

CONTRACT DATA PART ONE – DATA PROVIDED BY THE EMPLOYER

CONTRACT DATA Part one – Data provided by the Employer

Statements given in all contracts

1 General The conditions of contract are the core clauses of the NEC3 Professional Services Contract June 2005 (with amendments April 2013) together with:-

- main Option A Priced Contract with Activity Schedule
- dispute resolution Option W2
- secondary Options :

X1 deleted

X2 deleted

X3 deleted

X4 deleted

X5 deleted

X6 deleted

X7 deleted

X8 deleted

X9 Transfer of rights

X10 deleted

X11 Termination by the Employer

X12 deleted

X13 deleted

X18 deleted

X20 deleted

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

Y(UK)3 deleted

- Option Z: Additional conditions of contract:

SECTION 1

Z1	Freedom of information
Z2	Notices
Z3	deleted
Z4	Persons dealing with this contract
Z5	Lead designer
Z6	Disputes with Others
Z7	Conflicts of interest
Z8	Assignment
Z9	Novation
Z10	Payment forecast
Z11	Suspension for non-payment
Z12	Responsibility for documents
Z13	deleted
Z14	Confidentiality
Z15	Insurance
Z16	Professional indemnity insurance
Z17	Public liability insurance
Z18	Termination Events
Z19	deleted
Z20	Security concern
Z21	Corrupt gifts and payment of commission
Z22	W3 Negotiation
Z23	W4 Mediation

SECTION 2

- Z24 Responsibility for work by Others
- Z25 Consultant's obligation to ensure
- Z26 Direct appointment of Others
- Z27 deleted
- Z28 Environmental requirements
- Z29 Access to property
- Z30 Presentations
- Z31 Tender documents and contracts
- Z32 Recovery of VAT
- Z33 Recovery of other sums
- Z34 Subconsultants' collateral warranty agreements
- Z35 deleted
- Z36 The Housing Grants, Construction and Regeneration Act 1996

SECTION 3

- Z37 Consultant's records
- Z38 Contract Standard
- Z39 Copyright
- Z40 deleted
- Z41 deleted
- Z42 deleted
- Z43 deleted
- Z44 Criminal Records Bureau
- Z45 deleted

The Employer is:

Centre for Ecology & Hydrology
Maclean Building,
Benson Lane,
Crowmarsh Gifford,
Wallingford
OXON
OX10 8BB

The Adjudicator is:

To be mutually agreed between the *Employer* and *Contractor* in accordance with clause W2.2 (3).

The services are Construction Professional Services on behalf of Centre for Ecology & Hydrology (CEH) at its wholly owned site at CEH Wallingford and outlined in the tender documents.

The Scope is in the Core Services activity schedule/duties and the construction project is set out in the Project Brief and supporting documentation.

The language of this contract is English.

The law of this contract is the law of England and Wales, subject to the jurisdiction of the courts of England and Wales

The period for reply is 2 weeks

The period for retention is 12 months following Completion or earlier termination.

The Adjudicator nominating body is Institution of Civil Engineers.

The tribunal is arbitration

3 Time The starting date is 9th Sept 2013

The completion date is 20th Sept 2014

Other key dates are set out in the Project Brief

5 Payment The assessment interval is 30 days.

The currency of this contract is £ GBP (pounds sterling)

The interest rate is 2% per annum above the base lending rate of the Bank Of England plc.

8 Indemnity, insurance and liability

The amounts of insurance and the periods for which the Consultant maintains insurance are:

event	cover	period following completion of the whole of the services or earlier termination
failure of the Consultant to use the skill and care normally used by professionals providing services similar to the Services	£5 million in respect of each claim, without limit to the number of claims	12 years after completion unless otherwise stated by the employer
death or bodily injury to a person (not an employee of the Consultant) or loss of or damage to property resulting from an action or failure to take action by the Consultant	£5 million in respect of each claim, without limit to the number of claims	12 months
death or bodily injury to an employee of the Consultant arising out of and in the course of their employment in connection with this contract	£10,000,000 in respect of each claim, without limit to the number of claims	12 months

- The additional conditions of contract are contained in Contract Schedule B.

CONTRACT SCHEDULE B
OPTION Z – ADDITIONAL CONDITIONS OF CONTRACT

Option Z: Additional conditions of contract

The following provisions supplement, modify or replace the normal published provisions of the NEC3 Professional Services Contract (the “NEC3 PSC”).

Each Option Z provision will apply unless deleted below or in the list of Option Z provisions which appears in “CONTRACT DATA Part One – Data provided by the Employer, 1 General, Option Z: Additional conditions of contract”.

SECTION 1 :

Option Z 1

Freedom of information

Supplement to
NEC3 PSC
clause 13

- 13.9 The Consultant acknowledges that unless the Employer has notified the Consultant that the Employer is exempt from the provisions of the FOIA, the Employer is subject to the requirements of the Code of Practice on Government Information, FOIA and the Environmental Information Regulations. The Consultant cooperates with and assists the Employer so as to enable the Employer to comply with its information disclosure obligations.
- 13.10 In this clause:
 - 13.10.1 “Environmental Information Regulations” means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the information Commissioner in relation to such regulations;
 - 13.10.2 “FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;
 - 13.10.3 “Information” has the meaning given under section 84 of the Freedom of Information Act 2000; and
 - 13.10.4 “Request for Information” means a request for information or an apparent request under the Code of Practice on Access to government Information, FOIA or the Environmental Information Regulations.
- 13.11 The Consultant:
 - 13.11.1 transfers to the Employer all Requests for Information that it receives as soon as practicable and in any event within two working days of receiving a Request for Information;
 - 13.11.2 provides the Employer with a copy of all Information in its possession, or power in the form that the Employer requires within five working days (or such other period as the Employer may specify) of the Employer’s request; and

13.11.3 provides all necessary assistance as reasonably requested by the Employer to enable the Employer to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations

and procures that its Subconsultants do likewise.

- 13.12 The Employer is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.
- 13.13 The Consultant does not respond directly to a Request for Information unless authorised to do so by the Employer.
- 13.14 The Consultant acknowledges that the Employer may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of information Act 2000, be obliged to disclose Information without consulting or obtaining consent from the Consultant or despite the Consultant having expressed negative views when consulted.
- 13.15 The Consultant ensures that all Information is retained for disclosure throughout the period for retention and permits the Employer to inspect such records as and when reasonably requested from time to time.

Option Z 2

Notices

Supplement to
NEC3 PSC
clause 13

- 13.16 All communications between the Employer and the Consultant required by or authorised under this contract must comply with NEC3 PSC clause 13 but is deemed to be duly given or made:
- 13.16.1 two working days after being sent by prepaid special delivery post; or
- 13.16.2 when delivered by hand if a signature acknowledging its receipt has been obtained; or
- 13.16.3 when received by facsimile if the relevant fax delivery confirmation is obtained.
- 13.17 In each case the notice must:-
- 13.17.1 refer to this contract, and
- 13.17.2 be marked for the attention of the appropriate officer, person or department as notified to the other party in writing.
- 13.18 Each Party notifies the other in writing within five working days of any change in its address for service.

13.19 Any notice served on a non working day or outside of normal working hours is deemed to be served on the following working day.

13.20 For the avoidance of doubt, electronic mail does constitute a valid form of notice for the purpose of this contract unless specifically agreed between the Parties in writing for an express purpose set out in such agreement.

Option Z 3 DELETED

Option Z 4 Persons dealing with this contract

Supplement to NEC3 PSC clause 22 22.3 The Consultant appoints a partner or director of the Consultant, firm or company, to be the Contract Manager and to be duly authorised to receive instructions and to be the point of contact between the Employer and the Consultant throughout the course of this contract and, subject to reasonable notice, on behalf of the Consultant to attend all meetings with the Employer regarding this contract and to approve and sign all reports submitted to the Employer by the Consultant. No change in this named individual is made without the prior written approval of the Employer.

Option Z 5 Lead designer

Supplement to NEC3 PSC clause 23 23.4 If the Consultant is appointed as lead designer he is responsible for the co-ordination and integration of the services being provided by Others.

Option Z 6 Disputes with Others

Supplement to NEC3 PSC clause 23 23.5 If any difference arises between the Consultant and Others, the Consultant uses its best endeavours to achieve a reconciliation. If the reconciliation is not achieved and is not likely to be achieved before such difference becomes detrimental to the delivery of the services, the Consultant refers the matter or difference to the Employer for instructions.

Option Z 7 Conflicts of interest

Supplement to NEC3 PSC clause 25 25.5 The Consultant discloses to the Employer any actual or potential conflict of interest arising from the Consultant's provision of the services as soon as practicable after becoming aware of such actual or potential conflict.

25.6 The Consultant immediately notifies the Employer of any circumstances giving rise to or potentially giving rise to conflicts of interest relating to the Consultant (including without limitation its reputation and standing) and/or the Employer of which it is aware or anticipates may justify the Employer taking action to protect its interests.

- 25.7 Should the Parties be unable to either remove the conflict of interest and/or to reduce its damaging effect to a reasonably acceptable level the Employer has the right to terminate this contract whereupon the provisions of NEC3 PSC clause 92.2 apply to the termination.

Option Z 8

Assignment

Supplement to
NEC3 PSC
clause 25

- 25.8 The Consultant does not, without the written consent of the Employer, assign or transfer this contract, or any part of, share of or interest in it. In the absence of the Employer's written consent no sum of money becoming due under this contract is payable to any person other than the Consultant.
- 25.9 In this clause "Contracting Authority" means a contracting authority as defined in the current Public Contracts Regulations or relevant succeeding rules.
- 25.10 The Employer is entitled to:
- 25.10.1 assign or otherwise dispose of its rights under this contract or any part thereof to any Contracting Authority, or
 - 25.10.2 assign or otherwise dispose of its rights under this contract or any part thereof to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Employer
- provided always that where such assignment or other disposal increases the burden of the Consultant's obligations pursuant to this contract, the Consultant is entitled to such additional payment as may be reasonable to compensate for such additional burden.

Option Z 9

Novation

Supplement to
NEC3 PSC
clause 25

- 25.11 In this clause "Contracting Authority" means a contracting authority as defined in the current Public Contracts Regulations or relevant succeeding rules.
- 25.12 The Employer is entitled, without the need to obtain the Consultant's consent, to:
- 25.12.1 novate this contract or any part thereof to any Contracting Authority; or
 - 25.12.2 novate its rights and obligations under this contract to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Employer;
- upon such terms as the Employer proposes, provided that where such novation increases the burden of the Consultant's obligations pursuant to this contract, the Consultant is entitled to such additional payment as may be reasonable to

compensate for such additional burden.

25.13 Any change in the legal status of the Employer such that it ceases to be a Contracting Authority does not affect the validity of this contract. In such circumstances, this contract binds and inures to the benefit of any successor body to the Employer.

25.14 If this contract is novated to a body which is not a Contracting Authority or if a successor body which is not a Contracting Authority becomes the Employer (both such bodies being referred to in the remainder of this clause as the “transferee”) the transferee is only able to assign, novate or otherwise dispose of its rights and obligations under this contract or any part thereof with the written consent of the Consultant.

Option Z 10

Payment forecast

Supplement to
NEC3 PSC
clause 50

50.6 Prior to the submission of the Consultant's first invoice, the Consultant submits to the Employer a payment forecast based on the Consultant's estimate of the interim payments (including fees and expenses) which the Consultant anticipates will fall due at each interim application throughout the period of this contract up to the Consultant's anticipated completion date for the services.

50.7 Each subsequent invoice from the Consultant is accompanied by an updated payment forecast, amended to show the effects of any changes in the Scope and Accepted Programme.

Option Z 11

Suspension for non-payment

Supplement to
NEC3 PSC
clause 51

51.6 Without prejudice to any other right or remedy of the Consultant, where a sum due under this contract is not paid in full by the final date for payment and no effective notice to withhold payment has been given under NEC3 PSC clause Y2.3 and such failure continues for 7 days after the Consultant has given to the Employer written notice of his intention to suspend the performance of his obligations under this contract and stating the ground or grounds on which it is intended to suspend performance, the Consultant may suspend performance of the services until full payment is made.

51.7 Any period during which performance is suspended in pursuance of the right conferred by this clause is dealt with as a compensation event in accordance with clause 6 of the NEC3 PSC.

Option Z 12

Responsibility for documents

Supplement to
NEC3 PSC
clause 70

70.5 The Employer may at any reasonable time examine schedules, calculations, surveys, reports, specifications, drawings and/or any other documents and information which are in the possession of the Consultant and which concern this contract, but no such examination relieves the Consultant of any responsibility for the services to be provided under this contract.

Option Z 13 DELETED

Option Z 14 Confidentiality

Additional clause 73

- 73.1 The Consultant ensures that neither he nor his employees do, without the written consent of the Employer, make use of, or disclose to any other person (other than in accordance with the provision of the services or as may be required by law) any documents or information provided by the Employer pursuant to this contract, or which may come into the possession or knowledge of the Consultant or of any of his employees by virtue of this contract. All of the above information is confidential to the Employer, and the Consultant and his employees are bound by this clause during the period of this contract and at all times thereafter.
- 73.2 The Consultant indemnifies and keeps indemnified the Employer against all actions, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Consultant of this clause. Such indemnity is without prejudice to any other rights of the Employer.
- 73.3 The Consultant maintains as confidential at all times and does not divulge by any means of communication (whether oral, written, digital or by some other means) any information supplied by the Employer or produced for the Employer by the Consultant in accordance with this contract.
- 73.4 The Consultant does not without the consent of the Employer publish, discuss or issue alone or in conjunction with any other person any articles, press releases, or other information relating to the provision of the services.
- 73.5 The provisions of this clause survive indefinitely following the expiry of this contract.

Option Z 15 Insurance

Supplement to NEC3 PSC clause 81

- 81.3 All insurances required to be effected or maintained by the insuring party under NEC3 PSC clause 81 are placed with reputable insurers, to whom the other party has no reasonable objection, lawfully carrying on such insurance business in the United Kingdom, and upon customary and usual terms prevailing for the time being in the insurance market. The said terms and conditions do not include any term or condition to the effect that any insured must discharge any liability before being entitled to recover from the insurers, or any other term or condition which might adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 1930 or the Third Parties (Rights Against Insurers) Act (Northern Ireland) 1930 as amended by the Insolvency (Northern Ireland) Order 1989.
- 81.4 If, without the approval of the Employer, the Consultant fails to effect and maintain any insurance that it is required to effect

and maintain under NEC3 PSC clause 81 or obtains a different policy of insurance or fails to provide a copy of insurances or certificates when required to do so, the Employer may, but is not required to, effect and maintain appropriate insurance cover and deduct the cost of doing so from any payment due to the Consultant under this contract, or recover such sum from the Consultant as a debt.

81.5 For the avoidance of doubt, it is agreed that nothing in this clause relieves the Consultant from any of its obligations and liabilities under this contract.

Option Z 16

Professional indemnity insurance

Supplement to
NEC3 PSC
clause 81

81.6 Unless stated in the Order, the Consultant maintains the professional indemnity insurance upon customary and usual terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom on the basis and in an amount not less than that stated in the Contract Data, provided always that such insurance is available at commercially reasonable rates. The said terms and conditions do not include any term or condition to the effect that the Consultant must discharge any liability before being entitled to recover from the insurers, or any other term or condition which might adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 1930 or the Third Parties (Rights Against Insurers) Act (Northern Ireland) 1930 as amended by the Insolvency (Northern Ireland) Order 1989.

81.7 The Consultant does not without the prior written approval of the Employer settle or compromise with the insurers any claim which the Consultant may have against the insurers and which relates to a claim by the Employer against the Consultant, nor by any act or omission lose or prejudice the Consultant's right to make or proceed with such a claim against the insurers.

81.8 The Consultant immediately informs the Employer if the professional indemnity insurance ceases to be available at rates and on terms that the Consultant considers to be commercially reasonable. Any increased or additional premium required by insurers by reason of the Consultant's own claims record or other acts, omissions, matters or things particular to the Consultant's is deemed to be within commercially reasonable rates.

81.9 The Consultant co-operates fully with any measures reasonably required by the Employer including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above commercially reasonable rates if the Employer undertakes in writing to reimburse the Consultant in respect of the net cost of such insurance to the Consultant above commercially reasonable rates or, if the Employer effects such insurance at

rates at or above commercially reasonable rates, reimbursing the Employer in respect of what the net cost of such insurance to the Employer would have been at commercially reasonable rates.

- 81.10 The above obligation in respect of professional indemnity insurance continues notwithstanding termination of the Consultant's employment under this contract for any reason whatsoever, including (without limitation) breach by the Employer.

Option Z 17 Public liability insurance

- Supplement to NEC3 PSC clause 81 81.11 The public liability insurance required by NEC3 PSC clause 81 to be effected or maintained is obtained in the joint names of the Employer and such other person as the Employer may reasonably require including, without limitation, the Employer's consultants, the Consultant and all Subconsultants provided that, where the terms of the relevant insurance policy are such that the SERVICE PROVIDER is unable to effect insurance jointly, the SERVICE PROVIDER ensures that the policy includes an "Indemnity to Principal" provision in standard insurance industry terms

Option Z 18 Termination Events

- Supplement to NEC3 PSC clause 90 90.5 The Employer may at any time by notice in writing terminate the Consultant's obligation to Provide the Services as from the date of service of such notice, or a later date specified in such notice, if any of the events specified below occur (the "Termination Events"); namely, if the Consultant:
 - 90.5.1 is convicted or has been convicted of a criminal offence relating to the conduct of its business or profession; or
 - 90.5.2 commits or is found to have committed an act of grave misconduct in the course of its business or profession; or
 - 90.5.3 fails or has failed to comply with any obligations relating to the payment of any taxes or social security contributions; or
 - 90.5.4 has made any serious misrepresentations in the tendering process for any project or matter in which the public sector has or had a significant participation; or
 - 90.5.5 fails to obtain any necessary licences or to obtain or maintain membership of any relevant body; or
 - 90.5.6 demerges into two or more firms, merges with another firm, incorporates or otherwise changes its legal form or there is a change of control as defined by section 416 of the Income and Corporation taxes Act 1988 (any such case being a "Change of Control") and, in any such Change of Control, there are reasonable grounds for the Employer to withhold its consent relating to the financial standing of the new entity through which it is

proposed that the services will be delivered or there are security concerns arising from the provision of the services by the new entity;

any such termination being deemed for the purposes of NEC3 PSC clause 92.2 to have been caused by a substantial failure of the Consultant to comply with his obligations.

- 90.6 The Consultant promptly notifies the Employer in writing on each occasion of the occurrence of any Change of Control. The Employer is permitted to exercise its rights pursuant to this clause for only six months after service of each and any notice by the Consultant pursuant to this clause and is not permitted to exercise such rights where the Employer has agreed in advance in writing to the particular Change of Control provided such Change of Control takes place as agreed.

Option Z 19 DELETED

Option Z 20 Security concern

- Supplement to NEC3 PSC clause 90 90.8 The Employer may terminate the Consultant's obligation to Provide the Services if the Employer has any reasonable security concern in respect of the Consultant, any such termination being deemed to have been caused by a substantial failure of the Consultant to comply with his obligations for the purposes of NEC3 PSC clause 92.2.

Option Z 21 Corrupt gifts and payment of commission

- Supplement to NEC3 PSC clause 90 90.9 The Employer may terminate the Consultant's obligation to Provide the Services if the Consultant or anyone employed by him:
- 90.9.1 offers to give or agrees to give any person any gift or consideration of any kind as an inducement or reward for doing, forbearing to do, or for having done or forborne to do any act in relation to the obtaining or execution of this contract or any other contract for the Employer or Her Majesty's Service or for showing favour or disfavour to any person in relation to this or any other contract for the Employer or Her Majesty's Services; or
 - 90.9.2 enters into this contract or any other contract with the Employer or with a person or body employed by the Employer or acting on its behalf or with Her Majesty's Service in connection with which commission has been paid or agreed to be paid by him or on his behalf, or to his knowledge, unless before this contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Employer; or
 - 90.9.3 commits an offence under the Prevention of Corruption Acts 1889 to 1916 in relation to this

contract or any other contract with the Employer or Her Majesty's Service.

Supplement to NEC3 PSC clause 92 92.3 If the Employer terminates under clause 90.9 (Corrupt gifts and payment of commission) the amount due on termination includes a deduction of the forecast of the additional cost to the Employer of completing the whole of the services and the Employer recovers from the Consultant the amount or value of any such gift, consideration or commission.

Option Z 22 W3 Negotiation

Additional NEC3 PSC option W3 W3.1 Without prejudice to either party's right to refer a dispute to the Adjudicator at any time, any dispute or difference between the Parties arising out of or relating to this contract is referred by either Party initially to representatives of the Employer and Consultant for negotiation and resolution.

W3.2 If any dispute is not resolved within 10 working days after it has been referred to the Parties' representatives (or such longer period as the Parties may agree), it is referred to an authorised senior officer of the Employer and an authorised senior officer of the Consultant for negotiation and resolution.

W3.3 If any dispute cannot be resolved within 10 working days after it has been referred to the authorised senior officers of the Employer and Consultant (or such longer period as the Parties may agree) either Party may decline to continue to participate in the negotiation.

Option Z 23 W4 Mediation

Additional NEC3 PSC option W3 W4.1 Without prejudice to either Party's right to refer a dispute to the Adjudicator at any time, any dispute or difference between the Parties arising out of or relating to this contract and which has not been resolved by negotiation is referred to mediation in accordance with the provisions of this clause.

W4.2 The procedure and associated provisions for mediation pursuant to this clause are as follows:

W4.2.1 a neutral adviser or mediator ('the Mediator') is chosen by agreement between the Employer and the Consultant or, if they are unable to agree upon the identity of the Mediator within ten working days after a request by one party to the other, or if the Mediator agreed upon is unable or unwilling to act, either Party may within ten working days from the date of the proposal to appoint a Mediator or within ten working days of notice to either party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") to appoint a Mediator;

W4.2.2 the Parties meet with the Mediator within ten working days of his appointment in order to agree the programme for exchange of all relevant information

and the procedure under which negotiations will be held. The Parties may at any stage seek guidance from CEDR regarding a suitable procedure.

- W4.3 Unless otherwise agreed by the Parties, all negotiations connected with the dispute and any settlement agreement relating to it are confidential and without prejudice to the rights of the Parties in any future proceedings.
- W4.4 In the event that the Parties reach agreement on the resolution of the dispute, the agreement is reduced to writing and is binding on both Parties once it is signed by a duly authorised senior officer of the Employer and a duly authorised senior officer of the Consultant.
- W4.5 Failing agreement, the Employer or Consultant may agree to invite the Mediator to provide a non-binding but informative opinion in writing. No such invitation is made without the written consent of both Parties. If it is agreed that such an invitation is to be made, the opinion is provided on a without prejudice basis and is not used in evidence in any proceedings relating to this contract without the written consent of both Parties.
- W4.6 The Employer and the Consultant each bears their own costs in relation to any reference made to the Mediator and the fees and all other costs of the Mediator are borne jointly in equal proportions by both Parties unless otherwise directed by the Mediator.
- W4.7 In the event that the Employer and the Consultant fail to reach agreement within forty working days after the Mediator's appointment, or such longer period as may be agreed, the dispute may be referred to the tribunal.

SECTION 2 :

Option Z 24 Responsibility for work by Others

- Supplement to NEC3 PSC clause 16 16.2 Where the Consultant is required to incorporate work provided by others, the Consultant's responsibility in respect of such work is limited to reviewing it to the extent required to ensure the satisfactory performance of the services.
- 16.3 Notwithstanding NEC3 PSC clause 16.1, if the Consultant finds any discrepancy in or divergence between any documents and/or information, including any found in documents and/or information provided by others, the Consultant immediately notifies the Employer of the discrepancy or divergence.

Option Z 25 Consultant's obligation to ensure

- Supplement to NEC3 PSC clause 23 23.6 Where in this contract the Consultant is under an obligation to ensure that events occur which are under the direct control of Others and, due to Others, the Consultant is unable to comply

with that obligation, the Consultant is liable to the Employer only in the event that the Consultant has failed to use reasonable endeavours to ensure the occurrence of the event.

- 23.7 The Consultant does not warrant the work of others (save that nothing in this clause shall affect the Consultant's responsibility for Subconsultants) but the Consultant is nevertheless required to inform the Employer in writing of the action taken by the Consultant in seeking to ensure that the event occurred and recommend to the Employer a further course or courses of action to ensure the occurrence of the event.

Option Z 26 Direct appointment of Others

- Supplement to NEC3 PSC clause 23 23.8 Where Others are appointed by the Employer, the Consultant co-operates fully with those Others in order to ensure that production of the Consultant's drawings, design information or other relevant documents or information is fully co-ordinated with the work of the Others.

Option Z 27 DELETED

Option Z 28 Environmental requirements

- Supplement to NEC3 PSC clause 25 25.15 The Consultant complies with all applicable environmental laws and regulations in force from time to time in relation to the services and promptly provides evidence of compliance when reasonably requested by the Employer.
- 25.16 The Consultant satisfies all reasonable requests by the Employer for information regarding the environmental impact of the services.

Option Z 29 Access to property

- Supplement to NEC3 PSC clause 25 25.17 If in the course of undertaking the services the Consultant is required to enter any premises not owned or occupied by the Consultant, the Consultant complies with the requirements of the Employer and with the occupier's rules and regulations regarding admission and only visits the premises at times suitable to the Employer or the occupier.
- 25.18 The Consultant complies with any changes to the above requirements, rules or regulations notified to him as an Employer's instruction requiring a change in the Scope in accordance with NEC3 PSC clause 20.2.
- 25.19 The names and addresses of all the Consultant's or Subconsultants' staff to be employed in connection with this contract and requiring access to such premises are submitted to the Employer or the occupier concerned to enable the necessary clearances to be obtained.

Option Z 30

Presentations

Supplement to
NEC3 PSC
clause 25

25.20 If in the course of providing the services the Consultant is required to report to the Employer with recommendations, the Consultant if so requested makes a formal presentation to the Employer, without additional charge, of matters relevant to those recommendations.

Option Z 31

Tender documents and contracts

Supplement to
NEC3 PSC
clause 25

25.21 The Consultant has due regard to all statutory requirements when conducting a procurement exercise and obtains written instructions from the Employer regarding the Employer's procedures for obtaining tenders, the forms of contract to be used and any specification requirements or other matters relevant to the type of work to be addressed by the Consultant.

25.22 In the event that the Consultant is required as part of the services to produce tender documents, the Consultant submits to the Employer and to other advisers, if so directed by the Employer, drafts of the proposed tender documents and obtains the Employer's approval of the drafts prior to finalising and issuing the finished documents to tenderers.

Option Z 32

Recovery of VAT

Additional
clause 52

52.3 The Consultant pays to the Employer within 7 days of a written demand by the Employer any VAT or amount in respect of VAT incurred by the Employer as a result of the Consultant's failure to carry out his obligations under this contract where the failure results in the Employer engaging another person to fulfil the Consultant's obligations and incurring expenditure on which the Employer is unable to recover the VAT from HM Customs & Excise.

52.4 Sub-clause 52.1 does not apply to the extent that the Employer would have been unable to recover VAT even if the Consultant had fulfilled its obligations under this contract.

52.5 Where either party is liable to reimburse or indemnify the other party for costs incurred by that other party, the amount to be paid does not include any VAT charged on such costs, save where the payee is unable to recover such VAT from HM Customs & Excise as input tax.

Option Z 33

Recovery of other sums

Additional
clause 53

53.4 In this Clause:
53.4.1 "Contracting Authority" means a contracting authority as defined in the current Public Contracts Regulations or relevant succeeding rules;
53.4.2 "Private Authority" means a commercial organisation to whom service provision has been outsourced by a

Contracting Authority, which assumes the role and responsibilities of the Employer under this contract.

53.5 The Employer is permitted to deduct and withhold from any sums otherwise due to the Consultant under this contract any sum of money due from the Consultant to the Employer under any one or more of:

- 53.5.1 this contract; or
- 53.5.2 any other agreement between the Consultant and the Employer; or
- 53.5.3 any other agreement between the Consultant and OGCBuying.solutions; or
- 53.5.4 (except where the Employer is a Private Authority) any other agreement between the Consultant and another department, office or agency of the Crown,

provided that the terms of such other agreement provide for sums of money due from the Consultant under that agreement to be recovered by way of a deduction from sums of money due to the Consultant under this contract or any other contracts.

Option Z 34 Subconsultants' collateral warranty agreements

Supplement to
NEC3 PSC
option X8 X8.2

Where requested by the Employer, the Consultant will procure from every Subconsultant collateral warranty.

Option Z 35 DELETED

Option Z 36 The Housing Grants, Construction and Regeneration Act 1996

Supplement to
NEC3 PSC
option Y(UK)2 Y2.5

If Option Y(UK)2 is said to apply then notwithstanding that this contract relates to the carrying out of construction operations other than in England or Wales or Scotland, the Act is deemed to apply to this contract.

SECTION 3 :

Option Z 37 Consultant's records

Supplement to
NEC3 PSC
clause 13 13.21

The Consultant and any Subconsultant maintain, for the period for retention, detailed records of all time spent on services charged on a Time Charge basis and when requested make those records available to the Employer.

Option Z 38 Contract Standard

Modification of
NEC3 PSC
clause 21 21.3

Notwithstanding the requirements of NEC3 PSC clause 21.2, the Consultant's obligation is to use:

- 21.3.1 the reasonable skill, care and diligence as would be expected of a competent and appropriately qualified consultant or other appropriately qualified professional carrying out services of a similar nature, scope, size

and complexity as the services, and

21.3.2 to the extent that the services include design, the skill, care and diligence in the design services as would be expected of an appropriately qualified and competent professional designer holding himself out as experienced in carrying out design activities of a similar nature, scope, size and complexity to those entailed in the services;

herein referred to as the “Contract Standard”.

Consequential modification of NEC3 PSC clause 81.1

81.12 In the Insurance Table provided in NEC3 PSC clause 81.1, the first paragraph under the heading of “Insurance against” is deemed to be amended to read:

“Liability of the Consultant for claims made against him arising out of his failure to use the skill, care and diligence required by the Contract Standard”.

Consequential modification of Contract Data Part One section 8

81.13 In the insurance table appearing in the Contract Data Part One in respect of section 8, “Indemnity, insurance and liability”, the first paragraph under the heading of “event” is deemed to be amended to read:

“failure of the Consultant to use the skill, care and diligence required by the Contract Standard.”

Option Z 39

Copyright

Supplement to NEC3 PSC clause 70

70.6 In this contract:

70.6.1 “Intellectual Property Rights” means any and all patents, trade marks, service marks, copyright, moral rights, rights in a design, know-how, Confidential Information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attached thereto;

70.6.2 “Confidential Information” means any information designated as such by the party disclosing that information; and

70.6.3 “Document” means all designs, drawings, specifications, photographs, plans, surveys, reports, and all other documents and/or information prepared by or on behalf of the Consultant in relation to this contract.

70.7 The copyright and all other Intellectual Property Rights in all Documents prepared by or on behalf of the Consultant in relation to this contract and the work executed from them is the property of and vested in the Employer. The Employer reserves the right to reproduce such Documents or to execute, or to have executed, such work or services in accordance

therewith as may be required by the Employer.

- 70.8 In the event that the Consultant does not own the copyright or any Intellectual Property Right in any Document the Consultant uses all reasonable endeavours to procure the right to grant such rights to the Employer to use any such copyright or Intellectual Property Rights from any third party owner of the copyright or Intellectual Property Rights. In the event that the Consultant is unable to procure the right to grant to the Employer in accordance with the foregoing the Consultant procures that the third party grants a direct licence to the Employer on industry acceptable terms.
- 70.9 The Consultant waives any moral right to be identified as author of the Documents in accordance with section 77, Copyright Designs and Patents Acts 1988 and any right not to have the Documents subjected to derogatory treatment in accordance with section 8 of that Act as against the Employer or any licensee or assignee of the Employer.
- 70.10 In the event that any act unauthorised by the Employer infringes a moral right of the Consultant in relation to the Documents the Consultant undertakes, if the Employer so requests and at the Employer's expense, to institute proceedings for infringement of the moral rights.
- 70.11 The Consultant warrants to the Employer that he has not granted and shall not (unless authorised by the Employer) grant any rights to any third party to use or otherwise exploit the Documents.
- 70.12 The Consultant warrants that the use of the Documents for the purposes of this contract will not infringe the rights of any third party.
- 70.13 The Consultant supplies copies of the Documents to the Employer and to the Employer's other consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related works.
- 70.14 After the termination or conclusion of the Consultant's employment hereunder, the Consultant supplies the Employer with copies and/or computer discs of such of the Documents as the Employer may from time to time request and the Employer pays the Consultant's reasonable costs for producing such copies or discs.
- 70.15 Priced documents prepared by the Consultant may be used by the Employer for the purposes of indexing and analysis without prior approval by the Consultant and the Consultant shall ensure that a similar clause is inserted in all agreements with its Subconsultants.

Option Z 40

DELETED

Option Z 41 **DELETED**

Option Z 42 **DELETED**

Option Z 43 **DELETED**

Option Z 44 **Criminal Records Bureau**

Additional
clause 29

29.1 The Consultant procures that in respect of all potential staff or persons performing any of the services (each an “Identified Employee”) before an Identified Employee attends any site or premises at which the services are to be performed:

29.1.1 each Identified Employee is questioned as to whether he or she has any convictions; and

29.1.2 the results are obtained of a check of the most extensive available kind made with the Criminal Records Bureau in respect of each Identified Employee; and

the results of such check are promptly notified in writing to the Authority and Employer.

29.2 The Consultant procures that no person to whom the Authority or Employer reasonably objects as a consequence of information obtained under this clause is employed in the provision of the services.

Option Z 45 **DELETED**

CONTRACT SCHEDULE C
CONTRACT DATA PART 2 – DATA PROVIDED BY THE CONSULTANT

CONTRACT DATA Part two – Data provided by the Consultant

The Data which will apply to all Orders is

The Consultant is:

Name

Address

.....

The **key persons** are:

(1) Name

Job

Responsibilities

Qualifications

Experience

(2) Name

Job

Responsibilities

Qualifications

Experience

(3) Name

Job

Responsibilities

Qualifications

Experience

CONTRACT SCHEDULE D
THE SPECIFICATION

THE SPECIFICATION

Contents Under Separate Cover and form part of the tender documentation:

1. Project Brief
2. Heating Services Concept Feasibility Report (July 2013)
3. Drawings and Schematics
 - i. M001 – Ground Floor Existing Heating Zone
 - ii. M002 – First Floor Existing Heating Zone
 - iii. M003 – Existing Heating Schematic
 - iv. M004 – Proposed Heating Schematic
 - v. M005 – Proposed Pipework Route
4. Professional Services Core Services activity schedules and duties
5. Potential Heating Strategy
6. BMS Feasibility Report (Aug 2012)
7. Asbestos Register (available to view on site)
8. Underground Survey – commissioned direct by CEH (to follow Sept 2013)

CONTRACT SCHEDULE E
THE PRICES

THE PRICES

Please complete the attached documents with your proposed lump sum price information for providing the whole of the services in accordance with the priced contract and activity schedule.

The schedules of duties as attached are:-

- Schedule 1: Duties of the Project Manager
- Schedule 2: Duties of the Quantity Surveyor/Cost Manager
- Schedule 3: Duties of the Structural Engineer
- Schedule 4: Duties of the Building Services Engineer
- Schedule 5: Duties of the Lead Consultant
- Schedule 6: Duties of the CDMc
- Schedule 7: Duties of the Controls Specialist

STAGE	RIBA Plan of Work	£
Preparation, Design and Pre-Construction	RIBA Plan of Work Stages B: Design Brief RIBA Plan of Work Stages C: Concept RIBA Plan of Work Stages D: Design Development RIBA Plan of Work Stages E: Technical Design RIBA Plan of Work Stages F: Production Information RIBA Plan of Work Stages G: Tender Documentation RIBA Plan of Work Stages H: Tender Action	
Construction	RIBA Plan of Work Stages J: Mobilisation RIBA Plan of Work Stages K: Construction to Practical Completion	
Use	RIBA Plan of Work Stage L ₁ : Administration of the building contract after Practical Completion and making final inspections	
Expenses		
TOTAL		