

NEC4

Term Maintenance Contract

Scope S 2000 Low service damages (Option X17)

DN581359

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S 2000 Low service damages (Option X17)

S 2005 Service level requirements

Service level table pursuant to Option X17

Safety Defect Repairs

Category 1 and Category 2 Safety Defects – Works Specification Series 7300. Failure by the *Contractor* to make safe a Category 1 or Category 2 Safety Defect within the applicable Maximum Response Time below incurs the following low service damages:-

Category 1:-

- Category 1.0 – extreme risk (“immediate”) – Making Safe or repair within 1½ hours - £112.88 per day or part thereof
- Category 1.1 – high risk (“24 hours”) – Making Safe or repair within 24 hours - £56.45 per day or part thereof

Category 2:-

- Category 2.0 – medium risk (“7 days”) – repair within 7 calendar days - £28.72 per day or part thereof
- Category 2.1 – low risk (“28 days”) – repair within 28 calendar days - £28.72 per day or part thereof
- Other defects – time period to be stated (greater than 28 calendar days) - £28.72 per day or part thereof

These Low Service Damages are in addition to any liabilities and obligations of the *Contractor* stated in Annex 01 – Claims Handling Protocol.

Emergency Service

Emergency Service – Works Specification Series 7900. Failure by the *Contractor* to achieve the Emergency Response Time (refer to Series 7900, Clause 7901 AR) incurs the following low service damages:-

- 1½ Hours £112.88 per day or part thereof

These Low Service Damages are in addition to any liabilities and obligations of the *Contractor* stated in Annex 01 – Claims Handling Protocol.

Works Other than Safety Defect Repairs and Emergency Service

Works other than Safety Defect Repairs and Emergency Service. The daily charge will be applied (unless otherwise stated in the Task Order) and will be calculated per calendar day beyond the Completion Date of the Task Order. Failure by the *Contractor* to complete the work stated in the Task Order within the stated timescale incurs Delay Damages calculated using the following formula:-

- $(0.15 / 365) \times \text{Task Order Value per day or part thereof.}$

These Low Service Damages are in addition to any liabilities and obligations of the *Contractor* stated in Annex 01 – Claims Handling Protocol.

Hazardous Situations Protected by Temporary Traffic Management at the Expense of the *Client*

Where hazardous situations are protected by temporary traffic management at the expense of the *Client*, all costs will be met by the *Contractor* beyond the agreed Completion Date of the Task Order. The daily low service damages stated for Works Other than Safety Defect Repairs and Emergency Service will also apply.

These Low Service Damages are in addition to any liabilities and obligations of the *Contractor* stated in Annex 01 – Claims Handling Protocol.

Assessment, Certification, Invoicing and Payment of Works

If the *Contractor* fails to include an assessment in his application for payment on or before the next assessment date after Task Completion, the *Contractor* must include such assessment in his application for payment on or before the following assessment date.

Failure by the *Contractor* to include an assessment on or before the following assessment date will incur the following low *Service* damages: -

- £249.23 per Task Order

These Low Service Damages are in addition to any liabilities and obligations of the *Contractor* stated in Annex 01 – Claims Handling Protocol.

Low Service Damages Adjustment for Inflation

The figures stated for low service damages for Safety Defect Repairs, Emergency Service, Works Other than Safety Defect Repairs and Emergency Service, Hazardous Situations Protected by Temporary Traffic Management at the Expense of the Client and Assessment, Certification, Invoicing and Payment of Works will be adjusted in accordance with the Price Adjustment for Inflation information in Option X1.

New Roads and Street Works Act 1991 (NRSWA), Traffic Management Act 2004 (TMA) and the Somerset Permit Scheme

The *Contractor* ensures that the Street Authority is informed of works in accordance with the New Roads and Street Works Act 1991 (NRSWA), The Traffic Management Act 2004 (TMA) and the Somerset Permit Scheme.

Failure by the *Contractor* to comply with permitting and notification requirements may incur parity charges as detailed in the table below:

Table N1.

Summary of duties and obligations		
	Brief description	Duties and obligations
Section 70 NRSWA	Failure to comply with requirements to give notice of completion of reinstatement	The <i>Contractor</i> must, within ten working days from the date on which the reinstatement is completed give notice, containing the prescribed information, to the authority of that completion.
Section 74 (7B) NRSWA	Failure to give a notice required by regulations under S74	The <i>Contractor</i> must provide the appropriate notifications under S74 as per the prescribed regulations.
Section 74 NRSWA	Charge for occupation of the highway where works unreasonably delayed.	The <i>Contractor</i> must complete works and clear the site within the agreed time period.
Section 74A (11) NRSWA	Failure to give a notice required by	Lane rental scheme – The <i>Contractor</i> must provide the appropriate notifications under S74 as per the prescribed regulations.

	regulations under S74	
Regulation 19 The Traffic Management Permit Scheme (England) Regulations 2007	Working without a Permit on a street covered by a Permit Scheme	The <i>Contractor</i> must have a permit to carry out activities requiring a permit, as described in the Somerset Permit Scheme, in any street which forms part of the permit scheme.
Regulation 20 The Traffic Management Permit Scheme (England) Regulations 2007	Breach of permit conditions	The <i>Contractor</i> must comply with any permit conditions agreed with the authority during the permit approval process.

Failure by the *Contractor* to comply with NRSWA and Street Works Permitting requirements for notifying works to the Street Authority incurs the following parity charge.

- £80 for failure to provide each required permit and notification correctly, noting that some works may require more than one permit.
- £80 for failure to comply with a permit condition (Regulation 20).
- £300 for working without a permit (Regulation 19).

Charges for occupation of the highway where works are unreasonably delayed will occur a daily charge in line with the current road category and traffic sensitive designation.

Parity charges may be adjusted in line with any future changes to legislation.

For clarity, a parity charge means those charges identified within Table N1 levied against the *Contractor* for a failure to comply with the requirements of NRSWA, The Traffic Management Act, Permit Scheme Regulations and The Somerset Permit Scheme.

In line with Parity there is no upper cap to the limit of parity charges that can be levied against the term maintenance contractor under this contract.

The Contract may need to be adjusted in line with any statutory changes that the Highway Authority has no control over, and any such event shall not be considered a compensation event under this contract.