (the "**NEC3 PSC Conditions of Contract**").
2. The *Consultant* will Provide the Services in accordance with this Form of Contract and the NEC3 PSC Conditions of Contract.
3. This Form of Contract, the NEC3 PSC Conditions of Contract and the documents referred to in the Form the Contract (other than TWUL Task Order 11) and the NEC3 PSC Conditions of Contract comprise the contract. The order of precedence of the documents comprising the contract in descending priority is:
 - (i) this Form of Contract;
 - (ii) the Contract Data Part 1;
 - (iii) the Contract Data Part 2;
 - (iv) the Task Orders (and, as between Task Orders, the most recent Task Order takes priority);
 - (v) the NEC3 PSC Conditions of Contract; and
 - (vi) the Schedules to the Contract Data.
4. Unless otherwise specified, capitalised terms used in this Form of Contract have the meanings given to them in the NEC3 PSC Conditions of Contract and italicised terms have the meanings given to them in the Contract Data Parts 1 and 2.

IN WITNESS WHEREOF, the Parties have caused this Form of Contract to be executed and delivered as a deed by their duly authorised officers as of the date first above written.

EXECUTION VERSION

EXECUTED and DELIVERED as a DEED by
BAZALGETTE TUNNEL LIMITED acting
by its authorised signatory:

}

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SIGNED as a DEED by CH2M HILL
United Kingdom acting by

[Redacted] [Redacted] [Redacted]
a Director and

[Redacted] [Redacted] [Redacted]
Company Secretary



Index of Annexures to Form of Contract

Annexure 1 – NEC3 PSC Conditions of Contract

Annexure 2 – Contract Data

Annexure 3 – Task Order 1

Annexure 4 – Task Order 2

Annexure 5 – Task Order 3

Annexure 6 – TWUL Task Order 11

Annexure 7 – Legacy Framework Subconsultancy Agreements

This amended contract is based on the NEC family of contracts, the copyright of which belongs to the Institution of Civil Engineers.

EXECUTION VERSION

Annexure 1
NEC3 PSC Conditions of Contract



Professional Services Contract

This contract should be used for the appointment of a supplier to provide professional services

An NEC document

April 2013

Construction Clients' Board endorsement of NEC3

The Construction Clients' Board recommends that public sector organisations use the NEC3 contracts when procuring construction. Standardising use of this comprehensive suite of contracts should help to deliver efficiencies across the public sector and promote behaviours in line with the principles of *Achieving Excellence in Construction*.

Cabinet Office UK

EXECUTION VERSION

NEC is a division of Thomas Telford Ltd, which is a wholly owned subsidiary of the Institution of Civil Engineers (ICE), the owner and developer of the NEC

The NEC is a family of standard contracts, each of which has these characteristics:

- Its use stimulates good management of the relationship between the two parties to the contract and, hence, of the work included in the contract.
- It can be used in a wide variety of commercial situations, for a wide variety of types of work and in any location
- It is a clear and simple document – using language and a structure which are straightforward and easily understood

NEC3 Professional Services Contract is one of the NEC family and is consistent with all other NEC3 documents. Also available are the Guidance Notes and Flow Charts

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PREFACE

The NEC contracts are the only suite of standard contracts designed to facilitate and encourage good management of the projects on which they are used. The experience of using NEC contracts around the world is that they really make a difference. Previously, standard contracts were written mainly as legal documents best left in the desk drawer until costly and delaying problems had occurred and there were lengthy arguments about who was to blame.

The language of NEC contracts is clear and simple, and the procedures set out are all designed to stimulate good management. Foresighted collaboration between all the contributors of the project is the aim. The contracts set out how the interfaces between all the organisations involved will be managed – from the client through the designers and main contractors to all the many subcontractors and suppliers.

Versions of the NEC contract are specific to the work of professional service providers such as project managers and designers, to main contractors, to subcontractors and to suppliers. The wide range of situations covered by the contracts means that they do not need to be altered to suit any particular situation.

The NEC contracts are the first to deal specifically and effectively with management of the inevitable risks and uncertainties which are encountered to some extent on all projects. Management of the expected is easy, effective management of the unexpected draws fully on the collaborative approach inherent in the NEC contracts.

Most people working on projects using the NEC contracts for the first time are hugely impressed by the difference between the confrontational characteristics of traditional contracts and the teamwork engendered by the NEC. The NEC does not include specific provisions for dispute avoidance. They are not necessary. Collaborative management itself is designed to avoid disputes and it really works.

It is common for the final account for the work on a project to be settled at the time when the work is finished. The traditional long period of expensive professional work after completion to settle final payments just is not needed.

The NEC contracts are truly a massive change for the better for the industries in which they are used.

Dr Martin Barnes CBE

Originator of the NEC contracts

ACKNOWLEDGEMENTS

The first edition of the NEC Professional Services Contract was drafted by P. Higgins working on behalf of the Institution of Civil Engineers, with the assistance of F. Griffiths of the Chartered Institute of Purchasing and Supply and M. Coleman of the Association of Project Managers. Dr Martin Barnes then of Coopers and Lybrand advised on the co-ordination of the contract with the NEC.

The second edition of the NEC Professional Services Contract was mainly drafted by Bill Weddell with the assistance of Peter Higgins and Tom Nicholson as members of the NEC Panel with advice from Professor Phillip Capper then of Masons Solicitors.

The NEC Panel also had the benefit of comments of the Construction Industry Councils Task Force, which was established to investigate harmonisation of Conditions of Engagement (1994–95).

The third edition of the NEC Professional Services Contract was mainly drafted by Bill Weddell with the assistance of members of the NEC Panel. The Flow Charts were produced by Robert Gerrard with assistance from Ross Hayes and Tom Nicholson.

The original NEC was designed and drafted by Dr Martin Barnes then of Coopers and Lybrand with the assistance of Professor J. G. Perry then of the University of Birmingham, T. W. Weddell then of Travers Morgan Management, T. H. Nicholson, *Consultant* to the Institution of Civil Engineers, A. Norman then of the University of Manchester Institute of Science and Technology and P. A. Baird, then Corporate Contracts *Consultant*, Eskom, South Africa.

The members of the NEC Panel are:

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SCHEDULE OF OPTIONS

The strategy for choosing the form of contract starts with a decision between four main Options, one of which must be chosen

Option A Priced contract with activity schedule

Option C Target contract

Option E Time based contract

Option G Term contract

Note Options B, D and F are not used

One of the following dispute resolution Options must be selected to complete the chosen main Option.

Option W1 Dispute resolution procedure (used unless United Kingdom Housing Grants, Construction and Regeneration Act 1996 applies)

Option W2 Dispute resolution procedure (used in the United Kingdom when the Housing Grants, Construction and Regeneration Act 1996 applies).

The following secondary Options should then be considered. It is not necessary to use any of them. Any combination other than those stated may be used

Option X1 Price adjustment for inflation

Option X2 Changes in the law

Option X3 Multiple currencies (used only with Options A and G)

Option X4 Parent company guarantee

Option X5 Sectional Completion (not used with Option G)

Option X6 Bonus for early Completion (not used with Option G)

Option X7 Delay damages

Option X8 Collateral warranty agreements

Option X9 Transfer of rights

Option X10 Employer's Agent

Option X11 Termination by the Employer

Option X12 Partnering

Option X13 Performance bond

Option X18 Limitation of liability

Option X20 Key Performance Indicators (not used with Option X12)

Option Y The following Options dealing with national legislation should be included if required:

Option Y(UK)2 The Housing Grants, Construction and Regeneration Act 1996

Option Y(UK)3 The Contracts (Rights of Third Parties) Act 1999

Option Z Additional conditions of contract

Note Options W1, X3, X5, X6, X10 to X12, X14 to X17, X19, and Y(UK)1 and Y(UK)2 are not used

AMENDMENTS JUNE 2006

Professional Services Contract

The following amendments have been made to the June 2005 edition

Page	Clause	Line
10	32.1	4 deleted: 'and of notified early warning matters'
17	70.4	2 'otherwise' inserted after 'stated'
23	50.4	1 'of Time Charge made by the <i>Consultant</i> ' replaced by 'for staff whose <i>staff rate</i> is stated in the Contract Data' 3 'him' replaced by 'the <i>Consultant</i> '
25	50.4 50.5	1 '50.4' replaced by '50.5' 1 'of Time Charge made by the <i>Consultant</i> ' replaced by 'for staff whose <i>staff rate</i> is stated in the Contract Data' 3 Deleted 'Such payments are converted to the <i>currency of this contract</i> in order to calculate the <i>Consultant's</i> share using the <i>exchange rates</i> ' 3 'him' replaced by 'the <i>Consultant</i> '
26	50.4 50.6	1 '50.4' replaced by '50.6' 1 'Payments of Time Charge made by the <i>Consultant</i> ' replaced by 'Payments for ● staff whose <i>staff rate</i> in the Contract Data or ● items whose prices in the Task Schedule are stated' 3 'him' replaced by 'the <i>Consultant</i> ' 3 Deleted 'Such payments are converted to the <i>currency of this contract</i> in order to calculate the <i>Consultant's</i> share using the <i>exchange rates</i> '
42	Contract Data Part one, 1.	3 added. '(with amendments June 2006)'
43	Contract Data Part one, 3.	1 '● The <i>Consultant</i> submits revised programmes at intervals no longer than . . . weeks' inserted after '● The <i>starting date</i> is . . .'
50	Contract Data Part two	'If Option A or C is used ● The tendered total of the Prices is . . . ' is inserted at the end of the Contract Data

CORE CLAUSES

1 General

Actions	10	
	10.1	The <i>Employer</i> and the <i>Consultant</i> shall act as stated in this contract and in a spirit of mutual trust and co-operation. <u>The concept of reasonableness in this contract shall be interpreted accordingly.</u>
Identified and defined terms	11	
	11.1	In these <i>conditions of contract</i> , terms identified in the Contract Data are in italics and defined terms have capital initials
	11.2	(1) The <i>Accepted Programme</i> is the programme identified in the Contract Data or is the latest programme accepted by the <i>Employer</i>. The latest programme accepted by the <i>Employer</i> supersedes previous <i>Accepted Programmes</i>. <u>(1) The Act is the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009.</u> <u>(2) The Alliance Agreement is the agreement known as the 'Alliance Agreement' dated on or about the Contract Date between the <i>Employer</i>, Thames Water, the System Integrator and the Main Works Contractors.</u> <u>(3) An Applicable Law is any enactment or subordinate legislation, rule, regulation, order, directive or other provision (including those of the European Community) which has, in each case, the force of law in the United Kingdom, but excluding any objectives, instructions, directions or guidance issued from time to time by the Regulator or The Secretary of State pursuant to the Water Industry Act.</u> (2) Completion is when the <i>Consultant</i> has done all the work which the <i>Scope</i> states he is to do by the Completion Date and corrected Defects which would have prevented the <i>Employer</i> from using the services and Others from doing their work. If the work which the <i>Consultant</i> is to do by the Completion Date is not stated in the <i>Scope</i>, Completion is when the <i>Consultant</i> has done all the work necessary for the <i>Employer</i> to use the services and for Others to do their work. (3) The Completion Date is the <i>completion date</i> unless later changed in accordance with this contract. <u>(4) The CDM Regulations are the Construction (Design and Management) Regulations 2015 as they may be varied, amended or replaced from time to time.</u> <u>(5) The Central Main Works Contract is the construction contract of that name to be entered into between the <i>Employer</i> and the Central Main Works Contractor for the central component of the Main Works.</u> <u>(6) The Central Main Works Contractor is the construction contractor who is party to the Central Main Works Contract.</u> <u>(7) A Change of Control is, in respect of the <i>Consultant</i></u> <ul style="list-style-type: none">• <u>its consolidation with or merger into any other Utility,</u>• <u>any Utility's merger into it, and/or</u>• <u>a change in the ownership of its shares or other voting interests whereby the present owners of those interests cease to possess the power and authority through those ownership interests or otherwise to exercise a controlling influence over its management, and a Utility exercises such power, authority or controlling influence.</u>

(8) A Consent is either a Consultant Consent or a Project Consent, or both, as applicable.

(9) A Consultant Consent is any permit, approval or consent required by Applicable Law or otherwise necessary to be obtained by the Consultant from a third party for the Consultant to Provide the Services in accordance with this contract.

(10) The Contract Date is the date when execution by the Parties of this contract came into existence.

(11) A Defect is a part of the services which is not in accordance with the Scope or the Applicable Law or any other requirement of the contract.

(12) The East Main Works Contract is the construction contract of that name to be entered into between the Employer and the East Main Works Contractor for the east component of the Main Works.

(13) The East Main Works Contractor is the construction contractor who is party to the East Main Works Contract.

(14) The Existing PMC is the project management contract dated 10 March 2008 (as amended, superseded, revised or replaced from time to time) between Thames Water and the Consultant together with all Task Orders pursuant to it (as amended from time to time) (other than Task Order 4 dated on or about 24 November 2008 and as amended, superseded, revised or replaced from time to time) issued pursuant to it, on or before the date of this contract.

(15) A Force Majeure Event is the occurrence after the Contract Date of

- war, civil war, rebellion, revolution, insurrection, military or usurpation of power, armed conflict or terrorism,
- nuclear, chemical or biological contamination, unless the source or the cause of the contamination is the result of the actions of or breach by the Consultant or any Subconsultant,
- strikes, riots and civil commotion not confined to the Consultant's employees or Subconsultants or
- natural catastrophes, including earthquakes, hurricanes or tornadoes but not severe weather that could be reasonably expected to arise periodically,

which:

- stops the Consultant completing the services or any part of them or
- stops the Consultant completing the services or any part of them by the date shown on the relevant accepted programme (if any) or as otherwise required by this Contract or a Task Order

and which:

- neither Party could prevent and
- an experienced professional consultant would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it

(16) A Framework Subconsultancy Agreement is any framework agreement between a provider of professional staff in relation to the services to which the Employer and the Consultant are both party.

(17) The Health, Safety and Environmental Requirements are detailed in the Employer's policies with respect to health and safety and the protection of the environment as may be prepared from time to time

(18) The Indicative Scope is the general description of the types and categories of tasks and the activities that the Consultant may be required to perform under this contract pursuant to a Task Order as set out in Annex 5 to the Contract Data

(19) The Interface Agreement is the agreement of that name between *inter alia* the Employer and Thames Water dated on or about Licence Award

(19A) A Legacy Framework Subconsultancy Agreement is as set out in the Contract Data

(20) The Liaison Agreement is the agreement so named between the Employer, Secretary of State and Thames Water dated on or about the date of the Project Licence

(21) Licence Award has the meaning given in the Project Licence

~~(6) A Key Date is the date by which work is to meet the Condition stated. The Key Date is the *key date* stated in the Contract Data and the Condition is the *condition* stated in the Contract Data unless later changed in accordance with this contract.~~

(22) The Main Works is the works and services to be undertaken by the Main Works Contractors pursuant to the Main Works Contracts and the System Integrator pursuant to the System Integration Contract

(23) The Main Works Contractors are the Central Main Works Contractor, East Main Works Contractor and West Main Works Contractor and any replacement contractors approved by Thames Water in accordance with the terms of the Interface Agreement (such approval not to be unreasonably withheld or delayed)

(24) The Main Works Contracts is each of the East Main Works Contract, the West Main Works Contract and the Central Main Works Contract between the Employer and each of the Main Works Contractors in relation to each section of the Main Works

(25) A Material Breach is

- any breach of clause Z2
- any act of Wilful Misconduct or Gross Negligence
- any breach of the Health, Safety and Environmental Requirements or any breach of the Security Requirements or
- any breach of any Applicable Laws relating to health and safety, security or the protection of the environment

(26) Others are people or organisations who are not the Employer, the Consultant, the Main Works Contractors, the System Integrator, the Adjudicator or any employee, Subconsultant or supplier of the Consultant (which reference to the Consultant shall include, without limitation, where the Consultant is acting in its capacity under any other agreement related to the Project)

(27) The Parties are the Employer and the Consultant

(28) The Project is the financing, planning, design, construction, commissioning, acceptance, operation, maintenance and ownership of the sewerage assets known as the Thames Tideway Tunnel and its integration into the asset to be known as the London Tideway Tunnels as specified in the Project Specification Notice

(29) A Project Consent is any permit, approval or consent other than a Consultant Consent, required by Applicable Law or otherwise necessary to be obtained from a third party required to enable delivery of the Project

(30) The Project Cost Incentive is detailed in Schedule 1 of Annex 1 to the Contract Data

(31) The Project Licence is the project licence granted at Licence Award to the Employer by the Regulator (as defined in the Project Licence) pursuant to section 17FA of the modified WIA (as defined in the Project Licence)

(32) The Project Master Programme is defined in the Alliance Agreement

(33) The Project Programme Incentive is detailed in Annex 1 to the Contract Data

(34) The Project Specification Notice is the notice issued by the Secretary of

State in accordance with Regulation 4(1) of the SIP Regulations

(935) To Provide the Services means to do the work necessary to complete the services in accordance with this contract and all incidental other work, services and actions which are incidental to or necessary for the services or which this contract requires

(36) The Quality Plan is the Employer's plan with respect to quality and standards in relation to the Project as may be prepared from time to time

(37) A Resources Schedule is any resources schedule produced in accordance with any Task Order

(4038) The Risk Register is a register of the risks which are listed in a Task Order ~~the Contract Data~~ and the risks which the Employer or the Consultant has notified as an early warning matter. It includes a description of the risk and a description of the actions which are to be taken to avoid or reduce the risk

(39) The Salary Bands are set out in the Contract Data

(4014) The Scope is information which either,

- specifies and describes the services or
- states any constraints on how the Consultant Provides the Services

and is either,

- in a Task Order
- specified in the conditions of contract (but excluding the Indicative Scope)
- in the documents which the Contract Data states it is in or
- in an instruction given in accordance with this contract.

(41) The Security Requirements are detailed in the Employer's policies with respect to security in relation to the Project as may be prepared from time to time

(4212) A Subconsultant is a person or organisation who has a contract with the Consultant to provide part of the services

(43) The System Integration Contract is the contract to be entered into by the Employer and the entity responsible for integration of SCADA

(44) The System Integrator is the contractor engaged pursuant to the System Integration Contract

(45) Thames Water is Thames Water Utilities Limited

(4613) The Time Charge is the sum of the products of each of the staff rates multiplied by the total staff time appropriate to that rate properly spent on work in this contract.

(47) TWUL Task Order 7 is Task Order 7 (as amended, superseded, revised or replaced from time to time) dated on or about 28 June 2012 and issued pursuant to the Existing PMC

(48) TWUL Task Order 11 is Task Order 11 (as amended, superseded, revised or replaced from time to time) dated on or about 06 February 2015 and issued pursuant to the Existing PMC

(49) A Utility is any entity, other than Thames Water, which provides, or is seeking to provide, regulated water and wastewater services in the United Kingdom or any entity which controls such other entity

(50) The West Main Works Contract is the construction contract of that name to be entered into between the Employer and the West Main Works Contractor for the west component of the Main Works

(51) The West Main Works Contractor is the construction contractor who is party to the West Main Works Contract

(52) Wilful Misconduct or Gross Negligence is any act or failure to act by a

Party or their respective personnel that was an intentional breach of this contract or any other document comprising this contract (including any Task Order) or was intended to cause or was in reckless disregard or wanton indifference to the harmful consequences that a Party or their respective personnel knew, or ought to have known, such act or failure to act was likely to have for the Consultant or any third party, but shall not include an error of judgement or mistake made by personnel of a Party in the exercise in good faith of any function, authority or discretion conferred on such senior personnel.

Interpretation and the law 12

- 12 1 In this contract, except where the context shows otherwise, words in the singular also mean in the plural and the other way around and words in the masculine also mean in the feminine and neuter
- 12 2 This contract and any non-contractual obligations arising out of or in connection with it are governed by the law of the contract
- 12 3 No change to this contract, unless provided for by the *conditions of contract*, has effect unless it has been agreed, confirmed in writing and signed by the Parties
- 12 4 This contract is the entire agreement between the Parties
- 12 5 A period of time stated in days is a period calculated in accordance with Section 116 of the Act

Communications 13

- 13 1 Each instruction, certificate, submission, proposal, record, acceptance, notification, reply and other communication ~~that~~ which this contract requires is communicated in a form which can be read, copied and recorded or is available to be read by the recipient Party on the Employer's hosted web server (save in the case of the notification of a dispute or termination in accordance with clause 90.1 which is in hard copy only). Writing is in the language of this contract ~~Other than as specified in the preceding sentence with respect to the hosted web server, electronic mail is not a valid means of communication or notification under this contract~~
- 13 2 A communication has effect when it is received at the last address notified by the recipient for receiving communications or, if none is notified, at the address of the recipient stated in the Contract Data.
- 13 3 If this contract requires the *Employer* or the *Consultant* to reply to a communication, unless otherwise stated in this contract, he replies within the *period for reply*
- 13 4 The *Employer* replies to a communication submitted or resubmitted to him by the *Consultant* for acceptance. If his reply is not acceptance, the *Employer* states his reasons and the *Consultant* resubmits the communication within the *period for reply* taking account of these reasons. ~~A reason~~ Reasons for withholding acceptance ~~are~~ is that more information is needed in order to assess the Consultant's submission fully
 - that more information is needed in order to assess the Consultant's submission fully
 - the proposal in the communication is not in accordance with the requirements of this contract or
 - without limiting the preceding reasons, if the communication relates to a Consent (or to an approval or agreement required pursuant to a Consent), that the communication is not supported with evidence that the person giving the Consent has agreed or approved the subject matter of the communication
- 13 5 The *Employer* may extend the *period for reply* to a communication if the *Employer* and the *Consultant* agree to the extension before the reply is due. The *Employer* notifies the *Consultant* of the extension which has been agreed
- 13 6 The *Consultant* retains copies of drawings, specifications, reports and other documents which record the *services* for the *period for retention*. The copies are

		retained in the form stated in the <u>relevant Task Order Scope</u>
	13.7	A notification which this contract requires is communicated separately from other communications
	13.8	The <i>Employer</i> may withhold acceptance of a submission by the <i>Consultant</i> . Withholding acceptance for a reason stated in this contract is not a compensation event
Acceptance	14	
	14.1	The <i>Employer's</i> acceptance of <u>or refusal to accept</u> , a communication from the <i>Consultant</i> or of his work does not change the <i>Consultant's</i> responsibility to Provide the Services
Early warning	15	
	15.1	The <i>Employer</i> and the <i>Consultant</i> give an early warning by notifying the other as soon as either becomes aware of any matter which could, <ul style="list-style-type: none"> • increase the total of the Prices, • <u>impact on the adequacy of any of the Salary Bands</u>, • <u>impact on the adequacy of any Resources Schedule</u>, • <u>delay the performance of the services under any Task Order or the completion of the services under any Task Order Completion</u>, • <u>change the time for performance the Accepted Programme in relation to a Task</u>, • delay meeting a Key Date • impair the usefulness of the services to the <i>Employer</i> or • affect the work of the <i>Employer</i>, an <i>Employer's</i> contractor or another consultant <p>The <i>Consultant</i> may give an early warning by notifying the <i>Employer</i> of any other matter which could increase his total cost. The <i>Employer</i> enters early warning matters in the Risk Register. Early warning of a matter for which a compensation event has previously been notified is not required.</p>
	15.2	Either the <i>Employer</i> or the <i>Consultant</i> may instruct the other to attend a risk reduction meeting. Each may instruct other people to attend if the other Party agrees
	15.3	At a risk reduction meeting, those who attend co-operate in, <ul style="list-style-type: none"> • making and considering proposals for how the effect of the registered risks can be avoided or reduced, • seeking solutions that will bring advantage to all those who will be affected, • deciding on the actions which will be taken and who, in accordance with this contract, will take them and • deciding which risks have now been avoided or have passed and can be removed from the Risk Register
	15.4	The <i>Employer</i> revises the Risk Register to record the decisions made at each risk reduction meeting and issues the revised Risk Register to the <i>Consultant</i> . If a decision needs a change to the Scope, the <i>Employer</i> instructs the change at the same time as he issues the revised Risk Register
Ambiguities and inconsistencies	16	
	16.1	The <i>Employer</i> or the <i>Consultant</i> notifies the other as soon as either becomes aware of an ambiguity or inconsistency in or between the documents which are part of this contract. The <i>Employer</i> gives an instruction resolving the ambiguity or inconsistency
Illegal and impossible requirements	17	
	17.1	The <i>Consultant</i> notifies the <i>Employer</i> as soon as he considers that the Scope requires him to do anything which is illegal or impossible. If the <i>Employer</i> agrees, he gives an instruction to <u>suspend performance of such part of the services as may be affected until such time as any necessary change to the Scope appropriately has been approved by the <i>Employer</i></u>

EXECUTION VERSION

Prevention 18
18.1

If an event ~~act~~ of prevention by the *Employer* occurs which

- stops the *Consultant* ~~providing the §services~~ or
- stops the *Consultant* ~~providing the §services~~ by the date shown on the relevant Accepted Programme for the relevant Task.

and which

- ~~the *Consultant* neither Party could not prevent~~ and
- an experienced *consultant* would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it and
- is not one of the compensation events (other than the compensation event in clause 60.1(1)).

the *Employer* gives an instruction to the *Consultant* stating how he is to deal with the event

2 The Parties' main responsibilities

The Employer's obligations	20	
	20.1	The <i>Employer</i> provides information and things which this contract expressly requires him to provide in accordance with, and at the times required under this contract the Accepted Programme
	20.2	The <i>Employer</i> may give an instruction to the <i>Consultant</i> which changes the Scope or a Key-Date After Completion an instruction is given only if it is necessary to Provide the Services
	20.3	The <i>Employer</i> does not give an instruction to the <i>Consultant</i> which would require him to act in a way that was outside his professional code of conduct
The Consultant's obligations	21	
	21.1	The <i>Consultant</i> Provides the Services in accordance with the Scope.
	21.2	The <i>Consultant's</i> obligation is to use all reasonable the skill, and care and diligence to be expected of normally used by qualified and competent professionals experienced in providing services similar of a similar size, scope, nature and complexity as the services to the services
People	22	
	22.1	The <i>Consultant</i> either employs each <i>key person</i> named to do the job for him stated in the Contract Data <u>or the description of the Task under any Task Order</u> or employs a replacement person who has been accepted by the <i>Employer</i> . The <i>Consultant</i> submits the name, relevant qualifications and experience of a proposed replacement person to the <i>Employer</i> for acceptance <u>and uses all reasonable endeavours to ensure there is a reasonable uninterrupted transition between the key person and their replacement (which uninterrupted period is, in any event, not shorter than one month)</u> . A reason for not accepting the person is that his relevant qualifications and experience are not as good as those of the person who is to be replaced <u>or that the person being replaced remains employed or engaged by the <i>Consultant</i></u>
	<u>22.2</u>	<u>The <i>Consultant</i> agrees to use all reasonable endeavours to retain each key person named to do the job stated in the description of the Task unless such key person leaves the employment of, or is no longer engaged by, the <i>Consultant</i> or no longer provides services to the <i>Consultant</i>.</u>
	<u>22.3</u>	<u>If and to the extent that the <i>Consultant</i> replaces any key person named to do the job for him stated in the Contract Data or the description of the Task under any Task Order for reasons other than that person leaving the employment of the <i>Consultant</i>, that person no longer providing services to the <i>Consultant</i> or the <i>Employer</i> gives his prior written consent for that person to no longer provide the services, the <i>Consultant</i> pays to the <i>Employer</i> the key person compensation.</u>
	<u>22.4</u>	<u>The compensation amounts referred to in the relevant Task Order are genuine pre-estimates of the costs incurred by the <i>Employer</i> in managing the handover, ensuring the replacement is inducted, repeating instructions, developing the new relationship and addressing issues arising from interruptions in the continuity of the <i>Consultant's</i> key personnel.</u>
	<u>22.5</u>	The <i>Employer</i> may, having stated his reasons, instruct the <i>Consultant</i> to remove a person employed by the <i>Consultant</i> . The <i>Consultant</i> then arranges that, after one day, the person has no further connection with the any work included in this contract.
	<u>22.6</u>	<u>If the <i>Employer</i> instructs him to do so, the <i>Consultant</i>, at no additional cost and expense to the <i>Employer</i> and without any entitlement to a compensation event, takes immediate steps to replace any removed person with a suitably competent, qualified and experienced person accepted by the <i>Employer</i>.</u>
	<u>22.7</u>	<u>A reason for instructing the removal of an employee is that he</u> <ul style="list-style-type: none"> <u>• has been guilty of any misconduct or been negligent or incompetent,</u> <u>• is in contravention of the <i>Employer's</i> alcohol and drugs policy,</u>

		<ul style="list-style-type: none"> • <u>has breached Health Safety and Environmental Requirements</u> • <u>has committed fraud</u> • <u>has committed any act of bribery or any other act of corruption</u> • <u>has been convicted of a dishonesty offence</u> • <u>has failed or refused to submit to drug or alcohol screening in accordance with Employer's Health Safety Security and the Environment Policy or</u> • <u>is believed to be a security risk</u>
Working with the Employer and Others	23	
	23.1	The <i>Consultant</i> co-operates with Others in obtaining and providing information which they need in connection with the <i>services</i>
	23.2	Where necessary to Provide the <i>Services</i> , the <i>Consultant</i> holds or attends meetings with Others. The <i>Consultant</i> informs the <i>Employer</i> of these meetings beforehand and the <i>Employer</i> may attend them
	23.3	<p>If the <i>Employer</i> decides that the work does not meet the Condition stated for a Key-Date by the date stated and as a result the <i>Employer</i> incurs additional cost either:</p> <ul style="list-style-type: none"> • in carrying out work or • by paying an additional amount to Others in carrying out work <p>on the same project the additional cost the <i>Employer</i> has paid or will incur is paid by the <i>Consultant</i>. The <i>Employer</i> assesses the additional cost within four weeks of the date when the Condition stated for that Key-Date is met. The <i>Employer's</i> right to recover the additional cost is his only right in these circumstances.</p>
Subconsulting	24	
	24.1	If the <i>Consultant</i> subcontracts <u>any part of the <i>services</i> work</u> , he is responsible for Providing the <i>Services</i> as if he had not subcontracted. This contract applies as if a Subconsultant's employees were the <i>Consultant's</i>
	24.2	The <i>Consultant</i> submits the name of each proposed Subconsultant to the <i>Employer</i> for acceptance. A reason for not accepting the Subconsultant is that his appointment will not allow the <i>Consultant</i> to Provide the <i>Services</i> . The <i>Consultant</i> does not appoint a proposed Subconsultant until the <i>Employer</i> has accepted him, <u>the proposed Subconsultant has been accepted or permitted pursuant to the terms of any Task Order or has been appointed pursuant to a Framework Subconsultancy Agreement or a Legacy Framework Subconsultancy Agreement.</u>
	24.3	<u>The <i>Consultant</i> submits to the <i>Employer</i> in reasonable detail a comparison (including any deviations) of the rates and prices and terms of the proposed Subconsultant against the prevailing market rates and prices and prevailing market terms for the provision of services equivalent to the services to be provided by the Subconsultant</u>
	24.4 3	<p>The <i>Consultant</i> submits the proposed conditions of contract for each subcontract to the <i>Employer</i> for acceptance unless,</p> <ul style="list-style-type: none"> • <u>an NEC contract is proposed and that contract provides for the novation of or, as requested by the <i>Employer</i>, for the provision of a collateral warranty or direct agreement in relation to the relevant subcontract and any security provided under the subcontract including, but not limited to, parent company guarantees or performance bonds to Thames Water and/or the <i>Employer</i> upon termination if requested by the <i>Employer</i> or</u> • the <i>Employer</i> has agreed that no submission is required <p>The <i>Consultant</i> does not appoint a Subconsultant on the proposed subcontract conditions submitted until the <i>Employer</i> has accepted them. A reason for not accepting them is that,</p> <ul style="list-style-type: none"> • <u>they do not provide for novation of, or the provision of a collateral warranty or direct agreement in relation to, the relevant subcontract, or</u>

any security provided under the subcontract including, but not limited to, parent company guarantees or performance bonds, to the Employer and/or Thames Water if requested by the Employer.

- they will not allow the *Consultant* to Provide the Services, or
- they do not meet the Health, Safety and Environmental Requirements,
- they do not meet the Security Requirements,
- they do not include a statement that the parties to the subcontract shall act in a spirit of mutual trust and co-operation, or
- the proposed terms or the proposed rates and prices are not consistent with the prevailing market rates and prices and prevailing market terms for the provision of services equivalent to the services to be provided by the Subconsultant.

Other responsibilities 25

- 25.1 The *Consultant* obtains approval ~~Consultant's Consents~~ from Others where necessary to Provide the Services
- 25.2 The *Employer* provides access to a person, place or thing to the *Consultant* as stated in the ~~Contract Data~~ relevant Task on or before the later of its *access date* and the access date for it shown on the relevant Accepted Programme for the relevant Task Order
- 25.3 The *Consultant* obeys an instruction which is in accordance with this contract and is given to him by the *Employer*.
- 25.4 The *Consultant* acts in accordance with the health and safety requirements stated ~~Employer's Health, Safety Security and the Environment requirements in the Scope~~
- 25.5 The *Consultant* acts in accordance with the Security Requirements
- 25.6 The *Consultant* complies with all Applicable Laws and Consents
- 25.7 The *Employer* may, under a Task Order, instruct the *Consultant* to obtain on the *Employer's* behalf or assist the *Employer* in obtaining any Project Consents.
- 25.8 The *Consultant* complies with all other policies and procedures of the *Employer* relating to the Project and which are applicable to the services and notified by the *Employer* to the *Consultant*.

3 Time

<u>Service Period</u>	Starting, Completion and Key-Dates	30	
		30.1	The <i>Consultant</i> does not start work until the <i>starting date</i> and <u>Provides the Services throughout the service period</u> does the work so that Completion is on or before the <i>Completion-Date</i>
		30.2	The <i>Employer</i> decides the date of <i>Completion</i> and certifies it within one week of the date.
		30.3	The <i>Consultant</i> does the work so that the <i>Condition</i> stated for each <i>Key-Date</i> is met by the <i>Key-Date</i>
The programme		31	
		31.1	If a programme is not identified in the <i>Contract Data</i> the <i>Consultant</i> submits a first programme to the <i>Employer</i> for acceptance within the period stated in the <i>Contract Data</i> .
		31.2	The <i>Consultant</i> shows on each programme which he submits for acceptance <ul style="list-style-type: none"> • the <i>starting date</i>, <i>access dates</i>, <i>Key-Dates</i> and <i>Completion-Date</i>. • planned <i>Completion</i>. • the order and timing of the operations which the <i>Consultant</i> plans to do in order to <i>Provide the Services</i>. • the order and timing of the work of the <i>Employer</i> and <i>Others</i> as last agreed with them by the <i>Consultant</i> or, if not so agreed, as stated in the <i>Scope</i>. • the dates when the <i>Consultant</i> plans to meet each <i>Condition</i> stated for the <i>Key-Dates</i> and to complete other work needed to allow the <i>Employer</i> and <i>Others</i> to do their work. • provisions for <ul style="list-style-type: none"> • float. • time risk allowances. • health and safety requirements and • the procedures set out in this contract. • the dates when, in order to <i>Provide the Services</i> in accordance with his programme, the <i>Consultant</i> will need <ul style="list-style-type: none"> • access to a person, place or thing if later than its <i>access date</i>. • information and things to be provided by the <i>Employer</i> and • information and approval from <i>Others</i>. • for each operation a statement of how the <i>Consultant</i> plans to do the work identifying the resources which he plans to use and • other information which the <i>Scope</i> requires the <i>Consultant</i> to show on a programme submitted for acceptance
		31.3	Within two weeks of the <i>Consultant</i> submitting a programme to him for acceptance, the <i>Employer</i> either accepts the programme or notifies the <i>Consultant</i> of his reasons for not accepting it. A reason for not accepting a programme is that <ul style="list-style-type: none"> • the <i>Consultant's</i> plans which it shows are not practicable. • it does not show the information which this contract requires. • it does not represent the <i>Consultant's</i> plans realistically or • it does not comply with the <i>Scope</i>.
Revising the programme		32	
		32.1	The <i>Consultant</i> shows on each revised programme <ul style="list-style-type: none"> • the actual progress achieved on each operation and its effect upon the timing of the remaining work. • the effects of implemented compensation events • how the <i>Consultant</i> plans to deal with any delays and to correct notified <i>Defects</i> and • any other changes which the <i>Consultant</i> proposes to make to the

~~Accepted Programme~~

- 32-2 ~~The Consultant submits a revised programme to the Employer for acceptance~~
- ~~• within the period for reply after the Employer has instructed him to~~
 - ~~• when the Consultant chooses to and in any case~~
 - ~~• at no longer interval than the interval stated in the Contract Data from the starting date until Completion of the whole of the services~~
- Instructions to stop or not to start work 323
- 323.1 The Employer may instruct the Consultant to stop or not to start any work and may later instruct him that he may re-start or start it.
- Acceleration 34
- 34 1 The Employer may instruct the Consultant to submit a quotation for acceleration to achieve Task Completion before the Task Completion Date. ~~The Employer states changes to the Key Dates to be included in the quotation~~. A quotation for an acceleration comprises proposed changes to the Prices and where necessary a revised programme or revised Resources Schedule (as defined in the relevant Task Order) showing the earlier Completion Date and the changed Key Dates. The Consultant submits details of his assessment with each quotation.
- 34 2 The Consultant submits a quotation or gives his reasons for not doing so within the *period for reply*
- 34 3 If the Employer accepts a quotation submitted by the Consultant, he is also deemed to accept the revised programme or revised Resources Schedule submitted (as defined in the relevant Task Order), as applicable, by the Consultant and the Prices and the Task Completion Date are adjusted accordingly.

4 Quality

- | | | |
|----------------------------------|-----------|---|
| Quality management system | 40 | |
| | 40.1 | The <i>Consultant</i> complies with the operates a quality management system for Providing the Services as stated in the <i>Employer's</i> Scope <u>Quality Plan</u> . The quality management system complies with the requirements stated in the Scope . |
| | 40.2 | The <i>Consultant</i> provides the <i>Employer</i> within the period stated in the Contract <u>Data</u> with a quality policy statement and a quality plan for acceptance. The quality policy statement and quality plan comply with the requirements stated in the Scope . |
| | 40.3 | The <i>Consultant</i> complies with an instruction from the <i>Employer</i> to the <i>Consultant</i> to correct a failure to comply with the <u><i>Employer's</i> Quality Plan</u> . |
| Correcting Defects | 41 | |
| | 41.1 | Until the <i>defects date</i> , the <i>Employer</i> notifies the <i>Consultant</i> of each Defect as soon as he finds it and the <i>Consultant</i> notifies the <i>Employer</i> of each Defect as soon as he finds it. <u>At Task Completion of each Task</u> , the <i>Consultant</i> notifies the <i>Employer</i> of the Defects which have not been corrected. <u>After Task Completion of each Task</u> and until the <i>defects date</i> , the <i>Consultant</i> notifies the <i>Employer</i> of each Defect as soon as he finds it. The <i>Employer's</i> rights in respect of a Defect which the <i>Employer</i> has not found or notified by the <i>defects date</i> are not affected. |
| | 41.2 | The <i>Consultant</i> corrects a Defect whether or not the <i>Employer</i> notifies him of it. The <i>Consultant</i> corrects Defects within a time which minimises the adverse effect on the <i>Employer</i> or Others. If the <i>Consultant</i> does not correct a Defect within the time required by this contract, the <i>Employer</i> assesses the cost to him of having the Defect corrected by other people and the <i>Consultant</i> pays this amount. |

5 Payment

Assessing the amount due 50

50.1 The *Consultant* assesses the amount due and submits an invoice at each assessment date. The first assessment date is decided by the *Consultant* to suit the procedures of the Parties and is not later than the *assessment interval* after the *starting date*. Later assessment dates occur at the end of each calendar month following the *starting date*

- ~~at the end of each *assessment interval* until eight weeks after the *defects date* and~~
- ~~at Completion of the whole of the *services*~~

50.2 Invoices submitted by the *Consultant* include the details stated in the Scope to show how the amount due has been assessed. The first invoice is for the amount due. Other invoices are for the change in the amount due since the previous invoice. Within nine calendar days of receipt of an invoice, the *Employer* shall notify the *Consultant* in writing of the amount of the payment the *Employer* wishes to make and in the case of any disputed item the amount the *Employer* proposes to withhold and the ground or grounds for withholding, identifying the part of the amount attributed to each ground if more than one.

50.3 The amount due is

- the Price for Services Provided to Date,
- the amount of the *expenses* properly spent by the *Consultant* in Providing the *Services* and
- other amounts to be paid to the *Consultant* (including incentive payments) less amounts to be paid by or retained from the *Consultant*

Any tax which the law requires the *Employer* to pay to the *Consultant* is included in the amount due

Dates for payment 51

51.1 The date on which a payment becomes due is nine days after the date of receipt of the *Consultant's* invoice

51.2 The final date for payment is twenty-six days or a different period for payment if stated in the Contract Data after the date on which payment becomes due.

51.3 A *Consultant's* invoice which is submitted on or after its assessment date is the notice of payment specifying the sum that the *Consultant* considers to be due at the payment due date (the notified sum). The *Consultant's* invoice states the basis on which the amount is calculated and includes details of the calculation in accordance with the contract.

Notice of intention to withhold payment and disputed items 52

52.1 If either Party intends to pay less than the notified sum, he notifies the other Party not later than seven days (the prescribed period) before the final date for payment by stating the amount considered to be due and the basis on which that sum is calculated. A Party does not withhold payment of an amount due under this contract unless he has notified his intention to pay less than the notified sum as required by this contract.

52.2 Any disputed item in an invoice shall be identified by the *Employer* (or resolution with *Consultant* and a common log of such items (the "**Disputed Items Log**") shall be maintained by the Parties. Any item registered in the Disputed Items Log that is not resolved may be deducted by the *Employer* from the amount invoiced in calculating the amount to be paid and shall remain in suspense until the item is resolved. The *Employer* shall not refuse to pay an invoice on account of minor discrepancies or disputed items contained within it. The amount of any portion of a disputed item that is resolved shall either be paid with the next invoice or will be removed by credit note. The Parties agree to resolve each disputed item within twenty-one days from the date that it was entered into the Disputed Items Log failing which either party may refer to the disputed item to the dispute resolution procedure as identified in clause W2 of the contract.

Suspension of performance 53

~~53.1~~ 1 If the *Consultant* exercises his right under the Act to suspend performance, it is a compensation event.

Payment 54.1

~~54.1.1~~ 1 Each payment is made within three weeks of receiving the *Consultant's* invoice or, if a different period is stated in the *Contract Data*, within the period stated. Each payment is the amount due less previous payments.

~~54.1.2~~ 2 Payments are in the *currency of this contract* unless otherwise stated in this contract.

~~54.1.3~~ 3 If the *Employer* does not accept the *Consultant's* assessment of the amount due, he notifies the *Consultant* of his reasons and the amount which he assesses is due before the payment becomes due. He pays the amount of his assessment. The agreed part of the invoice is paid. The *Consultant* either

- corrects the invoice to a sum agreed by the *Employer*; or
- provides further information to justify the invoice.

~~54.1.3~~ 3 If a payment is late or has been delayed because of a disagreement, interest is paid. 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.

~~54.1.4~~ 4 Interest is calculated on a daily basis at the *interest rate* and is compounded annually.

6 Compensation events

Compensation events	60	
	60 1	<p>The following are compensation events</p> <p>(1) <i>The Employer</i> gives an instruction changing the Scope</p> <p>(2) <i>The Employer</i> does not provide access to a person, place or thing for the <i>Consultant</i> as stated in this contract</p> <p>(3) <i>The Employer</i> does not provide something which he is to provide <u>within the time (a) specified in a Task or (b) by which it is necessarily required in order for the <i>Consultant</i> to Provide the Services in accordance with a Task by the date for providing it shown on the Accepted Programme</u></p> <p>(4) <i>The Employer</i> gives an instruction to stop or not to start any work or to change a Key Date</p> <p>(5) <i>The Employer</i> or Others do not work within the times <u>specified in a Task Order or as otherwise shown on the Project Master Programme shown on the Accepted Programme or within the conditions stated in the Scope a Task Order, if any</u></p> <p>(6) <i>The Employer</i> does not reply to a communication from the <i>Consultant</i> within the period required by this contract</p> <p>(7) <i>The Employer</i> changes a decision which he has previously communicated to the <i>Consultant</i></p> <p>(8) <i>The Employer</i> withholds an acceptance (other than acceptance of a quotation for acceleration) for a reason not stated in this contract</p> <p>(9) <i>The Employer</i> notifies a correction to an assumption which he has stated about a compensation event</p> <p>(10) A breach of contract by the <i>Employer</i> which is not one of the other compensation events in this contract</p> <p>(11) An event which <u>act of prevention caused by the <i>Employer</i> which</u></p> <ul style="list-style-type: none"> • stops the <i>Consultant</i> completing Providing the Services -services- or • stops the <i>Consultant</i> <u>Providing the Services completing the services by the date shown on the relevant Accepted Programme for the relevant Task,</u> <p>and which</p> <ul style="list-style-type: none"> • neither the <i>Consultant</i> Party could not prevent, • an experienced consultant would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it and • is not one of the other compensation events stated in this contract <p>(12) <i>The Consultant</i> corrects a Defect for which he is not liable under this contract</p> <p>(13) <u>A Force Majeure Event, provided that the <i>Consultant</i> has done all things reasonable to mitigate or prevent the effect of such event</u></p> <p>(14) <u>Any order to suspend the works under clause 53</u></p> <p>(15) <u>Any replacement or amendment to the CDM Regulations after the Contract Date</u></p> <p>(16) <u>Any other reason specified in this contract</u></p>
Notifying compensation events	61	
	61 1	<p>For compensation events which arise from the <i>Employer</i> giving an instruction, changing an earlier decision or correcting an assumption, the <i>Employer</i> notifies the <i>Consultant</i> of the compensation event at the time of that communication. He also instructs the <i>Consultant</i> to submit quotations, unless the event arises from a fault of the <i>Consultant</i> or quotations have already been submitted. The <i>Consultant</i></p>

puts the instruction or changed decision into effect.

- 61.2 The *Employer* may instruct the *Consultant* to submit quotations for a proposed instruction or a proposed changed decision. The *Consultant* does not put a proposed instruction or a proposed changed decision into effect.
- 61.3 The *Consultant* notifies the *Employer* of an event which has happened or which he expects to happen as a compensation event if
- the *Consultant* believes that the event is a compensation event and
 - the *Employer* has not notified the event to the *Consultant*

If the *Consultant* does not notify a compensation event within eight weeks of becoming aware or when he ought reasonably to have become aware of the event, he is not entitled to a change in the Prices or, where applicable to the relevant Task, any Task Completion Date or any key date as defined under that Task, ~~the Completion Date or a Key Date~~ unless the event arises from the *Employer* giving an instruction, changing an earlier decision or correcting an assumption.

- 61.4 If the *Employer* decides that an event notified by the *Consultant*
- has not been notified in accordance with clause 61.3,
 - arises from a fault of the *Consultant* or by an act or omission of the *Consultant* or any Subconsultant or any of their respective employees, agents or contractors,
 - has not happened and is not expected to happen,
 - has no effect upon the *Consultant's* costs, the adequacy of the Salary Bands, the adequacy of any Resources Schedule or any Task Completion Date or meeting a Key Date or
 - is not one of the compensation events stated in this contract

he notifies the *Consultant* of his decision that any of the Prices, the Salary Bands, any Resources Schedule and each Task Completion Date ~~the Completion Date and the Key Date~~ is are not to be changed.

If the *Employer* decides otherwise, he notifies the *Consultant* accordingly and instructs him to submit quotations.

The *Employer* notifies his decision to the *Consultant* and, if his decision is that any of the Prices, any of the Salary Bands, any Resources Schedule or any Task Completion Date ~~the Completion Date or the Key Dates are~~ is to be changed, instructs him to submit quotations before the end of either

- one week of the *Consultant's* notification or
- a longer period to which the *Consultant* has agreed.

If the *Employer* does not notify his decisions, the *Consultant* may notify the *Employer* of his failure. A failure by the *Employer* to reply within two weeks of this notification is treated as acceptance by the *Employer* that the event is a compensation event and an instruction to submit quotations.

- 61.5 ~~If~~ Without limiting the operation of clause 61.3, if the *Employer* decides that the *Consultant* did not give the an early warning of the event which an experienced consultant could have given, he notifies this decision to the *Consultant* when he instructs him to submit quotations.
- 61.6 If the *Employer* decides that the effects of a compensation event are too uncertain to be forecast reasonably, he states assumptions about the event in his instruction to the *Consultant* to submit quotations. Assessment of the event is based on these assumptions. If any of them is later found to have been wrong, the *Employer* notifies a correction.
- 61.7 A compensation event is not notified after the *defects date*.

Quotations for compensation events

- 62
- 62.1 After discussing with the *Consultant* different ways of dealing with the compensation event which are practicable, the *Employer* may instruct the *Consultant* to submit alternative quotations. The *Consultant* submits the required

quotations to the *Employer* and may submit quotations for other methods of dealing with the compensation event which he considers practicable

62.2 Quotations for compensation events comprise proposed changes to the Prices, the Salary Bands, any Resources Schedule and any delay to ~~the any Task Completion Date and Key Dates~~ assessed by the *Consultant*. The *Consultant* submits details of his assessment with each quotation. If the programme for remaining work is altered by the compensation event, the *Consultant* includes the alterations to the Accepted Programme for the relevant Task in his quotation

62.3 The *Consultant* submits quotations within two weeks of being instructed to do so by the *Employer*. The *Employer* replies within two weeks of the submission. His reply is,

- an instruction to submit a revised quotation,
- an acceptance of a quotation,
- a notification that a proposed instruction will not be given or a proposed changed decision will not be made or
- a notification that he will be making his own assessment

62.4 The *Employer* instructs the *Consultant* to submit a revised quotation only after explaining his reasons for doing so to the *Consultant*. The *Consultant* submits the revised quotation within three weeks of being instructed to do so

62.5 The *Employer* extends the time allowed for,

- the *Consultant* to submit quotations for a compensation event and
- the *Employer* to reply to a quotation

if the *Employer* and the *Consultant* agree to the extension before the submission or reply is due. The *Employer* notifies the extension that has been agreed to the *Consultant*

62.6 If the *Employer* does not reply to a quotation within the time allowed, the *Consultant* may notify the *Employer* of his failure. If the *Consultant* submitted more than one quotation for the compensation event, he states in his notification which quotation he proposes is to be accepted. If the *Employer* does not reply to the notification within two weeks and, unless the quotation is for a proposed instruction or a proposed changed decision, the *Consultant's* notification is treated as acceptance of the quotation by the *Employer*

Assessing compensation events

63

63.1 The changes to the Prices are assessed as the effect of the compensation event upon,

- for the Prices assessed as a Time Charge, upon the actual Time Charge for the work already done, and
- for the Prices assessed as a lump sum in the Resources Schedule, upon the rates and prices used to calculate the lump sum and
- upon the forecast Time Charge for the work not yet done

If the compensation event arose from the *Employer* giving an instruction, changing an earlier decision or correcting an assumption, the date which divides the work already done from the work not yet done is the date of that communication. In all other cases, the date is the date of the notification of the compensation event.

63.2 If the effect of a compensation event is to reduce the total Time Charge or the relevant lump sum, the Prices are not reduced except as stated in this contract

~~63.3 A delay to the Completion Date is assessed as the length of time that due to the compensation event planned Completion is later than planned Completion as shown on the Accepted Programme. A delay to a Key Date is assessed as the length of time that due to the compensation event the planned date when the Condition stated for a Key Date will be met is later than the date shown on the Accepted Programme.~~

63.4 The rights of the *Employer* and the *Consultant* to changes to the Prices, the Salary Bands, any Resources Schedule and any Task Completion Date ~~the Completion~~

~~Date and the Key Dates~~ are their only rights in respect of a compensation event

- 63.4~~5~~ If the *Employer* has notified the *Consultant* of his decision that the *Consultant* did not give an early warning of a compensation event which an experienced *consultant* could have given, the event is assessed as if the *Consultant* had given early warning
- 63.5~~6~~ Assessment of the effect of a compensation event includes risk allowances for cost and time for matters which have a significant chance of occurring and are at the *Consultant's* risk under this contract
- 63.6~~7~~ Assessments for work not yet done are based upon the assumptions that the *Consultant* will react competently and promptly to the compensation event ~~and that the Accepted Programme can be changed~~. Assessments for work already done only include ~~only~~ cost and time which were reasonably incurred.
- 63.5~~8~~ A compensation event which is an instruction to change the Scope in order to resolve an ambiguity or inconsistency is assessed as if the Prices, the Completion Date and the Key Dates were for the interpretation most favourable to the Party which did not provide the Scope
- 63.9~~9~~ If a change to the Scope makes the description of the Condition for a Key Date incorrect, the *Employer* corrects the description. This correction is taken into account in assessing the compensation event for the change to the Scope.
- 63.7~~10~~ If the work included in a quotation for a compensation event includes work by staff for which there is no *staff rate*, a proposed rate is included in the quotation
- 63.8~~11~~ The following are deducted from the assessment of compensation events:
- the cost of events for which this contract requires the *Consultant* to insure and
 - other costs paid to the *Consultant* by insurers

The Employer's assessments

- 64
- 64.1 The *Employer* assesses a compensation event:
- if the *Consultant* has not submitted a required quotation and details of his assessment within the time allowed,
 - if the *Employer* decides that the *Consultant* has not assessed the compensation event correctly in a quotation and he does not instruct the *Consultant* to submit a revised quotation,
 - if, when the *Consultant* submits quotations for a compensation event, he has not submitted a programme or alterations to a programme which this contract requires him to submit or
 - if, when the *Consultant* submits quotations for a compensation event, the *Employer* has not accepted the *Consultant's* latest programme for one of the reasons stated in this contract
- 64.2 The *Employer* assesses a compensation event using his own assessment of the programme for the remaining work if:
- there is no Accepted Programme or other schedule for the relevant Task or
 - the *Consultant* has not submitted a programme or schedule or alterations to a programme or schedule for acceptance as required by this contract.
- 64.3 The *Employer* notifies the *Consultant* of his assessment of a compensation event and gives him details of it within the period allowed for the *Consultant's* submission of his quotation for the same event. This period starts when the need for the *Employer's* assessment becomes apparent
- 64.4 If the *Employer* does not assess a compensation event within the time allowed, the *Consultant* may notify the *Employer* of his failure. If the *Consultant* submitted more than one quotation for the compensation event, he states in his notification which quotation he proposes is to be accepted. If the *Employer* does not reply within two weeks of this notification, the notification is treated as acceptance of the *Consultant's* quotation by the *Employer*.

EXECUTION VERSION

Implementing 65
compensation events 65.1

A compensation event is implemented when,

- the *Employer* notifies his acceptance of the *Consultant's* quotation,
- the *Employer* notifies the *Consultant* of his own assessment or
- a *Consultant's* quotation is treated as having been accepted by the *Employer*

65.2 The assessment of a compensation event is not revised if a forecast upon which it is based is shown by later recorded information to have been wrong.

7 Rights to material

- | | | |
|-------------------------------------|-----------|---|
| The Parties' use of material | 70 | |
| | 70.1 | The <i>Employer</i> has the right to use the material <u>systems, software, technology and procedures provided or used by the Consultant</u> for the purposes of the Project stated in the Scope or in any circumstances referred to in this contract. The <i>Consultant</i> obtains from a Subconsultant or supplier equivalent rights for the <i>Employer</i> to use material prepared by the Subconsultant or to use material <u>systems, software, technology and procedures provided or used by the Consultant</u> . |
| | 70.2 | The <i>Consultant</i> has the right to use material provided by the <i>Employer</i> only to Provide the Services. The <i>Consultant</i> may make this right available to a Subconsultant. On <u>Task Completion of the whole of the services</u> , the <i>Consultant</i> returns the material provided by the <i>Employer</i> to him <u>in respect of the relevant Task</u> . |
| | 70.3 | The Parties do not disclose information obtained in connection with the <i>services</i> except when necessary to carry out their duties under this contract. |
| | 70.4 | The <i>Consultant</i> may use the material provided by him under this contract for other work unless stated otherwise in a <u>Task Order</u> the Scope . |
| Publicity | 71 | |
| | 71.1 | The <i>Consultant</i> may publicise the <i>services</i> only with the <i>Employer's</i> written agreement. |
| | 71.2 | <u>The Consultant ensures that the terms of appointment of each Subconsultant provides that the Subconsultant may only publicise the services with the Employer's written agreement and ensures that such terms may be enforced directly by the Employer.</u> |

8 Indemnity, insurance and liability

Indemnity 80

80 1 The *Consultant* indemnifies the *Employer* against claims, proceedings, compensation and costs payable arising out of an infringement by the *Consultant* of the rights of Others, except an infringement which arose out of the use by the *Consultant* of things provided by the *Employer*

Insurance cover 81

81 1 The *Consultant* provides the insurances stated in the Insurance Table except any insurance which the *Employer* is to provide as stated in the Contract Data. The insurances provide cover from the Contract Date until the end of the periods stated in the Contract Data

INSURANCE TABLE

Insurance against	Minimum amount of cover
Liability of the <i>Consultant</i> for claims made against him arising out of his failure to use all <u>reasonable skill, care and diligence to be expected of qualified and competent professionals experienced in providing services of a similar size, scope, nature and complexity as normally used by professionals providing services similar to the services</u>	The amount stated in the Contract Data
Liability for death of or bodily injury to a person (not an employee of the <i>Consultant</i>) or loss of or damage to property resulting from an action or failure to take action by the <i>Consultant</i>	The amount stated in the Contract Data <u>in respect of each claim, without limit to the number of claims for any one event</u>
Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with this contract	The greater of the amount required by the <u>Applicable Law</u> and the amount stated in the Contract Data for any one event

81 2 When requested by a Party, the other Party provides certificates from his insurer or broker stating that the insurances required by this contract are in force

81 3 Insurance policies include a waiver by the insurers of their subrogation rights against directors and other employees of every insured except where there is fraud

Limitation of liability 82

82 1 The *Consultant's* total liability to the *Employer* for all matters arising under or in connection with this contract (including without limitation under clause Z15 1), other than the excluded matters, is limited to [REDACTED] the amount stated in the Contract Data and applies in contract, tort or delict and otherwise to the extent allowed under the *law of the contract*

The excluded matters are amounts payable by the *Consultant* as stated in this contract for:

- ~~delay damages if Option X7 applies~~
- ~~*Consultant's* share if Option G applies~~
- an infringement by the *Consultant* of the rights of Others,
- loss of or damage to third party property, ~~and~~
- death of or bodily injury to a person other than an employee of the *Consultant*
- loss or damage arising from *Willful Misconduct* or *Gross Negligence* and liabilities arising pursuant to the indemnity in clause 85 2



Indemnities 83

83.1 The Employer indemnifies, defends and holds the Consultant harmless from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities arising out of, relating to or in connection with personal injury, including death or disease, to any person or damage to any property of any other person to the extent that any such injury or property damage is caused or contributed to by the default, negligence or breach of duty (whether statutory or otherwise) of the Employer or any contractor (other than the Consultant) engaged by the Employer.

83.2 The Consultant indemnifies, defends and holds the Employer harmless from and against all claims, losses, damages, costs (including legal costs), expenses and liabilities arising and of, relating to or in connection with personal injury, including death or disease, to any person or damage to any property of any other person to the extent that any such injury or property damage is caused or contributed to by default, negligence or breach of duty (whether statutory or otherwise) of the Consultant or any Subconsultant.

Net Contribution 84

84.1 The Consultant's liability to the Employer is limited to that proportion of the Employer's losses for which the Consultant is responsible under this contract.

84.2 The Employer's liability to the Consultant is limited to that proportion of the Consultant's losses for which the Employer or its contractors (other than the Consultant) is responsible under this contract.

9 Termination


Termination 90

90 1 ~~Either Party. The Employer may terminate the Consultant's rights and obligations under this contract to Provide the Services by notifying the other Party. Consultant if the other Party. Consultant has done one of the following or its equivalent~~

- If the Consultant ~~other Party~~ is an individual and has,
 - presented his petition for bankruptcy,
 - had a bankruptcy order made against him
 - had a receiver appointed over his assets or
 - made an arrangement with his creditors
- If the ~~other Party~~ Consultant is a company or partnership and has,
 - had a winding-up order made against it,
 - had a provisional liquidator appointed to it
 - passed a resolution for winding-up (other than in order to amalgamate or reconstruct),
 - had an administration order made against it
 - had a receiver, receiver and manager or administrative receiver appointed over the whole or a substantial part of its undertaking or assets or
 - made an arrangement with its creditors

90 2 ~~The Consultant may terminate his obligation to Provide the Services by notifying the Employer if the Employer has not paid an amount due to the Consultant within eight weeks of the issue of a notice by the Consultant to the Employer that payment is overdue.~~

90 23 The Employer may terminate the Consultant's rights and obligations under the contract to Provide the Services by notifying the Consultant if,

-  ~~or~~
- the Consultant has committed a Material Breach
- the Consultant is subject to a Change of Control,
- the Consultant has substantially failed to comply with his obligations and/or has breached a material term of the contract or any Task Order and has not put the default right within four weeks of a notification by the Employer, or
- any parent company guarantee provided by the Consultant to the Employer under the contract is or becomes unenforceable or otherwise expires (other than as a result of an act or omission of the Employer) and the Consultant fails to provide a replacement parent company guarantee in the form required under clause X4 within two weeks thereof or

90 4 ~~The Employer may terminate the Consultant's obligation to Provide the Services by notifying the Consultant if an event occurs which~~

- ~~• stops the Consultant completing the services or~~
- stops the Consultant completing the services by the date shown on the Accepted Programme and is forecast to delay Completion by more than 13 weeks

and which

- neither Party could prevent and
- ~~• an experienced consultant would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it~~

90 3 [NOT USED]

90.4 The Consultant may terminate his obligation to Provide the Services under a Task Order by notifying the Employer if the Employer has not paid an amount due to the Consultant within eight weeks of the issue of a notice by the Consultant to the Employer that payment is overdue save where a special administration order has been made in respect of the Employer when the right of the Consultant to terminate does not arise unless the Employer has not paid an amount certified by the Employer within 20 weeks of the date of any certificate issued after the special administration order is made or any certificate issued prior to the special administration order being made which is still unpaid at the date of the special administration order.

90.5 Subject to any notice periods specified in a Task Order, the Employer may terminate the Consultant's obligation to Provide the Services under a Task Order by notifying the Consultant if

- the Employer, having given the Consultant three months' prior written notice, no longer requires the services or the Employer no longer wishes to have the Consultant Provide the Services specified in the relevant Task Order,
- the Consultant has committed a Material Breach,
- the Consultant has substantially failed to comply with his obligations and has not put the default right within four weeks of notification by the Employer,
- any parent company guarantee provided by the Consultant to the Employer under the contract is or becomes unenforceable or otherwise expires (other than as a result of an act or omission of the Employer) and the Consultant fails to provide a replacement parent company guarantee in the form required under clause X4 within two weeks thereof, or
- the bond provided by the Consultant to the Employer under the relevant Task Order is or becomes unenforceable or otherwise expires or the Consultant fails to replace (at the Employer's cost) the bond within the time required under the relevant Task Order

90.6 The Employer may terminate the Consultant's rights and obligations under this contract to Provide the Services under a Task Order by notifying the Consultant if an event, including, but not limited to a Force Majeure Event, occurs which stops the Consultant providing the services the subject of the Task Order and which

- neither Party could prevent and
- an experienced consultant would have judged at the Contract Date to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it

90.7 The Employer may immediately terminate the Consultant's rights and obligations under this contract if the Consultant is in breach of any of the Health, Safety and Environmental Requirements, any of the Security Requirements or any Applicable Laws relating to health and safety, security or the protection of the environment

90.8 The termination of the Consultant's obligation to Provide the Services under a Task Order does not alter or affect the Consultant's rights or obligations under this contract with respect to any other Task Order

Procedures on termination 91

91.1 Subject to any demobilisation arrangements specified in a Task Order, On termination of this contract or of any obligation to Provide the Services under a Task Order,

- the Consultant does no further work necessary to Provide the Services (or to Provide the Services under the relevant Task Order if applicable),
- the Employer may complete the services and may use any material, systems, software and procedures to which he has title or which the Employer is entitled to use under this contract (or would have been entitled to so use had the Consultant complied with its obligations under this contract),
- the Employer may require the Consultant to assign the benefit of any subconsultancy or other contract related to performance of this contract to the Employer, and

- the *Employer* may employ another person to provide all or any part of the *services*.
- the *Consultant* does all things necessary to give effect to the rights of the *Employer* pursuant to this clause 91.1 and
- the Parties continue to comply with the constraints and obligations in this contract on:
 - the use of material prepared or obtained by the *Consultant* and
 - publicising the *services*

After the final payment has been made, the *Consultant* gives to the *Employer* information resulting from work carried out to date and information the *Consultant* has obtained which he has a responsibility to provide under this contract

Payment on termination 92

92.1 A final payment is made as soon as possible after termination. The amount due on termination includes:

- an amount due assessed as for normal payments and
- other costs reasonably incurred by the *Consultant* in expectation of completing the whole of the *services* and to which the *Consultant* is committed

92.2 If the *Employer* terminates because of the:

- insolvency of the *Consultant* or
- substantial failure of the *Consultant* to comply with his obligations.

the amount due on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the *services*.

MAIN OPTION CLAUSES

Option A: Priced contract with activity schedule

Identified and defined terms	11	
	11.2	(14) The Activity Schedule is the activity schedule unless later changed in accordance with this contract.
		(15) The Price for Services Provided to Date is the total of the Prices for the activities which have been completed. A completed activity is one which is without Defect which would delay immediately following work.
		(18) The Prices are the lump sum prices for each of the activities on the Activity Schedule unless later changed in accordance with this contract.
The Consultant's obligations	21	
	21.3	The Consultant prepares forecasts of the total expenses for the whole of the services and submits them to the Employer. Forecasts are prepared at the intervals stated in the Contract Data from the starting date until Completion of the whole of the services. An explanation of the changes made since the previous forecast is submitted with each forecast.
The programme	31	
	31.4	The Consultant provides information which shows how each activity on the Activity Schedule relates to the operations in each programme which he submits for acceptance.
Acceleration	34	
	34.3	When the Employer accepts a quotation for an acceleration he changes the Prices, the Completion Date and the Key Dates accordingly and accepts the revised programme.
Accounts and records	52	
	52.1	The Consultant keeps accounts and records of his expenses and allows the Employer to inspect them at any time within working hours.
The Activity Schedule	53	
	53.1	Information in the Activity Schedule is not Scope.
	53.2	If the Consultant changes a planned method of completing the services at his discretion so that the Activity Schedule does not comply with the Accepted Programme, he submits a revision of the Activity Schedule to the Employer for acceptance.
	53.3	A reason for not accepting a revision of the Activity Schedule is that <ul style="list-style-type: none"> • it does not comply with the Accepted Programme • any changed Prices are not reasonably distributed between the activities <li style="text-align: center;">or • the total of the Prices is changed.
Quotations for compensation events	62	
	62.7	The cost of preparing quotations for compensation events is not included in the assessment of compensation events.

EXECUTION VERSION

Assessing compensation events 63

- 63-12 If the effect of a compensation event is to reduce the total Time Charge and the event is
- a change to the Scope or
 - a correction of an assumption stated by the Employer for assessing an earlier compensation event.

the Prices are reduced.

- 63-14 Assessments for changed Prices for compensation events are in the form of changes to the Activity Schedule.

Implementing compensation events 65

- 65-3 The changes to the Prices, the Completion Date and the Key Dates are included in the notification implementing a compensation event.

Option C: Target contract

Identified and defined terms	41	
	11.2	(14) The Activity Schedule is the activity schedule unless later changed in accordance with this contract.
		(16) The Price for Services Provided to Date is the Time Charge for the work which has been completed.
		(18) The Prices are the lump sum prices for each of the activities on the Activity Schedule unless later changed in accordance with this contract.
The Consultant's obligations	21	
	21.4	The Consultant prepares forecasts of the total Time Charge and expenses for the whole of the services and submits them to the Employer. Forecasts are prepared at the intervals stated in the Contract Data from the starting date until Completion of the whole of the services. An explanation of the changes made since the previous forecast is submitted with each forecast.
Subconsulting	24	
	24.4	The Consultant submits the proposed contract data for each subcontract for acceptance to the Employer if
		• an NEC contract is proposed and
		• the Employer instructs the Consultant to make the submission.
		A reason for not accepting the proposed contract data is that its use will not allow the Consultant to Provide the Services.
The programme	31	
	31.4	The Consultant provides information which shows how each activity on the Activity Schedule relates to the operations on each programme which he submits for acceptance.
Acceleration	34	
	34.3	When the Employer accepts a quotation for an acceleration he changes the Prices, the Completion Date and the Key Dates accordingly and accepts the revised programme.
Assessing the amount due	50	
	50.4	Payments for staff whose staff rate is stated in the Contract Data in a currency other than the currency of this contract are included in the amount due as payments to be made to the Consultant in the same currency. Such payments are converted to the currency of this contract in order to calculate the Consultant's share using the exchange rates.
Accounts and records	52	
	52.2	The Consultant keeps accounts and records of his Time Charge and expenses and allows the Employer to inspect them at any time within working hours.
The Activity Schedule	53	
	53.1	Information in the Activity Schedule is not Scope.
	53.2	If the Consultant changes a planned method of completing the services at his discretion so that the Activity Schedule does not comply with the Accepted Programme he submits a revision of the Activity Schedule to the Employer for acceptance.
	53.3	A reason for not accepting a revision of the Activity Schedule is that
		• it does not comply with the Accepted Programme.
		• any changed Prices are not reasonably distributed between the activities or
		• the total of the Prices is changed.
The Consultant's share	54	
	54.1	The Employer assesses the Consultant's share of the difference between the total of the Prices and the Price for Services Provided to Date. The difference is divided

~~into increments falling within each of the share ranges. The limits of a share range are the Price for Services Provided to Date divided by the total of the Prices expressed as a percentage. The Consultant's share equals the sum of the products of the increment within each share range and the corresponding Consultant's share percentage.~~

~~54.2 If the Price for Services Provided to Date is less than the total of the Prices, the Consultant is paid his share of the saving. If the Price for Services Provided to Date is greater than the total of the Prices, the Consultant pays his share of the excess.~~

~~54.3 The Employer makes a preliminary assessment of the Consultant's share at Completion of the whole of the services using his forecasts of the final Price for Services Provided to Date and the final total of the Prices. This share is included in the amount due following Completion of the whole of the services.~~

~~54.4 The Employer makes a final assessment of the Consultant's share using the final Price for Services Provided to Date and the final total of the Prices. This share is included in the final amount due.~~

Assessing compensation events 63

~~63.13 If the effect of a compensation event is to reduce the total Time Charge and the event is~~

- ~~• a change to the Scope other than a change to the Scope which the Consultant proposed and the Employer has accepted or~~
- ~~• a correction of an assumption stated by the Employer for assessing an earlier compensation event.~~

~~the Prices are reduced.~~

~~63.14 Assessments for changed Prices for compensation events are in the form of changes to the Activity Schedule.~~

Implementing compensation events 65

~~65.3 The changes to the Prices, the Completion Date and the Key Dates are included in the notification implementing a compensation event.~~

Payment on termination 82

~~82.3 If there is a termination, the Employer assesses the Consultant's share. His assessment uses as the Price for Services Provided to Date the total of the Time Charge which the Consultant has paid and which he is committed to pay for work done before termination.~~

~~The Employer's assessment of the Consultant's share is added to the amount due to the Consultant on termination if there has been a saving or deducted if there has been an excess. The Employer's assessment of the Consultant's share is added to the amount due to the Consultant on termination if there has been a saving or deducted if there has been an excess.~~

Option E: Time based contract

Identified and defined terms	11	
	11-2	..16) The Price for Services Provided to Date is the Time Charge for the work which has been completed.
		..18) The Prices are the Time Charge
The Consultant's obligations	21	
	21-4	The Consultant prepares forecasts of the total Time Charge and expenses for the whole of the services and submits them to the Employer. Forecasts are prepared at the intervals stated in the Contract Data from the starting date until Completion of the whole of the services. An explanation of the changes made since the previous forecast is submitted with each forecast.
Subconsulting	24	
	24-4	The Consultant submits the proposed contract data for each subcontract for acceptance to the Employer if ----- an NEC contract is proposed and ----- the Employer instructs the Consultant to make the submission. A reason for not accepting the proposed contract data is that its use will not allow the Consultant to Provide the Services.
Acceleration	34	
	34-4	When the Employer accepts a quotation for an acceleration he changes the Completion Date the Key Dates and the forecast of the total Time Charge for the whole of the services accordingly and accepts the revised programme
Assessing the amount due	50	
	50-5	Payments for staff whose staff rate is stated in the Contract Data in a currency other than the currency of this contract are included in the amount due as payments to be made to the Consultant in the same currency.
Accounts and records	52	
	52-2	The Consultant keeps accounts and records of his Time Charge and expenses and allows the Employer to inspect them at any time within working hours
Implementing compensation events	65	
	65-4	The changes to the forecast amount of the Prices the Completion Date and the Key Dates are included in the notification implementing a compensation event

Option G: Term contract

Identified and defined terms	11 11.2	<p>(5317) The Price for Services Provided to Date is, for each Task, the total of</p> <ul style="list-style-type: none"> • the Time Charge for work which has been completed on time-based items on the <u>Task-Resources Schedule multiplied by the overhead</u> and • a proportion of the lump sum price for each other item on the <u>Task-Resources Schedule</u>, which is the proportion of work completed on that item <u>and</u> • <u>the amounts payable, as instructed under the relevant Task Order, in relation to the procurement of services under a Legacy Framework Subconsultancy Agreement</u> <p>(5420) The Prices are</p> <ul style="list-style-type: none"> • the Time Charge for items described as time based on the <u>Task-Resources Schedule</u> and • the lump sum price in the <u>Task-Resources Schedule</u> for each other item <p>(5521) A Task is work within the <i>services</i> which the <i>Employer</i> may instruct the <i>Consultant</i> to carry out within a stated period of time</p> <p>(5622) Task Completion is when the <i>Consultant</i> has done all the work which the Task Order requires him to do by the Task Completion Date and corrected Defects which would have prevented the <i>Employer</i> or Others from using the <i>services</i> and Others from doing their work</p> <p>(5723) Task Completion Date is the date for completion stated in the Task Order unless later changed in accordance with this contract</p> <p>(5824) A Task Order is the <i>Employer's</i> instruction to carry out a Task</p> <p>(25) The Task Schedule is the task schedule unless later changed in accordance with this contract</p>
The Consultant's obligations	21 21.4	<p>The <i>Consultant</i> prepares forecasts of the total Time Charge <u>the lump sum prices in the Resources Schedule</u> and <i>expenses</i> for the whole of the <i>services</i> and submits them to the <i>Employer</i>. Forecasts are prepared at the intervals stated in the Contract Data from the <i>starting date</i> until Completion at the whole of the services <u>the end of the service period</u>. An explanation of the changes made since the previous forecast is submitted with each forecast</p>
The programme	31 31.5	<p><u>If required under a Task Order</u>, the <i>Consultant</i> provides information which shows how each item included in a Task relates to the operations on each programme which he submits for acceptance</p>
Assessing the amount due	50 50.6	<p>Payments for</p> <ul style="list-style-type: none"> • staff whose <i>staff rate</i> in the Contract Data or • items whose prices in the <u>Task-Resources Schedule</u> are stated <p><u>are stated</u> in a currency other than <i>currency of this contract</i> are included in the amount due as payments to be made to the <i>Consultant</i> in the same currency</p>
Accounts and records	52 52.2	<p>The <i>Consultant</i> keeps accounts and records of his Time Charge and <i>expenses</i> and allows the <i>Employer</i> to inspect them at any time within working hours</p>

Assessing Tasks 55

- 55.1 A Task Order includes,
- a detailed description of the work in the Task,
 - a priced list of items of work in the Task in which items taken from the Task Resources Schedule are identified,
 - the starting and completion dates for the Task,
 - the amount of delay damages for late completion of the Task and
 - the total of the Prices for the Task
- 55.2 The *Employer* consults the *Consultant* about the contents of a Task Order before he issues it
- 55.3~~2~~ The delay damages in a Task Order, if any, are not more than the estimated cost to the *Employer* of late completion of the Task
- The Prices for items in the Task price list which are not taken from the Task Resources Schedule are assessed in the same way as compensation events
- 55.4~~3~~ The *Consultant* does not start any work included in the Task until he has received the Task Order, and does the work so that Task Completion is on or before the Task Completion Date ~~No Task Order is issued after the Completion Date~~

Compensation events 60

- 60.1 The following are compensation events
- (1~~2~~3) The *Employer* issues an instruction changing a Task Order. If the effect of a compensation event which is an instruction changing a Task Order is to reduce the total Time Charge, the Prices are reduced
- (1~~8~~4) The *Consultant* receives the Task Order after the starting date stated in the Task Order
- (1~~5~~) ~~A Task Completion Date is later than the Completion Date~~
- 60.2 The *Employer* corrects mistakes in the Task Order Schedule which arise from an ambiguity or inconsistency in or between the documents which are part of this contract. Each such correction is a compensation event

Quotations for compensation events 62

- 62.7 The cost of preparing quotations for compensation events is not included in the assessment of compensation events

Assessing compensation events 63

- 63.10~~6~~ A delay to the Task Completion Date is assessed as the length of time that, due to the compensation event, planned Task Completion is delayed
- 63.11~~7~~ Assessments for changed Prices for compensation events are in the form of changes to the Task Schedule Order
- 63.12~~8~~ If the effect of a compensation event is to reduce the total Time Charge and the event is,
- a change to the Task or
 - a correction of an assumption stated by the *Employer* for assessing an earlier compensation event,
- the Prices are reduced

Implementing compensation events 65

- 65.5 The *Employer* includes the changes to,
- the Prices and the Task Completion Date and
 - the final total of the Prices for the Task and the programme for the Task,
- from the quotation which he has accepted or from his own assessment in the notification implementing a compensation event

Procedures on Termination 91

- 91.2 Upon termination of the *Consultant's* obligation to Provide the Services under a

EXECUTION VERSION

Task Order the Consultant proceeds in accordance with the procedures on termination as specified in that relevant Task Order

DISPUTE RESOLUTION

Option W1

Dispute resolution procedure (used unless the United Kingdom Housing Grants, Construction and Regeneration Act 1996 applies):

Dispute resolution	W1	
	W1.1	A dispute arising under or in connection with this contract is referred to and decided by the <i>Adjudicator</i> .
The Adjudicator	W1.2	<p>(1) The Parties appoint the <i>Adjudicator</i> under the NEC Adjudicator's Contract current at the starting date.</p> <p>(2) The <i>Adjudicator</i> acts impartially and decides the dispute as an independent adjudicator and not as an arbitrator.</p> <p>(3) If the <i>Adjudicator</i> is not identified in the Contract Data or if the <i>Adjudicator</i> resigns or is unable to act the Parties may choose an adjudicator jointly. If the Parties have not chosen an adjudicator either Party may ask the <i>Adjudicator's nominating body</i> to choose one. The <i>Adjudicator nominating body</i> chooses an adjudicator within four days of the request. The chosen adjudicator becomes the <i>Adjudicator</i>.</p> <p>(4) A replacement <i>Adjudicator</i> has the power to decide a dispute referred to his predecessor but not decided at the time when the predecessor resigned or became unable to act. He deals with an undecided dispute as if it had been referred to him on the date he was appointed.</p> <p>(5) The <i>Adjudicator</i>, his employees and agents are not liable to the Parties for any action or failure to take action in an adjudication unless the action or failure to take action was in bad faith.</p>
The adjudication	W1.3	(1) Disputes are notified and referred to the <i>Adjudicator</i> in accordance with the Adjudication Table.

ADJUDICATION TABLE

Dispute about	Which Party may refer it to the Adjudicator?	When may it be referred to the Adjudicator?
An action of the Employer	The Consultant	Between two and four weeks after the Consultant's notification of the dispute to the Employer the notification itself being made not more than four weeks after the Consultant becomes aware of the action
The Employer not having taken an action	The Consultant	Between two and four weeks after the Consultant's notification of the dispute to the Employer the notification itself being made not more than four weeks after the Consultant becomes aware that the action was not taken
A quotation for a compensation event which is treated as having been accepted	The Employer	Between two and four weeks after the Employer's notification of the dispute to the Consultant the notification itself being made not more than four weeks after the quotation was treated as accepted
Any other matter	Either Party	Between two and four weeks after notification of the dispute to the other Party

(2) The times for notifying and referring a dispute may be extended if the Consultant and the Employer agree to the extension before the notice or referral is due. If a disputed matter is not notified and referred within the times set out in this contract neither Party may subsequently refer it to the Adjudicator or the tribunal.

(3) The Party referring the dispute to the Adjudicator includes with his referral information to be considered by the Adjudicator. Any more information from a Party to be considered by the Adjudicator is provided within four weeks of the referral. This period may be extended if the Adjudicator and the Parties agree.

(4a) If a matter disputed by the Consultant under or in connection with a subcontract is also a matter disputed under or in connection with this contract and if the subcontract allows the Consultant may refer the subcontract dispute to the Adjudicator at the same time as the main contract referral. The Adjudicator then decides the disputes together and references to the Parties for the purposes of the dispute are interpreted as including the Subconsultant.

(4b) If the contract is a subcontract and the main contract provides for joint adjudication of disputes the following procedure applies.

Within two weeks of the notification of the dispute by the Consultant to the Employer the Employer notifies the Consultant if the matter disputed is a matter disputed under or in connection with the main contract.

The Employer may then

- submit the subcontract dispute to the main contract Adjudicator at the same time as the main contract submission and
- instruct the Consultant to provide any information which the Employer may require

The main contract Adjudicator then gives his decision on the disputes together.

(5) The Adjudicator may

- review and revise any action or inaction of the Employer related to the dispute and alter a quotation which has been treated as having been accepted;
- take the initiative in ascertaining the facts and the law related to the dispute;
- instruct a Party to provide further information related to the dispute within a stated time and
- instruct a Party to take any other action which he considers necessary to reach his decision and to do so within a stated time.

(6) A communication between a Party and the Adjudicator is communicated to the other Party at the same time.

(7) If the Adjudicator's decision includes assessment of additional cost or delay caused to the Consultant he makes his assessment in the same way as a compensation event is assessed.

(8) The Adjudicator decides the dispute and notifies the Parties of his decision and his reasons within four weeks of the end of the period for receiving information. This four week period may be extended if the Parties agree.

(9) Unless and until the Adjudicator has notified the Parties of his decision the Parties proceed as if the matter disputed was not disputed.

(10) The Adjudicator's decision is binding on the Parties unless and until revised by the Tribunal and is enforceable as a matter of contractual obligation between the Parties and not as an arbitral award. The Adjudicator's decision is final and binding if neither Party has notified the other within the times required by this contract that he is dissatisfied with a decision of the Adjudicator and intends to refer the matter to the Tribunal.

(11) The Adjudicator may within two weeks of giving his decision to the Parties correct any clerical mistake or ambiguity.

Review by the tribunal

W(1) A Party does not refer any dispute under or in connection with this contract to the Tribunal unless it has first been referred to the Adjudicator in accordance with 4 of this contract.

(2) If after the Adjudicator notifies his decision a Party is dissatisfied, he may notify the other Party that he intends to refer it to the Tribunal. A Party may not refer a dispute to the Tribunal unless this notification is given within four weeks of notification of the Adjudicator's decision.

(3) If the Adjudicator does not notify his decision within the time provided by this contract, a Party may notify the other Party that he intends to refer the dispute to the Tribunal. A Party may not refer a dispute to the Tribunal unless this notification is given within four weeks of the date by which the Adjudicator should have notified his decision.

(4) The Tribunal settles the dispute referred to it. The Tribunal has the powers to reconsider any decision of the Adjudicator and review and revise any action or inaction of the Employer related to the dispute. A Party is not limited in the Tribunal proceedings to the information, evidence or arguments put to the Adjudicator.

(5) If Tribunal is arbitration, the arbitration procedure, the place where the arbitration is to be held and the method of choosing the arbitrator are those stated in the Contract Data.

(6) A Party does not call the Adjudicator as a witness in Tribunal proceedings.

Option W2

Dispute resolution procedure (used in the United Kingdom when the Housing Grants, Construction and Regeneration Act 1996 applies).

Dispute resolution W2

W2.1 (1) Any dispute arising under or in connection with this contract is referred first, by notice in writing, to a senior representative of each Party who will meet and endeavour to resolve the dispute between them within two weeks of such notice. The joint written decision of those senior representatives is binding upon the Parties.

(2) If a Any dispute arising under or in connection with this contract is not resolved by the senior representatives within the period allowed under clause W2.1(1) the dispute is referred to and decided by the Adjudicator. A Party may refer a dispute to the Adjudicator at any time.

(3) In this Option, time periods stated in days exclude Christmas Day, Good Friday and bank holidays.

The Adjudicator W2.2 (1) The Parties appoint the Adjudicator under the NEC Adjudicator's Contract current at the starting date.

(2) The Adjudicator acts impartially and decides the dispute as an independent adjudicator and not as an arbitrator.

(3) If the Adjudicator is not identified in the Contract Data or if the Adjudicator resigns or becomes unable to act,

- the Parties may choose an adjudicator jointly or
- a Party may ask the Adjudicator nominating body to choose an adjudicator.

The Adjudicator nominating body chooses an adjudicator within four days of the request. The chosen adjudicator becomes the Adjudicator.

(4) A replacement Adjudicator has the power to decide a dispute referred to his predecessor but not decided at the time when his predecessor resigned or became unable to act. He deals with an undecided dispute as if it had been referred to him on the date he was appointed.

(5) The Adjudicator, his employees and agents are not liable to the Parties for any action or failure to take action in an adjudication unless the action or failure to take action was in bad faith.

The adjudication W2.3 (1) Before a Party refers a dispute to the Adjudicator, he gives a notice of adjudication to the other Party with a brief description of the dispute and the decision which he wishes the Adjudicator to make. If the Adjudicator is named in the Contract Data, the Party sends a copy of the notice of adjudication to the Adjudicator when it is issued. Within three days of the receipt of the notice of adjudication, the Adjudicator notifies the Parties,

- that he is able to decide the dispute in accordance with the contract or
- that he is unable to decide the dispute and has resigned.

If the Adjudicator does not so notify within three days of the issue of the notice of adjudication, either Party may act as if he has resigned.

(2) Within seven days of a Party giving a notice of adjudication he,

- refers the dispute to the Adjudicator,
- provides the Adjudicator with the information on which he relies including any supporting documents and
- provides a copy of the information and supporting documents he has provided to the Adjudicator to the other Party.

Any further information from a Party to be considered by the *Adjudicator* is provided within ~~14~~^{fourteen} days ~~from~~^{of} the referral. This period may be extended if the *Adjudicator* and Parties agree.

(3a) If a matter disputed by the *Consultant* under or in connection with a subcontract is also a matter disputed under or in connection with this contract, the *Consultant* may, with the consent of the Subconsultant, refer the subcontract dispute to the *Adjudicator* at the same time as the main contract referral. The *Adjudicator* then decides the disputes together and references to the Parties for the purposes of the dispute are interpreted as including the Subconsultant.

(3b) If this contract is a subcontract and the main contract provides for joint adjudication of disputes, the following procedure applies:

Within two weeks of the notification of the dispute by the *Consultant* to the *Employer*, the *Employer* notifies the *Consultant* if the matter disputed is a matter disputed under or in connection with the main contract.

The *Employer* may then:

- submit the subcontract dispute to the main contract *Adjudicator* at the same time as the main contract submission and
- instruct the *Consultant* to provide any information which the *Employer* may require.

The main contract *Adjudicator* then gives his decision on the disputes together.

(4) The *Adjudicator* may:

- review and revise any action or inaction of the *Employer* related to the dispute and alter a quotation which has been treated as having been accepted,
- take the initiative in ascertaining the facts and the law related to the dispute,
- instruct a Party to provide further information related to the dispute within a stated time and
- instruct a Party to take any other action which he considers necessary to reach his decision and to do so within a stated time.

(5) If a Party does not comply with any instruction within the time stated by the *Adjudicator*, the *Adjudicator* may continue the adjudication and make his decision based upon the information and evidence he has received.

(6) A communication between a Party and the *Adjudicator* is communicated to the other Party at the same time.

(7) If the *Adjudicator's* decision includes assessment of additional cost or delay caused to the *Consultant*, he makes his assessment in the same way as a compensation event is assessed. If the *Adjudicator's* decision changes an amount notified as due, payment of the sum decided by the *Adjudicator* is due not later than seven days from the date of the decision or the final date for payment of the notified amount, whichever is the later.

(8) The *Adjudicator* decides the dispute and notifies the Parties of his decision and his reasons within ~~28~~^{twenty-eight} days of the dispute being referred to him. This period may be extended by up to ~~fourteen~~¹⁴ days with the consent of the referring Party or by any other period agreed by the Parties. The *Adjudicator* may in his decision allocate his fees and expenses between the Parties.

(9) Unless and until the *Adjudicator* has notified the Parties of his decision, the Parties proceed as if the matter disputed was not disputed.

(10) If the *Adjudicator* does not make his decision and notify it to the Parties within the time provided by this contract, the Parties and the *Adjudicator* may agree to extend the period for making his decision. If they do not agree to an extension, either Party may act as if the *Adjudicator* has resigned.

(11) The *Adjudicator's* decision is binding on the Parties unless and until revised by the *tribunal* and is enforceable as a matter of contractual obligation between the

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Parties and not as an arbitral award. The *Adjudicator's* decision is final and binding if neither Party has notified the other within the times required by this contract that he is dissatisfied with a matter decided by the *Adjudicator* and intends to refer the matter to the *tribunal*

(12) The *Adjudicator* may, within five days of giving his decision to the Parties, correct the decision to remove a clerical or typographical error arising by accident or omission

Review by the *tribunal* W2.4 (1) A Party does not refer any dispute under or in connection with this contract to the *tribunal* unless it has first been decided by the *Adjudicator* in accordance with this contract

(2) If, after the *Adjudicator* notifies his decision, a Party is dissatisfied, that Party may notify the other Party of the matter which he disputes and state that he intends to refer it to the *tribunal*. The dispute may not be referred to the *tribunal* unless this notification is given within four weeks of the notification of the *Adjudicator's* decision.

(3) The *tribunal* settles the dispute referred to it. The *tribunal* has the powers to reconsider any decision of the *Adjudicator* and to review and revise any action or inaction of the *Employer* related to the dispute. A Party is not limited in *tribunal* proceedings to the information or evidence put to the *Adjudicator*

(4) If the *tribunal* is arbitration, the *arbitration procedure*, the place where the arbitration is to be held and the method of choosing the arbitrator are those stated in the Contract Data.

(5) A Party does not call the *Adjudicator* as a witness in *tribunal* proceedings.

SECONDARY OPTION CLAUSES

Option X1: Price adjustment for inflation

If staff rates are fixed at the Contract Date and are not variable with changes in salary paid to individuals.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- the change in the Price for Services Provided to Date since the last assessment of the amount due multiplied by the price adjustment factor calculated at the last anniversary and
- the amount for price adjustment included in the previous amount due

Price adjustment-Option-C

X1-3

Each time the amount due is assessed after the first anniversary, an amount for price adjustment is added to the total of the Prices which is the change in the Price for Services Provided to Date since the last assessment of the amount due multiplied by $\frac{PAF}{(1+PAF)}$ where PAF is the price adjustment factor calculated at the last anniversary.

Expenses adjustment

X1-6

If payment rates for any of the expenses are fixed at the Contract Date and are not otherwise adjustable for inflation, each amount due after the first anniversary includes an amount for expenses adjustment which is the sum of:

- the change in fixed expenses since the last assessment of the amount due multiplied by the price adjustment factor calculated at the last anniversary and
- the amount for expenses adjustment included in the previous amount due

If staff rates are variable with changes in salary paid to individuals.

Price adjustment-factor

X1

X1.1 ~~On each anniversary of the Contract Date, the Consultant calculates a price adjustment factor equal to $(L - B)/B$ where L is the last published value of the index and B is the last value of the index published before the Contract Date.~~

~~If an index is changed after it has been used in calculating a price adjustment factor, the calculation is repeated and a correction included in the next assessment of the amount due.~~

~~The price adjustment factor calculated at the Completion Date for the whole of the services is used for calculating price adjustment after this date.~~

Price adjustment Option A	X1.2	Each amount due after the first anniversary includes an amount for price adjustment which is the sum of <ul style="list-style-type: none"> • the change in the Price for Services Provided to Date since the last assessment of the amount due multiplied by the price adjustment factor calculated at the last anniversary and • the amount for price adjustment included in the previous amount due.
Price adjustment Option C	X1.3	Each time the amount due is assessed after the first anniversary an amount for price adjustment is added to the total of the Prices which is the change in the Price for Services Provided to Date since the last assessment of the amount due multiplied by $(PAF/(1+PAF))$ where PAF is the price adjustment factor calculated at the last anniversary.
Price adjustment Option G	X1.4	Each amount due after the first anniversary includes an amount for price adjustment which is the sum of <ul style="list-style-type: none"> • for the lump sum items on the Task Schedule the change in the Jump sums included in the Price for Services Provided to Date since the last assessment of the amount due multiplied by the price adjustment factor calculated at the last anniversary before the assessment and • the amount for price adjustment included in the previous amount due
Compensation events Options A, C and G (lump sum items on the Task Schedule) only	X1.5	The Time Charge for compensation events is assessed using the <i>staff rates</i> current at the time of assessing the compensation event adjusted to the Contract Date by dividing by $(1+PAF)$, where PAF is the price adjustment factor calculated at the last anniversary.
Expenses adjustment	X1.6	If payment rates for any of the expenses are fixed at the Contract Date and are not otherwise adjustable for inflation each amount due after the first anniversary includes an amount for expenses adjustment which is the sum of <ul style="list-style-type: none"> • the change in fixed expenses since the last assessment of the amount due multiplied by the price adjustment factor calculated at the last anniversary and • the amount for expenses adjustment included in the previous amount due

Option X2: Changes in the law

Changes in the law X2

X2.1 A change in any Applicable Law which occurs after the Contract Date ~~the law of the project~~ is a compensation event if it ~~occurs~~ unless such change was reasonably foreseeable by a competent and experienced professional at after the Contract Date. Either Party may notify the other of a compensation event for a change in the any law ~~Applicable Law~~ as described in this clause X2. If the effect of a compensation event which is a change in the any Applicable Law is to reduce the total Time Charge, the Prices are reduced

~~Option X3: Multiple currencies (used only with Options A and G)~~

Multiple currencies X3

X3.1 ~~The Consultant is paid in currencies other than the currency of this contract for the items activities listed in the Contract Data. The exchange rates are used to convert from the currency of this contract to other currencies.~~

~~X3-2~~ ~~Payments to the Consultant in currencies other than the currency of this contract do not exceed the maximum amounts stated in the Contract Data. Any excess is paid in the currency of this contract.~~

Option X4: Parent company guarantee

Parent company guarantee X4

X4 1 If a parent company owns the *Consultant*, the *Consultant* gives to the *Employer* a guarantee by the *Consultant's* parent company of the *Consultant's* performance in the form set out in the Scope Annex 2 to the Contract Data. If the guarantee was not given by the Contract Date, it is given to the *Employer* within four weeks of the Contract Date.

~~Option X5: Sectional Completion (not used with Option G)~~

~~Sectional Completion X5~~

~~X5-1 In these conditions of contract, unless stated as the whole of the services, each reference and clause relevant to~~

- ~~• the services,~~
- ~~• Completion and~~
- ~~• Completion Date.~~

~~applies as the case may be to either the whole of the services or any section of the services.~~

~~Option X6: Bonus for early Completion (not used with Option G)~~

~~Bonus for early Completion X6~~

~~X6-1 The Consultant is paid a bonus calculated at the rate stated in the Contract Data for each day from Completion until the Completion Date.~~

Option X7: Delay damages

Delay damages X7

X7 1 If specified in a Task Order, the *Consultant* pays delay damages at the rate stated in the Task Order for each day from the Task Completion Date until Task Completion.

X7 2⁴ If the relevant Task Completion Date is changed to a later date after delay damages have been paid, the *Employer* repays the overpayment of delay damages with interest. Interest is assessed from the date of payment to the date of repayment and the date of repayment is an assessment date.

Option X8: Collateral warranty agreements

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- Collateral warranty X8
agreements X8 1 The *Consultant* enters into the *collateral warranty agreements*

Option X9: Transfer of rights

Transfer of rights X9

- X9 1 The *Employer* owns the *Consultant's* rights over material prepared for this contract by the *Consultant* and over the systems, software, technology and procedures provided or used by the *Consultant* to Provide the Service except as stated otherwise in the *ScopeTask Order*. The *Consultant* obtains other rights for the *Employer* as stated in the *ScopeTask Order* and obtains from a Subconsultant equivalent rights for the *Employer* over the material prepared by the Subconsultant and over the systems, software, technology and procedures provided or used by the *Consultant* to Provide the Service. The *Consultant* provides to the *Employer* the documents which transfer these rights to the *Employer*

Option X10: ~~Employer's Agent~~

~~Employer's Agent X10~~

- ~~X10.1 The *Employer's Agent* acts on behalf of the *Employer* with the authority set out in the *Contract Data*.~~
~~X10.2 The *Employer* may replace the *Employer's Agent* after he has notified the *Consultant* of the name of the replacement.~~

Option X11: ~~Termination by the Employer~~

~~Termination by the Employer X11~~

- ~~X11.1 The *Employer* may terminate the *Consultant's* obligation to Provide the Services for a reason not stated in this contract by notifying the *Consultant*~~

- X11.2 If the Employer terminates for a reason not stated in this contract an additional amount is due on termination which is 5% of the difference between
- the forecast of the final total of the Prices in the absence of termination and
 - the total of the other amounts and costs included in the amount due on termination

Option X12: Partnering

Identified and defined terms	X12	<p>X12.1 (1) The Partners are those named in the Schedule of Partners. The Client is a Partner.</p> <p>(2) An Own Contract is a contract between two Partners which includes this Option.</p> <p>(3) The Core Group comprises the Partners listed in the Schedule of Core Group Members.</p> <p>(4) Partnering Information is information which specifies how the Partners work together and is either in the documents which the Contract Data states it is in or in an instruction given in accordance with this contract.</p> <p>(5) A Key Performance Indicator is an aspect of performance for which a target is stated in the Schedule of Partners.</p>
Actions	X12.2	<p>(1) Each Partner works with other Partners to achieve the Client's objective stated in the Contract Data and the objectives of every other Partner stated in the Schedule of Partners.</p> <p>(2) Each Partner nominates a representative to act for him in dealings with other Partners.</p> <p>(3) The Core Group acts and takes decisions on behalf of the Partners on those matters stated in the Partnering Information.</p> <p>(4) The Partners select the members of the Core Group. The Core Group decides how they will work and decides the dates when each member joins and leaves the Core Group. The Client's representative leads the Core Group unless stated otherwise in the Partnering Information.</p> <p>(5) The Core Group keeps the Schedule of Core Group Members and the Schedule of Partners up to date and issues copies of them to the Partners each time either is revised.</p> <p>(6) This Option does not create a legal partnership between Partners who are not one of the Parties in this contract.</p>
Working together	X12.3	<p>(1) The Partners work together as stated in the Partnering Information and in a spirit of mutual trust and co-operation.</p> <p>(2) A Partner may ask another Partner to provide information which he needs to carry out the work in his Own Contract and the other Partner provides it.</p> <p>(3) Each Partner gives an early warning to the other Partners when he becomes aware of any matter that could affect the achievement of another Partner's objectives stated in the Schedule of Partners.</p> <p>(4) The Partners use common information systems as set out in the Partnering Information.</p>

~~(5) A Partner implements a decision of the Core Group by issuing instructions in accordance with its Own Contracts.~~

~~(6) The Core Group may give an instruction to the Partners to change the Partnering Information. Each such change to the Partnering Information is a compensation event which may lead to reduced Prices.~~

~~(7) The Core Group prepares and maintains a timetable showing the proposed timing of the contributions of the Partners. The Core Group issues a copy of the timetable to the Partners each time it is revised. The Consultant changes his programme if it is necessary to do so in order to comply with the revised timetable. Each such change is a compensation event which may lead to reduced Prices.~~

~~(8) A Partner gives advice, information and opinion to the Core Group and to other Partners when asked to do so by the Core Group. This advice, information and opinion relates to work that another Partner is to carry out under its Own Contract and is given fully, openly and objectively. The Partners show contingency and risk allowances in information about costs, prices and timing for future work.~~

~~(9) A Partner notifies the Core Group before subcontracting any work.~~

Incentives X12.4 (1) A Partner is paid the amount stated in the Schedule of Partners if the target stated for a Key Performance Indicator is improved upon or achieved. Payment of the amount is due when the target has been improved upon or achieved and is made as part of the amount due in the Partner's Own Contract.

~~(2) The Client may add a Key Performance Indicator and associated payment to the Schedule of Partners but may not delete or reduce a payment stated in the Schedule of Partners.~~

Option X13: Performance bond

Performance bond X13

X13.1 ~~If required under a Task Order, the Consultant gives the Employer, at the Employer's discretion and cost, either of an on-demand or surety performance bond, provided by a bank or insurer which the Employer has accepted, for the amount stated in the Contract Data and in the a form reasonably required by the Employer set out in the Scope. A reason for not accepting the bank or insurer is that its commercial position is not strong enough to carry the bond. If the bond was not given by the Contract Date it is given to the Employer within four weeks of the Contract Date Task Order.~~

Option X18: Limitation of liability

Limitation of liability X18

X18.1 ~~Neither Party is liable to the other for any. The Consultant's liability to the Employer for the Employer's indirect or consequential loss arising out of or in connection with the contract is limited to the amount stated in the Contract Data.~~

X18.2 ~~The Consultant's liability to the Employer for Defects that are not found until after the defects date is limited to the amount stated in the Contract Data.~~

X18.2~~3~~ ~~The Consultant is not liable to the Employer for a matter unless it is notified to the Consultant before the end of liability date.~~

Option X20: Key Performance Indicators (not used with Option X12)

Incentives X20

- X20.1 A Key Performance Indicator is an aspect of performance by the *Consultant* for which a target is stated in the Key Performance Indicators schedule~~incentive Schedule~~. The Key Performance Indicators incentive Schedule is the ~~incentive schedule~~Schedule 3 of Annex 1 to the Contract Data - unless later changed in accordance with this contract.
- X20.2 From the *starting date* until the *defects date*, the *Consultant* reports to the *Employer* his performance against each of the Key Performance Indicators. Reports are provided at the intervals stated in the Schedule 3 of Annex 1 to the Contract Data~~Contract Data~~ and include the ~~forecast final measurement against each indicator~~.
- X20.3 If the *Consultant's* forecast final measurement against a Key Performance Indicator will not achieve the target stated in the Schedule 3 of Annex 1 to the Contract Data~~incentive Schedule~~, he submits his proposals for improving performance.
- X20.4 The *Consultant* is paid the amount stated in the ~~incentive~~ Schedule 3 of Annex 1 to the Contract Data if the target stated for a Key Performance Indicator is improved upon or achieved. Payment of the amount is due when the target has been improved upon or achieved.
- X20.5 The *Employer* may add a Key Performance Indicator and associated payment to the ~~incentive~~ Schedule 3 of Annex 1 to the Contract Data but may not delete or reduce a payment stated in the ~~incentive~~ Schedule 3 of Annex 1 to the Contract Data.

Option Y

Definitions	<p>Y(UK) 1</p> <p>Y(UK) 1-4</p> <p>(1) The Authorisation is a document authorising the <i>project bank</i> to make payments to the <i>Consultant</i> and <i>Named Suppliers</i>.</p> <p>(2) <i>Named Suppliers</i> are <i>named suppliers</i> and other <i>Suppliers</i> who have signed the <i>Joining Deed</i>.</p> <p>(3) <i>Project Bank Account</i> is the account used to receive payments from the <i>Employer</i> and the <i>Consultant</i> to make payments to the <i>Consultant</i> and <i>Named Suppliers</i>.</p> <p>(4) A <i>Supplier</i> is a person or organisation who has a contract to</p> <ul style="list-style-type: none"> • provide a part of the services or • provide a service necessary to Provide the Services <p>(5) <i>Trust Deed</i> is an agreement in the form set out in the contract which contains provisions for administering the <i>Project Bank Account</i>.</p> <p>(6) <i>Joining Deed</i> is an agreement in the form set out in the contract under which the <i>Supplier</i> joins the <i>Trust Deed</i>.</p>
Project Bank Account	<p>Y(UK) 1-2</p> <p>The <i>Consultant</i> establishes the <i>Project Bank Account</i> with the <i>project bank</i> within three weeks of the <i>Contract Date</i>.</p> <p>Y(UK) 1-3</p> <p>Unless stated otherwise in the <i>Contract Date</i>, the <i>Consultant</i> pays any charges made and is paid any interest paid by the <i>project bank</i>. The charges and interest by the <i>project bank</i> and not included in the assessment of the amount due.</p> <p>Y(UK) 1-4</p> <p>The <i>Consultant</i> submits to the <i>Employer</i> for acceptance details of the banking arrangements for the <i>Project Bank Account</i>. A reason for not accepting the banking arrangements is that they do not provide for payments to be made in accordance with this contract. The <i>Consultant</i> provides to the <i>Employer</i> copies of communications with the <i>project bank</i> in connection with the <i>Project Bank Account</i>.</p>
Named Suppliers	<p>Y(UK) 1-5</p> <p>The <i>Consultant</i> includes in his contracts with <i>Named Suppliers</i> the arrangements in this contract for the operation of the <i>Project Bank Account</i> and <i>Trust Deed</i>. The <i>Contractor</i> notifies the <i>Named Suppliers</i> of the details of the <i>Project Bank Account</i> and the arrangements for payment of amounts due under their contracts.</p> <p>Y(UK) 1-6</p> <p>The <i>Consultant</i> submits proposals for adding a <i>Supplier</i> to the <i>Named Suppliers</i> to the <i>Employer</i> for acceptance. A reason for not accepting is that the addition of the <i>Supplier</i> does not comply with the <i>Scope</i>. The <i>Employer</i>, the <i>Consultant</i> and the <i>Supplier</i> sign the <i>Joining Deed</i> after acceptance.</p>
Payments	<p>Y(UK) 1-7</p> <p>The <i>Consultant</i> includes with this invoice at each assessment date a statement of the amounts due to <i>Named Suppliers</i> in accordance with their contracts.</p> <p>Y(UK) 1-8</p> <p>Within the time set out in the banking arrangements to allow the <i>project bank</i> to make payment to the <i>Consultant</i> and <i>Named Suppliers</i> in accordance with the contract.</p> <ul style="list-style-type: none"> • the <i>Employer</i> makes payment to the <i>Project Bank Account</i> of the amount which is due to be paid under the contract and • the <i>Consultant</i> makes payment to the <i>Project Bank Account</i> of any amount which the <i>Employer</i> has notified the <i>Contractor</i> he intends to withhold from the certified amount and which is required to make payment to <i>Named Suppliers</i>. <p>Y(UK) 1-9</p> <p>The <i>Consultant</i> prepares the <i>Authorisation</i> setting out the sums due to <i>Named Suppliers</i> as assessed by the <i>Consultant</i> and to the <i>Consultant</i> for the balance of the payment due under the contract. After signing the <i>Authorisation</i>, the <i>Consultant</i> submits it to the <i>Employer</i> no later than four days before the final date for payment. The <i>Employer</i> signs the <i>Authorisation</i> and submits it to the <i>project bank</i> no later</p>

than one day before the final date for payment.

~~Y(UK) 1-10 The Consultant and Named Suppliers receive payment from the Project Bank Account of the sums set out in the Authorisation as soon as practicable after the Project Bank Account receives payment.~~

~~Y(UK) 1-11 A payment which is due from the Consultant to the Employer is not made through the Project Bank Account.~~

Trust Deed

~~This agreement is made between the Employer, the Consultant and the Named Suppliers.~~

~~Terms in this deed have the meanings given to them in the contract between _____ and _____ for _____ (the services).~~

Background

~~The Employer and the Consultant have entered into a contract for the services.~~

~~The Named Suppliers have entered into contracts with the Consultant or a Subcontractor in connection with the services.~~

~~The Consultant has established a Project Bank Account to make provision for payment to the Consultant and the Named Suppliers.~~

Agreement

The Parties to this deed agree that

- ~~• sums due to the Consultant and Named Suppliers and set out in the Authorisation are held in trust in the Project Bank Account by the Consultant for distribution to the Consultant and Named Suppliers in accordance with the banking arrangements applicable to the Project Bank Account.~~
- ~~• further Named Suppliers may be added as parties to this deed with the agreement of the Employer and Contractor. The agreement of the Employer and Consultant is treated as agreement by the Named Suppliers who are parties to this deed.~~
- ~~• this deed is subject to the law of the contract for the services.~~
- ~~• the benefits under this deed may not be assigned.~~

Executed _____ as _____ a _____ deed _____ on _____

by _____

(Employer)

(Consultant)

(Named Suppliers)

Joining Deed

~~This agreement is made between the Employer, the Consultant and _____ (the Additional Supplier). Terms in this deed have the meanings given to them in the contract between _____ and _____ for _____ (the services).~~

Background

~~The Employer and the Consultant have entered into a contract for the services.~~

~~The Named Suppliers have entered into contracts with the Consultant or a Subconsultant in connection with the services.~~

~~The Consultant has established a Project Bank Account to make provision for payment to the Consultant and the Named Suppliers.~~

~~The Employer, the Consultant and the Named Suppliers have entered into a deed as set out in Annex 1 (the Trust Deed) and have agreed that the Additional Supplier may join that deed.~~

Agreement

The Parties to this deed agree that

- ~~the Additional Supplier becomes a party to the Trust Deed from the date set out below~~
- ~~this deed is subject to the law of the contract for the services~~
- ~~the benefits under this deed may not be assigned~~

Executed _____ as _____ a _____ deed _____ on _____

by

 (Employer)

 (Consultant)

 (Additional Supplier)

Option Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

Definitions	Y(UK)2	<p>Y2.1 (1) The Act is the Housing Grants, Construction and Regeneration Act 1996 as amended by the Legal Democracy, Economic Development and Construction Act 2009</p> <p>(2) A period of time stated in days is a period calculated in accordance with Section 116 of the Act</p>
Dates for payment	Y2.2	<p>The date on which a payment becomes due is seven days after the date of receipt of the Consultant's invoice</p> <p>The final date for payment is fourteen days or a different period for payment if stated in the Contract Data after the date on which payment becomes due</p> <p>A Consultant's invoice which is submitted on or after its assessment date is the notice of payment specifying the sum that the Consultant considers to be due at the payment due date (the notified sum). The Consultant's invoice states the basis on which the amount is calculated and includes details of the calculation in accordance with the contract.</p>
Notice of intention to withhold payment	Y2.3	<p>If the Employer intends to pay less than the notified sum he notifies the Consultant of the amount which the Employer considers to be due not later than seven days (the prescribed period) before the final date for payment. The Employer's notification states the basis on which the amount is calculated and includes details of the calculation. A Party pays the notified sum unless he has notified his intention to pay less than the notified sum</p> <p>A Party does not withhold payment of an amount due under this contract unless he has notified his intention to withhold payment as required by this contract</p>

Suspension of performance Y2.4 If the *Consultant* exercises his right under the Act to suspend performance it is a compensation event.

Option Y(UK)3: The Contracts (Rights of Third Parties) Act 1999

Third party rights Y(UK)3

Y3.1 A person or organisation who is not one of the Parties may enforce a term of this contract under the Contracts (Rights of Third Parties) Act 1999 only if the term and the person or organisation are stated in the Contract Data.

Option Z: Additional conditions of contract

Additional conditions of contract Z1.1 The *additional conditions of contract* stated in the Contract Data are part of this contract

Anti-Bribery Z2

Z2.1 The *Consultant* acts in a way to uphold its good name and reputation at all times and not to do or attempt to do any act or thing which is intended to cause, or which in fact causes, any damage to or brings discredit upon either of the Parties

Z2.2 The *Consultant* represents, warrants and undertakes that

- neither the *Consultant* nor its employees or agents or Subconsultants or others performing services in relation to the *services* has done (or agreed to do) or does (or agree to do) anything which constitutes an offence or a breach by it and/or any of them and/or of any Applicable Law with regard to bribery.
- it procures that it, and each of its agents and Subconsultants and others performing services in relation to the *services*, has in place, and monitors, adequate and effective procedures to prevent a breach of any Applicable Law with regard to bribery and
- it notifies the *Employer* in writing immediately if any owner, whether direct or beneficial, shareholder, officer, director, employee, third-party representative, agent or any family relation of any such person, is a governmental official.

Z2.3 The *Consultant* procures that it, and each of its agents and Subconsultants and others performing services in relation to the *services*

- conducts (and documents) appropriate due diligence into the selection of each of its employees, subcontractors, agents and any other person performing services on its behalf to ensure compliance with the obligations in this clause Z2
- reports in writing to the *Employer* any suspicion of any breach or alleged breach of any Applicable Law with regard to bribery or, in the case of each of the agents and Subconsultants and others performing services to the relevant party to this subcontract and co-operates with the relevant party to this contract and/or any regulator and/or prosecutor in any investigation relating to the same and
- to the extent permitted by law, confirms in writing to the *Employer* that (a) there is no outstanding investigation, and within the last six years there has been no investigation into it under any Applicable Law with regard to bribery and (b) it has not been convicted of any offence under any Applicable Law with regard to bribery or reached any settlement in relation to any alleged breach of any Applicable Law with regard to bribery and has not self-reported any breach or suspected breach of any Applicable Law

with regard to bribery

Intellectual Property Rights

Z3

Z3.1 In this clause Z3, the following terms have the following meanings:

Background Intellectual Property is all Intellectual Property Rights relevant to the services which were created by the Consultant or any Subconsultant; prior to the date of this contract and which were not otherwise created substantially in contemplation of the services and

Project Intellectual Property is all Intellectual Property Rights, other than Background Intellectual Property, which are developed or created in connection with the services or the Project

Z3.2 The Consultant will make available and grant to the Employer irrevocable, royalty-free, non-exclusive licences of its own Background Intellectual Property for use in connection with the services or the Project

Z3.3 All Project Intellectual Property belongs to the Employer

Z3.4 The Consultant assigns (and procures that its Subconsultants and suppliers take all such steps as are necessary to assign) to the Employer all Project Intellectual Property. The Consultant takes all such steps, signs all such documents and provides assistance to enable applications for patent and other protection of Intellectual Property Rights forming part of the Project Intellectual Property to be made, to record the assignment of any of such rights and to defend or maintain such rights

Z3.5 The Consultant is responsible for the payment of all fees, royalties, and other charges, if any, that may be payable under the terms of any licence or permit in respect of the design, manufacture and supply of materials and any work done or methods employed in the execution of the services

Z3.6 If any designs provided by the Consultant, or any materials, systems, software, technology or procedures or methods employed by it in the execution of the services should infringe any letters patent, registered design, trade mark, copyright or other industrial or other intellectual property rights protected by law, then the Consultant holds harmless and indemnifies the Employer and its shareholders, officers, servants, agents or employees against all liabilities, claims, costs and expenses that may result from such infringement

Z3.7 If any claim is made or action is brought against the Employer arising out of the matters referred to in clause Z3.6 in respect of which the Consultant has agreed to indemnify the Employer, the Employer promptly notifies the Consultant thereof and the Consultant may, at its own cost and expense, conduct all negotiations for the settlement of the same and any litigation that may arise therefrom. The Employer, at the request of the Consultant, affords all available assistance to the Consultant throughout any settlement, negotiations or litigation and the Employer is repaid any costs and settlement expenses incurred in doing so. If the Employer, with the approval of the Consultant, decides to conduct any such negotiations or litigation, the Consultant, at its own cost and expense, affords all such assistance in connection therewith as the Employer may request

Z3.8 If, in consequence of any such claim or action, execution of the services, use of the designs, materials, systems, software, technology or procedures is held to constitute infringement and its use is prevented or restricted, the Consultant, at its own cost and expense, forthwith obtains for the Employer the right to continue with the execution of the services or to use the materials to Provide the Services or continue using the work areas, provided that, if the Consultant is unable to obtain such right, the Consultant, at its own cost and expense and as directed by the Employer, either (a) replaces the items of infringement with equivalent non-infringing items or (b) modifies the items of infringement so that they become non-infringing. Any such replacement or modification is subject to the provisions of this contract applicable to the original items

Confidential Information

Z4

Z4.1 In this clause Z4, the following terms have the following meanings:

Confidential Information is any information of whatever kind (whether commercial, technical, financial, operational or otherwise, in whatever form and whether or not recorded in any way) relating to the Employer, this contract, the services or the

Project

- Z4.2 Subject to the other provisions of and as expressly permitted by this clause Z4, the Consultant
- may not use any Confidential Information for any purpose other than the performance of its obligations under this contract.
 - may not disclose any Confidential Information to any person except with the prior written consent of the Employer and
 - makes every effort to prevent the use or disclosure of the Confidential Information.
- Z4.3 Notwithstanding clause Z4.2, the Consultant may disclose any Confidential Information to the following parties in the following circumstances
- to any officer or servant of the Consultant or any person engaged in the provision of goods or services to or for him if disclosure is necessary to enable the Consultant to Provide the Services or to enforce its rights under this contract, upon obtaining an undertaking of strict confidentiality from such officer, servant or person,
 - in connection with the terms of any other agreement in connection with the Project under which the Consultant and the Employer are each a party,
 - in connection with the Employer's obligations under any other agreement to which it is a party in connection with the Project,
 - to the extent required by Applicable Law, any Consent, the rules of any stock exchange or regulatory body or any written request of any taxation authority and
 - pursuant to the order of any court or tribunal of competent jurisdiction.
- Z4.4 The provisions of clause Z4.2 above do not apply to any Confidential Information which
- at the date of this contract or any time thereafter becomes publicly known other than by breach of this contract or of an obligation of confidence or
 - can be shown by the Consultant to the Employer's satisfaction to have been known by the Consultant before disclosure by the Employer.
- Z4.5 Before disclosure of any Confidential Information, the Consultant ensures that the recipient is made aware of and complies with the Consultant's obligations of confidentiality under this contract as if the recipient was a party to this contract.
- Z4.6 Without prejudice to any other rights or remedies which the Employer may have, the Consultant acknowledges and agrees that in the event of a breach of this clause Z4, the Employer, without proof of special damage is entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause Z4 in addition to any damages or other remedies to which it may be entitled.
- Z4.7 If this contract is terminated, the Consultant returns to the Employer all of the Confidential Information then within its possession or control or destroys such Confidential Information using a secure and confidential method of destruction and furnishes to the Employer sufficient evidence of such destruction, save that the Consultant may retain one copy of the Confidential Information if required to do so by law.

Publicity

- Z5 The Consultant does not, except with the written consent of the Employer, make any press announcements or publicise this contract, the services or the Project (or any matter connected with or related to them) in any way unless the purpose of such disclosure is to allow compliance with a requirement to disclose information concerning this contract as required by law or the requirement of any recognised stock exchange. The provisions of this clause Z5 do not apply to any information which is limited to the fact of the Consultant being a party to this contract.

Legal Opinion

- Z6 If the Consultant or any company comprising part of the Consultant is not a company registered in England and Wales, the Consultant provides to the Employer on the Contract Date a legal opinion in the form reasonably acceptable to the Employer.

Data Protection

- Z7
- Z7.1 In this clause Z7 the following terms have the following meanings
- Construction Data is Personal Data of employees of the Consultant and

employees of Subconsultants working at the Site and/or the Working Areas

- Contractor Data is Personal Data of which the Employer is Data Controller
- Data Controller has the same meaning as in the Data Protection Act 1998
- Data Processor has the same meaning as in the Data Protection Act 1998
- Personal Data has the same meaning as in the Data Protection Act 1998
- Project Data Policy is the Employer's data protection policy relating to the Site and the Working Areas
- Site comprises (i) the areas within the boundaries of the site (as defined in each Main Works Contract as applicable) and (ii) the shafts, tunnels and adits excavated by the Main Works Contractors in accordance with (and within the constraints set out in) the Works Information (of each Main Works Contract as applicable)
- Working Areas are those parts of the working areas which are necessary for Providing the Services and used only for services in this Contract unless later changed in accordance with this Contract

Z7.2 The Consultant

- collects the Construction Data in accordance with the Project Data Policy
- ensures that all individuals whose Personal Data are collected by the Consultant in accordance with the Project Data Policy are provided with a copy of the information statement specified in the Project Data Policy setting out how their Personal Data will be processed and
- transfers the Construction Data to the Employer as required by the Project Data Policy, at which point the Employer becomes the Data Controller of such Personal Data and such Personal Data shall become Contractor Data. For the avoidance of doubt, the Contractor Data shall comprise Personal Data collected from a number of sources and shall not be limited to the Construction Data

Z7.3 The Consultant may retain a copy of the Construction Data for its own purposes, provided that it remains responsible at all times for all processing other than that which is undertaken on behalf of the Employer

Z7.4 Unless the Employer takes appropriate steps to widen the processing which can be undertaken by it, the Employer shall only process the Contractor Data for the purposes specified in the information statement specified in the Project Data Policy setting out how their Personal Data will be processed

Z7.5 The Contractor Data may be processed by the Consultant to enable the Employer to undertake the processing specified in the Project Data Policy. In such circumstances, the Consultant

- complies with the requirements of the Data Protection Act and any equivalent applicable legislation in the United Kingdom, the European Union or the United States of America and in accordance with good industry practice. In particular, the Consultant complies with the provisions of the Data Protection Act in respect of the processing of the Contractor Data as if it were a Data Controller
- collects, compiles, manipulates and stores or otherwise processes the Contractor Data only as instructed in writing in advance by the Employer. The Consultant does not carry out any other processing, use or disclosure of the Contractor Data and
- where and when requested by the Employer, provides a copy of all or any part of the Contractor Data which has been collected by the Consultant or provided to a Subconsultant by the Employer or a third party, to the Employer

Z7.6 The Employer may request by written notice that any specific item of data contained in the Contractor Data held by the Consultant be amended or deleted by the

Consultant and the Consultant immediately fulfils such a request unless such request is not permitted by law

Z7.7 The Consultant, in particular but without limiting its obligations under clause Z7.5 above

- maintains comprehensive registrations or notifications under the Data Protection Act or equivalent legislation in the United Kingdom, the European Union or the United States of America in relation to the processing of Personal Data by the Employer.
- is aware at all times of the registrable particulars of the Employer under the Data Protection Act and ensures that it does not use, disclose or process the Contractor Data in any way that is outside the scope of those particulars, provided that the Employer notifies the Consultant of any alterations in those registrable particulars.
- keeps the Contractor Data fully up to date on a timely basis at all times during the continuance of this contract.
- assists the Employer to respond to any request for information under Section 7 of the Data Protection Act made by an individual which complies with the requirements of the Data Protection Act.
- at all times has in place appropriate technical, procedural and organisational security measures to protect the Contractor Data, including but not limited to, the protection of
 - database software and equipment and
 - the Contractor Data against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, the Contractor Data.
- ensures that any employees, Data Processors or sub-Data Processors involved in the processing of the Contractor Data are bound by the security measures specified in this clause Z7.7.
- provides details of the security measures specified in this clause Z7.7 to the Employer in writing within 10 days of a written request from the Employer and
- notifies the Employer immediately if it receives any notice of non-compliance with, or a request for information under, the Data Protection Act or any equivalent legislation in any other country.

Z7.8 The Employer may, at its discretion and on reasonable written notice, require access to the Consultant's premises and the provision of sufficient relevant information in order to assess the adequacy of the Consultant's security measures.

Z7.9 If any of the Contractor Data or the Construction Data collected by or in the sole possession of the Consultant are either lost or sufficiently degraded to be unusable, the Consultant provides replacement and/or corrected data within three working days.

Z7.10 The Consultant agrees and undertakes to indemnify the Employer and hold the Employer harmless against any and all costs, liabilities and losses whatsoever incurred by the Employer arising out of any action or inaction of the Consultant that results in the Employer being in breach of any of its obligations or duties under the Data Protection Act or equivalent applicable legislation in any other country or of any term of this contract under a Task Order.

Z7.11 The Consultant may not, in any circumstances, transfer any of the Contractor Data to any country or territory outside the European Economic Area without the Employer's prior written consent, which may be withheld in its absolute discretion.

Z7.12 Upon the termination of this contract for whatever reason, the Consultant, unless notified otherwise by the Employer or required by law, immediately ceases all processing of the Contractor Data and, as requested by the Employer, destroys, sends or returns to the Employer on suitable media all copies of the Contractor

Data held in whatever form by the Consultant or any Data Processor

Z7 13 The Contractor Data and any rights subsisting in them, including, without limitation, any database rights, are and shall remain at all times the property of the Consultant, and the Consultant assigns to the Employer the copyrights, database rights and all other rights of a like nature in the Contractor Data conferred under the laws of the United Kingdom, the European Union, the United States of America or the jurisdiction in which the item has been developed that will be created by the Consultant during the term of this contract for the full term during which those rights and any renewals or extensions subsist.

Z7 14 The Consultant warrants that it

- has maintained and will continue to maintain comprehensive registrations under the Data Protection Act or equivalent legislation in the United Kingdom, the European Union or the United States of America in relation to the processing of Personal Data by the Subconsultant.
- has not received any notice of non-compliance with, or a request for information under, the Data Protection Act
- has in place adequate technical and organisational security measures including database software and equipment, governing the processing of the Contractor Data and any employees involved in such processing and
- shall carry out the processing of the Contractor Data with due skill and care

Access to information

Z8

Z8 1 The Consultant shall, free of charge, disclose to the Employer and allow the Employer and/or those nominated by the Employer to inspect and take away copies of all information relating to the services and the Consultant's obligations under this contract (including, without prejudice to the generality of the foregoing, accounts and records) as the Consultant shall require in order to satisfy itself that the provisions of this contract are being observed and performed, and/or in order to facilitate the operation of this contract, and the Consultant shall provide all reasonable assistance required by the Employer and/or those nominated by him in order to obtain such information and shall ensure that the Employer and/or those nominated by him have full and free access (including access to the Consultant's premises) and licence to use such information in order to facilitate the operation of this clause Z8, but the Consultant shall not be obliged to supply any information which would be treated as privileged in any proceedings.

Z8 2 The Consultant procures that each provider of a guarantee pursuant to clause X4 provides sufficient information in relation to its financial standing to allow the Employer to determine whether that guarantor continues to, and any replacement guarantor will, meet the guarantee criteria set out in clause X4. Such information is provided within one week of a request of the Employer made in writing.

Interface Agreement and Liaison Agreement

Z9

Z9 1 Provided that a Task Order has been issued in respect of such activities, without limiting the generality of the services, the Consultant delivers to the Employer in such form as reasonably requested by the Employer

- any information required for the development of the Construction Programme (as that term is defined in the Interface Agreement) in accordance with the Interface Agreement within such times as reasonably requested by the Employer and
- any information relevant to the reports to be provided by the Employer to the Liaison Committee (as that term is defined in the Liaison Agreement) in accordance with clause 6.2 of the Liaison Agreement within such times as reasonably requested by the Employer including, without limitation

- any extensions of time or other compensation events it has awarded under the Main Works Contracts or the System Integration Contract.
- the forecast of the Handover Date and the Acceptance Date and if the forecast is later than the Scheduled Handover Date and the Scheduled Commencement Date (as applicable) (as each of those terms are defined in the Interface Agreement) detailed reasons for the delay and any steps being proposed to mitigate the delay.
- the performance of the various parties to the Alliance Agreement against the Key Performance Indicators.
- any material breaches of the Main Works Contracts or the System Integration Contract.
- any update on the process for agreeing the Wet Tests and Acceptance Tests (as each of those terms are defined in the Interface Agreement).
- following the start of the Wet Tests (as that term is defined in the Liaison Agreement), an update of the progress of the Wet Tests (as that term is defined in the Liaison Agreement) and
- any other information related to the services that is required by the Employer in order to comply with its obligations under the Liaison Agreement or the Interface Agreement.

Assignment **Z10**

Z10.1 The Consultant does not assign the contract or any part thereof or any benefit or interest therein or thereunder without the prior written consent of the Employer. The Employer may assign the contract or any part thereof or any benefit or interest therein or thereunder.

No Guarantee of Minimum Level of Services **Z11**

Z11.1 Subject to any demobilisation arrangements specified in any Task Order, the Employer does not give any warranty or undertaking and does not make any representation as to the minimum or maximum level of work that may be awarded to the Consultant under this contract.

Z11.2 The Employer has no obligation to issue any Task Orders or to accept any proposal by the Consultant in respect of any Task Order.

[REDACTED]

[REDACTED]

Project Cost Incentive **Z13**

Z13.1 The provisions of Schedule 1 of Annex 1 to the Contract Data apply to the calculation and payment of the Project Cost Incentive.

Project Programme Incentive **Z14**

Z14.1 The provisions of Schedule 2 of Annex 1 to the Contract Data apply to the calculation and payment of the Project Programme Incentive.

Existing PMC **Z15**

Z15.1 The Consultant warrants and undertakes to the Employer that it has performed and will continue to perform its obligations under the Existing PMC in accordance with

all its terms and conditions. In the event of breach of this obligation the Consultant's obligations shall not be released, diminished or in any other way affected by any independent enquiry into any relevant matter which may be made or carried out by or on behalf of the Employer nor by any act or omission of any party carrying out such enquiry whether or not such act or omission might give rise to an independent liability of such party to the Employer.

Employer Secondments

Z16

Z16.1 The Employer is able to place Employer personnel (the "Secondees") with the Consultant for the purpose of assisting the Consultant to Provide the Service. The Employer nominates these Secondees to the Consultant from time-to-time and the Consultant consents to their placement with the Consultant (such consent not to be unreasonably withheld).

Z16.2 The Employer remains the employer or procurer of the Secondees throughout their placement with the Consultant, and is responsible for costs associated with the Secondees throughout this period provided that the Consultant is responsible for the supervision, direction and control of such Secondees.

EXECUTION VERSION

Annexure 2
Contract Data

EXECUTION VERSION

EXECUTION VERSION

CONTRACT DATA

Part one – Data provided by the *Employer*

Statements given in all contracts

1 General

- The *conditions of contract* are the core clauses and the clauses for main Option G, dispute resolution Option W2 and secondary Options X1, X2, X4, X7, X8, X9, X13, X18, X20 and Y(UK) 3 of the NEC PSC Professional Services Contract April 2013 (with amendments June 2006 and September 2011 and as otherwise amended herein).

- The *additional conditions of contract* are Z1 – Z16 of the NEC PSC Professional Services Contract April 2013 (with amendments June 2006 and September 2011 and as otherwise amended herein).

- The *Employer* is

Name: Bazalgette Tunnel Limited

Address: Level 1, Exchange House, Primrose Street, London, United Kingdom, EC2A 2EG

- The *Adjudicator* is to be appointed by the *Adjudicator nominating body*.

- The *services* are the *Consultant's* obligations as instructed in each Task (which Tasks are derived from the general description of activities in the Indicative Scope).

- The *language of this contract* is English.

- The *law of the contract* is the law of England and Wales.

- The *period for reply* is two (2) weeks.

- The *period for retention* is twelve (12) years following Task Completion of the last Task Order to achieve Task Completion unless otherwise specified in a Task Order.

- The *service period* commences on the issue of the first Task Order and expires on the expiry of the last *defects date* under this contract.

- The *senior representative* is (1) in relation to the *Employer*, the Chief Executive Officer or the Chief Operating Officer and/or their appropriately senior designee of the *Employer* and (2) in relation to the *Consultant*, the President of the Water Market or the Regional Managing Director and/or their appropriately senior designee of the *Consultant*.

- The *Adjudicator nominating body* is the Chartered Institute of Arbitrators.

- The *tribunal* is the courts of England and Wales

- The matters for inclusion in the Risk Register will be specified in each Task Order.

- [REDACTED]

2 The Parties' main responsibilities

- The *Employer* provides access to the persons, places and things as specified in each Task Order.

3 Time

- The *starting date* is the date of issue of the first Task Order.

EXECUTION VERSION

- The *Consultant* submits any revisions to programmes received under a Task Order which requires a programme at intervals no longer than four (4) weeks unless otherwise specified in a Task Order.

4 Quality

- The *defects date* in respect of each Task Order is 52 weeks from Task Completion unless otherwise specified in each relevant Task Order.

5 Payment

- The *currency of this contract* is Great Britain Pound Sterling (GBP).
- The *interest rate* is 2 % per annum above the base rate of the Bank of England.

8 Indemnity, insurance and liability

- The *assessment interval* is four weeks.
- The amounts of insurance and the periods for which the *Consultant* maintains insurance are:

Event	Cover	Period
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

- The *Employer* provides the following insurances

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	
		[REDACTED]	

		[REDACTED]	
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	[REDACTED]		
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

		<p>[REDACTED]</p>	
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Optional statements

If the *Employer* states any *expenses*

- The *expenses* stated by the *Employer* are

Item	Amount	Conditions
Staff expenses	Actual cost incurred plus a mark-up of 3% unless such expenses have been incurred by the <i>Consultant</i> on a cash neutral basis.	Expenses must be incurred in accordance with and be permitted under the <i>Employer's</i> Reimbursable Expenses Policy.
Agency staff and Subconsultant/ Subcontractor Costs	Actual amount invoiced. Where the <i>Consultant</i> is tasked or instructed to manage any person, consultant and/or contractor such that the <i>Consultant</i> bears the liability for any non-performance of such person, consultant or contractor or the <i>Consultant</i> is instructed to manage any agency staff under Task Order 1 (where such amounts under Task Order 1 are not reimbursed on a cash neutral basis), the <i>Consultant</i> is entitled to apply a mark-up of 3% to the actual amount invoiced.	Agency staff and Subconsultant/ Subcontractor Costs.
Expatriate costs	Actual cost incurred plus a mark-up of 3% unless such expenses have been incurred by the <i>Consultant</i> on a cash neutral basis.	Expenses must be incurred in accordance with and be permitted under the <i>Consultant's</i> Expatriate Staff Policy.

- The *Consultant* prepares forecasts of the total Time Charge and *expenses* at intervals no longer than four (4) weeks unless otherwise agreed by the Parties or unless specified otherwise in a Task Order.
- The *exchange rates* are those published in the Financial Times on the Wednesday prior to the date the invoice is submitted.

If Option X1 is used

- Subject to clause X1.4, [REDACTED] or as determined in accordance with the Infrastructure Provider's Project Licence.

If Option X2 is used

- The *law of the project* is the law of England and Wales.

If Option X8 is used

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

If Option X13 is used

- The amount of the performance bond, where required, is as specified in the relevant Task Order.

If Option X18 is used

- The *end of liability date* in respect of each Task Order is 12 years after Task Completion of the relevant Task Order.

If Option X20 is used

- Schedule 3 of Annex 1 to this Contract Data applies.

If Option Z is used

- The *additional conditions of contract* are Z1, Z2, Z3, Z4, Z5, Z6, Z7, Z8, Z9, Z10, Z11, Z12, Z13, Z14, Z15 and Z16.

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.

Statements given in all contracts

- The *Consultant* is
 Name CH2M Hill United Kingdom
 Address Elms House, 43 Brook Green, Hammersmith, London, W6 7FF,

- The *key people* in respect of each Task are specified in each Task Order
- The *staff rates* in respect of each person are specified in the column entitled "staff rates" in each Task Order.
- The *overhead* means the overhead percentage [REDACTED]
- Subject to clauses X1.2 and X1.3, the *salary bands* are the maximum salaries payable against each job grade and place of work, as set out in Annex 4 to the Contract Data.
 - The matters for inclusion in the Risk Register will be specified in each Task Order.
 - A Legacy Framework Subconsultancy Agreement is an agreement with an entity listed in Annex 7 to the Contract Data.

Optional statements

If Option G is used

- The Resources Schedule, if any, is specified in each Task Order.

EXECUTION VERSION

**Annex 1
Incentives**

EXECUTION VERSION

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

EXECUTION VERSION

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

EXECUTION VERSION

4 Milestones Table

4.1 Part 1 – Site Milestones

Site Name		Description of Milestone	Requirements for Achievement ¹
1.1	Acton Storm Tanks	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
		Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
		Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
		Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.2	Hammersmith Pumping Station	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
		Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
		Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

¹These details will be populated and agreed during the OCI period

Site Name	Description of Milestone	Requirements for Achievement
1.3	Barn Elms	<p>Commissioning</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p> <p>Access</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p> <p>Design</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p> <p>Construction</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p> <p>Commissioning</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p>
1.4	Putney Embankment Foreshore	<p>Access</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p> <p>Design</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p> <p>Construction</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p> <p>Commissioning</p> <p>Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period</p>

Site Name	Description of Milestone	Requirements for Achievement ¹
1.5	Dornay Street	established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.6	King George's Park	established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement
1.7 Carnwarth Rd Riverside	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.8 Falconbrook Pumping Station	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.9 Cremorne Wharf Depot	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.10	Chelsea Embankment Foreshore	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.11	Kirling Street	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.12 Heathwall Pumping Station	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.13 Albert Embankment Foreshoreshore	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement
	Construction	established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.14	Victoria Embankment Foreshore	
1.15	Blackfriars Bridge Foreshore	
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement ¹
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.16	Shad Thames Pumping Station	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.17	Chambers Wharf	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement ¹
	Commissioning	established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.18	Earl Pumping Station	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.19	Deptford Church Street	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement ¹
1.20 Greenwich Pumping Station	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.21 King Edward Memorial Park	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

Site Name	Description of Milestone	Requirements for Achievement*
1.22	Beckesbourne	established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
1.23	Abbey Mills Pumping Station	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

EXECUTION VERSION

Site Name	Description of Milestone	Requirements for Achievement ¹
1.24 Beckton Sewage Treatment Works	Access	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Design	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Construction	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period
	Commissioning	Those requirements as described in the Works Information under each Main Works Contract together with any further requirements established during the OCI Period

4.2 Part 2 - System-Wide Milestones

Description of Milestone	Requirements for Achievement
1 Bulkhead Removal	The requirements specified in the Alliance Agreement for Bulkhead Removal.
2 Handover Date	The Handover Date occurring.
3 System Acceptance	System Acceptance occurring.

EXECUTION VERSION

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
				[REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

EXECUTION VERSION

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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EXECUTION VERSION

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EXECUTION VERSION

Annex 2
Parent Company Guarantee



EXECUTION VERSION

[REDACTED]

[REDACTED]

[REDACTED]

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EXECUTION VERSION

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EXECUTION VERSION

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EXECUTION VERSION

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EXECUTION VERSION

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EXECUTION VERSION

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EXECUTION VERSION

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EXECUTION VERSION

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[REDACTED]

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[REDACTED]

EXECUTION VERSION

Annex 3
Collateral Warranty Agreements

EXECUTION VERSION

[REDACTED]

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EXECUTION VERSION

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[REDACTED]

EXECUTION VERSION

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Dated

2015

[THIRD PARTY ASSET OWNER]

and

CH2M HILL UNITED KINGDOM

DEED OF WARRANTY

in connection with the development of the sewerage assets known as the Thames Tideway Tunnel

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This Deed is made on [Insert Date]

Between:

- (1) [Third Party Asset Owner] whose registered office is at [] (the "Beneficiary", which expression shall include its successors in title or assigns); and
- (2) CH2M HILL United Kingdom (company number 02533469), a company organised and existing under the laws of England and Wales, having its registered office at 43 Brook Green, Elms House, Hammersmith, London, W6 7EF (the "PMC", which expression shall include its successors in title or assigns).

(each a "Party" and together the "Parties").

Recitals

- (D) The PMC has been appointed by the Infrastructure Provider under a contract dated [●] (the "Project Management Contract") to carry out and complete certain services in respect of the Thames Tideway Tunnel project (as specified in more detail in the Project Management Contract).
- (E) Certain services and activities to be undertaken by the PMC in connection with the Project Management Contract, as specified in more detail in Annex 1, will interface with the property and assets of the Beneficiary (the "Warranted Services").
- (F) By this Deed, the PMC agrees to provide certain warranties in favour of the Beneficiary in respect of the Warranted Services on the terms and conditions specified herein.

In consideration of payment by the Beneficiary to the PMC of £1 (one pound) on demand, it is hereby agreed as follows:

1 Definitions

In this Deed:

"Consequential Loss" means in relation to any breach of this Deed, any indirect or consequential loss (including loss of production, loss of profit, loss of revenue, loss of contract, loss of goodwill, liability under other agreements or liability to third parties) resulting from such breach, whether or not the Party committing the breach knew (or ought to have known) that such indirect or consequential loss would be likely to be suffered as a result of such breach.

"Defects" means *[Note: Definition to be inserted in the context of the particular Warranted Services]*.

"Excluded Events" means those events described in Part 2 of Annex 1.

"Project Management Contract" means the contract described in Recital (A) as may be amended or replaced from time to time.

"Warranted Services" means the services specified in Part 1 of Annex 1.

[Warranty Period] means the period of *[Note: Period to be inserted.]*

Unless otherwise specified, capitalised and italicised terms used in this Deed will have the meanings given to them in the Project Management Contract.

2 PMC's Warranty

- 2.1 Subject to Clause 4, the PMC warrants to the Beneficiary that it shall perform the Warranted Services with due skill, care and diligence and that the Warranted Services shall remain free from Defects throughout the Warranty Period provided that the warranties given under this Clause 2.1 shall not apply in the event of any Defects or non-performance arising from the occurrence of any Excluded Events.
- 2.2 In the event of breach of the PMC's warranty in Clause 2.1, the PMC's obligations shall not be released, diminished or in any other way affected by any independent enquiry into any relevant matter which may be made or carried out by or on behalf of the Beneficiary nor by any act or omission of any party carrying out such enquiry whether or not such act or omission might give rise to an independent liability of such party to the Beneficiary.

3 [Correction of Defects

- 3.1 The PMC shall, at its own cost and expense, execute all services required to remedy any Defect in the Warranted Services as may be notified by the Beneficiary to the PMC on or before the date of expiry of the Warranty Period. The PMC shall have no obligation to perform any such remedial work if the Beneficiary fails to give notice by the date of expiry of the Warranty Period.
- 3.2 If the PMC fails to remedy the Defect within a reasonable time after being notified of the Defect in accordance with Clause 3.1, a date may be fixed by the Beneficiary, acting reasonably, on or by which the Defect is to be remedied.
- 3.3 If the PMC fails to remedy the Defect by the date notified in accordance with Clause 3.2, the Beneficiary may carry out the remedial work himself or have it carried out by others, in a reasonable manner and at the PMC's cost, but the PMC shall have no responsibility for such work. The PMC shall, on reasonable prior notice from the Beneficiary, pay to the Beneficiary the costs reasonably incurred by the Beneficiary in remedying the Defect.]
- [Note to draft: To be inserted if relevant to the nature of the services the subject of the third party warranty.]*

4 Limitations

- 4.1 The Beneficiary acknowledges and agrees that the PMC gives no other warranty or representation, whether express or implied, arising out of or in connection with the Warranted Services other than as specified in Clause 2.1.
- 4.2 In no event shall either party, its officers, employees or agents be liable to the other party (on the basis of breach of contract, indemnity, warranty or tort, including negligence and strict or absolute liability, or breach of statutory duty or otherwise) for any matter arising out of or in connection with this Deed in respect of any Consequential Loss suffered by such other party.
- 4.3 The PMC's obligations and liability under this Deed will be no greater than as if the Beneficiary were the Employer under the Project Management Contract and the PMC shall be entitled to raise any defences available to it under the Project Management Contract in respect of any proceedings or claim brought pursuant to this Deed.
- 4.4 The PMC's liability to the Beneficiary pursuant to Clause 2 shall be limited to *[Note: To reference the value of the services being undertaken by CH2M in respect of*

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Warranted Services] provided that such limit on liability is in aggregate with the limits on liability set out in clauses 82.1, 82.2 and 82.3 of the Project Management Contract.

5 Assignment

Neither party may assign, charge or transfer any right or obligation under this Deed to any other person without the other party's prior written consent (which may be granted or withheld in its absolute discretion).

6 Confidentiality

6.1 Subject to Clause 6.2, the parties shall at all times during the continuance of this Deed and for a period of three years following the expiry of the Warranty Period keep this Deed and its subject matter (and any documents disclosed pursuant to it) ("**Confidential Information**") confidential and shall not disclose such Confidential Information to any other person, except that the provisions of this Clause 6.1 shall not apply to information:

6.1.1 which at the time of disclosure was in the public domain other than by breach of this Clause 6;

6.1.2 disclosed with the prior written consent of both parties;

6.1.3 disclosed to the [*Note: Third parties to which this will need to be disclosed to be agreed.*];

6.1.4 disclosed to the extent required by any applicable law or the requirements of a recognised stock exchange on which the party making the disclosure is, or is proposed to be, quoted; or

6.1.5 disclosed pursuant to an order of any court of competent jurisdiction.

6.2 Either party shall be entitled to disclose Confidential Information if such disclosure is made in good faith:

6.2.1 to any affiliate of such party;

6.2.2 to any outside consultants or advisers engaged by or on behalf of such party and acting in that capacity;

6.2.3 to any bank or financial institution from which such party is seeking or obtaining or has obtained finance or the advisers to such bank or financial institution;

6.2.4 to any insurer under a policy of insurance referred to in this Deed or in a proposal for such insurance; or

6.2.5 to officers, employees, agents or sub-contractors of such party.

provided that such disclosure is necessary to enable such Party to perform or comply with, or to protect or enforce its rights under, this Deed or any other contract contemplated by this Deed or to carry on its business and the proposed recipient enters into a confidentiality agreement with the disclosing party substantially on the same terms of this Clause 6.

7 Contracts (Rights of Third Parties) Act 1999

Nothing in this Deed is intended to confer on any person any right to enforce any of the provisions of this Deed whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

8 Governing Law and Disputes

8.1 The construction, validity and performance of the respective obligations under this Deed shall be governed by and construed in accordance with English law.

8.2 Any dispute or difference arising out of or under or in connection with this Deed shall be referred to the exclusive jurisdiction of the English courts, provided that either party may bring proceedings in any other court or jurisdiction for the purposes of the enforcement or execution of any judgment or settlement agreement.

9 Notices

Any notice provided for in accordance with this Deed shall be deemed to be duly given if it is delivered by hand at, or sent by registered post or facsimile transmission to the relevant party at, the address of that party shown in this Deed or such other address as that party may by notice in writing nominate for the purpose of service, and if sent by registered post shall be deemed to have been received not later than 48 hours after the same shall have been posted.

10 Entire Agreement

This Deed constitutes the entire agreement between the parties with respect to the subject matter of this Deed and supersedes any prior written or oral agreement between them with respect to such subject matter.

This Deed is delivered the day and year first before written.

EXECUTION VERSION

SIGNED as a DEED by
[BENEFICIARY]
acting by

}

Director

Director/Secretary

SIGNED as a DEED by CH2M HILL
United Kingdom
acting by

}

Director

Director/Secretary

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Annex 1 to the Deed of Warranty

1 Part 1 – Warranted Services

[Note: Description to be inserted.]

2 Part 2 – Excluded Events

[Note: Description to be inserted.]

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Annex 4
Salary Bands

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Grade	Definition	Profession	Roles	Upper Limit of Salary Range (£)	Lower Limit of Salary Range (£)	Overtime/Shift Allowance Applicable? (Y/N)
Senior Director	Previous experience of managing more than one team. Proven leadership of an infrastructure programme with a track record of achieving deliverables. Able to make multi faceted decisions. Ability to work with and influence clients and other senior stakeholders	Director	Regional Managing Director			
Director	Previous experience of managing a team in a project environment. Functional expert. Has added value to the project due to applicability of previous experience. Able to make decisions from various sources of information. Ability to work with and involve clients and other senior stakeholders in decisions as applicable	Business Leader	Programme Director / Deputy Programme Director Delivery Manager / Senior Functional Manager			
Senior Manager	Has proven experience of managing a project and achieving deliverables	Senior Business Manager	Functional Manager			
Manager	Has previous experience of managing a functional project team against project deliverables	Business Manager	Functional Lead / Departmental Manager Senior Technical Lead			
Senior Professional	Has delivered in a construction environment Chartered or equivalent in their function. Has worked on similar projects in either planning or construction phase of a project	Senior Technical / Professional Business Delivery Operations	(Structural Engineering Lead) Technical Lead (Senior Risk Engineer)			
Professional						

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Junior Professional	Qualified engineering technician or equivalent, likely to be in early career	Early career Professional Graduate	Programme Engineer / Risk Engineer	
Technician	Likely to be in first or second role, studying to obtain engineering or technician status according to their institutes (or equivalent)	Trainee Professional Graduate		
Assistant Technician	Apprentice	Administrator	Trainee Engineer	
			Apprentice Team	
	Has the ability to manage diaries, manage data through excel spreadsheets, prepare basic powerpoint presentations.	Entrant Level Administrator	Administrator / Office Coordinator	
Administrative				E

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Annex 5
Indicative Scope

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1 Introduction

This document sets out an indicative scope of services for the *Consultant* to Provide the Services to the *Employer* in delivering the Project. This indicative scope outlines in a non-comprehensive manner the duties and support services which may or may not be instructed by the *Employer* and if instructed under a Task Order, it is intended that detailed requirements are specified under such Task Order. Where a defined term or identified term used in this Appendix 1 – Indicative Scope is defined in the contract; the meaning given to such term is as defined in the contract.

1.1 Core and Other Services

1.1.1 Core Services:

The core services are those services that the *Employer* may require from the *Consultant* to form a seamless and professional, integrated Project delivery team under a specific Task Order for the "Core Services". Such Core Services may include but not be limited to the following:

- working together with common aims and objectives under a common management plan to enable the successful delivery of the Project;
- provision of particular person resources identified for the integrated team subject to the Task Order requirements to assist with continuity of knowledge and to provide overall capability and capacity needed to fulfil its role in delivering the Project.

1.1.2 Other services:

The *Employer* may require other services other than the Core Services over the period of the Project such as the Project Manager under the NEC construction contracts and this will be specified in particular Task Orders to reflect the roles of the *Consultant* over the duration of the Project.

It is intended that the services as instructed under a Task Order will form the basis of the resource schedule in each applicable Task Order. The services may vary over the duration of the Project and any *Employer* instructions to vary the services will be reflected in subsequent Task Order based resource schedules.

Upon being instructed by the *Employer* under a Task Order, the *Consultant* performs the services as set out in the Task Order. A definition of the services and of deliverables for a specified task is set out in the relevant Task Order. It is intended that Task Orders are agreed between the *Employer* and the *Consultant* at intervals required by the *Employer*.

1.1.3 Task Orders are to include the following information:

- (i) A further definition of the services identifying or detailing the *Consultant's* obligation in respect of those services to be provided under the contract;
- (ii) All related assumptions and exclusions;
- (iii) Required deliverables;
- (iv) Programme for services as identified in the Task Orders (to be included within the programme for the Project as applicable);

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- (v) Resource Schedule;
- (vi) Key Performance Indicators and incentives (if any);
- (vii) Key persons for the task in question and other staff, identifying numbers of staff, titles, responsibilities and rates;
- (viii) Interim Incentive Schedule; (if any) and
- (ix) Any further information required by the *Employer* or proposed by the *Consultant* and agreed by the *Employer*.

The services that the Consultant may provide to support the *Employer* include the services described in Sections 2 to 8 below.

2 Engineering and Design Management, Third Party Liaison and Community Services

2.1 Assurance

- 2.1.1 Provide support to the *Employer* that the detailed design submissions meets *Employer's* requirements;
- 2.1.2 Participate in the development and implementation of an assurance strategy;

2.2 Design Management

- 2.2.1 Develop and manage the Project processes and procedures for delivering design;
- 2.2.2 Develop and manage the Project wide management processes and procedures for documenting the strategic operational engineering requirements and standards for the Project;
- 2.2.3 Provide support to the *Employer* in developing and managing the Project wide processes and procedures for securing the necessary stakeholder reviews and approvals for designs,
- 2.2.4 Review design submissions by Contractors and Others which may require the following activities: project technical data management, review of contractor submittals for conformance with project design criteria and accepted professional standards.
- 2.2.5 Review of Contractor submissions may require engineering disciplines to review such submissions during construction including but not limited to reviewing or assisting the following:
 - permit support submittals,
 - instrumentation programmes,
 - proposals for design changes,
 - proposals for excavation design,
 - odour control plans,
 - dust and noise monitoring plans,
 - site queries.

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- evaluation of material or plant substitution requests,
- meetings and site inspection,
- land and easements issues,
- utilities coordination,
- ground engineering design criteria,
- transportation/traffic engineering issues,
- traffic plans,
- control and communications plans, and
- design coordination issues including: electrical, mechanical, civil, structural, architectural, and landscape architecture.

2.2.6 Review and provide services as required for the Operations and Maintenance Manuals as required for the Project including training plans as required for the operations and maintenance phase.

2.2.7 Review the Pre-System Commissioning Plans as prepared by the Contractors.

2.2.8 Provide guidance and coordination, review, and provide services as required for the System Commissioning, Handover, and System Acceptance Testing phases.

2.3 Third Party Liaison and Interface Management

Provide support to the *Employer* in respect of Project level liaison and interface management and assists the *Employer* in the preparation of procurement and management strategies, consents strategy, application form preparation, consent application submissions, consent tracking and consent support during construction.

2.4 Community Services

2.4.1 Community/Contact Co-ordination

Provide community services support to support the *Employer* in its lead role as more particularly described in the Task Order if required which may or may not include the following activities: contact review, input and monitoring, Interagency co-ordination, attending Interagency committees, co-operating with agency project, attending individual agency meetings, agency database management, local or public inquiry support, analysing related government regulations.

2.4.2 Community Liaison and Media Relations

Provide community liaison services to support the *Employer* in its lead role as more particularly described in the Task Order if required which may or may not include the following activities: community relation support and identification and tracking of local concerns, assisting with the community information project, neighbourhood liaison, construction outreach, media relations and development of public information, production of media relations info, development of print and video materials, communications, attendance at public events and evening stakeholder meetings.

3 Programme Controls

3.1 Programme Controls

- 3.1.1 Define, implement or co-ordinate the Project control systems and procedures, including ensuring that any new software or system requirements are communicated to the *Employer's* IT function to maintain software and protocols across the Project;
- 3.1.2 Develop and manage the *Employer's* overall strategy for Project controls, including the implementation of all necessary supporting electronic and physical management systems;
- 3.1.3 Produce key Project management documents, processes and reports to satisfy *Employer's* reporting requirements as specified in Task Orders.

3.2 Cost, Schedule and Estimating

- 3.2.1 Manage the Project costs;
- 3.2.2 Verify and validate the resource plans for the Project;
- 3.2.3 Support the *Employer's* Project financial management and accounting procedures;
- 3.2.4 Provide Programme-level aspects of Project cost planning, budgeting, estimating, forecasting, reporting, managing and controlling of the costs, assets and liabilities associated with and arising from the Project planning, design, procurement, construction, commissioning, handover and close-out process;
- 3.2.5 Provide project cost information to the *Employer*, based on sound cost management and control, including the management of any contingency provision agreed by the *Employer*;
- 3.2.6 Provide regular forecasts and re-forecasts of project cost as required by the *Employer*;
- 3.2.7 Provide monthly project update reports for the *Employer's* cost management reviews, providing analysis of expenditure to date and the latest cost forecasts;
- 3.2.8 Specify requirements and manage the administration of project-related payments and purchasing systems.

Schedule

- 3.2.9 Manage the adoption of the *Employer's* existing work breakdown structure (WBS) throughout the Project and undertake further development where appropriate;
- 3.2.10 Organise, manage and co-ordinate the scheduling of each of the different elements of the Project so as to promote the efficient, timely and cost effective delivery of the Project;
- 3.2.11 Develop and maintain the integrated Project delivery schedule and provide reports on schedule variances and corrective action as required;
- 3.2.12 Develop and manage the establishment, maintenance and updating of time schedules (including key milestones) for design, procurement, construction, manufacture, installation, commissioning and closeout, including all necessary approvals and access requirements, possessions, etc.;

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- 3.2.13 Undertake schedule analysis, planning and monitoring for design, procurement, logistics, construction, testing and commissioning, and handover;

Estimating

- 3.2.14 Develop and implement the Project wide estimating methodology, including pre and parallel tender estimates, trend and value engineering estimates;
- 3.2.15 Prepare Project level estimates including but not limited to preparing reports of actual and forecast costs for the Project where required;
- 3.2.16 Check estimates carried out by Others.

Change Control

- 3.2.17 Develop and manage a Project wide process for scoping, implementing, controlling, monitoring and reporting change and for obtaining the *Employer's* agreement to changes, before they are adopted;
- 3.2.18 Develop and manage a Project wide trend process and produce periodic reports for *Employer* review as required.

Risk Management

- 3.2.19 Assist the *Employer* in developing its risk policy;
- 3.2.20 Implement a programme of continuous risk management including identification and assessment of risks, analysis of risk budgets, mitigation planning, monitoring and records, draw down of contingency and residuals;
- 3.2.21 Provide risk management input to the Project and Project related commercial insurance provisions;
- 3.2.22 Undertake the identification, qualitative and quantitative assessment, mitigation, management and control of risk throughout the Project consistent with the *Employer's* risk management policy;
- 3.2.23 Obtain the *Employer's* approval of mitigation, management and control procedures;
- 3.2.24 Assist the *Employer* in managing its business continuity plan including emergency planning and disaster recovery.

Programme Reporting

- 3.2.25 Assist the *Employer* in the production of project progress reports that report on progress of Project. The format and content of this report is to be agreed with the *Employer*;
- 3.2.26 Support the *Employer* and provide timely and accurate information to enable the *Employer* to comply with the stakeholder reporting requirements as identified;
- 3.2.27 Produce progress, commercial and other reports on the status of the Project, and all its constituent projects to fully inform the *Employer* and Others of progress of the Project, resolution of design and construction issues and commercial agreements and settlements;
- 3.2.28 Manage, review and collate progress, commercial and other reports relating to the Project;

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- 3.2.29 Provide forecasts of future progress, costs and cash-flow;
- 3.2.30 Provide technical, status, progress and options appraisal reports in accordance with good industry practice for functions of the Project team; all as more particularly defined within a Task Order if required;
- 3.2.31 Contribute, as required, to reports to be produced by the *Employer* for Others.

3.3 Monitoring/management Requirements

- 3.3.1 Monitor and conform to the relevant requirements of Development Consent Orders ("DCO") and Asset Protection Agreements ("APA"), and will report to the *Employer* any breaches of the requirements of relevant DCOs or APAs.
- 3.3.2 Periodically update the *Employer* on the status of such DCOs and APAs as affect the Project.
- 3.3.3 Manage, monitor and conform to the relevant requirements of any Project Consents
- 3.3.4 Periodically update the *Employer* on the status of Project Consents.

3.4 Insurance

- 3.4.1 Monitor, maintain a report on such insurances as the Contractor is required to have under the terms of the Project documents.
- 3.4.2 Provide the *Employer* with periodic updates on the status of all claims made on such insurance, and will inform the *Employer* in the event of any material claims on such insurance.

4 Project Implementation

4.1 Procurement

- 4.1.1 For the *Employer's* corporate procurement needs:
 - (i) Produce work package procurement strategies;
 - (ii) Prepare OJEU notices;
 - (iii) Prepare pre-qualification packs;
 - (iv) Assess suppliers and prepare tender lists;
 - (v) Produce and issue tender invitation documents;
 - (vi) Receive and evaluate tenders;
 - (vii) Prepare recommendations for award

Responsible Procurement

- 4.1.2 Assist with the development, maintenance and application of the *Employer's* responsible procurement implementation framework to fully comply with the *Employer* procurement policies.
- 4.1.3 Support the production of the procurement strategy what will form part of the delivery strategy for the Project.

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- 4.1.4 Support the provision of data for benchmarking/market testing of existing services.
- 4.2 Commercial**
- Agreements Management**
- 4.2.1 Support the *Employer* in its management of the Third Party Agreements;
 - 4.2.2 Take responsibility for Project wide interface management activities;
- Value Management**
- 4.2.3 Develop and implement a value management process and a reporting regime across the Programme to review and assist the *Employer* in achieving value for money.
- Strategic Planning**
- 4.2.4 Assist the *Employer* with the execution and strategic planning and delivery of the Project.
- 5 Logistics**
- 5.1 Provide project-level management, guidance and co-ordination of logistical activities which may include project wide site planning and co-ordination of transport, labour movements, material disposal, material requirements, storage and any related matters.
 - 5.2 Provide supply-chain management services and assistance to the *Employer*
 - 5.3 Co-ordinate logistics activities with other major projects and interested third parties;
 - 5.4 In conjunction with the *Employer*, develop strategies for procuring and managing common user services within the Project;
 - 5.5 Provides a detailed logistics plan for the construction stage of the Project, to implement the *Employer's* logistics strategy.
- 6 Health, Safety, Quality and Environment**
- 6.1 Health and Safety**
- 6.1.1 Assist the *Employer* to develop Project wide Health and Safety strategies, policies and processes in conjunction with the *Employer's* existing and future policies;
 - 6.1.2 Provide training on health and safety requirements to the *Consultant's* own staff and to integrated Programme delivery team staff as necessary;
 - 6.1.3 Advise and support the *Employer* in the discharge of its statutory responsibilities as Client under the CDM Regulations 2007 and 2015;
 - 6.1.4 Advise and support the *Employer* on coordination of the health and safety aspects of the design;
 - 6.1.5 Advise on preparation and issue of health and safety file;
 - 6.1.6 Advise and support the *Employer* in respect of matters of occupational health.

6.2 Safety Management

- 6.2.1 Operate a health and safety management system that fully satisfies BS OHSAS 18001;
- 6.2.2 Promote a positive and transformational safety culture across the Programme through leadership and communication;
- 6.2.3 Put in place suitable arrangements for the effective implementation of the HSQE management system;
- 6.2.4 Investigate and propose to the *Employer* health and safety objectives which shall be monitored and reviewed and used to improve performance;
- 6.2.5 Assist the *Employer* to develop and manage the Project health and safety assurance process. Health and safety assurance includes obtaining assurance for the *Employer* from Industry Partners.
- 6.2.6 Support the *Employer's* initiative in respect of the fitness for work and health surveillance and support the Construction Better Health (CBH) initiative.
- 6.2.7 Collaborate with the *Employer* and the Contractors to reduce the negative impact of work on health by undertaking and implementing occupational health essential standards.
- 6.2.8 Implement the *Employer's* drug and alcohol policy.

Quality Management System and Audits

- 6.2.9 Operate an approved Quality Management System (QMS) based on the 'best-practice' model BS EN ISO 9001 or equivalent. The QMS will align with the *Employer's* Business Management System (BMS)
- 6.2.10 Establish an audit schedule for the *Employer's* (if required) and *Consultant's* activities, which includes the monitoring of their supply chain organizations. The schedule shall be planned to audit key activities audited at a time and frequency appropriate to the significance of the activity under review. The schedule shall be approved by the *Employer's* team accountable for the work and integrated into the *Employer's* audit programme once deemed acceptable by the *Employer's* HSQE management team.
- 6.2.11 Establish procedures such that the programme manager and its sub consultants record and manage the timely close out of any audit non-conformities.
- 6.2.12 Analyse audit findings and communicating the results to interested parties to enable system and process improvements and where appropriate management actions.
- 6.2.13 Provide audits by appropriately trained and qualified staff, in accordance with the requirements of BS EN ISO 19011.

Environmental Management

- 6.2.14 Provide guidance and training on environmental requirements to the *Consultant's* own staff and to integrated Project delivery team staff as identified in a Task Order.
- 6.2.15 Gather information on environmental performance as it relates to the Project.

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- 6.2.16 Provide information on environmental performance at the Project level to *Employer's* planning and environment team.

7 Role of Project Manager for construction contracts and Construction Technical Services

7.1

- 7.1.1 Provide services to support the duties and responsibilities of the Project Manager for and as defined in the NEC3 ECC Contract Packages and/ or any other supply contracts such as which may include but not be limited to the following responsibilities: cost, schedule, project controls, quality, health and safety, consents and review of Contractors' submittals only as particularly defined in the particular Task Order
- 7.1.2 Provide construction planning services which may include but not be limited to the following: constructability reviews, claims avoidance reviews, updating of construction contract packaging, technical standard specification review, pre-bid site tours, contract bid document addenda reviews, construction bid evaluation as more particularly described in the particular Task Order and that such scope should not exceed the expectations of the construction contract documentation and the role of the Project Manager as defined therein.
- 7.1.3 Provide construction services which may include but not be limited to the following: arranging field laboratory services, testing of materials, shop inspections, inspection of ground engineering data and field surveys as more particularly described in the particular Task Order.
- 7.1.4 Providing the role of Supervisor under the NEC3 suite of contracts.

8 Human Resources

8.1 Human Resources and Administration

- 8.1.1 Where the *Consultant* is identified as being responsible for providing their own Project related accommodation:
- (i) Arrange any office moves and changes to facilities that are required through the lifetime of the Project;
 - (ii) Organise the movement of all *Consultant* employees working on the Project and documents and facilities belonging to the *Consultant*, after consultation and planning with the *Employer*;
 - (iii) Cooperate fully with the *Employer* in office accommodation and facilities arrangements and ensure compliance with all relevant health, safety and place of work legal requirements and the *Employer's* standards.
- 8.1.2 Personnel Administration - provide resources to manage its personnel administration, staffing, employee relations and career development
- 8.1.3 Administration Requirements – arrange administration services, which may or not be limited to the following: space planning, office furniture equipment, supplies and materials, reception, message centre, building management, fixed asset inventory, communications system admin, telecom network, non-engineering records

management, in house reproduction services, document control systems records retention, project vehicles, interoffice and intra office mail service.

- 8.1.4 Financial and Accounting – arrange financial and accounting services which may include or may not be limited to the following; consolidated invoice processing, cost and commitment maintenance.

When implementing Task Orders, the Consultant may be required comply with the following section requirements as specified in the Task Order:

Training

- 8.1.5 Training for employees of *Employer* to be provided by the *Consultant*, if any, will be specified in the Task Order.

9 General Obligations

9.1 Compliance with the Employer's Procedures

- 9.1.1 Liaise and co-operate with the *Employer's* policies and procedures that are relevant to the services to be provided by the *Consultant*.
- 9.1.2 Co-locate with the *Employer* in the *Employer's* offices.
- 9.1.3 Ensure that staff are registered with the Construction Skills Certification Scheme (CSCS) as required by the *Employer's* CSCS policy.
- 9.1.4 Liaise and co-operate with the *Employer's* procurement expert panel;
- 9.1.5 Co-locate with the *Employer* in the *Employer's* offices.

9.2 Contract Reporting

- 9.2.1 Submit contract reports as specified in each Task Order covering its contract activities at intervals to be agreed with the *Employer* that include but are not limited to the following:
- (i) Progress review of the *Consultant's* activities detailing achievements during the reporting period including progress against the Interim and Programme KPIs up to the date of submission;
 - (ii) Measurement of performance against the Interim and Programme KPIs including a summary of delays and any proposals for recovery that may be required by the *Employer*;
 - (iii) Task Schedule updates update showing the critical path activities and any variances that exist;
 - (iv) Variations both existing and proposed that may impact on the progress of *Consultant* services;
 - (v) Price for Services Provided to Date by the *Consultant* and forecasts of the price to completion of the *Consultant's* services;
 - (vi) *Consultant's* cost summary including variation costs both agreed and proposed;

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- (vii) *Consultant* staff matters including any changes to staff that are proposed and a summary of staff records;
- (viii) Other commercial issues;
- (ix) Demographic information on staffing, training provided, and other human resources information as required by the *Employer* to fulfil the *Employer's* reporting requirements; and
- (x) Other progress or management issues.

9.2.2 Provide copies of reports numbered in accordance with the *Employer's* document management procedures and deliver to the *Employer* no later than noon on the fifth day of the period following the reporting period or as otherwise agreed by the Parties in accordance with the contract and/or the specific Task Order.

9.3 Meetings

Progress Meetings

9.3.1 Attend progress meetings at intervals as required, which will be convened and chaired by the *Employer*. The meetings will include a review of the Project progress report and the contract report for the previous period. The *Consultant* will be responsible for writing the minutes of the meetings, which will be submitted to the *Employer* for approval. The details of the progress meetings and types of progress meetings as specified by the *Employer* and requiring the attendance of the *Consultant* during the Project will be as more specifically defined within the Task Order.

Quarterly Review Meetings

9.3.2 Attend quarterly meetings as required by the *Employer* to be held in London at approximately three-monthly intervals. The *Employer* will notify the *Consultant* of the date of such meetings not less than 7 (seven) days before they are to be held.

9.4 Consultant's Employees

9.4.1 Maintain a register of personnel on the *Consultant's* team from commencement until the end of the service period. The register will contain details of the *Consultant's* personnel assigned to the Project and will be updated daily or as necessary.

9.4.2 Maintain as a minimum the following information in the register: name; employer; position and grade; any local/site specific safety/competency certification; qualifications or licences held; medical certificate of fitness; principal duties under this contract. For security purposes a copy of the employee's passport will be retained.

9.4.3 Submit to the *Employer* for acceptance the initial register and for subsequent acceptance of changes thereto. An update of the register will be maintained in the Project office which will be available for inspection at any time by the *Employer*.

9.5 Industrial Relations

9.5.1 Take reasonable steps to preserve a state of good industrial relations between the Contractor and its employees.

- 9.5.2 Provide assistance to the *Employer* in the conduct of liaison with relevant unions.

9.6 Communications and Correspondence

- 9.6.1 Provide communications, correspondence and any associated submissions in connection with the services provided to the *Employer* in a conformity with the *Employer's* document control system and such communications and correspondence will state if they have been sent for information, comment, review, acceptance or approval.
- 9.6.2 Comply with the *Employer's* quality control procedures in the production of all documents provided by the *Consultant* to the *Employer* and each document will indicate that it is compliant.
- 9.6.3 Comply with the *Employer's* security policies in respect of the issue of any communications and correspondence in connection with the services.

9.7 Resource Schedule

- 9.7.1 Provide a Resource Schedule to accord with the Task Order specific requirements.
- 9.7.2 Provide a Resource Schedule such that it lists each staff member together with contract grades, rates and periods and be presented in the form of a bar chart covering the entire duration of the services, including the level of resource fluctuations envisaged.
- 9.7.3 Provide updates and data in response to *Employer's* requests for proposed changes to the services by detailed resource projections in the manner described above. The *Consultant* will submit such projections to, and in the form and at the times required by the *Employer*.

9.8 Conflict Management, Bribery and Anti-corruption

- 9.8.1 Comply with the *Employer's* policies on conflict management, bribery and anti-corruption, and with applicable legislation relating to bribery and corruption.
- 9.8.2 Procure the compliance of its employees and any sub-contractors with the *Employer's* policies on conflict management, bribery and anti-corruption, and with applicable legislation relating to bribery and corruption.

9.9 Intellectual Property

- 9.9.1 Assist the *Employer* as required in the management/protection of the *Employer's* intellectual property rights.

9.10 Electronic Data Handling

- 9.10.1 Use the *Employer's* IT (information technology) systems.
- 9.10.2 Check for viruses with up-to-date virus-checking software on issuing any electronic data into the *Employer's* IT (information technology) system;
- 9.10.3 Put in place the appropriate procedures that the information is safeguarded and data properly accessed, that the data can be secured and is interpretable for future reference and a clear audit trail is provided, including the date and time events occurred.

- 9.10.4 Adhere to the *Employer's* security and information technology policies and procedures in respect of electronic data handling.

9.11 Contract Close Out

- 9.11.1 Review with the *Employer* the administrative procedures to be adopted for the close out of the *Consultant* Task Order at the latest but no later than fifteen (15) months prior to the scheduled date for the end of the service period of the *Consultant* and/or the Task Completion date for any Task Order.
- 9.11.2 Discuss with the *Employer* the following to enable a close-out plan with supporting procedures to be agreed no later than nine (9) months prior to the end of the service period or as more specifically defined within each Task Order:
- (i) Submission of proposals by the *Consultant*, including options if applicable, for the run down, demobilization and close out of the *Consultant's* contract. This will take account of advice provided by the *Employer* as to the transition of the *Employer* staff structure from Project delivery to operational state, post-handover of the Project;
 - (ii) Handover and archiving of all the Project record documentation, not only of hard copy records, but specifically taking account of the transfer of electronic records in formats compatible with the *Employer's* ongoing operations.
- 9.11.3 Attend monthly meetings with the *Employer* to review and adjust the close out plan as appropriate during the nine (9) months prior to the end of the service period of the Project or as specified in the Task Order prior to the Task Completion date under the following headings:
- (i) Clear definition of work outstanding, how and when it will be completed and by whom;
 - (ii) Clear understanding of financial position: commitment, expenditure to date, expenditure to complete; reconciliation between the *Employer* and the *Consultant* of paid values for all work packages including identification of outstanding invoices and claims;
 - (iii) Clear definition of warranties and guarantees for the services, material and equipment, their commencement dates and durations.

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Annexure 3
Task Order 1

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Thames Tideway Tunnel Project
Professional Services Contract

TASK ORDER 01

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This is a Task Order as referred to in the NEC PSC Option G agreement as entered into by the *Employer* and the *Consultant*.

1 Detailed description of the work in the Task

1.1 Definitions and interpretation

1.1.1 In this Task Order 1:

- (i) "**Annual Resource Schedule**" means in respect of the first Service Year following the issue of this Task Order 1, the Original Resource Schedule, and for each subsequent Service Year, the resource schedule established in accordance with paragraph 2.1 of this Task Order 1;
- (ii) "**Core Personnel**" has the meaning given in paragraph 1.2.1 of this Task Order 1;
- (iii) "**Original Resource Schedule**" means the schedule set out in Annex 1 to this Task Order 1;
- (iv) "**PSA**" means the Professional Services Agreement – Option G between the *Employer* and the *Consultant* dated on the date of Licence Award, as may be amended from time to time;
- (v) "**Service Year**" means each period of twelve (12) months following the date of issue of this Task Order 1.

1.1.2 Unless otherwise specified herein, terms used in this Task Order 1 shall have the meanings given in the PSA and the rules of interpretation applicable to the PSA shall apply to this Task Order 1.

1.2 Summary of the services and assumptions

1.2.1 Scope of Services

In accordance with the terms and conditions of the PSA, by this Task Order 1 the *Employer* instructs the *Consultant* to carry out the services as required under this Task Order 1 and otherwise in accordance with the terms and conditions of the PSA.

The scope of *services* under this Task Order 1 is the provision of certain professional personnel (within the job descriptions and within the relevant professional grades as described in the Resource Schedule Annex 1 to this Task Order 1) to form part of an integrated team to work with the *Employer* to manage the delivery of the Project (the "**Core Personnel**"). The *Employer* shall select the relevant Core Personnel in accordance with the procedure set out in this Task Order 1.

The *Consultant* provides Core Personnel to supplement the *Employer's* own resources to ensure appropriate continuity of knowledge, experience and expertise in relation to the development of and delivery model for the Project (and management of risks related thereto) and to support the *Employer's* delivery of the Project at the standard of care set out in and otherwise in accordance with the terms of the Contract and this Task Order 1.

The *Consultant* is, as of the date of this Task Order 1, to procure the services set out in the subcontracts listed in Annex 3 of this Task Order 1 and such services shall form part of the *services*. The *Employer* is entitled, at any time, to instruct the *Consultant* to cease or discontinue all or any part of the *services* referred to above.

The *Employer* pays to the *Consultant* the amount of any termination, discontinuation or cancellation payments which are, or will become, due in connection with the termination or transfer of the contract with Critigen referred to in Annex 3 of this Task Order 1 from the Existing PMC to this Contract.

The *Consultant* acknowledges that, by this Contract, the *Employer* has engaged it to perform certain project management services pursuant to Task Order 1 and, subject to the *Employer's* conflicts of interest management policy, the *Consultant* ensures that the Core Personnel proactively work with the personnel undertaking Task Order 2 in order to ensure the efficient management of the works being performed for the Project.

1.2.2 Assumptions in respect of the Scope of Services

The following assumptions apply to the performance of the *services* the subject of this Task Order 1:

- (i) The job descriptions for the Core Personnel set out in the Annual Resource Schedule are intended as a management tool and as a description of the activities to be undertaken by the individuals when integrated with the *Employer's* own team. The job descriptions are not intended to import a different or greater contractual liability on the *Consultant* or any member of the Core Personnel than that as set out in this Task Order 1.
- (ii) The *Consultant* ensures that all members of the Core Personnel work in accordance with the *Employer's* governance structure and decision making processes and otherwise act in accordance with all reasonable instructions of the *Employer* and his delegates, having regard to the relevant qualifications of that individual.
- (iii) Where a member of the Core Personnel who is acting in accordance with the Schedule of Delegated Authority set forth in this Task Order signs or approves any submission or document, any such signature or approval by that person shall be for and on behalf of the *Employer*. In so doing the *Consultant* is deemed (other than in the circumstances of wilful default or gross negligence), for the purposes of this Task Order 1, to be acting under the direction of the *Employer* as principal.

1.2.3 *Employer's* responsibilities

The *Employer* is responsible for directing and managing the Core Personnel selected to provide the *services* the subject of this Task Order 1 as part of the *Employer's* integrated Project delivery team.

1.2.4 *Consultant's* responsibilities

The *Consultant* is responsible for:

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- (i) making available and providing the Core Personnel as agreed in each Annual Resource Schedule or as otherwise required under this Task Order 1; and
- (ii) subject to paragraph 1.2.3 of this Task Order 1, ensuring that each member of the Core Personnel acts in accordance with the requirements of this Task Order 1 in performing the *services* under this Task Order 1.

2 Resources

2.1 Original Resource Schedule

The Original Resource Schedule agreed for this Task Order 1, as set out in Annex 1 to this Task Order 1, specifies:

- 2.1.1 the job descriptions and professional grades, which professional grades shall correspond to the rates set out in the Contract Data, for the Core Personnel that the *Employer* and the *Consultant* have agreed will be required for the first Service Year following the issue of this Task Order 1 (the "Initial Core Personnel"); and
- 2.1.2 the anticipated job descriptions and professional grades that for Core Personnel that are anticipated to be required for the remaining Service Years until the end date for this Task Order 1 as set out in paragraph 5.2, below.

2.2 Initial Core Personnel

The *Employer* instructs the *Consultant* to provide and the *Consultant* commits to provide the Initial Core Personnel for the first Service Year following the issue of this Task Order 1 in accordance with the requirements set forth in the Original Resource Schedule for the first Service Year.

2.3 Annual Resource Schedule

- 2.3.1 Not later than three months prior to the end of each Service Year, the *Employer* and the *Consultant* shall meet to discuss, in good faith, the requirements for the Core Personnel in the following Service Year so that an Annual Resource Schedule for that next Service Year may be agreed not later than four weeks prior to the commencement of that next Service Year.
- 2.3.2 If the *Employer* and the *Consultant* have not agreed in writing the Annual Resource Schedule by the date which falls four weeks prior to the commencement of that next Service Year, the *Employer* and the *Consultant* shall be deemed to have agreed that the Annual Resource Schedule for that next Service Year shall be the resource schedule as set out in the Original Resource Schedule (as may be amended by the Parties from time to time) for the relevant Service Year.
- 2.3.3 Upon agreement in writing, or deemed agreement, of the Annual Resource Schedule between the *Employer* and the *Consultant*, the *Employer* instructs the *Consultant* to provide and the *Consultant* commits to provide the Core Personnel during the relevant Service Year as required pursuant to the Annual Resource Schedule. The *Consultant* does not provide additional personnel other than as permitted pursuant to this Task Order 1

2.4 Balance of Professional Grades

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The *Consultant* shall ensure that the Original Resource Schedule and each Annual Resource Schedule maintains an adequate and reasonable balance, having regard to the nature of the *services*, in the professional grade levels of the Core Personnel available to the *Employer* for selection at all levels of seniority and experience.

2.5 Alternative Core Personnel

2.5.1 Other than with respect to *key people*, the *Consultant* may provide alternate persons to those named in the Original Resource Schedule or Annual Resource Schedule, as the case may be, to form part of the Core Personnel for a particular Service Year with the prior written consent of the *Employer*, which consent will not be unreasonably withheld.

2.5.2 The *Employer* may, in a particular Service Year, instruct the *Consultant* that certain members of the Core Personnel are no longer required and may, but shall not be obliged to, require that in such circumstances the *Consultant* provides replacement Core Personnel provided that such replacement Core Personnel or the relevant job description or professional grade has been specified in the Original Resource Schedule. The *Employer* gives four weeks notice of such instruction

2.6 Additional Resources

If at any time, the *Employer* or the *Consultant* considers that the *Consultant* should make available any additional resources and/or that any resource of the *Consultant* should carry out activities different or additional to those set out in the Original Resource Schedule or the Annual Resource Schedule, as the case may be, the *Employer* and the *Consultant* shall have good faith discussions to reach an appropriate agreement. Any such agreement:

2.6.1 to increase resource levels shall be in accordance with the provisions of the PSA, and the Original Resource Schedule or the Annual Resource Schedule, as the case may be, shall be adjusted accordingly;

2.6.2 to vary the activities carried out by an individual resource shall be recorded in an amended job description and the Original Resource Schedule or the Annual Resource Schedule, as the case may be, shall be adjusted accordingly; and

2.6.3 shall be signed on behalf of the parties by the *Employer's* and the *Consultant's* designated representatives.

2.7 Availability of Additional Resources

The *Consultant* may decline to give its agreement to provide additional resources pursuant to paragraph 2.6 of this Task Order 1 if, for reasons outside its reasonable control it is not able to:

2.7.1 make available the required additional resource as required by the *Employer*, or

2.7.2 provide an additional resource who has the necessary competency to undertake the required activity.

2.8 Minimising use of EWNs, CEs and Risk Register Meetings to update resources

The Parties agree and acknowledge that this methodological approach of updating the *Consultant's* services and resources is designed to reflect the integrated nature of the integrated team and to minimise the necessity of either Party using the contractual Early Warning Notice, Risk Register Meetings and/or compensation event procedures.

2.9 Task Order Process

The Parties acknowledge that the provisions for Early Warning Notices, Risk Register Meetings and compensation events will remain in place under the PSA as there may be limited instances when they are required in addition to the resource allocation process set out in this Task Order 1. However, in accordance with Clause 10.1 of the PSA, which refers to spirit of mutual trust and co-operation, the Parties will first look to this Task Order resource allocation process and will correspondingly work together to minimise the use of the provisions under the PSA.

2.10 Specialist Professional Services

2.10.1 The Parties acknowledge and agree that the *Consultant* or the *Employer* may need to draw on certain specialist professional resources (either from within its own personnel or from its framework contractors) who are not specified in the Original Resource Schedule or any Annual Resource Schedule in order to provide the *services* under this Task Order 1 ("**Specialist Professional Services**").

2.10.2 The purpose of those Specialist Professional Services is to provide strategic review, analyses, specialist expertise and recommendations as requested by the *Employer* or the *Consultant*, on technical, financial, management issues and/or objectives in respect of the Project and these should be aligned with the *services* as defined in this Task Order.

2.10.3 Any such Specialist Professional Services will be provided on an ad-hoc basis and will require prior written approval from the *Employer*.

2.11 Monthly Recruitment Plan

The *Consultant* reports to the *Employer* on the details of its recruitment activities and plans in respect of Task Order 1 on a monthly basis.

3 Lifetime Forecasts

3.1 This pricing section links with the resource forecasts set out in Annex 1. Such Annex contains a schedule of the resources and the forecast of the Prices for the period up to the Task Completion Date.

3.2 The forecast shall also include an indicative forecast or "**Lifetime Forecast**" which is defined as the forecast of all of the *Consultant's* costs, expenses and profit under the PSA until the end of the service period as specified in paragraph 5.2 of this Task Order 1. The Lifetime Forecast will be revised at the end of each Service Year to reflect each new Annual Resource Schedule and as is otherwise necessary to reflect any adjustments to the *services* provided under this Task Order 1.

4 Employer Provided Services

The *Employer* provides:

4.1.1 accommodation and all office facilities and services including IT and communications (but excluding laptop computers, tablets and mobile phones) to support the Core Personnel engaged in the performance of the *services* under this Task Order 1;

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4.1.2 vehicles and logistical and field support services and facilities for the Core Personnel engaged in the performance of the services under this Task Order 1 carrying out their duties at site offices and associated areas; and

4.1.3 personal protective equipment.

5 Starting and completion dates for the Task

5.1 Starting Date

The *starting date* for the Task is the date of award of this Task Order 1

5.2 Task Completion Date

The Task Completion Date is System Acceptance.

6 Defects Date

As specified in the Contract Data.

7 Programme and Planning

Not applicable.

8 Annual Budget

The *Consultant* shall, not later than four weeks prior to the end of each calendar year, provide to the *Employer* a detailed budget in respect of anticipated Time Charges and expenses for the following calendar year.

The *Consultant* provides the initial annual budget within one week of the date of this Task Order 1.

9 Special conditions applicable to the Task

9.1 Performance Bond

[REDACTED]

9.2 Access

No special arrangements required for Task Order 1.

9.3 Key People

The *key people* for this Task Order 1 are defined in the Annual Resource Schedule.

9.4 Conflicts of interest

[REDACTED]

10 Constraints on how the *Consultant* is to provide the services

No additional constraints specified for this Task Order 1

11 Specifications and Standards

No additional requirements specified for this Task Order 1.

12 Levels of Delegation

Refer to Annex 2 to this Task Order 1.

13 Information and other Things Provided by the *Employer* and Others

13.1 Training

The *Employer* determines and provides the following:

- 13.1.1 Project specific training (the *Employer* shall not however provide any industry standard safety training required for the role being undertaken by the *Consultant's* staff or infrastructure access qualifications); and
- 13.1.2 Project unique software systems training (the *Employer* shall not however provide any industry standard software training required for the role being undertaken by the *Consultant's* staff).

13.2 Premises and things to be provided by the *Employer*

The *Employer* determines and provides the following:

- 13.2.1 all necessary office and construction site office accommodation including all normal office furniture and stationery;
- 13.2.2 all computer workstations and use of information technology (hardware and software, but excluding laptop computers and tablets), telephone (but excluding mobile telephone), printing and fax facilities required to support the delivery of the programme;
- 13.2.3 all personal protective equipment;
- 13.2.4 cameras; and
- 13.2.5 appropriate site vehicles.

13.3 Rights to materials

13.3.1 *Employer's use of material*

No additional requirements specified for this Task Order 1.

13.3.2 *Consultant's use of material*

No additional requirements specified for this Task Order 1.

13.3.3 Transfer of Rights

No additional requirements specified for this Task Order 1.

14 Exit Plan

Not later than one month after the issue of this Task Order 1, the *Consultant* issues to the *Employer* a demobilisation plan for the period following termination of this Task Order 1 for the *Employer's* acceptance.

The *Employer*, acting reasonably, promptly notifies the *Consultant* if it accepts or does not accept (giving reasons if it does not accept the plan) the demobilisation plan.

If the *Employer* does not accept the *Consultant's* demobilisation plan, the *Consultant*, acting reasonably, revises the demobilisation plan to take account of the *Employer's* reasons for non-acceptance until the *Employer* accepts the demobilisation plan.

Upon termination of this Task Order 1, the *Consultant* proceeds in accordance with the accepted demobilisation plan or, if no demobilisation plan has been accepted, in accordance with the *Employer's* reasonable instructions.

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**Annex 1 to Task Order 1
Original Resource Schedule**

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**Annex 2 to Task Order 1
Schedule of Delegated Authority**

Annex 3 to Task Order 1
Schedule of Subcontracted Services

Critigen – in relation to the provision of GIS resources to manage programme geographical information system and in relation to the provision of managed IT services

Verizon – provision of internet services

BT Open Reach – provision of fixed line telephony services

CEMAR – in relation to the provision of contract administration software

Annexure 4
Task Order 2

EXECUTION VERSION

Thames Tideway Tunnel Project
Professional Services Contract

TASK ORDER 02

This is a Task Order as referred to in the NEC PSC Option G agreement as entered into by the *Employer* and the *Consultant*

1 Detailed description of the work in the Task

1.1 Definitions and interpretation

1.1.1 In this Task Order 2:

- (i) **"Annual Resource Schedule"** means in respect of the first Service Year following the issue of this Task Order 2, means the Original Resource Schedule, and for each subsequent Service Year, means the resource schedule established in accordance with paragraph 2.1 of this Task Order 2;
- (ii) **"Optimised Contractor Involvement"** means the process to drive efficiencies and innovation into the design and construction phase of the project as more particularly described in GEN-0500 of the Works Information attached to each Main Works Contract;
- (iii) **"Original Resource Schedule"** means the schedule set out in Annex 1 to this Task Order 2;
- (iv) **"PSA"** means the Professional Services Agreement – Option G between the *Employer* and the *Consultant* dated on the date of Licence Award, as may be amended from time to time;
- (v) **"Service Year"** means each period of twelve (12) months following the date of issue of this Task Order 2.

1.1.2 Unless otherwise specified herein, terms used in this Task Order 2 shall have the meanings given in the PSA and the rules of interpretation applicable to the PSA shall apply to this Task Order 2.

1.2 Summary of the services and assumptions

1.2.1 Scope of Services

In accordance with the terms and conditions of the PSA, by this Task Order 2 the *Employer* instructs the *Consultant* to carry out the *services* as required under this Task Order 2 and otherwise in accordance with the terms and conditions of the PSA.

The scope of *services* under this Task Order 2 are:

- (i) performance of the role of Project Manager role under each Main Works Contract and under the System Integration Contract (all as **"Sub-task 01"**), which services shall include, without limitation:
 - (a) doing all things required and carrying out all functions of the Project Manager under the Main Works Contracts and the System Integration Contract (including, without limitation, responding within the times required by the Main Works Contracts and System Integration Contract);
 - (b) acting as the CDM Co-ordinator and/or the Principal Designer for the purposes of the CDM Regulations;

- (c) implementing unanimous decisions of the Alliance Board (as defined in the Alliance Agreement) upon instruction from the *Employer*;
 - (d) implementing decisions and outcomes of the Optimised Contractor Involvement process upon instruction from the *Employer*;
 - (e) interfacing with the *Employer's* management to oversee the execution of the Project;
 - (f) ensuring sufficient staffing for all elements of the Project and ensuring work is accomplished in accordance with the PSA and this Task Order 2;
 - (g) providing Project progress reports and briefings as required by the *Employer* or as otherwise required pursuant to the Main Works Contracts or the System Integration Contract;
 - (h) providing monthly progress reports on the Project status to the *Employer*;
 - (i) providing monthly and quarterly progress reports against the agreed Key Performance Indicators;
 - (j) providing quarterly reports on staffing and organisation;
 - (k) facilitating and participating in the Optimised Contractor Involvement process; and
 - (l) undertaking such other tasks as required for the effective direction of the Project;
- 1.2.2 providing reports and other information as required under the *Employer's* policies and procedures in respect of the Project or as the *Employer* may otherwise require in connection with any other agreement in respect of the Project to which the *Employer* is a Party.
- (i) performance of construction integration services as further described in this paragraph 1.2.2(i) of this Task Order 2 in relation to each Main Works Contract and the System Integration Contract (all as "Sub-task 02"), which services shall include, without limitation:
 - (a) evaluate and monitor the scopes and schedules of the Main Works Contracts and the System Integration Contract to identify key interface risks and issues;
 - (b) on a monthly basis, review the interface risks and issues with the *Consultant's* project delivery teams and agree action plans to mitigate and resolve such risks and issues;
 - (c) assistance to develop the Project Master Programme and any underlying programmes in relation to the Project;
 - (d) identify opportunities to gain float or de-risk the programme in respect of interface issues affecting the Project;
 - (e) escalate any issues that represent a significant risk to the Project Master Programme;

- (f) manage the construction integration risk management process integrated with the risk and project management processes and produce monthly summary reports to identify key issues and track progress against these; and
- (g) facilitating and participating in the Optimised Contractor Involvement process; and
- (ii) performance of the role of Project Manager's Representative under the Alliance Agreement (all as "Sub-task 03"), which services shall include:
 - (a) doing all things required of the Project Manager's Representative under the Alliance Agreement;
 - (b) attending all meetings required to be attended by the Project Manager's Representative under the Alliance Agreement and reviewing all documents related to such meetings;
 - (c) recording discussions and decisions of meetings attended by the Project Manager's Representative in accordance with the Alliance Agreement;
 - (d) preparing and distributing all documents and other information required to be produced by the Project Manager's Representative in accordance with the requirements of the Alliance Agreement;
 - (e) implementing decisions made by the Alliance Board (as defined in the Alliance Agreement) in accordance with the provisions of the Alliance Agreement; and
 - (f) facilitating and participating in the Optimised Contractor Involvement process.

together with all such other services and activities, whether or not expressly stated herein, as are required to provide the *services* under this Task Order 2 to the standards required by the PSA.

1.2.3 Assumptions in respect of the Scope of Services

The following assumptions apply to the performance of the *services* which are the subject of this Task Order 2:

- (i) *Assumptions in relation to Sub-task 01*
 - (a) The Supervisor under each Main Works Contract will be instructed separately by the *Employer* being an individual having the level of delegated authority notified by the *Employer* to the *Consultant* from time to time.
 - (b) The *Employer* has appointed the *Consultant* as the Principal Designer for the purposes of the CDM Regulations.
 - (c) The *Employer* is the data protection officer responsible for any information requests required by law. The *Consultant* will assist the *Employer* with its responsibilities in respect of any information requests required by law where required and subject to instruction from the *Employer*.

- (d) The contractors under each of the Main Works Contracts and the System Integration Contract retain, in accordance with each relevant contract, responsibility for: self-certification, self-audit, full design responsibility, full environmental management responsibility and full health and safety responsibility.
 - (e) No Project Manager acceptance, assessment, audit or surveillance requirements under the Main Works Contracts and/or System Integration Contract will transfer design responsibility and/or liability and/or responsibility for the contractor's tasks set out above (whether express and/or implied) from the contractor to the Project Manager.
- (ii) *Assumptions in relation to Sub-task 02*
- (a) The *Consultant* will be the Construction Integration Manager for the Main Works Contracts and the System Integration Contract.
 - (b) The *Employer* is the data protection officer responsible for any information requests required by law. The *Consultant* will assist the *Employer* with its responsibilities in respect of any information requests required by law where required and subject to instruction from the *Employer*.
 - (c) The contractors under each of the Main Works Contracts and the System Integration Contract retain in accordance with each relevant contract, responsibility for: self-certification, self-audit, full design responsibility, full environmental management responsibility and full health and safety responsibility.
 - (d) No Construction Integration Manager acceptance, assessment, audit or surveillance activities will transfer design responsibility and/or liability and/or responsibility for the various contractor's tasks.
 - (e) The *Consultant* has based its assessment of resources for the Construction Integration Team on the use of Specialist Professional Services (as further defined in paragraph 2.7 of this Task Order 2) for general project management and execution support, as necessary.
 - (f) The *Employer* will be responsible for all planning, consents and wayleaves as required for the delivery of the programme of the IP Works
- (iii) *Assumptions in relation to Sub-task 03*
- (a) The *Employer* has given written instructions to the Project Manager to implement unanimous decisions of the Alliance Board (as defined in the Alliance Agreement).

2 Resources

2.1 Original Resource Schedule

- 2.1.1 The Original Resource Schedule agreed for this Task Order 2, as set out in Annex 1 to this Task Order 2, specifies:

- (i) the job descriptions and professional grades for the personnel, who shall include the *key people* specified in this Task Order 2, that the *Employer* and the *Consultant* have agreed will be required for the first Service Year following the issue of this Task Order 2 (the "Initial Service Personnel");
- (ii) the anticipated job descriptions and professional grades for personnel, who shall include the *key people* specified in this Task Order 2, that are anticipated to be required for the remaining Service Years until the end date for this Task Order 2 as set out in paragraph 6.2, below; and
- (iii) the budget for any Specialist Professional Services in each Service Year.

2.1.2 The *Employer* and *Consultant* acknowledge and agree that the Original Resource Schedule may need to be revised to reflect any agreements reached during the Optimised Contractor Involvement process following the Contract Date.

2.2 Initial Service Personnel

The *Employer* instructs the *Consultant* to provide and the *Consultant* commits to provide the Initial Service Personnel for the first Service Year following the issue of this Task Order 2 in accordance with the requirements set forth in the Original Resource Schedule for the first Service Year.

2.3 Future Service Personnel

The *Consultant* will ensure that, subject to the procedures for establishing the Annual Resource Schedule, it has, at all necessary times throughout the duration of this Task Order 2, sufficient resources available or timely access to such resources in order to meet the anticipated personnel requirements set forth in the previous year's Annual Resource Schedule and shall ensure that the *Key people* specified in this Task Order 2 are available to be included in each Annual Resource Schedule.

2.4 Annual Resource Schedule

- 2.4.1 Not later than three months prior to the end of each Service Year, the *Employer* and the *Consultant* shall meet to discuss, in good faith, the personnel requirements for the following Service Year and any adjustment to the budget for Specialist Professional Services so that an Additional Resource Schedule for that next Service Year may be agreed not later than four weeks prior to the commencement of that next Service Year.
- 2.4.2 If the *Employer* and the *Consultant* have not agreed in writing the Annual Resource Schedule by the date which falls four weeks prior to the commencement of that next Service Year, the *Employer* and the *Consultant* shall be deemed to have agreed that the Annual Resource Schedule for that next Service Year shall be the resource schedule as set out in the Original Resource Schedule (as may be amended by the Parties from time to time) for the relevant Service Year.
- 2.4.3 Upon agreement in writing, or deemed agreement, of the Annual Resource Schedule between the *Employer* and the *Consultant*, the *Employer* instructs the *Consultant* to provide and the *Consultant* commits to provide the Core Personnel during the relevant Service Year as required pursuant to the Annual Resource Schedule.

2.5 Minimising use of EWNs, CEs and Risk Register Meetings to update resources

The Parties agree and acknowledge that this methodological approach of updating the *Consultant's* services and resources is designed to reflect the integrated nature of the integrated team and to minimise the necessity of either Party using the contractual Early Warning Notice, Risk Register Meetings and/or compensation event procedures.

2.6 Task Order Process

The Parties acknowledge that the provisions for Early Warning Notices, Risk Register Meetings and compensation events will remain in place under the PSA as there may be limited instances when they are required in addition to the resource allocation process set out in this Task Order 2. However, in accordance with Clause 10.1 of the PSA, which refers to spirit of mutual trust and co-operation, the Parties will first look to this Task Order resource allocation process and will correspondingly work together to minimise the use of the provisions under the PSA.

2.7 Specialist Professional Services

2.7.1 The Parties acknowledge and agree that the *Consultant* may need to draw on certain specialist professional resources (either from within its own personnel or from its framework contractors) who are not specified in the Original Resource Schedule or any Annual Resource Schedule in order to provide the *services* under this Task Order 2 ("**Specialist Professional Services**").

2.7.2 The purpose of those Specialist Professional Services is to provide strategic review, analysis, specialist expertise and recommendations as requested by the *Employer* or the *Consultant*, on technical, financial, management issues and/or objectives in respect of the Project and these should be aligned with the *services* as defined in this Task Order 2.

2.7.3 Any such Specialist Professional Services will be provided on an ad-hoc basis as required by the *Consultant* provided that the *Consultant* shall require the *Employer's* prior written consent for the use of any Specialist Professional Services that exceed the budget for the relevant Service Year as specified in the Original Resource Schedule or the Annual Resource Schedule, as the case may be.

2.8 Monthly Recruitment Plan

The *Consultant* reports to the *Employer* on the details of its recruitment activities and plans in respect of Task Order 2 on a monthly basis.

2.9 Acknowledgement

The Parties acknowledge and agree that the arrangements in respect of scheduling resources under this Task Order 2 do not relieve the *Consultant* from his obligations to provide the Tasks the subject of this Task Order 2 in accordance with the Contract or otherwise relieve him from the arrangements under the Incentives Schedule.

3 Forecasts

3.1 Resource Forecasts

This pricing section links with the resource forecasts as set out in Annex 1. Such Annex contains a schedule of the resources and the forecast of the Prices for Task Order 2 for the period up to 31 March 2016 and indicative forecast Prices for the period of 1 April 2016 to

31 March 2024. It is proposed to revise each annual forecast for the Prices for Task Order 2 by not later than 31 December the year prior to the new start of the new financial year on 1 April. This will contain a detailed resource forecast for the next financial year and update to the lifetime forecast as defined in paragraph 3.2.2 of this Task Order 2.

3.2 Lifetime Forecasts

3.2.1 Refer to the resource forecasts as set out in Annex 1.

3.2.2 The forecast shall also include a "Lifetime Forecast" which is defined as the forecast of all of the *Consultant's* costs, expenses and profit under the PSA until the end of the service period as specified in paragraph 6.2 of this Task Order 2. The Lifetime Forecast will be revised at the end of each Service Year to reflect each new Annual Resource Schedule and as is otherwise necessary to reflect any adjustments to the *services* provided under this Task Order 2.

4 Employer Provided Services

The *Employer* is responsible for:

- 4.1.1 adhering to its own corporate governance requirements and policies to the extent relevant to the provision of the *services* under this Task Order 2;
- 4.1.2 ensuring timely responses where required, inclusive of but not limited to decisions in respect of compensation events;
- 4.1.3 attendance at risk reduction meetings if and when required;
- 4.1.4 exercising its discretions in relation to change control and exercising its authority in a timely manner where required;
- 4.1.5 providing *Employer's* data as necessary for the *Consultant* to provide the *services*;
- 4.1.6 proactively working with the *Consultant* as CDM-C and in its role providing construction integration services;
- 4.1.7 managing its interface with Thames Water to the extent relevant to the performance of the *services* the subject of this Task Order 2;
- 4.1.8 managing its relationship and interfaces with Stakeholders (including but not limited to DEFRA, IUK, OFWAT and TWUL) to the extent relevant to the performance of the *services* the subject of this Task Order 2;
- 4.1.9 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, providing information, data, access and approvals that the *Employer* is required to provide to the Stakeholders provided that nothing in this sub-paragraph shall limit the *Consultant's* obligations under this Task Order 2 with respect to the preparation of such information or procurement of such information from relevant subcontractors and third parties in order for the *Employer* to be able to provide such information to Stakeholders;
- 4.1.10 providing or procuring the provision by third parties of:
 - (i) protective provision agreements;
 - (ii) land ownership (including licences to occupy) or easements;
 - (iii) external stakeholder interface and approvals, and

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(iv) community relations;

- 4.1.11 providing all reasonably required office accommodation for *Consultant* personnel within the site offices or when agreed in offices provided by the *Employer* or any contractor or supplier in the *Employer's* supply chain subject to the *Consultant* providing reasonable, consistent and timely notification to the *Employer* of any such requirements;
- 4.1.12 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, supplying sufficient design leadership and design personnel (project sponsors, design advisors, supervisors and external (independent) technical reviewers etc.) to meet the design requirements of the Project;
- 4.1.13 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, providing a central engineering, project controls and technical team that defines policy and procedures and provides technical and engineering support to the delivery teams;
- 4.1.14 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, providing a 'central' multi-disciplinary team to administer all queries and information emanating from the *Consultant* and contractors and to prepare all necessary 'Project' reports; and
- 4.1.15 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, issuing changes instructions to the *Consultant* under the PSA arising from changes instructed under the Main Works Contract and/or System Integration Contract which impact on the service period or resource levels of the *Consultant*.

5 Starting and completion dates for the Task

5.1 Starting Date

The *starting date* for the Task is the date of award of this Task Order 2.

5.2 Task Completion Date

The Task Completion Date is System Acceptance.

6 Defects Date

As specified in the Contract Data.

7 Programme and Planning

Not applicable.

8 Annual Budget

The *Consultant* shall, not later than four weeks prior to the end of each calendar year, provide to the *Employer* a detailed budget in respect of anticipated Time Charges and expenses for the following calendar year.

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The *Consultant* provides the initial annual budget within one week of the date of this Task Order

9 Special conditions applicable to the Task

9.1 Performance Bond

[REDACTED]

9.2 Access

No special arrangements required for Task Order 2.

9.3 Key Personnel

The *key people* for this Task Order 2 are defined in the Resource Schedule.

10 Constraints on how the *Consultant* is to provide the services

10.1 Conflicts of Interest

The *Consultant* shall ensure that its personnel engaged in the performance of Sub-task 1 act in accordance with the obligations and duties imposed on the Project Manager under and in connection with the Main Works Contracts and the System Integration Contract and that in performing that role, such personnel avoid any conflicts of interest.

The *Consultant* shall remove from the performance of any duties in performing Sub-task 1, any personnel who are subject to a conflict of interest in connection with the performance of such duties.

The *Consultant* and *Employer* shall, in good faith, establish a conflicts management policy promptly after the date of issue of this Task Order 2.

10.2 Levels of Delegation

Refer to Annex 2 to this Task Order 2.

11 Specifications and Standards

No additional requirements specified for this Task Order 2.

12 Information and other Things Provided by the *Employer* and Others

12.1 Training

The *Employer* determines and provides the following:

12.1.1 Project specific training (the *Employer* shall not however provide any industry standard safety training required for the role being undertaken by the *Consultant's* staff or infrastructure access qualifications); and

12.1.2 Project unique software systems training (the *Employer* shall not however provide any industry standard software training required for the role being undertaken by the *Consultant's* staff)

12.2 Premises and things to be provided by the *Employer*

The *Employer* determines and provides the following:

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- 12.2.1 all necessary office and construction site office accommodation including all normal office furniture and stationery;
- 12.2.2 all computer workstations and use of information technology (hardware and software but excluding laptop computers and tablets), telephone (but excluding mobile telephone), printing and fax facilities required to support the delivery of the *services* under this Task Order 2;
- 12.2.3 all personal protective equipment;
- 12.2.4 cameras; and
- 12.2.5 appropriate site vehicles.

12.3 Rights to materials

- 12.3.1 *Employer's use of material*
No additional requirements specified for this Task Order 2.
- 12.3.2 *Consultant's use of material*
No additional requirements specified for this Task Order 2.
- 12.3.3 *Transfer of Rights*
No additional requirements specified for this Task Order 2.

13 Notice Periods in respect of Termination of this Task Order

The notice period that applies if the *Employer* wishes to terminate the *Consultant's* rights and obligations in respect of this Task Order because the *Employer* no longer requires the services or the *Employer* no longer wishes to have the *Consultant* Provide the Services is three months.

14 Exit Plan

Not later than one month after the issue of this Task Order 2, the *Consultant* issues to the *Employer* a demobilisation plan for the period following termination of this Task Order 2 for the *Employer's* acceptance.

The *Employer*, acting reasonably, promptly notifies the *Consultant* if it accepts or does not accept (giving reasons if it does not accept the plan) the demobilisation plan.

If the *Employer* does not accept the *Consultant's* demobilisation plan, the *Consultant*, acting reasonably, revises the demobilisation plan to take account of the *Employer's* reasons for non-acceptance until the *Employer* accepts the demobilisation plan

Upon termination of this Task Order 2, the *Consultant* proceeds in accordance with the accepted demobilisation plan or, if no demobilisation plan has been accepted, in accordance with the *Employer's* reasonable instructions.

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**Annex 1 to Task Order 2
Original Resource Schedule**

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**Annex 2 to Task Order 2
Schedule of Delegated Authority**

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Annexure 5
Task Order 3

EXECUTION VERSION

Thames Tideway Tunnel Project
Professional Services Contract

TASK ORDER 03

[REDACTED]

- A description of the interfaces required to provide Design Oversight including:
 - the *Employer*
 - TO1 assignment of staff to be under instruction of the *Employer*
 - TO2 acting as Project Manager under the NEC3 Contracts for the Main Works Contracts and System Integration Contract
 - TWUL

The *Consultant* is to update the Reference Design Suitability Report by continuing to:

- Define evidence to be collated
- Define reporting
- Confirm timeline - when will it be apparent that there is a problem - what could transpire and likely mitigation

In the provision of the *services* for the Design Oversight, data and interfaces will be required in respect of provision of data and reviews as follows:

- the *Employer*
- TO1 Assignment of staff to be under instruction of the *Employer*
- TO2 Role of Project Manager under the NEC 3 Contracts for the Main Works Contracts and the System Integration Contract
- TWUL

Assumptions and Exclusions

- No direct interface with the Main Works Contractors and/or the System Integration Contract
- Support will be available from resources in other Task Orders in the delivery of the *services* required for the Design Oversight
- Lines of reporting – Task Order 3 will report to the *Employer's* executive management through the Asset Management Director
- Managing the design acceptance process is not part of the scope of *services* for this Task Order 3

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- Responsibility of notification of Compensation Events under the Main Works and the System Integration Contract is not included under Task Order 03.
- Any issues arising under TO3 that require decision will be escalated to the *Employer*

1.2.2 Instructed Scope of Services

The *Employer* instructs the *Consultant* to perform the scope of *services* under this Task Order 3 which as defined in the Scope of Services set out in paragraph 1.2.1 above and to the results and recommendations of the Reference Design Suitability Report delivered pursuant to TWUL Task Order 11 under the Programme Management Services Agreement.

1.2.3 Assumptions in respect of the Scope of Services

- (i) *Assumptions*
 - (a) The *Employer* is the data protection officer responsible for any information requests required by law. The *Consultant* will assist the *Employer* with its responsibilities in respect of any information requests required by law matters where required and subject to instruction from the *Employer*.
 - (b) The *Consultant* has based its assessment of resources for this TO3 on the use of Specialist Professional Services, as necessary.

2 Resources

2.1 Original Resource Schedule

2.1.1 The Original Resource Schedule agreed for this Task Order 3, as set out in Annex 1 to this Task Order 3, specifies:

- (i) the job descriptions and professional grades for the personnel, who shall include the *key people* specified in this Task Order 3, that the *Employer* and the *Consultant* have agreed will be required for the first Service Year following the issue of this Task Order 3 (the "Initial Service Personnel");
- (ii) the anticipated job descriptions and professional grades for personnel, who shall include the *key people* specified in this Task Order 3, that are anticipated to be required for the remaining Service Years until the end date for this Task Order 3 as set out in paragraph 6.2, below; and
- (iii) the budget for any Specialist Professional Services in each Service Year.

2.1.2 The *Employer* and *Consultant* acknowledge and agree that the Original Resource Schedule may need to be revised to reflect any agreements reached during the Optimised Contractor Involvement process following the Contract Date.

2.2 Initial Service Personnel

The *Employer* instructs the *Consultant* to provide and the *Consultant* commits to provide the Initial Service Personnel for the first Service Year following the issue of this Task Order 3 in accordance with the requirements set forth in the Original Resource Schedule for the first Service Year.

2.3 Future Service Personnel

The *Consultant* will ensure that, subject to the procedures for establishing the Annual Resource Schedule, it has, at all necessary times throughout the duration of this Task Order 3, sufficient resources available or timely access to such resources in order to meet the anticipated personnel requirements set forth in the previous year's Annual Resource Schedule and shall ensure that the *key people* specified in this Task Order 3 are available to be included in each Annual Resource Schedule.

2.4 Annual Resource Schedule

2.4.1 Not later than three months prior to the end of each Service Year, the *Employer* and the *Consultant* shall meet to discuss, in good faith, the personnel requirements for the following Service Year and any adjustment to the budget for Specialist Professional Services so that an Additional Resource Schedule for that next Service Year may be agreed not later than four weeks prior to the commencement of that next Service Year.

2.4.2 If the *Employer* and the *Consultant* have not agreed in writing the Annual Resource Schedule by the date which falls four weeks prior to the commencement of that next Service Year, the *Employer* and the *Consultant* shall be deemed to have agreed that the Annual Resource Schedule for that next Service Year shall be the resource schedule as set out in the Original Resource Schedule (as may be amended by the Parties from time to time) for the relevant Service Year (including the applicable budget for the Specialist Professional Services).

2.4.3 Upon agreement in writing, or deemed agreement, of the Annual Resource Schedule between the *Employer* and the *Consultant*, the *Employer* instructs the *Consultant* to provide and the *Consultant* commits to provide the Core Personnel during the relevant Service Year as required pursuant to the Annual Resource Schedule.

2.5 Minimising use of EWNs, CEs and Risk Register Meetings to update resources

The Parties agree and acknowledge that this methodological approach of updating the *Consultant's* services and resources is designed to reflect the integrated nature of the integrated team and to minimise the necessity of either Party using the contractual Early Warning Notice, Risk Register Meetings and/or compensation event procedures.

2.6 Task Order Process

The Parties acknowledge that the provisions for early Warning Notices, Risk Register Meetings and compensation events will remain in place under the PSA as there may be limited instances when they are required in addition to the resource allocation process set out in this Task Order 3. However, in accordance with Clause 10.1 of the PSA, which refers to spirit of mutual trust and co-operation, the Parties will first look to this Task Order resource allocation process and will correspondingly work together to minimise the use of the provisions under the PSA.

2.7 Specialist Professional Services

2.7.1 The Parties acknowledge and agree that the *Consultant* may need to draw on certain specialist professional resources (either from within its own personnel or from its framework contractors) who are not specified in the Original Resource

Schedule or any Annual Resource Schedule in order to provide the *services* under this Task Order 3 (“**Specialist Professional Services**”).

2.7.2 The purpose of those Specialist Professional Services is to provide strategic review, analysis, specialist expertise and recommendations as requested by the *Employer* or the *Consultant*, on technical, financial, management issues and/or objectives in respect of the Project and these should be aligned with the *services* as defined in this Task Order 3.

2.7.3 Any such Specialist Professional Services will be provided on an ad-hoc basis as required by the *Consultant* provided that the *Consultant* shall require the *Employer's* prior written consent for the use of any Specialist Professional Services that exceed the budget for the relevant Service Year as specified in the Original Resource Schedule or the Annual Resource Schedule, as the case may be.

2.8 Monthly Recruitment Plan

The *Consultant* reports to the *Employer* on the details of its recruitment activities and plans in respect of Task Order 3 on a monthly basis.

2.9 Acknowledgement

The Parties acknowledge and agree that the arrangements in respect of scheduling resources under this Task Order 3 do not relieve the *Consultant* from his obligations to Provide the Services the subject of this Task Order 3 in accordance with the Contract or otherwise relieve him from the arrangements under the Incentives Schedule.

3 Forecasts

3.1 Resource Forecasts

This pricing section links with the resource forecasts as set out in Annex 1. Such Annex contains a schedule of the resources and the forecast of the Prices for Task Order 3 for the period up to 31 March 2016 and forecast Prices for the period of 1 April 2016 to 31 March 2024. It is proposed to revise each annual forecast for the Prices for Task Order 3 by not later than 31 December the year prior to the new start of the new financial year on 1 April. This will contain a detailed resource forecast for the next financial year and update to the lifetime forecast which runs to the end of Handover of the works (as defined in the Main Works Contract and System Integration Contract).

3.2 Lifetime Forecasts

3.2.1 Refer to the resource forecasts as set out in Annex 1.

3.2.2 The forecast shall also include a “Lifetime Forecast” which is defined as the forecast of all of the *Consultant's* costs, expenses and profit under the PSA until the end of the service period as specified in paragraph 6.2 of this Task Order 3. The Lifetime Forecast will be revised at the end of each Service Year to reflect each new Annual Resource Schedule and as is otherwise necessary to reflect any adjustments to the *services* provided under this Task Order 3.

4 Employer Provided Services

The *Employer* is responsible for:

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- 4.1.1 adhering to its own corporate governance requirements and policies to the extent relevant to the provision of the *services* under this Task Order 3;
- 4.1.2 ensuring timely responses where required, inclusive of but not limited to decisions in respect of compensation events;
- 4.1.3 attendance at risk reduction meetings if and when required;
- 4.1.4 exercising its discretions in relation to change control and exercising its authority in a timely manner where required;
- 4.1.5 providing *Employer's* data as necessary for the *Consultant* to provide the *services*;
- 4.1.6 managing its interface with Thames Water to the extent relevant to the performance of the *services* the subject of this Task Order 3;
- 4.1.7 managing its relationship and interfaces with Stakeholders (including but not limited to DEFRA, IUK, OFWAT and TWUL) to the extent relevant to the performance of the *services* the subject of this Task Order 3;
- 4.1.8 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, providing information, data, access and approvals that the *Employer* is required to provide to the Stakeholders provided that nothing in this sub-paragraph shall limit the *Consultant's* obligations under this Task Order 3 with respect to the preparation of such information or procurement of such information from relevant subcontractors and third parties in order for the *Employer* to be able to provide such information to Stakeholders;
- 4.1.9 providing or procuring the provision by third parties of:
 - (i) protective provision agreements;
 - (ii) land ownership (including licences to occupy) or easements;
 - (iii) external stakeholder interface and approvals, and
 - (iv) community relations;
- 4.1.10 providing all reasonably required office accommodation for *Consultant* personnel within the site offices or when agreed in offices provided by the *Employer* or any contractor or supplier in the *Employer's* supply chain subject to the *Consultant* providing reasonable, consistent and timely notification to the *Employer* of any such requirements;
- 4.1.11 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, supplying sufficient design leadership and design personnel (project sponsors, design advisors, supervisors and external (independent) technical reviewers etc.) to meet the design requirements of the Project;
- 4.1.12 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, providing a central engineering, project controls and technical team that defines policy and procedures and provides technical and engineering support to the delivery teams;
- 4.1.13 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, providing a 'central' multi-disciplinary team to

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administer all queries and information emanating from the *Consultant* and contractors and to prepare all necessary 'Project' reports; and

- 4.1.14 save to the extent the *Consultant's* acts or omissions have delayed or prevented the *Employer* from so doing, issuing changes instructions to the *Consultant* under the PSA arising from changes instructed under the Main Works Contract and/or System Integrator Contract which impact on the service period or resource levels of the *Consultant*.

5 Starting and completion dates for the Task

5.1 Starting Date

The *starting date* for the Task is the date of award of this Task Order 3.

5.2 Task Completion Date

The Task Completion Date is System Acceptance.

6 Defects Date

As specified in the Contract Data.

7 Programme and Planning

Not applicable.

8 Annual Budget

The *Consultant* shall, not later than four weeks prior to the end of each calendar year, provide to the *Employer* a detailed budget in respect of anticipated Time Charges and expenses for the following calendar year.

The *Consultant* provides the initial annual budget within one week of the date of this Task Order.

9 Special conditions applicable to the Task

9.1 Performance Bond

[REDACTED]

9.2 Access

No special arrangements required for Task Order 3

9.3 Key People

The *key people* for this Task Order 3 are defined in the Resource Schedule

10 Constraints on how the Consultant is to provide the services

10.1 Conflicts of Interest

The *Consultant* and *Employer* shall, in good faith, establish a conflicts management policy promptly after the date of issue of this Task Order 3.

11 Specifications and Standards

No additional requirements specified for this Task Order 3.

12 Information and other Things Provided by the *Employer* and Others

12.1 Training

The *Employer* determines and provides the following:

12.1.1 Project specific training (the *Employer* shall not however provide any industry standard safety training required for the role being undertaken by the *Consultant's* staff or infrastructure access qualifications); and

12.1.2 Project unique software systems training (the *Employer* shall not however provide any industry standard software training required for the role being undertaken by the *Consultant's* staff).

12.2 Premises and things to be provided by the *Employer*

The *Employer* determines and provides the following:

12.2.1 all necessary office and construction site office accommodation including all normal office furniture and stationery.

12.2.2 all computer workstations and use of information technology (hardware and software but excluding laptop computers and tablets), telephone (but excluding mobile telephone), printing and fax facilities required to support the delivery of the services under this Task Order 3;

12.2.3 all personal protective equipment;

12.2.4 cameras; and

12.2.5 appropriate site vehicles.

12.3 Rights to materials

12.3.1 *Employer's* use of material

No additional requirements specified for this Task Order 3.

12.3.2 *Consultant's* use of material

No additional requirements specified for this Task Order 3.

12.3.3 Transfer of Rights

No additional requirements specified for this Task Order 3.

13 Exit Plan

Not later than one month after the issue of this Task Order 3, the *Consultant* issues to the *Employer* a demobilisation plan for the period following termination of this Task Order 3 for the *Employer's* acceptance.

The *Employer*, acting reasonably, promptly notifies the *Consultant* if it accepts or does not accept (giving reasons if it does not accept the plan) the demobilisation plan.

EXECUTION VERSION

If the *Employer* does not accept the *Consultant's* demobilisation plan, the *Consultant*, acting reasonably, revises the demobilisation plan to take account of the *Employer's* reasons for non-acceptance until the *Employer* accepts the demobilisation plan.

Upon termination of this Task Order 3, the *Consultant* proceeds in accordance with the accepted demobilisation plan or, if no demobilisation plan has been accepted, in accordance with the *Employer's* reasonable instructions.

EXECUTION VERSION

**Annex 1 to Task Order 3
Original Resource Schedule**

EXECUTION VERSION

Annexure 6
TWUL Task Order 11

Annexure 7
Legacy Framework Subconsultancy Agreements

[REDACTED]

EXECUTION VERSION

[REDACTED]

