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## The *additional conditions of contract* are as follows.

# DEFINITIONS

## In these NEC Z Clauses, the following definitions apply**:**

“**CDM Regulations**” means the Construction (Design and Management) Regulations 2015

“**Contract**” means the NEC contract between the Employer and the Contractor for the provision of the Works.

“**Contractor**” means the Contractor referred to in the Contract.

**“Data Controller”** has the meaning set out in the Data Protection Legislation.

**“Data Controller’s Data”** means any Personal Data, any special categories of personal data as referred to in Article 9(1) of the GDPR and any Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR belonging to either the Employer or West Yorkshire Fire and Rescue Service.

"**Data Processor**” has the meaning set out in the Data Protection Legislation.

“**Data Processing Details**” means the description of the data Processing being carried out under the Contract, the details of which are set out in the data processing agreement with the relevant Data Controller.

**“Data Protection Legislation**" means the DPA 2018, the GDPR, the applied GDPR (as applied by the DPA 2018), regulations made under the DPA 2018, regulations made under section 2(2) of the European Communities Act 1972 which relate to the GDPR or Law Enforcement Directive (Directive (EU) 2016/680) and any replacement or supplementary legislation coming into effect from time to time.

“**Data Subject**” has the meaning set out in the Data Protection Legislation.

“**Data Subject Access Request**” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

"**DPA 2018**" means the Data Protection Act 2018;

**“Employer”** means the contracting Employer referred to in the Contract or any successor organisation responsible for the tendering, award and overall management (including the issue of any variations and modifications to Contract) of the Contract on behalf of that contracting Employer.

“**Intellectual** **Property** **Rights**” means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country and all rights to apply for or register such rights.

“**Laws**” means any law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body or any approval of any local authority or statutory undertaker having jurisdiction in relation to the Works or with whose systems the Works are, or are to be, connected, from time to time.

“**Material**” means all materials prepared by or on behalf of the Contractor for the Works and all updates, additions and revisions to them and any designs, or inventions incorporated in them.

“**MCA**” means mutual confidentiality agreement

“**Order**” means an official purchase order raised against the Contract by the Employer.

**“WYFRS”** means the West Yorkshire Fire and Rescue Service referred to in the Contract.

“**Permitted Uses**” means the design, construction, completion, reconstruction, modification, refurbishment, maintenance, funding, disposal, letting, fitting-out, advertisement, demolition, reinstatement, building information modelling and repair of the Works.

“**Personal Data**” has the meaning set out in the Data Protection Legislation.

“**Premises**” means the Employer’s premises where the Works are to be performed.

“**Process**” has the meaning set out in the Data Protection Legislation.

“**Project**” means the project described in the Contract.

“**SME**” means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

“**Sub-processor**” means any third party appointed to process Personal Data on behalf of the Contractor related to this Contract.

“**VCSE**” means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

“**Works**” means the works to be completed by the Contractor under the Contract

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| **Z1** | **Indemnity**References to any indemnity being given by the Contractor to the Employer WYFRS. |
| **Z2** | **Priority of documents**  If there is any ambiguity or inconsistency in or between the documents comprising this Contract, the priority of the documents is in accordance with the following sequence:   1. the completed Contract Data, 2. the additional conditions of contract, 3. the other conditions of contract, 4. the Works Information and 5. any other document forming part of the Contract. |
| **Z3** | **Work on the Premises** The Contractor and their employees, sub-contractors and their employees shall comply with any security requirements including a right to search when entering or leaving the Premises and being escorted in certain areas. The Employer reserves the right to remove from the Premises anyone not complying with the Employer’s security arrangements or suspected of being under the influence of alcohol, or any other substance which has the effect of impairing performance.The Employer’s decision as to whether any person is to be refused access to any Premises occupied by or on behalf of the Employer shall be final and conclusive and the Contractor shall replace promptly any such person to ensure that its requirements under the Contract are met.The Contractor shall bear the cost of or costs arising from any decision of the Employer under this clause. |
| **Z4** | **Suspension** Without limiting its other rights or remedies the Employer may suspend the Contract in whole or in part by giving written notice of such suspension to the Contractor if the Contractor or any of their employees or agents are or become;  1. subject to a criminal investigation in respect of allegations arising out of or relating to their professional practice whether in respect of work undertaken in performance of the Contract or otherwise; or 2. subject to a criminal investigation relating to an allegation, which if substantiated, would constitute a breach of the terms of the Contract; or 3. subject to any allegation of professional negligence; 4. in the reasonable opinion of the Employer, subject to a material detrimental change in the financial standing and/or credit rating which adversely impacts on the Contractor’s ability to complete the Works under the Contract or could be reasonably expected to have an adverse impact on the Contractor’s ability to complete the Works under the Contract; 5. in the reasonable opinion of the Authority, involved in any fraudulent activities or misapplication of funds (whether involving the Contract or not); or 6. subject to investigation by a relevant regulatory body in respect of any alleged breach of a relevant code of practice.  The Contractor must inform the Employer immediately upon becoming aware of any of the matters set out above.The Employer shall have no liability to accept performance of any Works during the period of suspension and the sums payable by the Employer under the Contract shall be reduced during the period of suspension by an amount equivalent to the value of the Works suspended for the duration of such suspension and the Employer shall have no liability whatsoever to make any payment to the Contractor of any sums withheld during the period of suspension.For the avoidance of doubt the Employer will be entitled during any period of suspension to engage other Contractor to provide the Works which the Contractor is unable to provide by reason of the suspension.Following a suspension pursuant to this clause, the Employer shall keep the matter under review and should the reasons for the suspension be resolved to the satisfaction of the Employer then the Employer may give written notice lifting suspension of the Contract.If the investigations or allegations at provision (a) are substantiated, this shall entitle the Employer to terminate the Contract with immediate effect. |
| **Z5** | **Reputation** The Contractor shall not, and shall procure that neither its employees or subcontractors:do any act or make any omission that has or could reasonably be expected to have an adverse impact upon the security of the business, operations, systems or properties or Premises of the Employer;take any action which might or shall:harm or be prejudicial to the public confidence in the Employer- West Yorkshire Fire and Rescue Service; orbring the Employer into disrepute.Without limiting this clause, the Contractor shall comply with the provisions of the standards, policies, procedures and regulations provided from time to time to the Contractor by the Employer. |
| **Z6** | **Publicity** Unless expressly permitted in writing by the Employer, the Contractor shall not publish or permit to be published either alone or in conjunction with any other person any information, articles, photographs or other illustrations relating to or connected with the Contract.This Contract shall not entitle the Contractor or any of their sub-contractors, agents or employees to endorse its services with any reference to the Employer, the Contractor shall not exhibit for advertising or any other reason any services or equipment supplied under the Contract which can be identified with the Employer without the prior written consent of the Employer.This clause includes any such reference made in any form of written, pictorial or audible advertising campaign, marketing, sales or promotion campaign. |
| **Z7** | **Vetting and DBS** The Employer may request and such employees of the Contractor, or any sub-contractor, who are involved in providing the Works that it deems necessary to undergo a DBS checks and security vetting procedure or have the Employer’s approval and secure vetting to the appropriate level prior to commencing and work on the Contract.To facilitate the relevant vetting when so requested by the Employer, the Contractor shall provide a list of the names and addresses of all persons (if any) who it is expected will be engaged in the provision of the Works, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Employer may reasonably require to permit appropriate security checking. This may include the requirement for the individuals concerned to provide personal details about family members and financial circumstances and make a personal declaration as to the accuracy of the information provided.For the avoidance of doubt, where the Employer has requested employees to undergo security vetting, only employees who have completed the vetting process and/or received written confirmation of their successful application can work on the Contract.If requested by the Employer, the Contractor shall be responsible for the vetting costs of all of the Contractor’s employees who are required to be vetted.The Employer does not accept liability for delays relating to the period between vetting forms being submitted to the Employer and confirmation to the Contractor of the vetting application outcome.The outcome of vetting and the decision from the Employer is final and binding. Employees who have not received vetting clearance by the Employer are not permitted to work on the Contract and the Contractor shall replace any of its employees who, the Employer shall have decided in its absolute discretion, have failed the appropriate security checking. The Employer shall not have to disclose why an employee has failed security checking. Following the removal of any of the Contractor’s employees for failing vetting, the Contractor shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Contract.The Contractor is responsible for ensuring all personnel supporting the contract, including but not limited to, sub-contractors employees are successfully vetted in line with any requested vetting by the Employer and shall ensure throughout the term of the Contract that they are at all times compliant with the vetting requirements of the Employer.It is the Contractor’s responsibility to ensure all staff working on the Contract in line with any requested vetting by the Employer and supply any information required by the Employer’s vetting unit and any changes in circumstances that occur after vetting has taken place during the term of the Contract are notified to the Employer. Any delay in the performance of the Contract resulting from the Contractor’s employees or sub-contractor employees not submitting fully and accurately completed forms and submitting any further information required or from declined vetting applications shall be the responsibility of the Contractor.The Contractor shall keep an accurate and up to date record of their vetted employees and sub-contractors employees and must ensure that vetting remains current for any individual involved in the delivery of the Contract. |
| **Z8** | **Transparency** The Employer is a public body and as such must comply, not least, with the legal requirements of the Public Contracts Regulations.WYFRS interpret these regulations into Contract Procedure Rules that form part of our overall Constitution.The Constitution and Contract Procedure Rules are maintained by the Authority’s Monitoring Officer. We are committed to being an open, accountable and transparent public authority and hence we publish details of contracts valued over £5,000 that we currently hold, as well as when they are due for retender.  This is in line with the government’s promise to ensure that public authorities are transparent about their contract expenditure and tender opportunities.  The Employer maintains a Contracts Register which is published on a website every quarter.  Details of the contracts register can be found [here](https://www.wyfs.co.uk/) |
| **Z9** | **Third party rights** Except as expressly provided below, a person who is not party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.The Employer also has the benefit of the Contract and is able to enforce all the Contractor’s obligations set out in the Contract.The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under the Contract are not subject to any other party. |
| **Z10** | **Data Protection** The Contractor warrants that it shall comply with the Data Protection Legislation and this clause is in addition to, and does not relieve, remove or replace the Contractor’s obligations under the Data Protection Legislation.The Contractor agrees that if it acts at any time under this Contract as a Data Processor of the Data Controller’s Data, it shall enter into a data processing contract in the relevant Data Controller’s standard form, such data processing contract to include the Data Processing Details setting out the scope, nature and purpose of the Processing by the Contractor, the duration of the Processing, the types of the Data Controller’s Data and categories of Data Subject involved and the obligations and rights of the Contractor and the Data Controller.The Contractor shall comply at all times with its obligations under the data processing contract referred to in this clause and shall only Process the Data Controller’s Data to the extent, and in such a manner, as is necessary for the purposes identified by the Data Controller and in the manner specified by the Data Controller and for no other purpose or in any manner except on the written instructions of the Data Controller or as required by any Laws. The Contractor shall not determine at any time the purpose or means of the Processing and, if it is so required by any Laws, the Contractor shall promptly notify the Data Controller before Processing the Data Controller’s Data unless prohibited by such Laws. The Contractor shall keep a record of any Processing of the Data Controller’s Data it carries out under the Contract.In addition to the provisions of any data processing agreement, where the Contractor processes Data Controller’s Data on behalf of the Employer, the following provisions of this clause shall apply.The Contractor shall notify the Employer immediately if it considers that any of the Data Controller's instructions infringe the Data Protection Legislation.The Contractor shall provide all reasonable assistance to the Data Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing.  Such assistance may, at the discretion of the Data Controller, include:a systematic description of the envisaged Processing operations and the purpose of the Processing;  * + 1. an assessment of the necessity and proportionality of the Processing operations in relation to the Works;     2. an assessment of the risks to the rights and freedoms of Data Subjects; and     3. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.  The Contractor shall process Personal Data only to the extent, and in such a manner, as is necessary for the purposes specified in the Data Processing Details Form and in accordance with the Data Controller’s instructions if applicable from time to time and shall not process the Personal Data for any other purpose. The Contractor shall keep a record of any processing of Personal Data it carries out under this Contract.The Contractor shall promptly comply with any request from the Data Controller requiring the Contractor to amend, transfer or delete the Personal Data.The Contractor shall only collect any Personal Data in a form which is fully compliant with the Data Protection Legislation which will contain a data protection notice informing the Data Subject of the identity of the Data Controller, the identity of any data protection representative it may have appointed, the purposes or purposes for which their Personal Data will be Processed and any other information which is necessary having regard to the specific circumstances in which the data is, or is to be, Processed to enable Processing in respect of the Data Subject to be fair.If the Contractor receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either Party's compliance with the Data Protection Legislation and the data protection principles set out therein, it shall immediately notify the Data Controller and it shall provide the Data Controller with full co-operation and assistance in relation to any such complaint, notice or communication.At the Data Controller's request, the Contractor shall provide to the Data Controller a copy of all Personal Data held by it in the format and on the media reasonably specified by the Data Controller.The Contractor shall not transfer the Personal Data outside without the prior written consent of the Data Controller and in accordance with the Data Protection Legislation.The Contractor shall promptly inform the Data Controller if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Contractor shall restore such Personal Data at its own expense.The Contractor shall ensure that access to the Personal Data is, in accordance with the Data Protection Legislation, limited to:  * + 1. those employees who need access to the Personal Data to meet the Contractor's obligations under this Contract; and     2. in the case of any access by any employee, such part or parts of the Personal Data as is strictly necessary for performance of that employee's duties.  The Contractor shall ensure that all employees:  * + 1. are informed of the confidential nature of the Personal Data;     2. have undertaken training in the Data Protection Legislation relating to handling Personal Data; and     3. are aware both of the Contractor's duties and their personal duties and obligations under the Laws, the Data Protection Legislation and this Contract.  The Contractor shall take reasonable steps to ensure the reliability of any of the Contractor's employees who have access to the Personal Data including any DBS and vetting status required.The Contractor shall provide the Data Controller with full co-operation and assistance in relation to any request made by a Data Subject to have access to that person's Personal Data.The Contractor shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the Data Controller or as provided for in this Contract in accordance with the Data Protection Legislation.The Contractor warrants that:  * + 1. it shall process the Personal Data in compliance with the Data Protection Legislation;     2. where applicable, it shall comply with all obligations of any data processing contract the Data Controller requires the Contractor to sign; and     3. it shall take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure the Data Controller's compliance with the seventh data protection principle.  The Contractor shall notify the Data Controller immediately if it:  * + 1. receives a Data Subject Access Request (or purported Data Subject Access Request);     2. receives a request to rectify, block or erase any Personal Data;     3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;     4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract; or     5. receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law.  The Contractor shall notify the Data Controller immediately if it becomes aware of any unauthorised or unlawful processing, loss of, damage to or destruction of the Personal Data.The Contractor shall, at the written direction of the Data Controller, delete or return Personal Data (and any copies of it) to the Data Controller on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.The Contractor agrees to indemnify and keep indemnified and defend at its own expense the Data Controller against all costs, claims, damages or expenses incurred by the Data Controller or for which the Data Controller may become liable due to any failure by the Contractor or its employees or agents to comply with any of its obligations under this clause.Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:  * + 1. notify the Data Controller in writing of the intended Sub-processor and processing;     2. obtain the written consent of the Data Controller;     3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and     4. provide the Data Controller with such information regarding the Sub- processor as the Data Controller may reasonably require.  The Contractor shall remain fully liable for all acts or omissions of any of its Sub-processors.The Contractor shall comply with the Employer’s baseline security requirements as updated from time to time by the relevant body and notified to the Contractor. |
| **Z11** | **Improving Visibility** This clause and the next clause shall apply where the advertised contract value for the Contract was valued above £5 million per annum,The Contractor shall:subject to the provision below, advertise on Contracts Finder all subcontract opportunities arising from or in connection with the provision of the Works above a minimum threshold of £25,000 that arise during the term of the Contract;within 90 days of awarding a subcontract to a subcontractor, update the notice on Contracts Finder with details of the successful subcontractor;monitor the number, type and value of the subcontract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the term of the Contract;provide reports on the information at provision (c) to this Employer in the format and frequency as reasonably specified by the Employer; andpromote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.Each advert referred to at provision (a) above shall provide a full and detailed description of the subcontract opportunity with each of the mandatory fields being completed on Contracts Finder by the Contractor.The obligation at provision (a) shall only apply in respect of subcontract opportunities arising after the contract award date.Notwithstanding the provisions above, the Employer may by giving its prior written approval, agree that a subcontract opportunity is not required to be advertised on Contracts Finder. |
| **Z12** | **Management Charges and Information** In addition to any other management information requirements set out in this Contract, the Contractor agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME Management Information (MI) Reports to the Employer which incorporate the data described in the MI Reporting template which is:the total contract revenue received directly on a specific contract;the total value of sub-contracted revenues under the contract (including revenues for non-SMEs/non-VCSEs); andthe total value of sub-contracted revenues to SMEs and VCSEs.The SME Management Information Reports shall be provided in the correct format as required by the MI Reporting Template and any guidance issued by the Employer from time to time. The Contractor shall use the initial MI Reporting Template which is set out in the Annex to Public Procurement Policy Note 01/08: Supply Chain Visibility Action and which may be changed from time to time (including the data required and/or format) by the Employer by issuing a replacement version. The Employer shall give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.The Contractor further agrees and acknowledges that it may not make any amendment to the current MI Reporting Template without the prior written approval of the Employer. |
| **Z13** | **Freedom of Information and Environmental Information Regulations** The Contractor acknowledges that the Employer is subject to the requirements of the Freedom Of Information Act 2000, (FOIA), and the Environmental Information Regulations 2004 (EIR) and the Contractor agrees to assist and cooperate with the Employer (at the Contractor’s expense) as mandated by the Employer in relation to these laws.Any Requests received by the Contractor shall be forwarded to the Employer immediately.The provisions of this clause shall extend to sub-contractors and the Contractor shall ensure compliance with this requirement.The Contractor acknowledges that the Employer may, acting in accordance with the FOIA, or the EIR be obliged to disclose information relating to the Contract (including commercially sensitive information subject to the application of any relevant exemption and, where applicable, the public interest test):without consulting with the Contractor; orfollowing consultation with the Contractor and having taken the Contractor’s views into account: orin accordance with legislation and procedural transparency requirements.Where it is necessary for the Contractor to provide information to the Employer which it believes to be information falling into the exemptions set out in the FOIA (“Exempt Information”), it shall state in writing to the Employer the nature of the information and the relevant exemption. The Employer will use reasonable endeavours to consult with the Contractor before disclosing such information under the FOIA. The Contractor acknowledges that the final decision whether to disclose such information will rest with the Employer and not with the Contractor. Nothing contained in this Contract or any documents or negotiations relating to this Contract shall prevent the Employer from disclosing any information which (in the Employer’s reasonable opinion or in accordance with any recommendation, notice or decision of a competent authority) it is required to disclose under the FOIA.When requested to do so by the Project Manager, the Contractor shall promptly provide the information in its possession relating to this Contract and shall assist and co-operate with the Project Manager to enable the Employer to respond to a Request within the time limit set out in the relevant legislation.The Contractor shall observe the Employer's Retention and Destruction Policy (details of which shall be provided by the Employer to the Contractor upon request) and shall not destroy information other than in accordance with this policy. If the Employer notifies the Contractor of a request for information held by the Contractor, which is due for destruction the Contractor shall immediately suspend destruction of that information to allow disclosure to take place. Upon the termination of this Contract the parties shall agree which party has the control of the retained information. Should the Contractor retain control of the information this clause shall remain in force beyond the termination of this Contract for a period of 6 years.The Contractor shall maintain an adequate records management system which will enable it to access the information within the time limits prescribed.The Contractor shall indemnify the Employer against all claims, demands, actions, costs, proceedings and liabilities that the Employer directly incurs due to the Contractor's or any sub-contractor breach of this clause or any part of it. |
| **Z14** | **Anti-bribery and fraud** The Contractor shall not offer or give, or agree to give, to the Employer or any other public body or any person employed by or on behalf of the Employer or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act relating to obtaining or the signing of the Contract or any other contract with the Employer or any other public body or showing or refraining from showing favour or disfavour to any person, in relation to the Contract or any other Contract with the Employer, or if similar acts have been done by any person employed by the Contractor, or acting on the Contractor’s behalf (whether with or without the knowledge of the Contractor.The Contractor warrants that it has not paid commission or agreed to pay commission to the Employer or any other public body or any person employed by or on behalf of the Contractor or any other public body in connection with the Contract.The Contractor shall:comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and provision (b), and shall enforce them where appropriate;promptly report to the Employer any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this Contract;immediately notify the Employer if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor (and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract); andensure that all persons associated with the Contractor or other persons who are performing services in connection with this Contract comply with this clause.The Contractor shall not engage in any activity practice or conduct which would constitute an offence under the Prevention of Corruption Acts 1889 to 1916 or Fraud Act 2006.The Contractor shall not receive any fee or reward the receipt of which is offence under the sub-section (2) of Section 117 of the Local Government Act 1972.Breach of this clause shall entitle the Employer to terminate the Contract with immediate effect.In the event of any breach of this clause by the Contractor or by anyone employed by it or acting on its behalf (whether with or without the knowledge of the Contractor):the Contractor shall immediately give the Employer full details of any such breach and shall co‑operate fully with the Employer in disclosing information and documents which the Employer may request; and/orthe Employer shall (without prejudice to any of its rights or remedies under this Contract or otherwise) be entitled by notice in writing to terminate this Contract immediately; andthe Contractor shall be liable for and shall indemnify and keep the Employer indemnified in respect of any and all loss resulting from such termination.In any dispute, difference or question arising in respect of:the interpretation of this clause; orthe right of the Employer to terminate this Contract; orthe amount or value of any gift, consideration or commission the decision of the Employer shall be final and conclusive. |
| **Z15** | **Compliance with anti-slavery and human trafficking laws** In performing its obligations under this Contract, the Contractor shall:comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; andnot engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;include in contracts with its direct subcontractors and suppliers provisions which are at least as onerous as those set out in this clause.notify the Employer as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.maintain a complete set of records to trace the supply chain of all Works provided to the Employer in connection with this Contract; and permit the Employer and its third party representatives to inspect the Contractor’s premises, records, and to meet the Contractor’s personnel to audit the Contractor’s compliance with its obligations under this clause.The Contractor represents and warrants that it not has been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.The Employer may terminate this Contract with immediate effect by giving written notice to the Contractor if the Contractor commits a breach of this clause. |
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| **Z16** | **Agency**  Neither the Contractor nor its employees shall in any circumstance hold itself or themselves out as being the servant or agent of the Employer, otherwise than in circumstances expressly permitted by this Contract.  Neither the Contractor nor its employees shall in any circumstances hold itself or themselves out as being authorised to enter into any contract on behalf of the Employer, or in any other way to bind the Employer in the performance, variation, release or discharge of any obligation.  Neither the Contractor nor its employees shall in any circumstance hold itself or themselves out as having the power to make, vary, discharge or waive any regulations of any kind. |
| **Z17** | **Protection of the Employer’s Rights**  If the Employer shall fail or delay in exercising any right, power or remedy under this Contract it shall not in any circumstances affect such right, power or remedy even if it would have done so if this clause did not exist. The single or partial exercise by the Employer of any right, power or remedy under this Contract shall not in any circumstances prevent the Employer using that right again or any other right, power or remedy under the Contract.  The rights, powers and remedies provided in this Contract are cumulative and are not exclusive of any rights, powers and remedies provided by law.  Acceptance by the Employer of any breach or default under any of the conditions of the Contract shall not be deemed to be an acceptance of any later breach or default and shall not affect the other of the said Contract conditions. |
| **Z18** | **Employer’s Property**  Neither the Contractor nor any of its sub-contractors, agents or other contractors shall have any lien over the Employer’s property for any sum or sums due from the Employer**.** |
| **Z19** | **Assignment**  The Contractor shall not assign its interest in or any rights arising under this Contract without the consent of the Employer.  The Employer may assign its interest in this Contract or any rights arising under it at any time without the consent of the Contractor provided that the Employer notifies the Contractor of any such assignment. |
| **Z20** | **Copyright**  The Contractor grants to the Employer, with immediate effect, an irrevocable, non-exclusive, royalty-free licence to copy and make full use of the Material for any purpose relating to the works, including without limitation any of the Permitted Uses.  The Employer's licence carries the right to grant sub-licences and is transferable to third parties without the consent of the Contractor and survives termination (for any reason) of the Contractor's employment under this Contract.  The Contractor is not liable for use of the Material for any purpose other than that for which it was prepared or provided. |
| **Z21** | **Discrimination**  The Contractor does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Acts 1995 and 2005 or the Equality Act 2010 (the “**Discrimination Acts**”).  Where possible in providing the Works, the Contractor co-operates with and assists the Employer to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.  Where an employee or Subcontractor employed by the Contractor is required to carry out any activity alongside the Employer’s employees in any premises, the Contractor ensures that each such employee or Subcontractor complies with the Employer’s employment policies and codes of practice relating to discrimination and equal opportunities.  The Contractor will notify the Project Manager in writing as soon as he becomes aware of any investigation or proceedings brought against the Contractor under the Discrimination Acts in connection with this contract and provides any information requested by the investigating body, court or tribunal in the timescale allotted,attends (and permits a representative from the Employer to attend) any associated meetings,promptly allows access to any relevant documents and information andco-operates fully and promptly with the investigatory body, court or tribunal. The Contractor indemnifies the Employer against all costs, charges, expenses (including legal and administrative expenses) and payments made by the Employer arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the Contractor.  The Contractor includes in the conditions of contract for each Subcontractor obligations substantially similar to those set out above. |
| **Z22** | **Security**  The Contractor shall provide and maintain at **ALL** times to the satisfaction of the Employer the security of the Premises and site area where this is effected by and during the course of the Works.  The measures necessary to each site/area will need prior approval of the Employer before implementation and be maintained as necessary throughout this Contract. |
| **Z23** | **CDM Regulations**  The Employer’s assessment of the Works is that the CDM Regulations apply including notification of the works to the Health and Safety Executive under Regulation 6.  Where the project that comprises or includes the Works will use more than one contractor for the purposes of the CDM Regulations, the Contractor shall accept responsibility as Principal Contractor, as defined within the CDM Regulations, in respect of the Works, including the development of any Design Phase and Construction Phase Plan, and shall perform all the functions and obligations required to be performed by the Principal Contractor under the CDM Regulations.  The pre-construction information will be issued as detailed within the tender documentation and the Contractor shall present its construction phase plan addressing the issues and risks within the pre-construction information including risk assessments and method statements  Works will not be allowed to commence on the Premises until the Employer has confirmed in writing that in its view the construction phase plan has been sufficiently developed under Regulation 12 to allow the construction phase of the Project to commence.  Where the services ordered under the Contract become notifiable construction work within the terms of the CDM regulations, the Contractor will be responsible for the preparation and submission of the required documentation to the Health and Safety Executive with a copy to the Employer.  Where the project comprises of design and build for the purpose of CDM regulations the contractor will be appointed and accept responsibility as Principal Designer as defined within the CDM regulations. The Employer will formally instruct the contractor when Principal Designer duties are required. |
| **Z24** | **Risk Assessments and Method Statements**  All of the Works shall be subject to a hazard identification and risk assessment process.  The result and any necessary method statements must be provided to the Project Manager prior to commencement of the Works in order to allow sufficient time to review and comment. The timescale will be agreed with the Project Manager. |
| **Z25** | **Setting Out and Levelling**  The Contractor shall be responsible for the correct setting out of the Works and shall amend at their own expense any errors arising from incorrect setting out. In all cases, the Contractor shall check and clarify all site dimensions prior to commencement of the Works. |
| **Z26** | **Mobile Communications**  Provision must be made by the Contractor for the Project Manager or representative to communicate directly with the Site Manager or nominated Site Contact, i.e. by mobile telephone or radio link. The use of any of the Premises’ telephones is not permitted under any circumstances. The use of personal mobile phones to send images of the Premises or WYFRS assets or information is strictly prohibited and will result in disciplinary action.  The Contractor shall put in place arrangements to maintain contact with employees working on site following the same principles of mobile communication.  Depending on the nature or location of the Work the Contractor, sub-contractors and operatives may be asked to surrender on a daily basis their personal mobile phones. A process will be agreed in advance with the Project Manager. |
| **Z27** | **Smoking Policy and On Site Behaviour**  The Employer operates a “No Smoking” policy at all its establishments including the use or electronic cigarettes – Smoking within any of the Premises and grounds is not permitted.  The Contractor shall ensure that all operatives adhere to a good code of behavioural conduct at all times. |
| **Z28** | **Identification Cards**  For security purposes the Contractor must provide all sub-contractors and operatives on the works with company identification cards incorporating a recent photograph of the cardholder, to be worn at all times when on the Employers Premises. |
| **Z29** | **Watching, Lighting and Temporary Supplies**  The Contractor must include all watching, lighting, temporary barriers, and protection as may be necessary to all of the Works, materials and plant, including all safety measures required by the Employer, local authorities, police and other responsible bodies and with due regard to the Health & Safety at Work Act. All temporary electric lighting, heating and power will be transformed down to 110 volts.  Where applicable the Contractor shall be responsible (including charges and fees) for the arrangement of any temporary supplies from utility providers or other service suppliers required as part of the Works. |
| **Z30** | **Delivery to Site**  The Contractor is required to observe all Employer site specific and other regulations in the delivery of plant and other materials including unloading and parking of vehicles. No vehicle plant or materials will be allowed to remain on the road or pavement without the express permission of the Employer’s Project Manager. Access and egress for fire appliances must be kept clear at all times. |
| **Z31** | **Signage**  The Contractor is to allow for provision of all necessary signage e.g. safety signage, “wet paint” signs, etc. and for other means of designating work areas “off the run” during these Works (e.g. mechanical barriers) to ensure the safety of the public, staff and the workforce.  The Contractor must also allow for the supply and install of a suitable notice board in reception or other identified location to identify the Contractor and any applicable specialist sub-contractors, contact details along with a photograph and a programme of works (updated when changed) approved and monitored by the Project Manager. |
| **Z32** | **Control of Noise and Disturbance**  The Contractor shall not be allowed, when carrying out the Works, to interfere or to interrupt the running of the operational use of the Premises and must therefore allow in their tender:-   1. For ensuring that all building work is carried out with as little inconvenience as possible to the Employers staff, other building occupants and members of the public; 2. For ensuring that operatives and staff who may require to enter the Premises in the course of their duties observe the Employer’s rules contained within the Induction Booklet.   The use of radios or playing of music will not be permitted during normal working hours when in occupied areas, otherwise by agreement with the Project Manager. |
| **Z33** | **Interruption of Services**  The Contractor shall not, without the permission of the Project Manager, interrupt or interfere with the operation of existing services such as (but not limited to) gas, water, electric power and lighting, C.C.T.V./telephone/data/intruder alarm cables/panic affray/fire alarm nor with buried cables, sewers, drains, etc and not, in the case of works of statutory authorities or private owners, without the permission of such authorities or owners as the case may be.  Should the Contractor cause any damage, they shall be responsible for making good thereof to the satisfaction of the Engineers, authorities or owners as the case may be. |
| **Z34** | **Electrical Supply on Site**  All mains powered portable hand tools must be transformed down to 110 volts. The transformers must comply with BS 171 when the nominal output voltage exceeds 25 volts and to BS 3535 when the nominal output does not exceed 25 volts. |
| **Z35** | **Permit to Work**  Where any part of the Works is to be carried out in an existing hazardous area, a Permit to Work must first be obtained from the Project Manager before seeking access to the rooms involved including all preliminary visits for the preparation of tenders. |
| **Z36** | **Temporary Storage**  The Contractor shall provide all temporary storage (location to be agreed with the Project Manager at pre-start meeting) lock-ups for materials, tools and equipment for the works, maintain all in proper condition and remove from site on completion of the Works.  Any disturbed areas must be reinstated on completion of the Works. |
| **Z37** | **Protection of the Works**  The Contractor shall case up and protect all of the Works including nominated sub-contractors work, against liabilities and damages by frost, inclement weather, traffic and other causes. The Contractor shall take down any Works damaged and such Works shall be re-executed or otherwise made good by and at the expense of the Contractor to the satisfaction of the Project Manager. |
| **Z38** | **Protection of Existing Infrastructure**  All existing sewers, drainage systems, gas, electric, water and all other services on the Premises and to adjoining sites shall be fully maintained during the progress of the Works and the Contractor shall take all necessary steps to prevent any temporary supports for the same before any excavation piling works or demolition operations are commenced. The Contractor shall protect and support as necessary any buried services as they become exposed. The Contractor shall be responsible for maintaining close liaison with the Local Authority and Utility Authorities to avoid any disruption of the existing services.  Where necessary the Contractor shall undertake a photographic condition/ dilapidation survey of any potentiality affected areas. |
| **Z39** | **Asbestos Regulations**  The Contractor must be aware that unidentified asbestos materials not detailed in the pre-construction information may exist in the Premises. Should any suspect material be exposed during the Works, the Contractor must cease work immediately and inform the Project Manager. All of the Contractor’s staff and sub-contractors MUST undertake regular asbestos awareness training courses and provide written proof of this to the Project Manager prior to commencing the Works. The Contractor shall comply with the Employer’s Asbestos Policy in regard to all activities and procedures relating to Asbestos Control Management. |
| **Z40** | **Site Safety**  The Contractor is to comply with its own approved health and safety policies and safe working systems. The Contractor is to carry out the work in compliance with the Health and Safety at Work etc Act 1974, the CDM Regulations, the Current Amendment and Approved Code of Practice currently in force and any construction safety information published by the Building Employers Confederation and the Health & Safety Executive, notwithstanding any specific requirements of the Employer. The responsibility, financial or otherwise, for complying with the relevant legislation, regulations, guidance notes or any other rules whatsoever which concern the health, safety and welfare of the persons who may be affected by the work, lies solely with the Contractor and no further charge for so complying shall be made by the Contractor to the Employer.  The Contractor shall allow the Employer’s safety officers and Property Services staff to visit the site or place of work at any time.  The Employer shall have the right to terminate the contract if the Contractor fails to comply with this clause. |
| **Z41** | **Employers Equipment**  The Contractor must not use the Employer’s equipment such as buckets, brushes, shovels, ladders, scaffolding etc. for carrying out the Works. |
| **Z42** | **General Attendance and Builder’s Work in Connection**  The Contractor shall attend upon, cut away for, and make good after any tradesperson engaged by the Employer in connection with the Works. In all trades, the Contractor shall provide light, and allow such tradesperson the use of all the Contractor’s scaffolding and plant, and provide and erect any further scaffolding, which they may require, and clear away when the Works are practically completed, unless otherwise directed by the Project Manager. |
| **Z43** | **Temporary Facilities**  The Contractor shall allow for the provision of the following temporary facilities:   1. forming access to and on the site with all necessary temporary road and gangways;. 2. all temporary fencing, warnings, hoardings and protective measures; and 3. all temporary welfare facilities, toilets, eating and washing facilities etc. including the provision of necessary consumables (Unless it is agreed in advance to make reasonable use of existing facilities if acceptable to the Project Manager). |
| **Z44** | **Fire Precautions – “Hot Works”**  Where the use of a blowlamp, boiler, welding equipment and other such heat and spark generating apparatus is necessary, the Contractor shall take extreme care to ensure that the danger of fire is kept to a minimum. When the Works being undertaken are, in or adjacent premises belonging to the Employer a self-issued and monitored Hot Work Permit system is to be implemented and monitored by the Contractor before any Works commences. At all times a container of water is to be to hand, and appropriate fire extinguishers made available for use. All “hot” works shall be ceased one hour before the end of each day’s work and a final inspection must be made by the Contractor before leaving site.  The Contractor shall keep fire escape routes unobstructed and if necessary illuminated at all times. |
| **Z45** | **Waste Disposal Skips**  The Contractor shall allow for clearing away all debris, rubbish and superfluous materials and provide skips or other means of disposals for such surplus, and leave the whole of the site tidy and clean on completion to the entire satisfaction of the Project Manager. The Contractor shall ensure that an appropriate and licensed waste management contractor carried out this part of the Works.  The Contractor shall ensure that skip containers are lockable and sealed when not in use unless approved otherwise by the Project Manager.  If open skips are permitted by the Project Manager, the Contractor shall ensure that they are positioned a minimum of 3.0m horizontally from the building or structure and clear of any wall opening including windows, ventilation grilles etc. regardless of the height of the opening above the skip.  If the Contractor does not clear away such rubbish within 24 hours of verbal instructions to do so from the Project Manager or their representative, then the Employer will have the rubbish removed and the cost of the work will be charged to the Contractor or deducted from any monies due to them. |
| **Z46** | **Storage of Solvents**  The Contractor must ensure that any solvent used on site has a full assessment made in accordance with the Control of Substances Hazardous to Health Regulations 2002 and a copy of such assessment given to the Employer’s Project Manager.  The Contractor shall thereafter ensure that all solvents are managed and stored in line with the assessment. |
| **Z47** | **Access to and Possession and Use of the Site**  The Contractor shall detail access to the site in the Pre-Construction Health and Safety Plan and no alternative access points will be allowed without prior approval of the Project Manager.  The Contractor shall not enter the site until they have received instructions and authorisation from the Project Manager to do so.  The Contractor shall not use the site for any purpose other than carrying out the Works.  The Contractor shall not bring any materials from any other location nor any waste not produced at the Premises for disposal on the Premises, including for disposal into a waste skip or other container arranged by the Contractor.  A managed permit system will be implemented if the Contractor requires access to an area which is outside of the site and this will be based upon a detailed assessment of the hazards and proposed control measures. The Contractor shall ensure that notification in regard to this will be given in a timely manner to the Project Manager and permits will be issued only on approval. |
| **Z48** | **Parking Restrictions**  The parking provisions on the Employer’s premises are strictly controlled and severely restricted. Contractor’s vehicles displaying the company name will be allowed through the various entrance barriers for delivery purposes.  Cars belonging to the Contractor, its employees, sub-contractors or their employees will be subject to restrictions to be agreed pre-start.  The Contractor shall ensure that any delivery vehicles or skips are not be parked or unloaded in parking places reserved for people with disabilities, or access routes for emergency vehicles and operational staff. |
| **Z49** | **Scaffolding and Safe Access**  For any works to ceilings, the Contractor shall allow for up to and including 3M ceiling height within the rates. Any access over 3M must be priced on an individual site-by-site basis.  The Contractor shall to allow within its costs for the provision of all temporary access equipment necessary to carry out the Works safely and in full accordance with health and safety legislation.  The Contractor shall ensure that any mobile towers, fixed scaffolds and other temporary access systems comply fully with all relevant statutory requirements and codes of practice.  The Contractor shall ensure that all scaffolding is secured to the satisfaction of the Health and Safety Executive and/or the National Register of Access Consultants.  The Contractor shall ensure that any scaffolding erected will allow safe access to all areas of the site for both the viewing and for the carrying out of the Works.  The Contractor shall ensure that all scaffolds will be left in a safe condition at the end of each day to prevent unauthorised use or trespass.  The Contractor shall procure that the scaffolding is only erected by sub-contractors who are either registered members of the National Association of Scaffolding Contractors and/or who certify that:   * Experienced and competent operatives and supervisors will undertake all works. * All work shall comply with the recommendations of BSEN 12811: Temporary Works Equipment (Scaffolds), and where relevant, BS 5974 Temporary Suspended Access Equipment, as well as the requirements of the CDM Regulations and the Working at Height Regulations 2005.   The Contractor shall ensure that any scaffolding must be capable of supporting the load for which it is intended to be used, including such allowances as necessary for wind loading.  The Contractor shall procure that a scaffolding log must be kept on site at all times and be available for inspection by, the Project Manager. Any alterations or adaptations must be carried out by authorised personnel and entered into the log. All inspections and completion of the statutory register are to be the Contractor’s responsibility.  The Contractor shall ensure that all entrance doors and fire exits to the Premises remain operational, unless otherwise agreed or specified and standards are to be arranged to permit safe unhindered access at all times.  The Contractor shall allow all necessary alterations to scaffolding to accommodate the programme of Works throughout duration of the Contract.  The Contractor shall be responsible for obtaining all consents from the Highways Authority, where applicable, including paying of all fees and complying with all their requirements. The Contractor shall provide all proofs of consent to the Project Manager.  On completion of the Works, the Contractor shall make good any damage to the fabric of the building and reinstate any damage to the site caused by scaffolding or other temporary measures for safe access to the Works. As the scaffolding is removed, the Contractor shall ensure that all ledges, sills etc., are fully brushed down and cleared of all debris and dust.  The Contractor shall ensure any mobile tower access will be taken down daily and set aside in a storage area. |
| **Z50** | **Contractor Management Team**  The Contractor shall allow as a minimum for a nominated contractor manager and site manager.  The site manager will be present on site throughout the course of the Works whenever the Contractor or its employees or any sub-contractors or their employees are undertaking work. |
| **Z51** | **Photographic Schedule**  The Contractor shall undertake a photographic schedule of condition prior to the commencement of the Works and issue to the Project Manager to record the existing condition of building fabric and mechanical and electrical elements. |
| **Z52** | **Drawing Issue Update**  The Contractor shall update in AutoCAD format to the Employer’s CAD standards, the building layout plans reflecting the final and commissioned alterations to the building. |
| **Z53** | **Site Waste Management Plan**  A site waste management plan is a no longer a statutory requirement for construction projects. However, the Employer requires the Contractor to develop a site waste management plan for all projects prior to commencement of the Works. The site waste management plans shall identify the following:   1. an individual in the Contractor’s organisation to be responsible for resource management. 2. types of waste that may be generated. 3. the resource management options for these wastes. 4. use of appropriate and licensed waste management contractors. 5. a plan for monitoring and reporting on resource use and the quantity of waste. |
| **Z54** | **Inspection and Commissioning**  A staged inspection and commissioning process shall be agreed in writing and adopted by the Employer and the Contractor. This process shall include:   1. the Employer’s Quality Inspections; 2. the Employer’s Staged Witness Testing; and 3. the Employer’s Witness of Commissioning.   If the Employer requirements are not met as agreed then the Employer will not accept a practical completion. Any cost incurred by the Employer due to a delay caused by the Contractor’s failure to comply with any of the inspections or processes agreed pursuant to this clause will be borne by solely the Contractor.  The Contractor shall allow the Employer’s representatives access to the site in order to carryout ad-hoc quality inspections. The Employer shall adhere to the Contractors Health & Safety policies and the Contractor shall provide all induction required for the Employer*’s* representatives to enter the construction site.  If any activities commissioned pursuant to the terms of this Contract are suspended terminated or delayed as a result of the Contractor proceeding without or failing to obtain the necessary approvals, the cost of any potential remedial / rework shall be borne solely by the Contractor. |
| **Z55** | **Operational & Maintenance Manuals and Health and Safety File**  The Contractor shall compile and maintain a Building Manual in accordance with the provisions below.  **Purpose:** The Building Manual (incorporating the Health and Safety File) shall be a comprehensive information source and guide for the Employer and end users providing a complete understanding of the completed works and its systems to enable efficient and safe operation and maintenance.  The Contractor shall ensure the following:  **Compilation:**   * the Building Manual shall contain all information for the Contractor’s designed or performance specified work including as-built drawings.   **Presentation of Manual**: the Building Manual follows the format and the details specified below.  **Reviewing the Manual:**   * Review process: the Contractor shall submit a complete draft of the Building Manual to the Employer and shall amend the draft in the light of any comments and resubmit to the Employer – the Contractor shall not proceed with production of the final copies until authorized by the Employer. * Latest date for submission: two weeks before the date for submission of final copies.   **Final copies of the Manual**:   * Number of copies: two electronic copies * Latest date for submission; two weeks before the date for completion stated in the Contract.   **As-built drawings:**   * Number of copies: one electronic copy.   THE HEALTH AND SAFETY FILE  **Purpose:** The health and safety file shall provide information about the structure or materials used, which might affect the health or safety of anyone if construction works (including cleaning, maintenance, alterations and demolition) is carried out.  **Contractor designed and performance specified work:** The Contractor shall obtain or prepare the following and submit to the Principal Designer:   * details of key structural principles * details of construction methods and materials, including Control OSHH dated data sheets, which may present residual hazards. * general maintenance instructions including access provision and information * details about equipment provided for cleaning and maintaining the completed works. * as-built drawings.   **Other information:** the Contractor shall obtain or prepare the following and submit to the Principal Designer:   * instructions for operation, maintenance, dismantling and removal of equipment and systems. * details of hazards associated with the materials used in the construction. * access requirements/ restrictions.   **Copies of the File:** the Contractor shall submit two electronic copies  **Latest date for submission:** two weeks before the date for completion stated in the Contract.  CONTENT OF THE BUILDING MANUAL PART 1: GENERAL  The Contractor shall provide in the Building Manual the following details.  **The Premises:**   * a description of the buildings. * details of ownership.   **The parties: names, addresses (including e-mails), telephone and fax numbers of the following:**   * consultants and designers, including name and number of individuals to be contacted in case of emergency. * authorities and statutory undertakers plus copies of consents and approvals. * the Contractor, its subcontractors and manufacturers. * maintenance contractors.   **Operational requirements and constraints of a general nature:** details not relevant to other parts of the Building Manual.  **The fire safety strategy for the buildings and site:** drawings showing fire appliance routes, emergency escape routes, fire resisting doors, location of emergency and fire fighting systems, services shut-off valves, switches, etc.  CONTENT OF THE BUILDING MANUAL PART 2: BUILDING FABRIC  The Contractor shall provide in the Building Manual the following details.  **Design criteria:** the details of the floor and roof loadings, loading restrictions, insulation values, fire ratings and other performance requirements.  **Construction of the building:**   * A detailed description of methods and materials used. * As-built drawings recording details of construction, together with an index. * Information about repair, renovation or demolition.   **Maintenance of the building fabric:**   * Instructions for general maintenance, detailing work to be done, acceptable tolerances and frequency of operation.   **Product details: the Contractor shall include:**   * Copies of manufacturers' current literature including Control Of Substances Hazardous to Health dated data sheets and recommendations for cleaning, repair and maintenance.   **Environmental and trafficking conditions**:   * Details of those that may result in damage/ disfigurement.   **Fixtures and fittings:**   * Schedules including manufacturer and product reference. Guarantees, warranties and maintenance agreements: obtain from Contractors, subcontractors and manufacturers.   **Test certificates and reports required in the specification.**  CONTENT OF THE BUILDING MANUAL PART 3: BUILDING SERVICES  The Contractor shall provide in the Building Manual the following details.  **Description of the systems:**   * Ensure that the Employer's staff fully understands the scope and facilities provided. * List maximum loads, services capacity and restrictions. * Include limitations of any user performance.   **Operation:**   * A description of the mode of operation of all systems. * Starting up, operating and shutting down instructions for all equipment and systems. * Control sequences for all systems. * Procedures for seasonal changeovers. * Procedures for faultfinding. * Diagrammatic drawings: for each system indicating principal items of plant, equipment, valves etc. * Record drawings: photo-reduced and with an index. * Identification of services: a legend for colour-coded services. * Schedules (system by system) of plant, equipment, valves, etc: include locations, duties, performance figures and unique numbers cross-referenced to the record drawings, diagrammatic drawings and schedules.   **Product details:**   * Name, address and telephone number of the manufacturer of every item of plant and equipment together with catalogue list numbers. * Manufacturers' technical literature for plant and equipment: include detailed drawings, electrical circuit details and operating and maintenance instructions. * Instructions for dismantling and removing equipment and systems. * Test Certificates (including but not limited to electrical circuit tests, corrosion tests, type tests, works tests, start and commissioning tests): for the plant, equipment, valves, etc., used in the installations. * Guarantees, warranties and maintenance agreements: obtain from subcontractors and manufacturers. * Equipment settings: include schedules of fixed and variable equipment settings established during commissioning. * Preventative maintenance: include recommendations for frequency and procedures to be adopted to ensure the most efficient operation of the systems. * Lubrication: include schedules for all lubricated items. * Consumables: include a list of normal consumable items. * Spares: include a list of recommended spares to be kept in stock by the Employer, being those items subject to wear or deterioration and which may involve the Employer in extended deliveries when replacements are required at some future date. * Emergencies: include procedures, including telephone numbers for emergency services.   PRESENTATION OF BUILDING MANUAL  The Contractor shall present the Employer with one hard copy and one electronic copy of all information on CD (PDF). The Building Manual must be a single document, fully indexed and searchable (avoiding the need to move in and out of folders to search for items) with drawings in AutoCAD 2007 format hyperlinked to index.  Files to be named without the use of special characters ~#%() etc… which will conflict with the Employer’s electronic storage of data  INFORMATION FOR COMMISSIONING OF SERVICES   * General: The Contractor shall submit relevant drawings and preliminary performance data to enable Employer's staff to familiarise themselves with the installation. * Time of submission: At commencement of commissioning.   TRAINING   * Objective: Before completion, the Contractor shall explain and demonstrate to the Employer's maintenance staff the purpose, function and operation of the installations including items and procedures listed in the Building Manual. * Operating time: Include a minimum of 3 days   SPARE PARTS  Before completion the Contractor shall submit a priced schedule of spare parts that the Contractor recommends should be obtained and kept in stock by the Employer for maintenance of the services installations. The Contractor shall include in the priced schedule:   * Manufacturers' current prices, including packaging and delivery to site. * Checking receipts, marking and numbering in accordance with the schedule of spare parts. * Referencing to the plant and equipment list in Part 3 of the Building Manual. * Painting, greasing, etc. and packing to prevent deterioration during storage.   Latest date for submission: At completion  TOOLS  The Contractor shall provide two complete sets of tools and portable indicating instruments for the operation and maintenance of all services plant and equipment together with suitable means of identifying, storing and securing.  Time of submission: At completion. |
| **Z56** | **Materials & Quality**  The Employer reserves the right to separately procure materials for installation by the Contractor.  All materials will be of equal or superior quality and approvedunless specified otherwise. Where the existing materials are of poor quality and they have failed as a result, the Contractor shall endeavour to raise this with the Project Manager for an alternative to be specified or shall allow for the necessary materials and works within their priced return to ensure the repair works are carried out to best practice standards.  The Contractor shall ensure that all Works, whether they have been identified/specified or not, must as a minimum comply with current Building Regulations and other applicable Laws and be undertaken in a professional and workman like manner in accordance with best practice standards. |
| **Z57** | **Collateral Warranties**  The Contractor shall procure the execution of deeds of warranty by key sub-contractors where appropriate and shall deliver to the Employer such deeds of warranty in favour of the Employer in the form agreed in advance with the Employer.  The Employer does not have to pay the Contractor for any part of the Works carried out by a key sub-contractor until the Contractor has delivered the deeds of warranty from the key sub-contractors in favour of the Employer. |
| **Z58** | **Contractor Design Responsibility**  The Contractor shall have responsibility for all design work in relation to any necessary enabling and temporary works.  All enabling and temporary works are to be approved by the Employer. |
| **Z59** | **Definition of “Disallowed Cost”** The parties agree that the following shall be added to the definition of “Fee” in this Contract: “, in each case excluding the Defined Cost of   1. correcting Defects (where the cost is not a Disallowed Cost) and 2. design and work undertaken in order to correct a failure of the design to meet the functional and performance requirements specified in the Works Information”.  **The parties agree that the definition of “Disallowed Cost” in this Contract shall read as follows:**  “Disallowed Cost is cost which the Project Manager decides:   1. is not justified by the Contractor’s accounts and records, 2. should not have been paid to a Subcontractor or supplier in accordance with his contract or 3. was incurred only because the Contractor did not 4. follow an acceptance or procurement procedure stated in the Works Information, 5. comply with a procedure set out in his quality plan or 6. give an early warning which this contract required him to give   and the cost of   * correcting Defects after Completion, * correcting Defects caused by the Contractor not complying with a constraint on how he is to Provide the Works stated in the Works Information, * correcting Defects caused by the Contractor not exercising reasonable skill, care and diligence in the design of the works, * correcting Defects caused by the Contractor’s failure to comply with a procedure set out in his quality plan, * correcting Defects which the Contractor has previously corrected, * standard or proprietary products manufactured outside the Working Areas which are not in accordance with the Works Information, * Plant and Materials not used to Provide the Works (after allowing for reasonable wastage) unless resulting from a change in the Works Information, * resources not used to Provide the Works (after allowing for reasonable availability and utilisation) or not taken away from the Working Areas when the Project Manager requested and * preparation for and conduct of an adjudication or proceedings of the tribunal.” |
| **Z60** | **Employer’s title to plant and materials**  The value of Plant and Materials outside the Premises is excluded from the Price for Work Done to Date unless:   1. the Contractor demonstrates to the satisfaction of the Project Manager that the Contractor has unencumbered title to the Plant and Materials; 2. the Plant and Materials is stored separately and is clearly and visibly marked as for the Employer and this contract; 3. the Plant and Materials is adequately protected against water, theft, vandalism and other casualties; 4. the Plant and Materials is insured against loss or damage while stored or in transit to the Working Areas for its full reinstatement value under a policy of insurance protecting the interests of the Parties in respect of the usual insured risks for the period until it is brought within the Working Areas; and 5. the Contractor has provided an offsite materials bond for the value of the Plant and Materials.   The offsite materials bond must be issued by a bank or insurer which the Project Manager has accepted. A reason for not accepting the proposed bank or insurer is that its commercial position is not strong enough to carry the bond. The bond must be in the form set out in the Works Information.  Where the value of Plant and Materials outside the Premises is included in the Price for Work Done to Date:   1. the Contractor’s title in the Plant and Materials passes to the Employer, 2. the Contractor does not remove it from where it is stored except for use on the works and 3. the risk of loss or damage to the Plant and Materials remains with the Contractor.   The value of Plant and Materials within the Working Areas will be excluded from the Price for Work Done to Date unless:   1. title in the Plant and Materials has already passed to the Employer as above or 2. the Contractor demonstrates to the satisfaction of the Project Manager that the Contractor has unencumbered title in the Plant and Materials.   The Contractor’s title in Plant and Materials passes to the Employer when it is brought within the Premises, but the risk of loss or damage to the Plant and Materials remains with the Contractor.  The Contractor shall not remove Plant and Materials within the Premises from where it is stored except for use on the Works or with the Project Manager’s permission.  The title to Plant and Materials passes back to the Contractor if it is removed from the Premises with the Project Manager’s permission.” |
| **Z61** | **Quality Management and Audit**  The Contractor shall operate a quality management system for Providing the Works which   * complies with the relevant parts of [ISO 9001:2015 **OR** ISO 9001:2008 [and ISO 9001:2008/Cor 1:2009]], * incorporates an environmental management system consistent with [ISO 14001:2015 **OR** ISO 14001:2004], * includes processes for delivering continual improvement following the guidance in ISO 9004:2009, * has third party certification from a UKAS approved accreditation body (or its equivalent) or is operating in preparation for accreditation within 12 months of the Contract Date   and complies with good industry practice  The Contractor shall provide to the Project Manager, within four weeks of the Contract Date, a quality policy statement and a quality plan for acceptance. The quality policy statement and quality plan comply with the requirements stated in the Works Information and are sufficiently detailed to demonstrate how the Contractor will Provide the Works in accordance with this contract.  The Contractor shall keep a controlled copy of the quality plan available for inspection by the Project Manager at all times.  The Contractor shall comply with an instruction from the Project Manager to   * change the quality plan so that it complies with the requirements of this contract or   correct a failure of the Contractor to comply with the quality plan.  The Project Manager and other persons authorised by him may carry out periodic audits of the Contractor’s quality management system as specified in the Works Information. The Contractor allows access to the site and other premises used by the Contractor to Provide the Works and provides all facilities and assistance necessary to enable such audits to be carried out. |
| **Z62** | **Retention of Monies**  After the price for work done to date has reached the retention free amount, an amount will be retained of 5% of each amount due until the earlier of:   1. completion of the whole of the works and 2. the date on which the Employer take on the whole of the works.   The amount retained is the retention percentage applied to the excess of the price for work done to date above the retention free amount.  The amount retained will be halved   1. in the assessment made at Completion of the whole of the works or 2. in the next assessment after the Employer has taken over the whole of the works if this is before completion of the whole of the works.   The amount retained remains at this about until the Defect Certificate is issued.  No amount is retained in the assessments made after the Defects Certificate has been issued. |
| **Z63** | **Omissions and Additions**  The Employer reserves the right to omit or add buildings provided they fall within the requirements of the Work Information. |
| **Z64** | **Social Value**  The Contractor shall offer a minimum of one (1) Full Time Training Opportunity for every five hundred thousand pounds (£500,000) worth of work it carries out under the Contract unless under its absolute discretion, the Employer agrees that the Contractor may offer alternative social value activity in lieu of such full time training opportunities.  Alternative social value activity for the purposes above may include but is not limited to the following:   1. Local employment outcomes; 2. Structures and agreed work experience placements; 3. Engagement with local ILMs to provide basic training with employment; 4. Other short courses of training and employment as agreed with the Employer; 5. Retention of existing local apprentices; and 6. Community engagement.   The Contractor shall liaise with the Employer, as appropriate, to select persons to fill the full time training opportunities described above and having all due regard to equality and diversity requirements set by the Employer and those objectives of the Contract provided that the Contractor shall utilise its own recruitment procedures to select such persons and provided that nothing in this clause shall require or oblige the Contractor to act in a way which would breach any employment or recruitment related legislation.  For the avoidance of doubt, the Contractor shall be responsible for paying the trainees that it employs pursuant to this clause.  The Contractor shall offer appropriate training to the trainees that it employs pursuant to this clause and shall ensure that any training provided by it to the trainee shall be of an appropriate type and level to enable the trainee to achieve completion of a foundation level modern apprenticeship (FMA) recognised National Vocational Qualification (NVQ) level 2 or equivalent recognised qualification as agreed and approved by the Employer.  The Contractor shall ensure that the Employer is kept informed of any issues that may arise in relation to any trainees that the Contractor employs pursuant to this clause, including but not limited to issues and behaviours such as poor attendance. Without prejudice to the generality of the foregoing, the Contractor shall ensure that before it takes any disciplinary action against a trainee it shall provide the Employer with all relevant information relating to such proposed disciplinary action. The Contractor shall ensure that any disciplinary action it takes against a trainee includes the provision of constructive feedback to the trainee to enable the trainee to learn from the same and progress.  If the Contractor does not intend to retain a trainee following the completion of the full time training opportunity, the Contractor shall, throughout and following the end of the trainee’s employment with the Contractor, support and assist the trainee in securing alternate employment. Such support and assistance to include, without limitation:   1. assisting the trainee with updating the trainee’s CV; 2. assisting the trainee with job searches; and 3. providing reasonable formal training to the trainee to enhance the trainee’s employability.   The Contractor shall provide the Employer with such information as the Employer may reasonably require in order to audit the Contractor’s compliance with this clause.  **Z65:**     **The Contractor’s Design**  Clause 23  23.1   The Contractor is not liable for a Defect which arose from its design unless it failed to carry out that design using the skill and care normally used by professionals designing works similar to the works  23.2   If the Contractor corrects a Defect for which it is not liable under the contract it is a compensation event.  23.3   The Contractor may use any existing material provided by it under the contract for the other work unless  •         The ownership of the material has been given to the Client or  •         It is stated otherwise in the Scope or standard specification and approved by the client.  23.4   The Contractor retains copies of drawings, specifications, reports and other documents which record the Contractor’s design for the period of retention. The copies are retained in the form stated in the Scope. All drawings will be retained in line with the Security Aspects Letter already agreed under the terms of the framework.  23.5   The Contractor provides insurance for claims made against it arising out of its failure to use the skill and care normally used by professionals designing works similar to the works. The minimum amount of this insurance is as follows:  •         £2,000,000 in the aggregate with unlimited reinstatements  This insurance provides cover from the starting date until the end of the defect period stated in the Contract Data.  **Z66: Others on site**  Additions to Clause 22  22.2   Subject to the following and to the Contractor’s right of reasonable objection the Contractor shall permit the execution of work not forming part of the Contract only by the express instruction of the Project Manager.  22.3   The Contractor shall advise the Employer of information required and measures which must be taken in order to programme and manage the integration of such works taking into account the Contractor’s obligations with regard to health and safety and its appointment as Principal Contractor (if so appointed by virtue of this contract or otherwise). This may include (without limitation) the provision of method statements and risk assessments and participation in site inductions by the Client or the Client’s Persons. No authorisation for any such works shall be given by the Client unless and until any such information has been provided to the Contractor or any such measures have been taken.  22.4   For the purposes of the CDM Regulations, the Contractor shall act as Principal Contractor (if so appointed by virtue of this contract or otherwise) in respect of such works. The Client undertakes to promptly comply and to instruct and ensure that all Client’s Persons promptly comply with all site regulations and site directions of the Contractor. Should the Client or any Client’s Persons carrying out work not forming part of the Contract fail to promptly comply with any such instructions or directions the Contractor shall have the right to direct that the work must cease and to remove such Client’s Persons from the Site unless and until such instructions or directions are complied with.  **Z67: Response times during Defects Correction Period**  During the *defects correction period*, the Contractor is liable to respond to all Defects that are raised, by the Employer, to the Contractor’s attention within a stipulated time relative to the severity of the Defect’s impact upon the operation of the building and/or site associated with said Defect or the service delivery of persons using the affected building and/or site.  The Employer retains the right to engage with a party alternative to the Contractor to rectify a reported Defect and deduct the cost of the works from the retention owed to the Contractor at the end of the *defects correction period* if the Contractor does not, wilfully or otherwise, fulfil the obligations imposed by this clause and respond to the Employer within the stipulated response times upon receiving notification from the Employer of a reported Defect during the Defects Correction Period, according to its severity.  The Employer further retains the right to engage with a party alternative to the Contractor to rectify a reported Defect and deduct the cost of the works from the retention owed to the Contractor at the end of the *defects correction period* if the Contractor does respond within the stipulated time, owing to the severity of the Defect, but does not, or is unable to, rectify the Defect within the stipulated completion time, unless it is deemed unreasonable to do so in which case the Contractor must rectify the Defect within a reasonable time as agreed with the Employer.  Response times are categorised as follows:   |  |  |  |  | | --- | --- | --- | --- | | **Priority** | **Category** | **Response time** | **Repairs fully Completed by** | | 1 | **Business critical and/or an emergency** | Within 4 hours | Within 1 working day of initial order raised | | 2 | **Urgent** | Within 3 Working Day | Within 3 working days of initial order raised | | 3 | **Routine** | Within 10 Working Days | Within 10 working day of initial order raised | | 4 | **General Order** | Within 28 Working Days | Within 28 working days of initial order raised | | 5 | **Projects / Minor works** | To be agreed at start of job. | To be agreed at start of job. |   Priorities will be determined by the PS team on an individual basis depending on the nature of the work and impact it could have on buildings, persons, or service delivery.  **Priority 1**: is defined as business critical and/or emergency where the safety of those using the system is at risk and the fault that has a major impact on the operational performance of the building. Attendance to site shall be within 4 hours of the call being received.  **Priority 2:** is defined urgent where those using the system may not be at immediate risk, but action is required to remove potential danger. This priority is for faults that have an impact on the premises but can be managed for a limited period, they may also impact on operation services of the fire fighters. Attendance and completion of the works to site shall be within 3 Working Days of the call being received and order raised**.**  **Priority 3:** is defined as routine works where an investigation has revealed a non-compliance with the current standards which, whilst not presenting immediate or potential danger, would result in significant safety improvement if remedied. This priority is for faults that have no operational effect on the premises. Attendance to site shall be within 10 Working Days of the call being received.  **Priority 4:** Is defined as work or faults that have no operational effect on the premises, or detrimental to the building and its use. Attendance and completion of the work shall be within 28 Working Days of the call being received and order raised. (see examples in table below)  **Priority 5**: Is defined as projects, schemes or minor works that generally involve multiple trades and building disciplines. These may be work that enhance and benefit the building but are not affecting operational staff or building users. The completion date will be agreed before work commences and shall be a reasonable time to complete for both parties.  **Z68: Requirement for Programme**  The Contractor is required to provide and maintain a programme for the duration of the works as per Section 31-32 of a Standard NEC3 Engineering and Construction Contract:  31.1 If a programme is not identified in the Contract Data, the Contractor submits a first programme to the Project Manager for acceptance within the period stated in the Contract Data.  31.2 The Contractor shows on each programme which he submits for acceptance:   * the starting date, access dates, Key Dates and Completion Date, * planned Completion, * the order and timing of the operations which the Contractor plans to do in order to Provide the Works, * the order and timing of the work of the Employer and Others as last agreed with them by the Contractor or, if not so agreed, as stated in the Works Information, * the dates when the Contractor plans to meet each Condition stated for the Key Dates and to complete other work needed to allow the Employer and Others to do their work, * provisions for:   + float,   + time risk allowances,   + health and safety requirements and   + the procedures set out in this contract, * the dates when, in order to Provide the Works in accordance with his programme, the Contractor will need:   + access to a part of the Site if later than its access date,   + acceptances,   + Plant and Materials and other things to be provided by the Employer and   + information from Others, * for each operation, a statement of how the Contractor plans to do the work identifying the principal Equipment and other resources which he plans to use and * other information which the Works Information requires the Contractor to show on a programme submitted for acceptance.   31.3 Within two weeks of the Contractor submitting a programme to him for acceptance, the Project Manager either accepts the programme or notifies the Contractor of his reasons for not accepting it. A reason for not accepting a programme is that:   * the Contractor’s plans which it shows are not practicable, * it does not show the information which this contract requires, * it does not represent the Contractor’s plans realistically or * it does not comply with the Works Information.   32.1 The Contractor shows on each revised programme   * 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 Contractor plans to deal with any delays and to correct notified Defects and * any other changes which the Contractor proposes to make to the Accepted Programme.   32.2 The Contractor submits a revised programme to the Project Manager for acceptance:   * within the period for reply after the Project Manager has instructed him to, * when the Contractor 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 works.   **Z69:** **Contractor Insurances & Insurance Policies**  The Contractor is required to provide insurance cover for the duration of the works and evidence such with the relevant certification as per Section 83-84 of a Standard NEC4 Engineering and Construction Contract:  83.1  The *Client* provides the insurances which the *Client* is to provide as stated in the Contract Data.  83.2 The *Contractor* provides the insurances stated in the Insurance Table except any insurance which the *Client* is to provide as stated in the Contract Data. The *Contractor* provides additional insurances as stated in the Contract Data.  83.3 The insurances in the Insurance Table are in the joint names of the Parties except the fourth insurance stated. The insurances provide cover for events which are the *Contractor’s* liability from the *starting date* until the Defects Certificate or a termination certificate has been issued.  **INSURANCE TABL**  **INSURANCE AGAINST MINIMUM AMOUNT OF COVER** |
|  | 84.1 Before the *starting date* and on each renewal of the insurance policy until the *defects date*, the *Contractor* submits to the *Project Manager* for acceptance certificates which state that the insurance required by the contract is in force. The certificates are signed by the *Contractor’s* insurer or insurance broker. The *Project Manager* accepts the certificates if the insurance complies with the contract and if the insurer’s commercial position is strong enough to carry the insured liabilities.  84.2 Insurance policies include a waiver by the insurers of their subrogation rights against the Parties and the directors and other employees of every insured except where there is fraud.  84.3 The Parties comply with the terms and conditions of the insurance policies to which they are  a party. |