

**Bolton  
Council**



**MANCHESTER  
CITY COUNCIL**



**TRAFFORD  
COUNCIL**



**Transport for  
Greater Manchester**



**STOCKPORT**  
METROPOLITAN BOROUGH COUNCIL

**TERMS & CONDITIONS**

**FOR CIVIL & STRUCTURAL ENGINEERING PROFESSIONAL SERVICES FRAMEWORK**

**Bolton Authorities  
Manchester City Authorities  
Stockport Authorities  
Trafford Authorities  
Transport for Greater Manchester**

**FEBRUARY 2013**

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This **FRAMEWORK AGREEMENT** is made the            day of            2013

**BETWEEN:**

- (1) **TRAFFORD BOROUGH COUNCIL** of Trafford Town Hall Talbot Road, Stretford, Manchester M32            0TH (the "Council") and
- (2) [            ] whose registered office is at [            ] (the "Consultant")

**WHEREAS:**

- A. The Council wishes to procure the Services on behalf of the Employers and the Consultant is a provider of the Services.
- B. The Council placed an advertisement in the Official Journal of the European Union NWCE – 8VTDJX ('OJEU Notice') seeking expressions of interest from potential consultants for a framework arrangement for the provision of the following professional services;
- Lot 1) Traffic Schemes and Network Management Professional Services; and
- Lot 2) Highways and Highway Structures; and
- Lot 3) Building Structures; and
- Lot 4) Transport Related Civil and Structural Professional advice and services including Investigation, Planning, Design, Operations and Maintenance.  
Such services are further detailed in the Framework Specification.
- C. The Consultant, having responded to the OJEU Notice, was invited to tender and on the basis of the Tender documents submitted by the Consultant, the Consultant was selected by the Council as a Consultant to be appointed to the Framework Agreement.
- D. The Consultant will enter into this Framework Agreement with the Council for the provision of Services to the Employers.
- E. This Framework Agreement provides that each Employer may call off the provision of the Services by placing an Order with the Consultant.
- F. Each Employer will place Orders for the Services on the terms and conditions detailed in the Framework Agreement. The relevant terms and conditions of the NEC 3 Professional Services Contract (June 2005, with amendments June 2006 and September 2011 by the Institute of Civil Engineers) as identified in the Order shall be assigned any Order placed through the Framework Agreement arrangements. The Employer and the Consultant will enter into the Contract following the placement of an Order.
- G. Inclusion on the Framework Agreement does not guarantee engagement in any or all of the Services. The Framework Agreement will not be exclusive to one consultant and the Council reserves the right to place orders with more than one successful consultant for the Service. The Council cannot guarantee to call off any specific quantities/work during the Term.

## FRAMEWORK TERMS AND CONDITIONS

### PART A - OPERATIVE PROVISIONS

#### 1.1 DEFINITIONS

The terms and expressions used in these Standard Terms and Conditions shall have the meanings set out below:

|                            |  |
|----------------------------|--|
| "Adjudicator"              | the adjudicator is appointed jointly by the employer and the consultant in accordance with NEC3 Professional Services Contract. (June 2005, with amendments June 2006 and September 2011 by the Institute of Civil Engineers).   |
| "Authorities"              | those bodies entitled to place orders. Please see "Employers"  |
| "Authorised Officer"       | the person duly appointed by the Employer to act as the representative of the Employer for the purpose of the Contract and notified in writing to the Consultant from time to time and identified in the Order Form or as amended from time to time.   |
| "Business Day"             | any day excluding Saturdays, Sundays, Bank Holidays and other Public Holidays  |
| "Change in Law"            | the coming into effect or repeal (without re-enactment or consolidation) in England and Wales of any Law, or any amendment or variation to any Law, or any judgement of a relevant court of law which changes binding precedent in England in each case after the date of this Framework Agreement.  |
| "Confidential Information" | any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the Services, the business, affairs, properties, assets, trading practices, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either party, all personal data and sensitive personal data (within the meaning of the DPA) and commercial sensitive information. |
| "Consultant"               | the Consultant identified in the Order Form and where applicable this shall include the Consultant's Employees, sub-contractors, agents, representatives, and permitted assigns and, if the Consultant is a consortium or consortium leader, the consortium members.   |
| "Contract"                 | shall mean the legally binding contract between the Employer and the Consultant following the placement of an Order by the Employer in accordance with the   |

Framework Terms and Conditions. For the avoidance of any doubt the Parties agree that the Contract shall be subject to the relevant terms and conditions of the NEC 3 Professional Services Contract (June 2005, with amendments June 2006 & September 2011) as identified in the Order.

“Contract Manager”

the person named in the Order Form as the contract manager and any replacement from time to time in accordance with the conditions of Contract. Please see Project Manager.

“Control”

control as defined by section 416 of the Income and Corporation Taxes Act 1988 as amended from time to time.

“DPA”

The Data Protection Act 1998 as amended from time to time.

“EIR”

The Environmental Information Regulations 2004 as amended from time to time.

“Employers”

Please see “Authorities”. Shall mean those bodies entitled to place an Order for the Services in accordance with the Framework Agreement which shall include;

- AGMA (Association of Greater Manchester Authorities) and Associate Members/AGMA Partners listed at [www.agma.gov.uk/agma/authorities/index.html](http://www.agma.gov.uk/agma/authorities/index.html).
- Transport for Greater Manchester including PTEG members and pteg group plc
- South Yorkshire Passenger Transport
- Executive; West Yorkshire Passenger
- Transport Executive; Tyne and Wear Passenger Transport
- Executive; West
- Midlands Passenger Transport Executive;
- Mersey Travel, and any of their successor organisations.
- and who shall be named in the Order Form and where the context so admits includes any person which takes over or assumes the statutory functions or administrative responsibilities of the Employer (whether in part or totally) or which is controlled by or is under common control with the Employer (and the expression “control” shall mean the power to direct or cause the direction of the general management and policies of the person in question but only for so long as such control exists).

|                                  |   |
|----------------------------------|---|
| “Framework Agreement”            | <p>The Framework Terms and Conditions, together with Schedules numbered 1 to 7 inclusive and all appendices attached thereto, in respect of the provision of the Services which shall be read as one document. In the event of ambiguity, conflict or contradictions between these documents the conflict will be resolved according to the following order of priority:</p> <ol style="list-style-type: none"> <li>1. Call Off Order;</li> <li>2. The terms and conditions of the Contract; the relevant NEC 3 Professional Services Contract (June 2005, with amendments June 2006 and September 2011 amendment by the Institute of Civil Engineers) as identified in the Order;</li> <li>3. the Tender Documents except to the extent that any element of the Tender has been included in the Order Form.</li> <li>4. these Framework Terms and Conditions.</li> </ol> |
| “Framework Date”                 | The date at which the Framework Agreement shall commence as detailed in clause 5.4.   |
| “Framework Terms and Conditions” | the terms and conditions set out in this document.  |
| “FOIA”                           | The Freedom of Information Act 2000 as amended from time to time.   |
| “Force Majeure”                  | <p>any cause materially affecting the performance by a party of its obligations under this Contract arising from any act beyond its reasonable control and affecting either party, including without limitation: acts of God, war, industrial action), protests, fire, flood, storm, tempest, epidemic, explosion, acts of terrorism and national emergencies.</p>  |
| “Good Industry Practice”         | <p>the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced Consultant engaged in the supply of services similar to the Services under the same or similar circumstances as those applicable to the Contract.</p>   |
| “HRA”                            | The Human Rights Act 1998 as amended from time to time.   |

|                                |   |
|--------------------------------|---|
| “Intellectual Property Rights” | patents, inventions, trade marks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.  |
| “Invitation to Tender”         | the Council’s invitation to tender for the Services incorporating information about the Framework Agreement including, but not limited to, the Service Specification, framework scope, requirements, participating Employees, initial qualifying factors and Tender return guidance.  |
| “Law”                          | any applicable Act of Parliament, sub-ordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the Royal Prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, bye-law, regulatory policy, guidance or industry code, judgement of a relevant court of law, or directives or requirements of any regulatory body of which the Consultant is bound to comply. |
| “Liabilities”                  | all costs, actions, demands, expenses, losses, damages, claims, proceedings, awards, fines, orders and other liabilities (including reasonable legal and other professional fees and expenses) whenever arising or brought.   |
| “Order”                        | a request for provision of the Services placed by the Employer to the Consultant in accordance with the Framework Agreement which may include, but shall not be limited to, an Order Form.  |
| “Order Form”                   | the document containing the Employer’s Service requirements, which shall include, but shall not be limited to, the Order Specification, which shall be submitted by the Employer to the Consultant in accordance with this Framework Agreement. Such an Order Form shall incorporate any appendices attached thereto. An example of the format which may be used by Employers for such an Order Form is attached hereto at Schedule 1                             |
| “Order Specification”          | the Services described in the Order to be supplied by the Consultant to the Employer in accordance with the Contract together with any other information that the Employer considers appropriate to the provision of the Services.  |
| “Price”                        | the price of the Services as set out in the Tender Documents and/or Order. Unless otherwise stated, any reference to Price shall be regarded as being exclusive of properly chargeable VAT which shall be separately accounted for.   |

|                         |  |
|-------------------------|--|
| “Pricing Schedule”      | the schedule from the Tender detailing the Price.  |
| “Project Manager”       | the project manager is appointed by the employer and is the key personality from the employers team in that the project manager will manage the contract for the employer.   |
| “Services”              | the services described in the Service Specification, and as further detailed in the Order, to be supplied by the Consultant to the Employer in accordance with the Contract.   |
| “Service Specification” | the specification describing the detailed requirements regarding the provision of the Services.  |
| “Tender”                | the Consultant’s tender for the Services in response to the Council’s Invitation to Tender   |
| “Tender Documents”      | The Invitation to Tender documents together with the Tender. For the avoidance of any doubt In the event of ambiguity, conflict or contradictions between these documents the Invitation to Tender document shall have precedence over the Tender. |
| “Term”                  | the term of the Framework Agreement as detailed in the clause 5.4.   |
| “VAT”                   | means Value Added Tax or any similar tax from time to time replacing it or performing a similar fiscal function.   |

- 1.2 Any reference to a person shall include any natural person, partnership, joint venture, body corporate, incorporated association, government, governmental agency, persons having a joint or common interest, or any other legal or commercial entity or undertakings.
- 1.3 A reference to any statute, order, regulation or similar instrument shall be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

## **2. HEADINGS**

- 2.1 The index and headings to the clauses and appendices to and schedules of this Framework Agreement are for convenience only and will not affect its construction or interpretation.

## **3. NOTICES**

- 3.1 Any notice required by this Framework Agreement to be given by either party to the other shall be in writing and shall be served personally or by sending it by registered post or recorded delivery to the appropriate address or email address notified to each other as set out in the Order Form.
- 3.2 Any notice served personally or via electronic means or by facsimile will be deemed to have been served on the day of delivery; any notice sent by post will be deemed to have been served 48 hours after it was posted; any notice sent by email before 5 p.m. will be deemed to have been served on the day of despatch and otherwise on the following day save where the deemed date of service falls on a day other than a Business Day in which case the date of service will be the following Business Day.



#### **4. ENTIRE AGREEMENT**

- 4.1 The Framework Agreement constitutes the entire agreement between the parties relating to the subject matter of the Framework Agreement. The Framework Agreement supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause 4 shall not exclude liability in respect of any fraudulent misrepresentation.

#### **5. SCOPE AND TERM OF FRAMEWORK AGREEMENT**

- 5.1 It is intended that this Framework Agreement constitutes a framework in accordance with the provisions of regulation 19 of the Public Contracts Regulations 2006 as amended.
- 5.2 The Framework Agreement sets out the terms on which the Consultant will supply the Services as ordered from time to time by the Employer. The NEC 3 Professional Services Contract (June 2005, with amendments June 2006 and September 2011 amendment by the Institution of Civil Engineers) terms and conditions shall apply to any Order placed in accordance with the Framework Terms and Conditions.
- 5.3 The Framework Agreement governs the overall relationship of the parties with respect to the supply of the Services. The Consultant shall supply the Services in accordance in all respects with the terms of the Framework Agreement.
- 5.4 The Framework Agreement shall commence on the (**Enter start date of Framework Agreement**) and shall continue in force for 24 months ("Initial Term") and may be extended for a further 24 months subject to agreement and performance over the past 24 months unless terminated in accordance with the provisions of the Framework Agreement.
- 5.5 For the avoidance of doubt the Council accepted the Consultant's Tender in response to the Council's Invitation to Tender in relation to the Services.
- 5.6 The Framework Agreement shall only be reviewed in accordance with these terms and conditions by the parties.

#### **6. SUPPLY OF SERVICES**

- 6.1 Subject to the provisions of Clause 8, the Employer shall be entitled at any time during the Term to place an Order with the Consultant for the supply of the Services.
- 6.2 Orders will be submitted in writing by the Employer. If for any reason the Employer considers it necessary to give an instruction or approval orally, written confirmation will be issued within two working days of the oral instruction.
- 6.3 In the event that the Consultant is unable to accept the Order, then the Consultant shall notify the Employer as soon as practicable or as specified in the Order. If the Consultant shall fail to provide such confirmation within the period specified in the Order or within a reasonable period of time then the Order shall be deemed to have been accepted by the Consultant.
- 6.4 The Consultant shall notify the Employer immediately if it becomes apparent that there are Services not covered by the Order that is considered to be reasonably necessary for the provision of the Services in accordance with the Order. The Consultant shall provide an estimate of any additional costs and the effect on the Service delivery programme. Any such additional costs, if accepted by the Employer, may be agreed in writing by the Parties.
- 6.5 The Consultant shall supply the Services in accordance in all respects with the terms of this Framework Agreement.
- 6.6 For the avoidance of doubt the Employer shall not be responsible for any Services that are delivered by the Consultant and are not the subject of an Order.

- 6.7 The Consultant shall ensure that the Services provided pursuant to the Order exceed or meet the requirements of the Order Specification and where the purpose for which the Services are required is indicated in the Order, either expressly or by implication, shall be fit for that particular purpose.
- 6.8 The Consultant warrants that the Services to be supplied under this Framework Agreement shall comply in all respects with all relevant requirements of any statute, statutory rule or order, or other instrument having the force of law which may be in force at the time when the Services are supplied.
- 6.9 The Consultant shall notify the Employer regarding progress on each Order and provide an overall project programme update on a monthly basis. The Consultant shall make reasonable efforts to achieve the programme dates.
- 6.10 Except where noted otherwise the Consultant should submit reports in draft form for comments, 2 weeks before the final submission date on the order and or the Consultant programme. When comments are made by the Employer the Consultant shall take the appropriate action and resubmit the report.
- 6.11 The Consultant shall nominate an individual at a senior level to manage the process.
- 6.12 The staff employed by the Consultant should have the experience and qualifications relevant for the Order/order.

## **7. CRITERIA FOR SELECTING A CONSULTANT FOR AN ORDER**

- 7.1 The Employer shall select a Consultant to supply the Services under an Order in accordance with Schedule 4.
- 7.2 Where the Employer conducts a mini competition and the Consultant chooses to participate, it shall do so at no cost to the Employer.

## **8. CONSULTANT TO HAVE SATISFIED ITSELF**

- 8.1 The Consultant shall be deemed to have satisfied itself as to the sufficiency and correctness of the Price. Unless otherwise expressly stated in the Framework Agreement or the relevant Order the Price shall cover all the Consultant's obligations under the Framework Agreement and/or Order and everything necessary for the supply of the Services under the Framework Agreement and/or Order.
- 8.2 Unless otherwise expressly stated in the Framework Agreement or the relevant Service Specification no claim by the Consultant will be allowed for any addition to the Price on the grounds of any matter relating to any document forming part of the Framework Agreement or any ambiguity or discrepancy therein on which an experienced Consultant could have satisfied himself by reference to the Council or any other appropriate means.

## **9. PAYMENT**

- 9.1 In consideration of the supply of the Services in accordance with the terms of the Framework Agreement, the Employer shall pay the Price in accordance with the invoicing procedure and payment profile specified in Order.
- 9.2 The Employer shall pay the Value Added Tax on the Price as agreed in the Order in the manner prescribed by law from time to time.
- 9.3 The Price shall only be increased in accordance with the provisions identified in the Order Specification.

## **10. MONITORING AND REPORTING**

10.1 The Consultant shall:

10.1.1 appropriately manage the Services that it provides under the Framework Agreement;

10.1.2 be required to provide to the Council accurate and up to date management information in relation to Services it provides under the Framework Agreement at the required frequency throughout the Term. Such information shall include but not be limited to the volume and value of Orders and the Services provided;

10.1.3 on reasonable notice grant to the Council and/or the Council's external and internal auditors access to any relevant data or documentation relating to the Framework Agreement and the supply of the Services for the purpose of carrying out an audit.

10.2 The Consultant shall hold performance review meetings when specified by the Council in respect of the Framework Agreement with the Council. This meeting shall include a review of information and data on performance of the Services, Council enquiries and complaints and the volume and value of Orders. The Consultant shall co-operate fully in providing this and any other financial and statistical information required by the Council during the course of each review.

**11. WARRANTIES AND REPRESENTATIONS**

11.1 The Consultant warrants and represents that:

11.1.1 the Consultant has full capacity and authority and all necessary consents (including but not limited to where its procedures so require the consent of its Parent Company) to enter into and perform the Framework Agreement and that the Framework Agreement is executed by the duly authorised representatives of the Consultant

**12. TERMINATION**

12.1 The Council may terminate this Framework Agreement by giving to the Consultant not less than 3 month notice in writing of such termination.

12.2 The Council may at any time by notice in writing terminate the Framework Agreement as from the date of service of such notice and each Employer may terminate any Order placed under the Framework Agreement forthwith if:

12.2.1 there is a change of control, as defined by Section 416 of the Income and Corporation Taxes Act 1988, in the Consultant or its Parent Company; or

12.2.2 the Consultant, being an individual, or where the Consultant is a firm, any partner or partners in that firm who together are able to exercise direct or indirect control, as defined by Section 416 of the Income and Corporation Taxes Act 1988, shall at any time become bankrupt or shall have a receiving order or administration order made against him or shall make any composition or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or appears unable to pay or to have no reasonable prospect of being able to pay a debt within the meaning of Section 268 of the Insolvency Act 1986 or he shall become apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985 as amended by the Bankruptcy (Scotland) Act 1993 or any application shall be made under any bankruptcy or insolvency act for the time being in force for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors; or any similar event occurs under the law of any other jurisdiction; or

12.2.3 the Consultant, being a company, passes a resolution, or the Court makes an order that the Consultant or its Parent Company be wound up otherwise than for the purpose of a bona fide reconstruction or amalgamation, or a receiver, manager or administrator on behalf of a creditor is appointed in respect of the business or any part thereof of the Consultant or the Parent Company, or circumstances arise which entitle the Court or a creditor to appoint a receiver, manager or administrator or which entitle the Court otherwise than for the purpose of a bona fide reconstruction or amalgamation to make a winding-up order, or the Consultant or its Parent Company is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or any similar event occurs under the law of any other jurisdiction.

12.3 The Council may at any time by notice in writing terminate the Framework Agreement and each Employer may terminate any Order placed under the Framework Agreement forthwith, if the Consultant is in default of any obligation under the Framework Agreement and:

12.3.1 the Consultant is in breach of any of its obligations under this Framework Agreement that is capable of remedy and which has not been remedied to the satisfaction of the Council and/or Employer within the period of time specified in the Order, or such other reasonable period as may be specified by the Employer after issue of a written notice specifying the breach and requesting it to be remedied; or

12.3.2 there is a material or substantial breach by the Consultant of any of its obligations under this Framework Agreement which is incapable of remedy.

12.4 Termination in accordance with this Clause 12 or otherwise shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.

12.5 Following termination of the Framework Agreement and where agreed by the Employer the Consultant shall continue to fulfil such Orders that may be outstanding or that it may receive in accordance with the Framework Agreement up to the date of termination.

### **13. CONFIDENTIALITY**

13.1 Any documents provided by the Council and information which the Consultant may acquire as a result of the Framework Agreement shall to the extent that they are not in the public domain or required to be disclosed by operation of Law remain confidential to the Council and shall not be disclosed disposed of or used for any purpose without prior written consent from the Council.

13.2 All Confidential Information provided by the Council to the Consultant shall be returned to the Council at the end of the Term.

13.3 Without prejudice to the Council's obligations under the FOIA or EIR, neither party shall make any press announcements or publicise the Framework Agreement or any part thereof in any way, except with the written consent of the other party (such consent not to be unreasonably withheld or delayed).

13.4 Both parties shall take all reasonable steps to ensure the observance of the provisions of this clause by all of their servants, employees, sub-contractors, agents, professional advisors and consultants.

### **14. DATA PROTECTION**

14.1 The Consultant shall (and shall procure that any of its employees involved in the provision of the Services) comply with any requirements under the Data Protection Act 1998 as amended from time to time.

**15. FREEDOM of INFORMATION ACT 2000 (FOIA) and ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIR)**

- 15.1 The Council is subject to the FOIA and the EIR ("the Acts"). As part of the Council's duties under the Acts, it may be required to disclose information forming part of the Framework Agreement to anyone who makes a reasonable request. The Council has absolute discretion to apply or not to apply any exemptions under the Acts.
- 15.2 The Consultant shall assist and cooperate with the Council (at the Consultant's expense) to enable the Council to comply with the information disclosure requirements under the Acts and in so doing will comply with any timescale notified to it by the Council.

**16. CORRUPTION**

- 16.1 The Consultant shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Council any gift or consideration of any kind as an inducement or reward for doing, any act in relation to the obtaining or execution of the Framework Agreement or any other contract with the Council, or for showing or refraining from showing favour or disfavour to any person in relation to the Framework Agreement or any such contract. The attention of the Consultant is drawn to the criminal offences under the Prevention of Corruption Acts 1889 to 1916 as amended from time to time.
- 16.2 The Consultant warrants that it has not paid commission nor agreed to pay any commission to any of its employee or representative of the Council by the Consultant or on the Consultant's behalf.
- 16.3 Where the Consultant engages in conduct prohibited by clauses 17.1 and 17.2 in relation to this or any other contract with the Council, the Council has the right to:
- 16.3.1 terminate the Framework Agreement and recover from the Consultant the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the provision of the Services and any additional expenditure incurred by the Council throughout the remainder of the Term; or
- 16.3.2 recover in full from the Consultant any other loss sustained by the Council in consequence of any breach of this clause whether or not the Framework Agreement has been terminated.

**17. TRANSFER and SUB-CONTRACTING**

- 17.1 Subject to any express provision of this Framework Agreement, the Consultant shall not without the prior written consent of the Council, assign all or any benefit, right or interest under this Framework Agreement or sub-contract the provision of the Services.
- 17.2 The Council shall be entitled to:
- 17.2.1 assign, novate or dispose of its rights and obligations under this Framework Agreement either in whole or part to any contracting authority (as defined in The Public Contracts Regulations 2006 as amended); or
- 17.2.2 transfer, assign or novate its rights and obligations where required by Law.
- 17.3 The Consultant shall remain responsible and liable for the acts and omissions of any other members of a consortium arrangement, sub-contractors, servants, agents and employees as though they were its own.

## **18. AMENDMENTS to the FRAMEWORK AGREEMENT**

- 18.1 Subject to clause 18.2, no variation or modification to the Framework Agreement is valid unless it is agreed in writing and signed by the Council and the Consultant.
- 18.2 Where the Council identifies a need for change to this Framework Agreement they shall use the procedure for Change Control in Schedule 5.

## **19. SEVERABILITY**

- 19.1 If any provision of the Framework Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.

## **20. WAIVER**

- 20.1 Failure by either party at any time to enforce any one or more of the provisions of this Framework Agreement or to require performance by the other party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Framework Agreement nor affect the validity of the Framework Agreement or any part of it or the right of the parties to enforce any provision in accordance with its terms.
- 20.2 No waiver of any of the provisions of this Framework Agreement shall be effective unless it is expressed to be a waiver in writing and communicated in accordance with clause 3.

## **21. PUBLICITY**

- 21.1 Either party shall without the written consent of the other (the giving of which consent shall be at the sole discretion of that party) advertise, publicly announce or provide to any other person information relating to the existence or details of the Agreement or use the other party's name in any format for any promotion, publicity, marketing or advertising purpose.

## **22. LAW AND JURISDICTION**

- 22.1 This Framework Agreement shall be governed by the laws of England and shall be subject to the exclusive jurisdiction of the English courts.

**IN WITNESS** of which this document has been executed on the date set out in the heading to this Framework Agreement

**THE COMMON SEAL** of

**TRAFFORD BOROUGH COUNCIL**

Was affixed to this Deed

In the presence of :-

Authorised Officer

**SIGNED AS A DEED** by

(Enter Consultant Name)

acting by a Director and its Secretary/ two Directors/ Authorised signatory and witness

..... Print Name

..... Position

..... Signature

..... Print Name

..... Position

..... Signature

## SCHEDULE ONE

## EXAMPLE ORDER FORM

**This Order Form is comprised of two parts; Contract Data Part One and Contract Data Part Two. Completion of both parts of the Order Form by the parties will result in an Order for Services.**

## MODEL ORDER FORM

(This form may be amended by the Employer)

**For the avoidance of any doubt any Orders placed by the Employer shall be in accordance with the Framework Terms and Conditions and any Services delivered by the Consultant shall be in accordance with the terms and conditions of the relevant NEC 3 Professional Services Contract as identified in this Order Form.**

|   |  |                   |  |                  |  |
|---|--|-------------------|--|------------------|--|
| <b>CONTRACT DATA PART ONE</b><br><i>(To be completed by the Employer)</i>   |  |                   |  |                  |  |
| The terms and conditions of contract are the core clauses and the clauses for main Option ( <i>Insert Option Reference</i> ), dispute resolution option ( <i>Insert Option Reference</i> ), and secondary options ( <i>Insert Option References</i> )<br>of the NEC3 Professional Services Contract (June 2005)<br><b>The Authorities reserve the right to vary terms and conditions at the Mini Competitions stage if so required.</b> |  |                   |  |                  |  |
| <b>Contract Date:</b> <i>(Insert date Contract is to commence)</i>  |  |                   |  |                  |  |
| <b>Employer:</b> <i>(Insert name, registered address and company number)</i>  |  |                   |  |                  |  |
| <b>Consultant:</b> <i>(Insert name, registered address and company number)</i>  |  |                   |  |                  |  |
| <b>Adjudicator:</b> <i>(Insert name, registered address and company number)</i>   |  |                   |  |                  |  |
| <b>Order Ref:</b>   |  | <b>Scheme No:</b> |  | <b>File Ref:</b> |  |
| <b>Scheme Title:</b>  |  |                   |  |                  |  |
| <b>Service Start Date:</b> <i>(Insert date Services are to commence)</i>  |  |                   |  |                  |  |
| <p style="text-align: center;"><b><u>Order Specification</u></b></p> <b>Description of Services Required:</b>   |  |                   |  |                  |  |
| <p style="text-align: center;"><b><u>Scope</u></b></p> <b>Services to be delivered in accordance with the following documents:</b><br><br><b>Framework Agreement</b><br><b>NEC 3 Contract (Option C / G – Delete as applicable)</b><br><b>Scheme Brief</b><br><i>(Others if applicable.....)</i>  |  |                   |  |                  |  |



|   |   |   |  |
|---|---|---|--|
| <b>Period for Reply:</b> <i>(Insert period, i.e; weeks)</i>   |   |   |  |
| <b>Period for Retention:</b> <i>(Insert period)</i> ... years following completion or earlier termination   |   |   |  |
| <b>Nominated Tribunal Body:</b> <i>(insert details)</i>   |   |   |  |
| <b>Quality</b>  |   |   |  |
| <b>Quality policy statement to be provided within</b> <i>(insert period)</i> <b>of the Contract Date.</b>   |   |   |  |
| <b>The defects date is</b> <i>(Insert date)</i> <b>weeks after completion of the whole of the Services.</b>   |   |   |  |
| <p><b><u>Indemnity, Insurance and Liability</u></b></p> <p><b>The amounts of insurance and the periods for which the Consultant maintains, as in accordance with the Framework or amended as agreed or unless amended as below.</b></p> |   |   |  |
| 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   | ..... in respect of each claim, without limit to the number of claims | <i>(Insert detail)</i>  |  |
| Death of 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)  | ..... in respect of each claim, without limit to the number of claims | <i>(Insert detail)</i>  |  |
| Death of or bodily injury to employees of the Consultant arising out of and in the course of their employment in connection with this contract  | .....in respect of each claim, without limit to the number of claims  | <i>(Insert detail)</i>  |  |
| The Employer shall provide the following insurances<br><i>(Insert details if applicable)</i><br>.....   |   |   |  |
| <b>Programme</b>  |   | <b>Employers Budget</b>   |  |
| <b>Activity</b>   | <b>Duration</b>   | <b>Investigations</b>   |  |
|   |   | <b>Works Costs</b>  |  |
|   |   | <b>Statutory Undertakers</b>  |  |
|   |   | <b>Fees</b>   |  |
|   |   | <b>Others</b>   |  |
|   |   |   |  |
|   |   | <b>Total</b>  |  |

**Payment**

The assessment interval is *(insert interval)*

The interest rate is .... % per annum (not less than 2) above the ..... Rate of the..... bank

**Optional Clauses**

*(these should be included in accordance with the Option used)*

**MODEL SCHEME BRIEF**

*(Optional Section for completion, where relevant, by the Employer)*

|                       |  |
|-----------------------|--|
| <b>PROJECT TITLE:</b> |  |
|-----------------------|--|

|                 |  |
|-----------------|--|
| <b>LOCATION</b> |  |
|-----------------|--|

**Purpose of Project**

**Initial Preferred Option**

**Items to be included on the Risk Register:**

|                              |            |              |
|------------------------------|------------|--------------|
| <b>The Employer provides</b> | Access to: | Access Date: |
|------------------------------|------------|--------------|

|                                 |                                       |  |
|---------------------------------|---------------------------------------|--|
| <b>access to the following:</b> | <i>(Insert details if applicable)</i> |  |
|---------------------------------|---------------------------------------|--|

#### ACTIVITIES:

|                             | <b>Output</b>  | <b>Required<br/>Yes / No</b> |
|-----------------------------|--|------------------------------|
| Topographical Survey        | Site Investigation report                                |                              |
|                             | Survey data and plans                                    |                              |
| Investigation Works         | Report(s) on investigations carried out                  |                              |
| Geotechnical Survey         | Site Investigation proposal                              |                              |
| Initial Consultation        | Consultation report                                      |                              |
| Feasibility Study           | Feasibility study proposals                              |                              |
|                             | Issues Report  |                              |
|                             | Draft Options report                                     |                              |
|                             | Final Options report                                     |                              |
| Public Consultation         | Consultation proposal and programme                      |                              |
|                             | Public consultation letter                               |                              |
|                             | Consultation leaflet and questionnaire                   |                              |
|                             | Public consultation report                               |                              |
|                             | Detailed Design brief                                    |                              |
| TRO                         | Draft TRO consultation letter and TRO consultation plans |                              |
|                             | Summary of TRO consultation process                      |                              |
| Design of Works             | Design   |                              |
|                             | Calculations   |                              |
|                             | Drawings   |                              |
|                             | Contract documents                                       |                              |
|                             | Street lighting design                                   |                              |
|                             | UTC design   |                              |
| Procurement                 | Tender assessment report                                 |                              |
| Construction Supervision    | Supervision of the works                                 |                              |
|                             | Agreed final account                                     |                              |
| Review of Completed Scheme  | Project Review report                                    |                              |
| CDM Co-ordinator Duties     | Pre-Construction H & S Information Pack                  |                              |
|                             | H & S File including as built drawings                   |                              |
| Principle Inspection report | Principle Inspection report                              |                              |
| Assessment                  | Detailed Calculation                                     |                              |
|                             | Assessment report  |                              |
|                             |  |                              |
|                             |  |                              |

**CONTRACT DATA PART TWO**  
(For completion by the Consultant)

| Key persons/Job Title | Responsibilities | Qualifications |
|-----------------------|------------------|----------------|
|                       |                  |                |
|                       |                  |                |

**Summary: Schedule of Activities**

| Activity   | Cost of Activity    £ |
|------------|-----------------------|
|            |                       |
|            |                       |
|            |                       |
|            |                       |
|            |                       |
|            |                       |
|            |                       |
|            |                       |
| Total Cost |                       |

| Staff Rates           |                          |       |      |      |
|-----------------------|--------------------------|-------|------|------|
| Activity:             |                          |       |      |      |
| Name                  | Position and Designation | Hours | Rate | Cost |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
| Cost of Activity..... |                          |       |      |      |
| Expenses              |                          |       |      |      |
| Total                 |                          |       |      |      |

| Activity:             |                          |       |      |      |
|-----------------------|--------------------------|-------|------|------|
| Name                  | Position and Designation | Hours | Rate | Cost |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
| Cost of Activity..... |                          |       |      |      |
| Expenses              |                          |       |      |      |
| Total                 |                          |       |      |      |

| Activity:             |                          |       |      |      |
|-----------------------|--------------------------|-------|------|------|
| Name                  | Position and Designation | Hours | Rate | Cost |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
|                       |                          |       |      |      |
| Cost of Activity..... |                          |       |      |      |
| Expenses              |                          |       |      |      |
| Total                 |                          |       |      |      |

**Additional Documents to be Submitted by the Consultant:-**

- (a) Documents to Form Part of the Consultant's Offer: *(Insert details)*
- (b) Documents for Information Only (Will Not Form Part of the Consultant's Offer): *(Insert details)*

**Items to be included in the Risk Register:**

**Additional Clauses:** *these should be included in accordance with the Option used)*

**AUTHORISATION**

**For the avoidance of any doubt the Parties agree that by signing this Order Form, they are entering into a legally binding Contract under which the Employer has placed an Order under the Framework Agreement and the Consultant has accepted that Order. The Parties further agree that provision of the Services pursuant to the Contract shall be in accordance with the terms and conditions of the relevant NEC 3 Professional Services Contract as identified in this Order Form**

***(THE EMPLOYER SHOULD INSERT THE REQUIRED ATTESTATION CLAUSES FOR SIGNATURE BY BOTH PARTIES)***

**SCHEDULE TWO**

**TENDERERS RESPONSE**

## **SCHEDULE THREE**

### **SCOPE**

The services required:-

Lot 1) Traffic schemes and network management professional services:

- CDM
- audit of highway network
- development of community transport plans
- assessment, design and project management of traffic management proposals
- implementation of traffic regulation orders
- appraisal of traffic count information
- assessment of facilities for the disabled and vulnerable road users
- tactical modelling of junctions and microsimulation
- accident investigation including feasibility analysis and site ranking
- area, junction and route assessment
- urban safety management initiatives
- road safety education, training, publicity, co-ordination and audit of school crossing patrols
- school travel plans
- car parking management including land use assessment, operational advice and economic viability
- production and assessment of Traffic Impact Assessments
- scheme financial assessment and cost / benefit analysis

Lot 2) Highways and Highway Structures:

- CDM
- highway structure inspections
- highway structure assessments
- design, contract production and site supervision of highway structure schemes (including new highway structures / re-decking / reconstruction / painting )
- design, contract production and site supervision of highway schemes (including traffic calming / bus and cycle schemes / junction improvements / new roads )
- geotechnical advice
- topographical surveys
- acoustic assessments
- street lighting design
- quantity surveying
- drainage design and flood study work

Lot 3) Building structures:

- CDM
- structural inspections
- structural designs
- structural alterations and repairs
- building regulation checking

Lot 4) Transport Related Civil and structural professional advice and services including Investigation, Planning, Design, Operations and Maintenance activities.

The scope of the civil advice and services will include the following areas:

- Streetworks
- Drainage
- Earthworks
- Geotechnics including contamination
- Heavy Structures and materials
- LRT alignment
- Railway & LRT Trackwork
- Traffic and junction modelling
- Highways – horizontal and vertical alignment
- CDM

The scope of the structural advice and services include the following areas:

- Projects include construction and refurbishment of interchanges, bridges and rail-related structures.
- Bus, heavy rail and light rail projects and smarter travel options including:
  - a. Bus stations
  - b. Tram stops
  - c. On Highways work
  - d. Bus priority infrastructure
  - e. Rail station development
  - f. Park and ride and
  - g. Associated infrastructure e.g. bridges and viaducts

Expertise in the following activities will be required:

- Initial design concept
- Input / output / set up and if required value and risk workshop
- Provide input to others in the general reporting and approval process
  - Investigate feasibility options
  - Produce feasibility studies
  - Assist in identification of risk
  - Produce product briefs
  - Provide input to cost studies
  - Provide input to life cycle costs
  - Develop product design briefs
  - Develop initial product briefs
  - Assist in performance of risk management
- Assist in performance of change control
- Perform value engineering exercises
- Provide input to life cycle cost analysis
- Provide input to product design costs and cost plans
- Assist in developing contractual requirements
- Produce detailed product designs
- Produce product information
- Perform value management
- Provide input to procurement of resources
- Expand product information
- Provide records / as-built information
- Ensure design information is complete and active
- Input to post implementation reviews
- Input to process reviews
- Input to operations effectiveness workshops
- Assist client in preliminary / feasibility work
- Assist client in preparation of standard documentation



- Assist and / or advise client on establishing and operating record / information systems
- Hold, maintain, be responsible for computer models and data sets on behalf of the client

The scope of services includes oversight of the procurement and report production for more specialist items of work, for example site investigations, topographical surveys, structural inspections/analysis.

The extent of the services associated with the above, scope also includes planning, outline and detailed design in connection with transport-related capital programme works. These may vary from minor on street facilities to state of the art multi-modal transport interchanges.

## **SCHEDULE FOUR**

### **COUNCIL ORDER SELECTION CRITERIA**

Call Offs (Orders) from the framework will be effected by either direct allocation or a mini competition. Call Offs will be made utilising the NEC Professional Services Contract (June 2005) although each participating authority is able to vary this form of contract and choose an alternative form of contract if deemed necessary to suit their projects.

#### **THE MECHANISM FOR THE CALL OFF OF ORDERS**

Consultants will be selected as follows:

##### **Direct Allocation**

Direct Allocation will be effected by the participating authority issuing a Contract Data Part One (Order Form) and blank Contract Data Part 2 (which requires completion) for NEC3 Professional Services Contract.

Eligible participating authorities may directly allocate Orders to a consultant on the relevant lot where:

- Based on ranking and a cascade approach in the desired Lot i.e. highest ranked framework member get first refusal of work. If refused the work is offered to the next ranked framework member.
- There is an identified specialism that no other Framework member can fulfil.

##### **Mini-Competitions**

Where the participating authority requires services, but does not wish to perform a Direct Allocation, a mini-competition will be held by inviting all of the Framework Members on the relevant lot.

The mini-competition will be effected by the participating authority issuing a brief to all the framework members clearly detailing the requirements. Consultants will respond within the stated timeframe and the eligible participating authority will evaluate the proposals. If, following evaluation, the eligible participating authority elects to award a contract it will do so with the consultant submitting the most economically advantageous proposal. The participating authority will effect the award by issuing Contract Data Part One (Order Form) and blank Contract Data Part 2 (which requires completion) for NEC3 Professional Services Contract.

The Authorities reserve the right to mini competition in accordance with each Authorities standing orders.

## **SCHEDULE FIVE**

### **CHANGE CONTROL PROCEDURES**

#### **1. Principles**

1.1 Where the Council or the Consultant see a need to change the Contract either party may at any time request such change only in accordance with the formal Change Control Procedure (CCP) as set out at paragraph 2.

1.2 Neither the Council nor the Consultant shall unreasonably withhold its agreement to any change.

1.3 Until such time as a change to the Contract and/or an Order is made in accordance with the Change Control Procedure, the Consultant shall, unless otherwise agreed in writing, continue to supply the Services specified in the Contract and/or an Order as if the request or recommendation had not been made.

1.4 Any discussions which may take place between the Council and the Consultant in connection with a request or recommendation before the authorisation of a resultant change to the Contract and/or an Order shall be without prejudice to the rights of either party.

1.5 Any work undertaken by the Consultant, its sub-Consultants or agents which has not been authorised in advance by a change to the Contract and/or an Order and which has not been otherwise agreed in accordance with the provisions of paragraph 1.3 above shall be undertaken entirely at the expense and liability of the Consultant.

#### **2. Procedures**

2.1 All requests shall be considered by appropriate representatives of the Council and the Consultant.

2.2 Discussion between the representatives of the Council and the Consultant concerning a change to a Contract and/or an Order shall result in any one of the following:

2.2.1 no further action being taken; or

2.2.2 a change the Contract and/or an Order agreed and implemented.

2.3 Parties shall ensure that any change requests and agreed changes are documented in writing and signed by both parties ("a Change Control Notice")

2.4 Each agreed Change Control Notice shall contain:

2.4.1 the title of the change;

2.4.2 the originator and date of the request or recommendation for the change;

2.4.3 the reason for the change;

2.4.4 full details of the change including any specifications;

2.4.5 the price, if any, of the change;

2.4.6 a timetable for implementation together with any proposals for acceptance of the change;

- 2.4.7 a schedule of payments if appropriate;
- 2.4.8 details of the likely impact, if any, of the change on other aspects of the Contract and/or an Order including but not limited to:
  - 2.5.8.1 the timetable for the provision of the Services;
  - 2.5.8.2 the period of this Contract and/or an Order;
  - 2.5.8.3 the personnel to be provided;
  - 2.5.8.4 the Price;
  - 2.5.8.5 the payment profile;
  - 2.5.8.8 performance levels;
  - 2.5.8.9 working arrangements;
  - 2.5.8.10 other contractual issues;
- 2.5.9 the date of expiry of validity of the agreed change document; and
- 2.5.10 provision for signature by both the Council and by the Consultant.

2.6 A Change Control Notice signed by the Council and by the Consultant shall constitute an amendment to the Contract and/or an Order.

## **SCHEDULE SIX**

### **ADDITIONAL CONDITIONS OF CONTRACT for PROFESSIONAL SERVICES (Z Clauses)**

#### **Z7 Quality Management System**

The *Consultant* must operate a Quality Management System and be certified to ISO 9000; and incorporating an Environmental Management System to ISO 14001.

#### **Z8 Removal of Consultant's Staff**

The *Employer* shall, in accordance with Clause 22.2, have the power to require the *Consultant* to remove any person, including the *Consultant's Representative*, from providing the *services*. The *Consultant* shall forthwith terminate that person's involvement with the Contract and immediately make arrangements to provide a replacement, unless the *Employer* instructs otherwise.

The *Employer* shall not be liable, either to the *Consultant* or any person employed by the *Consultant*, for any costs, expenses, liability, loss or damage arising from the operation of this clause.

#### **Z10 Intellectual Property Rights**

The *Consultant* assigns to the *Employer* all present and future intellectual property rights, in respect of all matters in connection with the provision of the *services*.

Upon Completion of the *services*, any items used by the *Consultant*, in the provision of the *services*, and paid for or otherwise provided by the *Employer*, are to be handed over and become the property of the *Employer*.

The *Consultant* must take all reasonable measures to prevent any third party, not associated with the contract, from obtaining any information or material, of any kind, regarding the contract or the *services*, except with the written consent of the *Employer*.

The *Consultant* shall not publish or use for advertising purposes any information, drawing or photograph concerning the *services*, except with the written consent of the *Employer* and subject to such conditions as may be prescribed.

#### **Z11 Named Key Persons**

Acceptance by the *Employer* of key persons stated in the Contract Data does not constitute acceptance that such individuals are suitable for the roles assigned to them or serve to relieve the *Consultant* of his duties or obligations under the contract.

The *Consultant* employs the following key persons for this contract named in the Contract Data :-

the *Consultant's Representative* acts on behalf of the *Consultant* and has overall responsibility for the management, planning and organisation of the *Services*.

a *Team Leader* for each discipline, which it is/are intended to be provide(d) as the *services*.

## **Z12 “Best Value”, Performance Indicators and Monitoring**

The *Employer* has to achieve targets against set Performance Indicators, to comply with the requirements of “Best Value”. To assist in this process, the *Consultant* and the *Employer* will monitor various aspects of project delivery, as indicated in Appendix B, to measure improvements in efficiency, economy and effectiveness of service delivery.

The *Consultant* shall make allowance within the rates and prices, for monitoring and providing information in regard to the Performance Indicators.

The *Employer* and the *Consultant* shall mutually agree suitable Performance Indicators that will measure continuous improvement in the efficiency, economy and effectiveness of delivering the Services. Appendix B provides potential Performance Indicators to give an indication of the level and extent of data for consideration.

The *Employer* will monitor performance on each Task and the contract continuously. A comprehensive performance review will be held on a scheme-by-scheme basis with a quarterly overview as well as an annual overview to discuss the following year’s workload.

If at anytime, performance of any part of the services is deemed unsatisfactory by the *Employer*, the *Consultant* will be formally requested to make improvements, explain the reasons for poor performance and to submit proposals for meeting the required standards. If the *Employer* is not satisfied with the *Consultant’s* proposals for improvement, this may be regarded as a failure to comply with the *Consultant’s* obligations, in accordance with Clause 21, and an individual Task, or the Framework Contract, may be terminated, in accordance with Clause 90.3.

## **Z16 Limit of Responsibility**

Unless otherwise expressly stated, the *Consultant* is not, and shall in no circumstances claim to be, a servant or agent of the *Employer*.

The *Consultant* is not, and shall in no circumstances claim to be, authorised to enter into any contract on behalf of the *Employer* or in any other way bind the *Employer* to the performance, variation, release or discharge of any obligations.

The *Consultant* has not, and shall in no circumstances claim to have, the power to make, vary, discharge or waive any by-law or regulation of any kind.

## **Z17 Access to Consultants Premises**

The *Consultant* shall allow the *Employer* reasonable access to all the *Consultants* work places, for the purposes of inspecting services being performed and for interviewing employees engaged on the services.

## **Z18 Conflicts of Interest**

The *Consultant* shall devise and agree a procedure with the *Employer*, to deal with potential conflicts of interest. The *Consultant* shall ensure that the procedure meets all professional Codes of Practice, and amend it as necessary to ensure that it continues to do so until the completion date. All conflicts of interest must be declared to the *Employer*.

## **Z20 Rights of Third Parties**

Other than the express rights of any third parties identified in , the parties do not intend that any person who is not a party to this contract should have the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract.

#### **Z21 Third Party Claims**

The *Consultant* shall immediately inform the *Employer* of any claims made by third parties, for compensation arising in any way from the performance or non-performance by the *Consultant*, of its obligations under the contract, and shall provide copies to the *Employer*, of all correspondence and reports concerning such claims.

#### **Z22 Supervision of Construction Contracts**

The *Consultant* shall obtain the *Employers* approval to variations to works on site. A maximum level of variation without prior authorisation may be set.

#### **Z23 Emergencies**

The *Consultant* may be required to provide additional *services*, at any time or place, in such a manner as required by the *Employer*, to assist the *Employer* in carrying out any of a Local Authority's functions in a situation which amounts to a possible, potential, or actual emergency or disaster, provided that such involvement is similar to the *services*. Records of resources used are to be kept of such additional *services* which will be identified as compensation events.

#### **Z24 Project Delivery**

The *Consultant* will be expected to comply with timescales imposed by the *Employer* in respect of individual Tasks. Such timescales may encompass any number of separate dates or times for the provision of the Tasks, or any part thereof. If the *Consultant* considers that, at any stage of a project, he will be unable to deliver the project, or any part of it, according to the required timescale, he must immediately advise the Employer and request an early warning meeting.

#### **Z25 Dispute Resolution and Adjudication**

In the event of a dispute at any time, the appointment of an adjudicator will be made jointly by the *Employer* and the *Consultant* from the agreed list. The cost of the adjudicator will be shared 50:50 between the *Employer* and *Consultant*.

## **SCHEDULE SEVEN**

### **CORPORATE REQUIREMENTS**

The Authorities' have a statutory requirement to ensure compliance with a number of corporate considerations when providing its services. The Authorities' are delivering its services when a contractor is delivering services on behalf of the Authorities. It is therefore incumbent upon the Authorities' to ensure that these statutory requirements are carried out by any contractor that is working for the Authorities'. The Authorities' do not consider that these requirements will be onerous and so pricing should not be affected in complying with any of these obligations but if a Tenderer believes there is a pricing impact, the impact of complying with these obligations should be clearly identified in their Pricing Schedule.

### **Equality and Diversity**

#### **The Authorities' are Committed to:**

Providing its services in a way that promotes equality of opportunity at every possibility. It is expected that the successful Tenderer will be equally committed to equality and diversity in its employment practices and service provision, and will ensure compliance with all anti-discrimination legislation.

#### **Expectation of the Tenderer:**

Tenderers should note that the successful Tenderer will be asked to contract with the Authorities' to ensure that they adhere to these obligations. The Authorities' will, if appropriate, monitor the successful Tenderer's compliance throughout the Agreement Period.

#### **Compliance with Equality Legislation:**

The Authorities' require Tenderers to demonstrate they comply with equality in employment legislation. The levels of compliance become more demanding depending on the number of employees employed by the organisation. Organisations employing less than 5 employees face minimum requirements, whilst organisations employing 50 or more employees need to meet more comprehensive criteria. During the Agreement Period the Council may work with contractors, who at present do not fully comply, to help them put in place policies and practices to do so.

#### **LEVEL 1 (LESS THAN 5 EMPLOYEES)**

Organisations with fewer than 5 directly employed persons will be expected to meet the appropriate level of compliance for the delivery of the Agreement. Should recruitment increase the size of the organisation to 5 or more employees the organisation will be expected to meet the appropriate level of compliance.

#### **LEVEL 2 (5 TO 49 EMPLOYEES)**

All organisations with between 5 and 49 employees must achieve criteria 1 – 4 listed below.

1. All organisations must have an equality policy in respect of race, gender, disability, age, sexual orientation and religion/belief that covers at least:  
  
recruitment, selection, training, promotion, discipline, grievance and dismissal.  
  
discrimination, harassment, and victimisation, making it clear that these are



disciplinary offences within the firm.

identification of the senior position with responsibility for the policy and its effective implementation.

(d) how you communicate the policy to your employees.

2. Effective implementation of the policy in the organisation's recruitment practices, to include open recruitment methods such as the use of job centres, careers service or press advertisements.
3. The policy should either be reviewed to reflect changes in legislation or within a three-year period whichever occurs first.
4. To monitor the gender, disability and ethnicity of job applicants. We would also encourage organisations to monitor in respect of age, sexual orientation and religion/belief.

### **LEVEL 3 (50 OR MORE EMPLOYEES)**

All organisations with 50 or more employees must achieve criteria 1-4 in level 2 and the additional criteria 5-10 listed below:

5. Provide written instructions to managers and supervisors on equality in recruitment, selection, training, promotion, discipline, grievance and dismissal of employees.
6. Provide equality training for managers and any employees responsible for recruitment and selection.
7. In addition to criterion 4 (Level 2) carry out monitoring on the number of employees from different gender, disability and ethnic groups by grade when:
  - (a) in post
  - (b) applying for posts
  - (c) taking up training and development opportunities
  - (d) promoted
  - (e) transferred
  - (f) disciplined and dismissed
  - (g) a grievance is raised
  - (h) leaving employment

The Council would also encourage organisations to monitor in respect of age, sexual orientation and religion/belief.

8. If the above monitoring reveals inequalities, organisations will be expected to take steps to address imbalances.
9. In respect of 7 and 8 above, annual monitoring and reporting is required regarding equality issues within the workforce.

10. Organisation's recruitment advertisements and publicity literature should state that equal opportunities practices are in place.