

By email: [REDACTED]

Network Rail
Freedom of Information
The Quadrant
Elder Gate
Milton Keynes
MK9 1EN

T 01908 782405
E FOI@networkrail.co.uk

22nd June 2018

Dear [REDACTED]

Information request

Reference number: FOI2018/00637

Thank you for your email of 24th May 2018. You requested the following information:

'I am writing on behalf of Biofuelwatch to ask for the following information under the Environmental Information Regulations 2004 and the Environmental Information (Scotland) Regulations 2004:

- 1. Please can you forward any documentation held by Network Rail in relation to the end-use of trees which are being felled by Network Rail.*
- 2. We would specifically like to know how many and what volume of the trees being felled are used as fuel for biomass energy (heat and power).*
- 3. Thirdly, we would please like a copy of the contract that Network Rail has with Stobart.*

Please note that Biofuelwatch is a non-profit organisation and that we will not use the information for any commercial purposes.'

I have processed your request under the terms of the Environmental Information Regulations (EIR). Information is exempt under section 39 of the Freedom of Information Act 2000 if it meets the definition of environmental information found in Regulation 2 of the EIR. In this case we think the information in question is covered by Regulation 2(c) of the EIR.

I can confirm that we hold some the information you requested.

In response to questions 1 and 2 of your request, we do not hold any documentation relating specifically to the end use of trees. We do not sell our timber for biomass on a commercial basis, however, on a few occasions in the past, the wood has been sent for use as biomass. For the majority of vegetation works wood is not removed from site. In line with the Network Rail Vegetation Management Manual if cut wood material cannot be removed from site it is left as logs, windrowed (stacked branch material) or chipped.

In response to question 3 of your request, please find attached the Vegetation Framework Agreement that we hold with Stobart Rail Ltd. This is not a contract for a specific plan of works rather this framework can be used to call off a multitude of services including tree felling.

Please note that some of the information within the framework agreement has been withheld on the basis that it is excepted from disclosure under Regulation 12(5)(e) of the Environmental Information Regulations.

Regulation 12(5)(e) - confidentiality of commercial information

Regulation 12(5)(e) of the Environmental Information Regulations 2004 (EIRs) states:

*'a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.'*¹

The Information Commissioner's Office's interpretation of the regulations

The Information Commissioner's Office (ICO) sets out four requirements necessary to except information from disclosure under regulation 12(5)(e)², these are:

- The information is commercial or industrial in nature.
- Confidentiality is provided by law.
- The confidentiality is protecting a legitimate economic interest.
- The confidentiality would be adversely affected by disclosure.

¹ See http://www.legislation.gov.uk/ukxi/2004/3391/pdfs/ukxi_20043391_en.pdf for more information.

² These factors come from the decision in *Bristol City Council v Information Commissioner and Portland and Brunswick Squares Association (EA/2010/0012, 24 May 2010)*. You can read the full judgment at: [http://www.informationtribunal.gov.uk/DBFiles/Decision/i392/Bristol_CC_v_IC_&_PBSA_\(0012\)_Decision_24-05-2010_\(w\).pdf](http://www.informationtribunal.gov.uk/DBFiles/Decision/i392/Bristol_CC_v_IC_&_PBSA_(0012)_Decision_24-05-2010_(w).pdf)

In this instance we are of the view that all four requirements are met because:

1. The withheld information relates to money paid to Stobart Rail Ltd for services provided to Network Rail and provides confidential information relating to their income from this agreement.
2. The information is confidential in common law, it was provided to us in circumstances of confidence and it is not trivial in nature, it relates to a commercial process for providing vegetation clearance services to Network Rail. The information has not been made public. This framework agreement was entered into by Stobart Rail Ltd to provide regular services to Network Rail on a large scale and Stobart Rail Ltd would not expect for the documents relating their income from this service to be disclosed to the public.
3. Disclosure of this confidential information would on the balance of probabilities affect the economic interests of Stobart Rail Ltd and Network Rail. Disclosure of the information would provide commercially advantageous information of Stobart Rail Ltd.'s commercial processes and business model to competitors, and would weaken their bargaining position when entering into future contracts of a similar nature.
4. On consideration of the above comments I have concluded that disclosure of the withheld information would adversely affect the confidential nature of the documents. The ICO guidance provides that: *'Although this is a necessary element of the exception, once the first three elements are established the Commissioner considers it is inevitable that this element will be satisfied.'*³

The public interest test

Whilst we believe that we have demonstrated that regulation 12(5)(e) is engaged (i.e. we have shown that disclosure would have an adverse effect on the confidentiality of commercial relations) this is not sufficient for us to withhold the information, we must also establish that the public interest lies in maintaining the exception. Our findings are set out below.

Public interest factors in favour of disclosure

³ https://ico.org.uk/media/for-organisations/documents/1624/eir_confidentiality_of_commercial_or_industrial_information.pdf

- As with any request for information there is a general presumption in favour of openness and transparency since this allows for greater scrutiny and accountability of public authorities activities.
- It is in the public interest that as much information in relation to our use of taxpayers' money is available for public scrutiny so as to foster public confidence in our processes, procedures and decisions.

Public interest factors against disclosure

- Providing the information would compromise our ability to carry out a fair and competitive tendering process. Disclosure of the recorded information in scope of this request would be likely to negatively impact on the interests of Stobart Rail Ltd in any future tendering process, with other companies, by providing an unfair advantage to competitors.
- Putting information into the public domain that has been provided to us in circumstances of commercial confidence would undermine our reputation as a commercial partner. Disclosure of this information would be likely to have a detrimental effect on our relationship with future suppliers, and suppliers would be less inclined to engage and work with us for fear of sensitive information of this type being released under the Act. Furthermore, suppliers would be reluctant to provide information required to undertake a robust evaluation.
- Providing pricing documents contained in the framework agreement would provide an insight into Stobart Rail Ltd.'s income for these services. This information could prejudice Stobart Rail Ltd.'s ability to win other tenders as rates are commercially sensitive and it would not be difficult to work out a supplier's overhead and profit.

Conclusion

Having considered the public interest, our decision is to withhold some of this information. Whilst we recognise the force of the arguments in favour of increased transparency and accountability, we are ultimately of the view that the public interest is best served by protecting our revenues (and taxpayers' money) and ensuring that we and our partners are able to operate commercial enterprises within the standard bounds of commercial confidentiality.

Please note that I also removed the names of individuals from the above listed documents under Regulation 13(1) of the EIR. This exception allows us to withhold information in circumstances where its disclosure would breach the data protection principles set out at s.35 of the Data Protection Act 2018 and Article 5 of the General

Data Protection Regulations. In this instance, disclosure would breach the first principle which mandates that data must be processed fairly and lawfully. The individuals in question would have had no expectation that their personal information would be disseminated to the world at large through the EIR process. It would not be fair processing of their data to disregard these legitimate expectations.

At Network Rail, we take very seriously our responsibility to keep the railway and the natural environment around it safe. In recent media reports, there has been a lot of inaccurate coverage of how Network Rail manages trees and other vegetation that grows alongside the railway.

We believe we can enhance biodiversity whilst still running the railway safely. But it's much more complex than has recently been portrayed. By proactively managing vegetation we think we can find a win-win solution – protecting the environment and meeting our need, reinforced by the regulator, to remove trees and vegetation as necessary to maintain a safe and reliable railway. I have attached a copy of a briefing note which may be helpful.

Further information about our approach and policies is available on our transparency pages under vegetation management (link below):

<https://www.networkrail.co.uk/who-we-are/transparency-and-ethics/transparency/datasets/>

If you have any enquiries about this response, please contact me in the first instance at FOI@networkrail.co.uk or on 01908 782405. Details of your appeal rights are below.

Please remember to quote the reference number at the top of this letter in all future communications.

Yours sincerely

Danielle Stratton
Information Officer

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can also be used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder. Please

contact me if you wish to re-use the information and need to seek the permission of the copyright holder.

Appeal Rights

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the FOI Compliance and Appeals Manager at Network Rail, Freedom of Information, The Quadrant, Elder Gate, Milton Keynes, MK9 1EN, or by email at foi@networkrail.co.uk. Your request must be submitted within 40 working days of receipt of this letter.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

NETWORK RAIL 4(MT)

**Network Rail Agreement for Works of
Simple Content (including Design)**

for

**Vegetation Management
Clearance & Maintenance
COOM only**

Agreement No.:DR/NSC/1216/A

NETWORK RAIL 4(MT)

This Contract Agreement is made the day of 2015

between:

- (1) **NETWORK RAIL INFRASTRUCTURE LIMITED** a company registered in England and Wales under number 2904587 whose registered office is at 1 Eversholt St, London, NW1 2DN (the "Employer"); and
- (2) **Stobart Rail Limited:** a Company registered in England and Wales under number 2821207 whose registered office is at 22 Soho Square, London, W1D 4NS (the "Contractor").

Now it is hereby agreed as follows:

- 1 This Agreement comprises this Contract Agreement together with the following documents which shall be read and construed as part of this Agreement and in the case of any ambiguity or discrepancy shall have the following order of priority:
 - 1.1 Schedule of Post Tender Amendments;
 - 1.2 The Appendix;
 - 1.3 Contract Specific Conditions and annexed form of guarantee (if applicable);
 - 1.4 Conditions;
 - 1.5 Technical Workslope;
 - 1.6 Contract Requirements HSEA;
 - 1.7 Preliminaries; and
 - 1.8 Pricing Document.
 - 1.9 Process for issuing Contract Orders
- Defined terms used in this Agreement have the meanings set out in the Conditions unless otherwise specified.
- 2 The Parties agree that the Term is, subject to the provisions of this Agreement, four years from the Commencement Date. The Agreement shall automatically expire at the end of the Term, but may be extended prior to its end, at the Employer's sole discretion, by the Employer issuing written notices of extension to the Contractor, provided such notices do not extend the Term beyond five years from the Commencement Date.
- 3 In consideration of the payments to be made by the Employer to the Contractor the Contractor hereby covenants with the Employer to complete the Works in conformity in all respects with the provisions of this Agreement.
- 4 The Employer hereby covenants to pay to the Contractor in consideration of the construction and completion of the Works the Contract Price at the times and in the manner prescribed by this Agreement.

In witness whereof the Employer and the Contractor have caused this Agreement to be executed in duplicate on the date first stated above, as follows:

NETWORK RAIL 4(MT)

THE COMMON SEAL of)
NETWORK RAIL INFRASTRUCTURE)
LIMITED was affixed to this DEED in the)
presence of:)

Authorised signatory

OR

SIGNED for and on behalf of)
NETWORK RAIL INFRASTRUCTURE)
LIMITED)
by:

Redacted under Reg 13 EIR

Authorised signatory ...

Printed Name:.....

THE COMMON SEAL of)
.....)
was affixed to this DEED in the presence of:)

Director

Printed Name:.....

Director/Company Secretary

Printed Name:.....

NETWORK RAIL 4(MT)

OR

SIGNED as a DEED for and on behalf of)
.....)
by)
)

Director

Printed Name:.....

Director/Company Secretary

Printed Name:.....

OR

SIGNED for and on behalf of)
.....)
by)
)

Redacted under Reg 13 EIR

Director

Printed Name:

1.1 SCHEDULE OF POST TENDER AMENDMENTS

CONDITIONS

Following Condition 38 insert

39 Equality & Diversity

- 39.1 The Contractor shall perform its obligations under this Agreement in accordance with:
 - 39.1.1 all applicable equality Law (whether in relation to age, disability, gender reassignment, marriage or civil partnership status, pregnancy or maternity, race, religion or belief, sex or sexual orientation (each a “Relevant Protected Characteristic”) or otherwise;
 - 39.1.2 The Employer’s equality, diversity and inclusion policy as published by the Employer from time to time; and
 - 39.1.3 any other requirements and instructions which the Employer reasonably imposes in connection with any equality obligations imposed on the Employer at any time under applicable equality Law.
- 39.2 The Contractor shall take all reasonable steps to secure the observance of clause 39.1 above by its employees, agents, representatives and Sub-Contractors.
- 39.3 The Contractor acknowledges that the Employer is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination (on the grounds of a Relevant Protected Characteristic); to advance equality of opportunity, and to foster good relations, between persons who share a Relevant Protected Characteristic and persons who do not share it. In performing its obligations under this Agreement, the Contractor shall assist and co-operate with the Employer where possible in satisfying this duty.

40 London Living Wage

- 40.1 The Contractor shall and shall also procure that its relevant sub-contractors (if any) shall:
 - 40.1.1 ensure that none of its workers or its sub contractor’s workers engaged in the performance of the Agreement in the Greater London Area (but not otherwise) and who would also satisfy the eligibility criteria set by the Living Wage Foundation (or any replacement thereof) (referred to in this clause 40 “Qualifying Workers and its Subcontractor’s Workers”) is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage; and
 - 40.1.2 co-operate and provide all reasonable assistance to the Employer in monitoring the effect of the London Living Wage.
- 40.2 If the London Living Wage increases during the term of this Agreement, the Contract shall not be entitled to adjust the Contract Price and the Parties agree and acknowledge that any increases in the London Living Wage anticipated during the term of this Agreement have been factored into the Contract Price.
- 40.3 Any failure by the Contractor to comply with the provisions of clause 40.1 shall be treated as a material breach under this Agreement.

(Note: Relevant clause numbers are shown in brackets)

VERSION 2.8

NETWORK RAIL 4(MT)

9	Speed Restrictions, Track Possessions and/or Isolations (clause 27)	shall apply																						
10	Conditions applying to intrusive site surveys / ground investigations (clauses 29 to 31]	shall apply																						
11	Pre-approved Additional Cost of Investigation (clause 30.4)	£0																						
12	<u>Cyber Security (clause 38)</u>	Level of risk; Low or no risk (no additional requirements)																						
13	<u>Contract Area</u>	<table><tr><td>1</td><td>Anglia</td></tr><tr><td>2</td><td>Wessex</td></tr><tr><td>3</td><td>Western</td></tr><tr><td>4</td><td>Wales</td></tr><tr><td>5</td><td>Scotland</td></tr><tr><td>6</td><td>LNE & East Midlands South</td></tr><tr><td>7</td><td>LNE & East Midlands Central</td></tr><tr><td>8</td><td>LNE North</td></tr><tr><td>9</td><td>LNW North</td></tr><tr><td>10</td><td>LNW Central</td></tr><tr><td>11</td><td>LNW South</td></tr></table>	1	Anglia	2	Wessex	3	Western	4	Wales	5	Scotland	6	LNE & East Midlands South	7	LNE & East Midlands Central	8	LNE North	9	LNW North	10	LNW Central	11	LNW South
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10	LNW Central																							
11	LNW South																							

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CONDITIONS

Defined Terms

1

Definitions

The following terms bear the meanings set out below:

“Adjudicator” means a person nominated by the President or Vice-President for the time being of the Technology and Construction Bar Association to act as Adjudicator under this Agreement;

“Agreed Rail Industry Period” means each or any of Network Rail's thirteen accounting periods in a Contract Year as referred to in clause 7.2;

“Appendix” means the appendix referred to in the Contract Agreement;

“CDM Regulations” means Construction (Design and Management) Regulations 2007 and any amendment or re-enactment thereof or regulations made pursuant thereto by the relevant Minister of the Crown;

“Codes” means the British Standard Codes of Practice, regulations and guidance notes issued by the Health and Safety Executive (as amended or replaced from time to time) and any other regulations, codes or notes issued by relevant authorities and bodies;

“Commencement Date” means the date of execution of the Contract Agreement;

“Confidential Information” means information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person and Intellectual Property Rights and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998.

“Contractor” means the second party named in the Contract Agreement and its permitted assignees;

“Contract Area” means the area where the Works are to be carried out as described in the Appendix;

“Contract Order” means any order issued to the Contractor by the Employer pursuant to clause 2 in respect of any of the Works;

“Contract Price” means the amount to be paid by the Employer to the Contractor in full consideration for the carrying out and completion by the Contractor of the Works and the performance by it of its other obligations under this Agreement calculated in accordance with the provisions of the Pricing Document;

“Contract Requirements HSEA” means the document described as such and referred to in the Contract Agreement;

“Contract Year” means in the case of the first year of the Term from

the Commencement Date until 24.00 on 31 March and in subsequent years means the period from 00.00 hours on 1 April until 24.00 hours on 31 March or the expiry of the Term, as the case may be;

“Contracting Authority” means any contracting authority as defined in Regulation 2 of the Public Contracts Regulations 2015;

“Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government and particular bodies and government agencies;

“Defect” means any fault in the Works that arises as a consequence of a failure by the Contractor to comply with its obligations under this Agreement, together with the consequences of that fault;

“Defects Rectification Period” means the 12 month period commencing on the date of Practical Completion in respect of the Works in any Contract Order;

“Documents” means all plans, drawings, specifications, schedules, reports, records calculations, correspondence and other documents (including any computer software developed by the Contractor to generate them and any design contained in them) prepared or provided by the Contractor in connection with this Agreement;

“Employer” means the first party named in the Contract Agreement and its permitted assignees;

“Employer’s Facilities” means the accommodation and equipment to be made available by the Employer to the Contractor as described in the Preliminaries;

“Employer’s Instructions” means any written instructions issued to the Contractor by or on behalf of the Employer;

“Employer’s Representative” means the person notified by the Employer to the Contractor as having authority to issue Employer’s Instructions and otherwise to act on the Employer’s behalf under this Agreement to the extent so notified;

“Employer’s Requirements” means the employer’s requirements referred to in the Technical Workscape.

“Excepted Risks” means loss or damage to the extent that it is due to:

- (i) the use or occupation by the Employer, its agents, servants or other contractors (not being employed by the Contractor) of any part of the Works;
- (ii) any fault, defect, error or omission in the design of the Works (other than a design provided by the Contractor pursuant to its obligations under this

Agreement);

- (iii) war, invasion, act of foreign enemies or hostilities (whether war be declared or not);
- (iv) civil war, rebellion, revolution, insurrection or military or usurped power;
- (v) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; and
- (vi) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

“Insolvent” means that the Contractor:

- (i) enters into an arrangement, compromise or composition in satisfaction of its debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
- (ii) without a declaration of solvency, passes a resolution or makes a determination that it be wound up; or
- (iii) has a winding up order or bankruptcy order made against it; or
- (iv) has appointed to it an administrator, administrative receiver, receiver or manager; or
- (v) is the subject of any analogous arrangement, event or proceedings in any other jurisdiction.

“Intellectual Property” means all intellectual and industrial property and all rights therein in any part of the world including, without limiting the generality of the foregoing, any patent, patent application, trade mark, trade mark application, registered design, registered design application, trade name, trade secret, business name, discovery, invention, process, formula, know-how, specification, improvement, technique, copyright, unregistered design right, technical information or drawing including rights in computer software, database rights, topography rights;

“Law” means any Act of Parliament or subordinate legislation within the meaning of Section 2(1) or the Interpretation Acts 1978 or any exercise of the Royal Prerogative and any enforceable Community right within the meaning of the European Communities Act 1972;

“Periods for Completion” means the periods for completion of the

Works included in each Contract Order or such periods as may be extended under clause 14.3;

“Practical Completion” means the date stated in the certificate issued by the Employer’s Representative under clause 15.1 in respect of Works in any Contract Order;

“Preliminaries” means the preliminaries referred to in the Contract Agreement;

“Pricing Documents” means the pricing document referred to in the Contract Agreement;

“Site” means the area in the Contract Area where the Works pursuant to each Contract Order are to be carried out;

“Specified Perils” means fire, lightning, explosion, tempest, flood, bursting or overflowing of water tanks apparatus or pipes, earthquake, impact from aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion excluding the Excepted Risks;

“Sub-Contractor” means any sub-contractor of the Contractor including any sub-contractors of any such sub-contractors;

“Technical Workscope” means the technical workscope referred to in the Contract Agreement;

“Term” means the period specified in the Contract Agreement, as the same may be adjusted under this Agreement and the expiry of the Term shall mean the expiry of the Term for any reason, whether pursuant to the Contract Agreement by lawful termination or otherwise;

“Works” means the works to be designed, constructed and completed (as appropriate) pursuant to each Contract Order in accordance with this Agreement.

2 Contract Orders

Contract Orders

- 2.1 When the Employer requires the Contractor to perform works pursuant to this Agreement, it shall issue to the Contractor a Contract Order in accordance with the Process for Issuing Contract Orders stating:
 - 2.1.1 the Works to be executed pursuant to the Contract Order;
 - 2.1.2 the Site in respect of such Works;
 - 2.1.3 the Period for Completion in relation thereto;
 - 2.1.4 the lump sum price in respect of such Works calculated by the Employer on a fair and reasonable basis having regard to the rates and prices included in the Pricing Document;
 - 2.1.5 the method for calculating instalment payments in respect of such price;

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	2.1.6	as appropriate, any possessions required pursuant to clause 27; and
	2.1.7	as appropriate, the rate for liquidated damages to apply pursuant to clause 14.4 for such Contract Order (if applicable).
Confirmation of Contract Order	2.2	When all of the elements of the Contract Order have been accepted, agreed or determined pursuant to clause 2.1, it shall be final and binding on the parties and: <ul style="list-style-type: none">2.2.1 the Works under that Contract Order shall form part of the Works;2.2.2 the lump sum price shall form part of the Contract Price; and2.2.3 the Contractor shall proceed to construct and complete the Works under that Contract Order and in accordance with the provisions of this Agreement.
No Warranty of Work	2.3	The Employer does not warrant the quantity of work to be instructed during the Term. The Employer reserves the right to procure any item of work described in this Agreement from other contractors or using its own labour.

3 Contractor's Obligations

Quality and Standards	3.1	The Contractor shall carry out and complete the Works and fulfil its obligations under this Agreement from the Commencement Date until the expiry of the Term: <ul style="list-style-type: none">3.1.1 with the reasonable skill, care and diligence to be expected of a contractor holding itself out as having the competence, expertise and resources necessary for the proper performance of the Works;3.1.2 to the quality and standards required by the Technical Workslope, or where no quality or standard is so specified, to a good quality;3.1.3 so as to comply with all applicable Law and the Codes;3.1.4 without compromising the safety of anyone on or about or using the Employer's property and/or railway infrastructure; and3.1.5 to comply with the Preliminaries.
Compliance with Instructions	3.2	The Contractor shall perform the Works in accordance with the Contract Orders and the Employer's Instructions. If there is a change in Law affecting the Works after the date of this Agreement which necessitates a variation to any Works

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under a Contract Order such variation shall be treated as if it were an Employer's Instruction to which the provisions of clause 6 shall apply.

Remedy for failure
to comply with
Instructions

- 3.3 If the Contractor fails to perform the Works in accordance with this Agreement, then the Employer shall be entitled, in addition to any other remedy available to it, by notice to the Contractor to require the Contractor, at no additional cost to the Employer to remedy such breach within the time stipulated in such notice, and if the Contractor fails to comply with such notice within the period specified by the Employer, the Employer may at its sole discretion employ another person to remedy such breach and the Employer may recover the additional costs incurred by it in so doing from the Contractor (provided that, in an emergency affecting safety, this provision shall apply without the requirement to give prior notice).

4 Design of the Works

Inaccuracies in
Specifications

- 4.1 The Contractor acknowledges that it has checked the documents forming part of this Agreement prior to entering into it and has informed the Employer of any inaccuracies, discrepancies or ambiguities in them of which it is aware. If the Contractor shall find any inaccuracy, discrepancy or ambiguity contained in or between any of the documents forming part of this Agreement, it shall immediately notify the Employer, who shall, on receipt of such notice, issue an Employer's Instruction as to how such inaccuracy, discrepancy or ambiguity shall be resolved. The Contractor shall not be entitled to an extension of time or to any additional payment in respect of compliance with such instruction to the extent that such inaccuracy, discrepancy or ambiguity could reasonably have been found or foreseen at the date of this Agreement by a contractor exercising the skill, care and diligence reasonably to be expected of a contractor experienced in projects of a similar nature to the Works.

Detailed Design
Information

- 4.2 At such times as not to delay or disrupt the progress of the Works pursuant to each Contract Order, the Contractor, without further charge, shall provide the Employer (unless it shall have been previously so provided) with four reproducible copies (including in electronic format) true-to-scale such of the Documents as is reasonably necessary to explain, amplify, show or describe the Works in such Contract Order or to enable the Contractor to execute and complete the Works or to comply with any Employer's Instruction. The Contractor shall check and co-ordinate any such Documents submitted by it prior to submission of the same. The Contractor shall not commence construction of the Works in any Contract Order in accordance with such Documents until the Employer's Representative has

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consented thereto, and shall not be entitled to be paid for work executed other than in accordance with the Documents to which the Employer's Representative has consented.

Responsibility for
Detailed Design

4.3

Neither the granting of any consent by the Employer nor any comment or marking by or on behalf of the Employer on or in respect of the Documents submitted by the Contractor shall relieve the Contractor of any liability which it would otherwise have in relation thereto. If the Contractor considers that any comment on the Documents submitted under clause 4.2 amounts to an Employer's Instruction to which clause 6.3 applies, it shall so notify the Employer within 7 days of receipt of the same.

Contractor's
design warranties

4.4

Insofar as the design of the Works is comprised in the Documents (including any further design which the Contractor is to carry out as a result of an Instruction), the Contractor warrants and undertakes to the Employer that:

4.4.1 it has exercised and will continue to exercise in the design of the Works all reasonable skill, care and diligence to be expected of a professionally qualified and competent engineer or other appropriate consultant taking into account the size, scope, nature, type and complexity of the Works;

4.4.2 subject to clause 4.4.1, the Works will, when completed, comply with any performance specification or requirement included or referred to in the Technical Workslope provided always that nothing in the Employer's Requirements shall be construed as imposing a fitness for purpose obligation for the Works; and

4.4.3 except where this Agreement expressly provides for use of second-hand or recycled materials and goods, the Works comprise or will comprise only materials and goods which are of new and satisfactory quality.

The warranties and undertakings contained in clause 4.4 are without prejudice to any warranties implied by common law or statute.

Sub-Contractor's
design

4.5

Any reference to the design which the Contractor has prepared or shall prepare or issue for the Works includes a reference to any design which the Contractor has caused or shall cause to be prepared or issued by others, whether before or after the date of this Agreement.

Cap on Liability

4.6

Notwithstanding anything to the contrary contained elsewhere in this Agreement, the Contractor's liability for any breach of its obligations in relation to the design of the Works, whether in contract, tort, delict or otherwise, shall not

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exceed the sum of £10,000,000 in the aggregate.

5 The Site

Access to the site	5.1	The Contractor shall not have possession of any of the Sites, but the Employer shall provide reasonable access to them for the purposes of this Agreement. Each of the Sites shall only be used by the Contractor for the purpose of carrying out the Works.
Compliance with Employer's regulations	5.2	The Contractor and its employees the Sub-Contractors and other persons engaged by it in relation to this Agreement within the boundaries of each of the Sites, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel at the Site and/or the Employer's property.
Obstruction prohibited	5.3	The Contractor shall not interfere with or obstruct any public or private rights or property (including, without limitation, the Employer's property, the Employer's neighbours' property, railway operations and traffic (except as previously agreed in writing with the Employer's Representative in accordance with clause 27), road traffic and highways).
State of the Employer's property	5.4	The Contractor shall make every reasonable effort to be aware of the state and condition of the Employer's property and the railway infrastructure. The Contractor shall immediately notify the Employer's Representative of any defect in the Employer's property or railway infrastructure which it discovers in the course of performing the Works which might compromise the safety of anyone on or about or using the Employer's property and/or railway infrastructure.
Execution of the Works	5.5	The Contractor shall submit at such times and in such detail as the Employer's Representative may reasonably require for full consideration to be given and, if necessary, for revised proposals to be considered such information pertaining to the execution of the Works (including temporary works and the use of the Contractor's equipment) which the Contractor proposes to adopt or use and, if requested by the Employer's Representative, such calculations of stresses, strains and deflections that will arise in the Works and any parts thereof during their execution from the use of such methods as are sufficient to demonstrate to the Employer's Representative that, if these methods are adhered to, the Works can be executed in accordance with this Agreement and without detriment to the safe working of the railway or the property of the Employer and others or to the Works when completed.
Health & Safety	5.6	The Contractor shall strictly comply with the Employer's health and safety requirements as set out in the Contract Requirements HSEA. In particular, but without limitation, the

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Contractor shall ensure that all the Contractor's employees, the Sub-Contractors and other persons engaged by it in relation to this Agreement receive safety and skills training in accordance with the requirements of the Contract Requirements HSEA and the Employer may instruct the immediate replacement, at the Contractor's cost, of any person on the Sites who is not so trained.

Unsuitable employees	5.7	The Employer reserves the right under this Agreement to refuse to allow on to the Sites or to permit to be used in connection with the Works any person employed or engaged by the Contractor, or by a Sub-Contractor, whose use would be, in the opinion of the Employer, undesirable. The decision of the Employer as to whether any person is to be allowed on to a Site shall be final and conclusive.
Setting-out	5.8	The Contractor shall be responsible for the true and proper setting-out of the Works and for the correctness of the position levels dimensions and alignment of all parts of the Works and for the provision of all necessary instruments appliances and labour in connection therewith. If, at any time during the progress of the Works any error shall appear or arise in the position levels dimensions or alignment of any part of the Works, the Contractor on being required so to do by the Employer shall at its own cost rectify such error to the satisfaction of the Employer.

6 Employer's Instructions

Employer's Representative	6.1	The Employer's Representative shall have full authority to act on behalf of the Employer for all purposes under this Agreement and shall be authorised to issue Employer's Instructions and notices to the Contractor under this Agreement on behalf of the Employer, unless otherwise expressly notified to the Contractor by the Employer from time to time.
Additional payment for instructions	6.2	<p>If any Employer's Instruction issued under this Agreement:</p> <p>6.2.1 shall require the Contractor to undertake work not provided for in, or to be reasonably inferred from, this Agreement; or</p> <p>6.2.2 shall impose any additional obligation or restriction or shall require the omission of any work or of any obligation or restriction,</p> <p>and provided that such instruction has not arisen from, and compliance with it does not reveal, any negligence, omission or default of the Contractor, its employees, the Sub-Contractors or other persons engaged by it in relation to this Agreement, the Contract Price shall be adjusted and the provisions of clause 6.3 shall apply. Otherwise, the</p>

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Contractor shall not be entitled to any addition to the Contract Price nor to claim, whether as damages or otherwise, any additional payment in respect of compliance by the Contractor with any such instruction.

Calculation of
additional payment

- 6.3 The Employer's Representative shall, after consultation with the Contractor and within a reasonable time after the issue of such instruction, ascertain a fair and reasonable adjustment to the Contract Price based on prices or rates included in the Pricing Document in respect of compliance by the Contractor with such instruction and a fair and reasonable extension of time may be granted under clause 14.3.

7 Payment

- Contract Price 7.1 In consideration of the proper performance of the Works, the Employer shall pay to the Contractor the Contract Price calculated as follows:

Contractor's
Applications

- 7.1.1 the total value of the work properly executed including any design work carried out by the Contractor;

- 7.1.2 the total value of the materials and goods delivered to or adjacent to the Works for incorporation therein by the Contractor but not so incorporated, provided that the value of such materials and goods shall only be included as and from the times that they are reasonably, properly and not prematurely so delivered and have been adequately protected against weather and other casualties;

- 7.1.3 the amount of any additions to the Contract Price in accordance with this Agreement;

- 7.1.4 but less any deductions from the Contract Price in accordance with this Agreement.

- 7.2 After the end of each Agreed Rail Industry Period, the Contractor shall present to the Employer's Representative an application stating the total amount due to the Contractor calculated in accordance with the provisions of clause 7.1 and with such supporting documents as may be reasonably required by the Employer's Representative, including a statement of the basis of calculation of the application. Provided the Contractor complies with this clause, payment shall be due 14 days after the submission of the Contractor's application (the "Due Date").

Alternative A

Employer's
Certificate

- 7.3A Not later than the Due Date the Employer's Representative shall issue a certificate, being a written notice stating the

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amount that the Employer's Representative considers to be due on that date (which shall be calculated in accordance with the provisions of clause 7.1), to what the amount relates and the basis on which the amount is calculated, less any amount which may become due to the Employer or recoverable by the Employer from the Contractor, whether by deduction from the Contract Price under the provisions of this Agreement or otherwise including without limitation for losses arising from the Contractor's breach of contract. Such certificate shall be treated as a notice for the purposes of s110A of the Housing Grants, Construction and Regeneration Act 1996 (as amended) and shall be given even if the amount that the Employer's Representative considers to be due on the Due Date is zero.

Payment by the Employer Certificates	7.4A	The final date for payment of the sum shall be 7 days after the Due Date. If a payment is due from the Employer to the Contractor, the Employer shall pay to the Contractor at the same time as making any such payment the total amount of Value Added Tax properly chargeable by the Contractor on the supply to the Employer of any goods or services under this Agreement. The Contractor shall issue to the Employer upon receipt from the Employer of any amount under this Agreement an authenticated receipt of the kind referred to in Regulation 13(4) of the Value Added Tax Regulations 1995 (or any amendment or re-enactment thereof) containing the particulars required under Regulation 14(1) of the same Regulations to be contained in a VAT invoice.
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7.5A Not Used.

Alternative B

Employer's Notice of Payment	7.3B	Not later than the Due Date, the Employer's Representative shall issue a written notice stating the amount that the Employer's Representative considers to be due on the Due Date (which shall be calculated in accordance with the provisions of clause 7.1) to what the amount relates and the basis on which the amount is calculated, less any amount which may become due to the Employer or recoverable by the Employer from the Contractor, whether by deduction from the Contract Price under the provisions of this Agreement or otherwise including without limitation for losses arising from the Contractor's breach of contract. Such certificate shall be treated as a notice for the purposes of s110A of the Housing Grants, Construction and Regeneration Act 1996 (as amended) and shall be given even if the amount that the Employer's Representative considers to be due on the Due Date is zero.
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Payment by the Employer - VAT Invoice	7.4B	If a payment is due from the Employer to the Contractor, the Contractor shall render a valid VAT invoice to the Employer, either in the amount stated in the Employer's
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Representative's notice under clause 7.3B, or in the absence of such notice, in the sum stated in the Contractor's application under clause 7.2; and which includes the correct contract and purchase order number and is addressed to "Network Rail, Accounts Payable, P.O. Box 4145, Manchester M60 7WZ" or original computer-generated pdf invoices can be emailed to invoices@networkrail.co.uk.

Final Date for Payment	7.5B	<p>Provided that the Contractor renders a valid VAT invoice to the Employer in accordance with clause 7.4B, the final date for payment shall be 7 days from the Due Date or 7 days from the Employer's receipt of the Contractor's valid invoice, whichever is the later.</p>
Employer's Pay Less Notice	7.6	<p>If a payment is due from the Employer to the Contractor, the Employer may pay to the Contractor less than the sum stated in the certificate or notice issued in accordance with clause 7.3A or 7.3B or in the absence of such certificate or notice, the sum stated in the Contractor's application under clause 7.2 provided that not later than 1 day before the final date for payment the Employer's Representative has given a Pay Less Notice to the Contractor which specifies:</p> <p>7.6.1 the sum that the Employer considers to be due on the date the notice is served having taken account of any amount to be withheld from the payment; and</p> <p>7.6.2 the basis on which that sum is calculated including grounds for any sums withheld.</p>
Payment from the Contractor to the Employer	7.7	<p>If the application of clauses 7.1, 7.2 and 7.3A or 7.3B results in a payment being due from the Contractor to the Employer, the Contractor shall issue a valid credit note to the Employer within 5 days of the issue of the certificate or notice in accordance with clause 7.3A or 7.3B and the final date for payment of this sum shall be 30 days after the certificate or notice under clause 7.3A or 7.3B is issued, whether or not a credit note has been issued by the Contractor.</p>
Amount Due	7.8	<p>The amount due shall be the amount assessed in accordance with this Agreement less any sums deductible from the Contractor or payable from the Contractor to the Employer for any reason (including without limitation for losses arising from the Contractor's breach of contract).</p>
Property in goods and materials	7.9	<p>The property in any goods, materials, equipment or plant intended for the Works shall vest in the Employer when they have been incorporated into the Works or when the Contractor has received payment for them pursuant to this clause 7 whichever is the earlier. Where the value of any goods, materials, equipment or plant is included in an application under clause 7.2, the Contractor shall ensure that</p>

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such goods, materials, equipment or plant are not removed from the places where they are situated at the date of such application except for delivery to the Site.

Correction of errors	7.10	All certificates or notices issued under this Agreement shall be issued by the Employer or Employer's Representative with a copy to the Contractor. The Employer may on any payment certificate or notice delete, correct or modify any sum previously paid by it. No certificate or notice or payment issued or made by or on behalf of the Employer under this Agreement shall relieve the Contractor from any liability arising out of or in connection with this Agreement.
Interest on late payment	7.11	If the Employer fails to pay the Contractor any sum properly payable under this Agreement on or before the final date for payment of it, the Employer shall pay the Contractor simple interest on that sum from the relevant final date for payment until the actual date of payment calculated at a rate of 4% above the Bank of England Base Rate. It is agreed that this provision constitutes a substantial remedy for the purposes of Section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998.
CIS provisions	7.12	Where the Contractor is paid under Alternative A, the Contractor shall ensure that at all times it is registered for gross payment under the Construction Industry Scheme, as provided for in Chapter 3 of the Finance Act 2004 and the Income Tax (Construction Industry Scheme) Regulations 2005; and not later than 21 days before the first payment under this Agreement is due to the Contractor, the Contractor shall provide to the Employer the information specified in regulation 6(2)(b)(iii) of the Income Tax (Construction Industry Scheme) Regulations 2005. If the Contractor fails to comply with the provisions of this clause, the Employer shall not be obliged to make any further payment to the Contractor until such time as the failure is remedied.

8 Guarantees

Warranties and guarantees	8.1	The Contractor shall ensure that the benefit of any warranty or guarantee in respect of goods, materials, equipment or plant supplied or procured by it shall extend to the Employer. The Contractor shall not invalidate such warranties and/or guarantees by its actions.
Parent Company Guarantee	8.2	If stated to be required in the Appendix, the Contractor shall obtain and provide to the Employer, forthwith upon entry into this Agreement, a parent company guarantee in the form appended to the Contract Specific Conditions from the Contractor's ultimate holding company. For these purposes "ultimate holding company shall mean the parent company of the group of companies of which the Contractor is a member (as each of those terms is defined in Section.170

Taxation of Chargeable Gains Act 1992).

Failure to provide guarantee	8.3	The Contractor's compliance with the provisions of clause 8.2 shall be a condition precedent to any obligation on the part of the Employer to make any payment that might otherwise be due under this Agreement, and the Contractor acknowledges that it has no entitlement either to receive payment or to exercise any rights in respect of non-payment arising under this Agreement unless and until the Contractor has provided any parent company guarantee so required.
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9 Indemnities and Insurance

Indemnity	9.1	The Contractor shall indemnify the Employer and keep the Employer indemnified against each and every liability which the Employer may incur to any person whatsoever and against all damage, expense, loss, cost, claim or proceedings suffered or incurred by the Employer to the extent that the same relates to personal injury or death of any person whomsoever or loss or injury or damage to any property real or personal (other than the Works, works executed or Site Materials) arising out of or in the course of or caused by the carrying out of the Works, except to the extent that the same is due to any act or neglect of the Employer or the Employer's Representative.
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Contractor's Employer's Liability Insurance	9.2	<p>9.2.1 Without prejudice to the Contractor's obligation to indemnify the Employer under clause 9.1, the Contractor shall maintain and cause the Sub-Contractors to maintain insurance in respect of claims for personal injury and death of any person under a contract of service or apprenticeship with the Contractor or such Sub-Contractor as the case may be arising out of or in the course of such person's employment. Such insurance shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and any statutory orders made thereunder or any amendment or re-enactment thereof and shall be for the sum specified in the Appendix for any one occurrence or series of occurrences arising out of one event.</p> <p>9.2.2 The insurance policy referred to in clause 9.2.1 shall indemnify the Employer in the like manner to the Contractor but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Agreement</p> <p>9.2.3 As and when it is reasonably required to do so by the Employer, the Contractor shall produce and shall cause any Sub-Contractors to produce for inspection by the Employer documentary evidence that the insurance required by this</p>
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clause 9.2 is properly maintained.

Employer's
Third Party
Insurance
and
Insurance
of the
Employer's
Property

9.3 Other than as specifically stated herein, without prejudice to the Contractor's obligations to indemnify the Employer under clause 9.1, the Employer shall take out and maintain:

9.3.1 a policy in the joint names of the Contractor, Sub-Contractors and the Employer against liabilities for death of or injury to any person (other than any person in the employment of the Employer or the Contractor where and to the extent that any such liabilities should reasonably be covered by the insurance maintained by the Contractor pursuant to clause 9.2) or loss of or damage to any property (other than the Works, work executed, Site Materials or other property of the Employer or the Contractor) arising out of the performance of the Contract, for a sum not less than that stated in the Appendix for any one occurrence or series of occurrences arising out of one event

9.3.2 a policy or policies of insurance (or self-insurance arrangements) in respect of loss or damage to property of the Employer (other than work executed and Site Materials but including work executed after practical completion thereof) arising out of or in connection with the Works and business interruption costs consequent upon such loss or damage, with a waiver of subrogation in favour of the Contractor and Sub-Contractors. The insurance referred to in this sub-clause 9.3.2 shall provide all risks cover against loss or damage arising other than the Excepted Risks but including, without limitation, the Specified Perils. The Contractor's liability under clause 9.1 shall exclude loss or damage to such property of the Employer and business interruption costs consequent thereon, to the extent of the insurance (or self-insurance) provided for in this sub-clause 9.3.2 except for the first £10,000 of each and every occurrence of such loss or damage.

The Employer shall not be responsible for any amounts in excess of the limits of indemnity and sums insured or any retained liability or risks not insured or excluded by the terms, exceptions or conditions of such insurance policies.

Employer's
Insurance of the
Works

9.4 Without prejudice to the Contractor's obligations under this Agreement, the Employer shall insure in the joint names of the Contractor Sub-Contractors and the Employer, the Works together with materials (including free issue materials) and plant and equipment for incorporation therein,

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such insurance to include a reasonable amount to cover additional costs that may arise incidental to the rectification of any loss or damage in respect of professional fees, cost of demolition and removal of debris. The insurance referred to in this clause 9.4 shall provide cover against all loss or damage from whatsoever cause arising other than the Excepted Risks but including, without limitation, the Specified Perils, from commencement of the Works on the Site until the date of Practical Completion. Nothing shall render the Employer liable to insure against the necessity for the repair or reconstruction of any work constructed with materials or workmanship not in accordance with the requirements of this Agreement. Any amounts not insured or not recovered from insurers whether as excesses carried under the policy or otherwise shall be borne by the Contractor.

Evidence of the Employer's Insurance	9.5	A summary of the insurance policies taken out and maintained by the Employer under clause 9.3 and clause 9.4 is included in section 2 of the Project Insurance Manual in the Preliminaries and further details of the Employer's insurance policies may be provided to the Contractor on request..
Notification of Claims	9.6	The Contractor shall immediately notify any occurrence that may result in a claim under the Employer's insurance policies in accordance and in compliance with the provisions of the procedures detailed in section 3 of the Project Insurance Manual in the Preliminaries.
Breach by Contractor	9.7	Should the Contractor or any Sub-Contractor be in breach of any of their respective obligations under this clause 9, the Employer may itself insure against any risk in respect of which the default shall have occurred and may deduct a sum or sums equivalent to the amount paid or payable in respect of the premiums from any monies due or become due to the Contractor under this Agreement, or, if none are due, may recover the amount paid from the Contractor as a debt.

10 Claims Handling Provisions

Claims Handling Agreement	10.1	In these provisions, "The Claims Allocation and Handling Agreement" means the Agreement so entitled dated 1st April 2011 and made between the several parties whose names are contained in Schedule 6 thereof (the "Industry Parties") and Railway Claims Limited (the "Agency"), as amended from time to time in accordance with its terms and the expressions defined in the Claims Allocation and Handling Agreement shall have the same meanings in this clause 10. The Employer shall supply the Contractor with a copy of each amendment thereto as and when it is made.
Application of	10.2	These provisions shall apply:

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CAHA	10.2.1	if this Agreement is in connection with the maintenance or operation of the Employer's Railway Assets; and
	10.2.2	in respect of the period (if any) while the Contractor is an Independent Contractor; and
	10.2.3	where a claim, which arises out of or is connected with this Agreement, is made by a third party who does not have a contract with the Contractor:
		<ul style="list-style-type: none"> (i) against the Employer or the Agency, which may result in a claim being made against the Contractor; or (ii) against the Contractor, which may result in a claim being made against the Employer or the Agency (whether by the Contractor or otherwise). <p>In relation to clause 17 of the Claims Allocation and Handling Agreement this Agreement hereby permits the recovery by the Employer of loss of revenue or other consequential losses that are direct and foreseeable.</p>
Agency to defend claims	10.3	The Contractor irrevocably appoints the Employer as its agent to authorise the Agency (in consultation, where necessary, with Industry Parties and their insurers) to defend such a claim on behalf of the Contractor and the Industry Parties, in accordance with the Claims Allocation and Handling Agreement. In relation to such a claim, the Contractor shall be bound by the terms of that Agreement as if the Contractor were a party to it.
Payments under CAHA	10.4	Where such a claim results in a payment to the third party, the Contractor agrees that liability for such payment, and the costs of handing and defending the claim, shall be allocated in accordance with the Claims Allocation and Handling Agreement. The Contractor agrees to participate in the procedure for allocating liability set out in the Railway Industry Dispute Resolution Rules; and to be bound by the result as if the Contractor were party to those Rules, and such matters shall not be referable to adjudication or litigation in accordance with this Agreement.
Where Contractor solely liable	10.5	Conditions 10.3 and 10.4 shall not apply to any claim in respect of which the Contractor admits that it is liable and that no Industry Party is liable. In such a case, the Contractor itself may defend the claim.
Indemnity in respect of CAHA costs	10.6	Without prejudice and in addition to any other rights and remedies of the Employer under this Agreement, the Contractor shall indemnify the Employer against all losses, claims, liabilities, costs and expenses which are borne by the

Employer under the Claims Allocation and Handling Agreement, and which arise out of either a breach of this Agreement by the Contractor or a breach of a duty of care owed to a third party, which is the subject of a claim under the Claims Allocation and Handling Agreement.

11 Professional Indemnity Insurance

Contractor to insure	11.1	Insofar as the design of any part of the Works is carried out by the Contractor, the Contractor shall maintain professional indemnity insurance covering amongst other things, all its liability hereunder in respect of Defects or insufficiency in design, 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 in an amount not less than the sum specified in the Appendix for a period beginning with the date of this Agreement and ending 12 years after Practical Completion of the Works under the last Contract Order to be completed, provided always that such insurance is available at commercially reasonable rates. Any increased or additional premium required by insurers by reason of the Contractor's claims record or other matters particular to the Contractor shall be considered to be within commercially reasonable rates.
If insurance ceases to be available	11.2	The Contractor shall immediately inform the Employer if such insurance ceases to be available at commercially reasonable rates in order that the Employer and the Contractor can discuss means of best protecting the respective positions of the Employer and the Contractor in the absence of such insurance.
Terms of policy	11.3	The said terms and conditions shall not include any term or condition that excludes the Third Parties (Rights Against Insurers) Act 1930.
Termination	11.4	The obligations in respect of professional indemnity insurance under this clause 11 shall continue notwithstanding termination of the Contract for any reason whatsoever, including (without limitation) breach by the Employer.
Production of evidence	11.5	The provisions of clauses 9.5 and 9.6 shall apply to the Contractor's professional indemnity insurance required by this clause 11.

12 Copyright, Intellectual Property, Confidentiality and Photographs

Copyright licence	12.1	The legal and beneficial ownership of all Intellectual Property which the Contractor has supplied to the Employer in accordance with this Agreement and which the Contractor has created and/or developed for the purposes of performing
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its obligations under this Agreement shall belong to the Contractor. The Contractor hereby grants to the Employer an irrevocable, royalty-free, non-exclusive licence to use all rights, titles and interest in any such Intellectual Property for any purposes whatsoever in connection with the Employer's permitted business provided that the Contractor shall have no liability for any use of the Intellectual Property other than for the purposes for which it was originally intended. The Employer may assign the said licence and/or grant sub-licences out of the licence.

Sub-Contractors	12.2	The Contractor shall use reasonable endeavours to procure that the Sub-Contractors shall grant a licence to the Employer in terms identical to clause 12.1.
Confidentiality	12.3	All information obtained by the Contractor in the course or conduct of this Agreement shall be held confidential and shall not be divulged by the Contractor to any third party save to the extent necessary to effect the execution of the Works and then only on the basis that the recipient of such information shall be bound by similar confidentiality obligations to those undertaken by the Contractor. The Contractor shall not issue any press release or other public document containing or make any public statement containing or otherwise disclose to any other person who is not a party to this Agreement information that relates to or is connected with or arises out of this Agreement or the matters contained in it without the prior written approval of the Employer as to its content and the manner and extent of its publication.
Confidentiality	12.4	<p>Nothing in this Agreement shall prevent the Employer disclosing the Contractor's Confidential Information:</p> <p>12.4.1 to the Crown, any other Contracting Authority or any government department. All government departments receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments on the basis that the information is confidential and is not disclosed to a third party which is not part of the Crown, any Contracting Authority or any government department;</p> <p>12.4.2 for the purpose of the examination and certification of the Employer's accounts; or</p> <p>12.4.3 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Employer has used its resources.</p>
Photographs	12.5	Except as required to record the condition of or activities on the Site the Contractor shall not at any time take any

photograph of the Site or the Works or any part of them, and shall take all reasonable steps to ensure that no such photographs shall at any time be taken or published or otherwise circulated by any person employed by it, unless the Contractor has obtained the prior written consent of the Employer.

13 Assignment and Sub-Contracting

Assignment by parties	13.1	The Employer shall be entitled to assign charge or transfer this Agreement or any of its rights under it. The Contractor shall not assign charge or transfer this Agreement or any of its rights under it without the prior written consent of the Employer.
Sub-Contracting by Contractor	13.2	The Contractor shall not sub-contract any part of the Works (including without limitation, the supply of goods and materials) or their design without the prior written consent of the Employer's Representative, which consent shall not be unreasonably withheld.
Sub-letting does not relieve Contractor	13.3	No sub-letting by the Contractor and no consent of the Employer and nothing contained in this Agreement requiring the Contractor to sub-let any work to or obtain any materials and/or goods from any person or persons named therein shall in any way relieve the Contractor from its responsibility for the due execution and completion of the Works in accordance with this Agreement.

14 Commencement and delays in the execution of the Works

Time for completion	14.1	The Contractor shall commence the execution of the Works under each Contract Order on the Site within the period for commencement stated in the Appendix from receipt of the Employer's Representative's instruction so to do, provided that, if no such instruction is issued and the Contractor and the Employer nevertheless agree that the Contractor shall commence the execution of the Works on the Site, the obligation to commence the Works shall be deemed to have arisen on the date of actual commencement by the Contractor on the Site. The Contractor shall thereafter proceed with the Works regularly and diligently so that the Works and each part of the Works are completed on or before the expiry of the Period for Completion which relates thereto as stated in the Contract Order as extended from time to time in accordance with clause 14.3.
Grounds for extension of time	14.2	No extension of time shall be granted to the Contractor except in the case of: 14.2.1 any delay, impediment, prevention or default by the Employer; or 14.2.2 the occurrence of any of the Excepted Risks or

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the Specified Perils; or

- 14.2.3 any Instruction to which clause 6.3 applies; or
- 14.2.4 exceptional adverse weather conditions; or
- 14.2.5 pollution or contamination encountered by the Contractor at a Site; or
- 14.2.6 cancellation or alteration of the dates and times of agreed speed restrictions, track possessions or isolations under clause 27 (where applicable); or
- 14.2.7 the exercise after the date of tender by the United Kingdom Government of any statutory power that directly affects the execution of the Works; or
- 14.2.8 the use or threat of terrorism, as defined by the Terrorism Act 2000, and/or the activities of the relevant authorities in dealing with such threat; or
- 14.2.9 the valid exercise by the Contractor of its rights under section 112 of the Housing Grants, Construction and Regeneration Act 1996 (as amended),

and then only to the extent that the Contractor shall prove that the completion of the Works or any part of the Works in any Contract Order is thereby delayed.

Provided always that no account shall be taken of any of the circumstances referred to in clause 14.2 save to the extent that the Contractor:

- 14.2.10 immediately upon it becoming reasonably apparent that the completion of the Works or any part of the Works is being or is likely to be so prevented, shall have submitted to the Employer's Representative a notice specifying the circumstance or circumstances;
- 14.2.11 as soon as practicable thereafter, shall have submitted full and detailed particulars of the expected effects of those circumstances and of the extension of time to which the Contractor may consider itself entitled stating separately the extension in respect of the Works in each Contract Order affected thereby; and
- 14.2.12 shall have kept such particulars up-to-date by submitting such further particulars which may be necessary or may be requested from time to time by the Employer's Representative.

Grant of
Extensions of Time

- 14.3 So soon as may be practicable after receipt of all of the particulars referred to in clause 14.2, the Employer's Representative shall grant to the Contractor such extension

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of time for the completion of any part of the Works in any Contract Order affected by such circumstances as he then estimates to be fair and reasonable, provided always that the Contractor shall not be entitled to any extension of time in respect of any delay attributable to any negligence, omission or default by the Contractor, its employees or sub-contractors (except in the case of the circumstances referred to in clause 14.2.2), or in any case where the Contractor has not used its reasonable endeavours to prevent or reduce such delay.

Liquidated damages	14.4	Where the Contract Order includes an amount in respect of liquidated damages, if the Contractor fails to achieve Practical Completion by the expiry of the Period for Completion for the Works in any Contract Order, the Contractor shall be liable to pay the Employer liquidated damages calculated at the rate stated in the Contract Order for the period from the expiry of the Period for Completion to the date of Practical Completion provided that the Contractor shall not be obliged to pay liquidated damages in excess of the Contract Price. Where liquidated damages have been paid to the Employer and the Employer subsequently grants an extension of time in accordance with clause 14.3, the Employer shall be liable to repay to the Contractor any liquidated damages to which the Employer is no longer entitled.
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15 Practical Completion of the Works

Certificate of Practical Completion	15.1	When, in the opinion of the Employer's Representative, the Works in any Contract Order are practically complete, he shall issue a certificate to that effect and Practical Completion of the Works shall occur on the day named in such certificate. Such certificate may also be accompanied by a list of items of work which are, in the Employer's Representative's opinion, required to render the Works entirely completed. The Contractor shall with all due diligence complete any such items of work.
Remedying of Defects	15.2	During the Defects Rectification Period in respect of the Works in any Contract Order the Employer's Representative may instruct the Contractor to remedy any Defect. The Contractor shall forthwith comply with any instructions and at no cost to the Employer.
Certificate that Defects Remedied	15.3	After the expiry of the Defects Rectification Period in respect of the Works in any Contract Order and when all Defects that the Contractor has been instructed to remedy under clause 15.2 have been remedied, the Employer's Representative shall issue a certificate to that effect.
Defects not remedied	15.4	Where there are Defects that the Contractor has been instructed to remedy under clause 15.2 but which have not been remedied within a reasonable period of the expiry of

the Defects Rectification Period, the Employer's Representative shall issue a statement identifying:

15.4.1 those Defects that it intends to engage others to rectify, together with a proper estimate of the cost of undertaking those rectification works; and

15.4.2 those Defects that it does not intend to rectify, together with particulars of the appropriate deduction it intends to make in the calculation of the amount due to the Contractor.

Other Rights 15.5 The provisions of clause 15 are without prejudice to any other rights or remedies the parties may possess.

16 Data Protection Act 1998

Data The Contractor shall take all necessary steps under the Data Protection Act 1998 (including, where appropriate, the procurement of any consent) to allow for disclosure to appropriate Employer's personnel of all information required by this Agreement.

17 TUPE and AWR

Notwithstanding anything to the contrary elsewhere in the Agreement:-

TUPE and AWR Indemnity 17.1 the Contractor shall be responsible for and shall indemnify and keep indemnified the Employer from and against all and any costs, claims, expenses, damages, demands, actions, losses and liabilities arising out of or in connection with any claim in respect of any person which arises or is alleged to arise by reason of the operation of, and failure of the Contractor to comply with the Agency Worker Regulations 2010 or by reason of the operation of and failure of the Contractor to inform and consult under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") (as either Regulation may be amended or re-enacted from time to time), save to the extent that such liability arises due to the failure of Network Rail to comply with its obligations under the Regulations;

Employee Data 17.2 in the last 12 months prior to completion of the Works under the last Contract Order within 28 days of the Employer's request, the Contractor shall, where TUPE is likely to apply, provide the Employer with a list of names, ages, addresses and national insurance numbers of all persons who are, who have been, or who may be at any time concerned with the Works or any part thereof, specifying their job title, job description, basic salary, bonus and all other emoluments and benefits, period of continuous employment, the percentage of the time that they have worked under this Agreement, details of any agreements entered into with employee representative bodies in relation to such persons, details of all training and competency courses attended and

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certificates or qualifications obtained and such other requirements as the Employer may reasonably require (altogether the “Employee Data”).

Personnel Records	17.3	in the last 12 months prior to completion of the Works under the last Contract Order, the Contractor shall (and shall procure that any Sub-Contractor shall) provide to the people engaged in the performance of this Agreement, written contracts of employment or statements of terms of employment, in either case complying with the requirements of Section 1 of the Employment Rights Act 1996, and retain copies of such documents together with such other documentation and PAYE records as may reasonably be required by the Employer (“Personnel Records”) and shall, where TUPE is likely to apply, within 28 days of the Employer’s Representative’s request, whether during the performance of this Agreement or following the end of this Agreement (whether lawfully or otherwise) deliver up to the Employer or to such person as the Employer may nominate the Employee Data, such copies of the Personnel Records as may be required by the Employer and to the extent not otherwise provided, any employee liability information pursuant to and in accordance with Regulation 11 of TUPE. The Employer may communicate such information to persons intending to tender to execute works of the nature of the Works.
Valuation of Contracts	17.4	the Contractor shall not (and shall procure that any Sub-Contractor shall not) (where TUPE is likely to apply), in the last 6 months prior to completion of the Works, without the prior written permission of the Employer, vary or purport or promise to vary (in the employee’s favour), the terms of the contracts of employment of any person engaged wholly or principally in the execution of the Works.
New employees	17.5	the Contractor shall not (and shall procure that any Sub-Contractor shall not) (where TUPE is likely to apply), without the prior written consent of the Employer create or grant, or promise to create or grant, terms or conditions of employment for any new employee engaged wholly or principally in the execution of the Works if and to the extent that such terms or conditions are materially different to the terms or conditions of employment of equivalent or nearest equivalent existing employees (which themselves comply with clause 17.4) at the date of commencement of employment of such new employee.
Regulation 13	17.6	the Contractor shall (and shall procure that any Sub-Contractor shall) (where TUPE is likely to apply) at all times comply with its information and consultation obligations under Regulation 13 of TUPE.
TUPE transfers	17.7	The Contractor shall indemnify and keep indemnified the Employer and any successor contractor against all costs,

claims, expenses, damages, demands, actions, losses and liabilities arising out of or in connection with any claim or demand arising out of or in connection with any act or omission of the Contractor or any Sub-Contractor and which the Employer or the successor contractor incurs:

17.7.1 in relation to any one or more employees whose employment has transferred or is alleged to have transferred to the Employer and/or a successor contractor pursuant to TUPE and/or this Agreement; and/or

17.7.2 as a result of the Contractor's breach of clauses 17.4, 17.5 and/or 17.6,

and, such a successor contractor can directly enforce the indemnity in its favour provided for by this clause 17.7.

18 CDM Regulations

The Principal Contractor for the relevant project shall be the person stated in the Contract Order or, if not stated, the Employer. Where this role is fulfilled by the Contractor, the Contractor warrants that it is competent to accept this appointment and that it will properly perform all the duties required of a principal contractor under the CDM Regulations including, without limitation, liaising with the Co-ordinator for the Project.

19 Employer's Facilities and Free Issue Materials

Property in Facilities	19.1	All of the Employer's Facilities or other property issued or supplied in connection with this Agreement by, or on behalf of the Employer, shall remain the property of the Employer and shall only be used by the Contractor for the purposes of this Agreement.
Availability of Facilities	19.2	The Employer shall make available to the Contractor the Employer's Facilities at the times and subject to the conditions set out in the Preliminaries and subject to any temporary disrepair or mechanical breakdown. The Contractor shall return the same to the Employer in the condition in which they were supplied (fair wear and tear excepted).
No liens	19.3	Neither the Contractor, any Sub-Contractor or any other person, shall have a lien on any of the Employer's Facilities or on any other property and the Contractor shall take all necessary steps to ensure that the title of the Employer and the exclusion of any such lien are brought to the notice of all Sub-Contractors and other persons dealing with the same.
Free Issue of Materials	19.4	The Employer shall make available to the Contractor at the relevant Site free of charge to the Contractor the goods and materials described in the Contract Order. Upon completion of delivery such goods and materials shall stand at the risk

of the Contractor. Immediately upon the same being made available to it, the Contractor shall carry out a detailed inspection of such goods and materials and shall use its reasonable endeavours to advise the Employer's Representative on or before the expiry of 24 hours and no later than 7 days or before being taken into operational use (whichever is the sooner) if any of such goods and materials are damaged or defective. The Employer shall then secure the repair, replacement and/or reissue of any such goods or materials. If the Contractor does not so notify the Employer's Representative, the Contractor shall not be entitled subsequently to claim that any such goods or materials are damaged or defective to the extent that the same could have been identified by detailed inspection within such period. The Contractor shall dispose of any packaging and/or waste arising.

20 Termination

Contractor's
breach /
insolvency

- 20.1 If the Contractor:
- 20.1.1 shall be in material breach of any of the provisions of this Agreement;
 - 20.1.2 is liable to compensate the Employer in respect of sums referred to in clause 4.6, 14.4 and/or clause 25 equal to the aggregate total liability of the Contractor as stated in whichever is the relevant clause; or
 - 20.1.3 becomes Insolvent;
- then the Employer may, in addition to any other power enabling it to terminate this Agreement, by notice terminate forthwith the employment of the Contractor under this Agreement.

Termination at will

- 20.2 The Employer may, in addition to any other power it may have, at any time by notice to the Contractor forthwith terminate the employment of the Contractor under this Agreement.

21 Consequences of Termination

Payment following
breach /
insolvency

- 21.1 If the Employer, in exercise of the powers contained in clause 20.1 shall terminate the Contractor's employment under this Agreement the following provisions shall take effect:
- 21.1.1 the payment of any sum of money that may then be due or accruing from the Employer to the Contractor shall be suspended;
 - 21.1.2 the Contractor shall pay to the Employer the Employer's reasonable losses and expenses due to termination, but the Contractor shall receive

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credit for any sum the payment of which is suspended under clause 21.1.1; and

21.1.3 the Employer may hire any persons in the employment of the Contractor and the Employer may enter upon the Site and take possession of all goods, materials, plant and equipment (whether or not for incorporation in the Works) which are on the Site, or in storage or lying or in the course of preparation or manufacture off the Site, and may purchase or do anything requisite for the further execution of the Works, or may employ other contractors to do the same; and furthermore

21.1.4 where the Contractor becomes insolvent within the meaning of Section 113(2) of the Housing Grants, Construction and Regeneration Act 1996 (as amended) after the last date for the Employer to issue a Pay Less Notice in respect of any amount under clause 6.4A or 6.5B (whichever is applicable) such amount shall be immediately suspended.

Payment following
termination at will

21.2 If the Employer, in the exercise of the powers contained in clause 20.2, shall terminate the Contractor's employment under this Agreement, the following provisions shall take effect:

21.2.1 the Employer shall issue a certificate under clause 7.3A or a notice under 7.3B stating the amount due to the Contractor which shall be calculated in accordance with the provisions of clause 21.2.2; and

21.2.2 the amount payable on any termination pursuant to clause 20.2 shall be calculated as follows:-

- (i) the value of work executed up to the date of termination calculated in accordance with the provisions of the Contract Orders;
- (ii) the amounts payable in respect of any preliminary items in so far as the work or service comprised therein has been carried out or performed and a proper proportion of any such items which have been partially carried out or performed;
- (iii) the cost of materials or goods reasonably ordered for the Works which have been delivered to the Contractor or for which the Contractor is legally liable to accept delivery (such materials or goods becoming the property of the Employer

upon such payment being made to the Contractor);

- (iv) a sum being the amount of any expenditure reasonably incurred by the Contractor in the expectation of completing the whole of the Works in any Contract Order not then completed insofar as such expenditure has not been recovered by any other payments referred to above; and
- (v) the reasonable costs of removal of all the Contractor's plant, tools, equipment, goods and materials from the relevant Sites.

The Contractor shall not be entitled to payment of any other loss and/or damage arising from such termination including but not limited to loss of profit.

22 Third Party Rights

No Third Party
Rights Service

Subject to clause 13.1 and 17.7 but otherwise notwithstanding anything to the contrary contained elsewhere in this Agreement, nothing in this Agreement is intended to confer on any person any right to enforce any term of this Agreement which that person would not have had but for the provisions of Contracts (Rights of Third Parties) Act 1999.

23 Notices

The addresses for service of the parties shall be the relevant Addresses for Service set out in the Appendix. Any notice required to be given by a party shall be in writing and service shall be effected either:

- 23.1 personally, in which case service shall be deemed effective on delivery; or
- 23.2 by prepaid recorded delivery post, in which case service shall be deemed effective two working days after the day after posting.

24 Dispute Resolution

Adjudicator

- 24.1 Any dispute or difference arising under or in connection with this Agreement may be referred to adjudication by the Adjudicator in accordance with the following provisions:
 - 24.1.1 the Scheme for Construction Contracts SI No. 649 of 1998 shall apply; and
 - 24.1.2 the Adjudicator's decision is binding until the dispute or difference is finally determined by the Courts as provided in clause 24.3.

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Adjudicator not liable	24.2	The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith, and any employee or agent of the Adjudicator is similarly protected.
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Courts	24.3	Disputes and differences between the parties arising out of or in relation to this Agreement shall, subject to clause 24.1, be referred to the exclusive jurisdiction of the English Courts. This Agreement shall be governed by and construed in accordance with English Law.
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25 Limit on Liability for Railway Costs

Cap on Liability	For the purposes of this clause 25:
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25.1	“Track Access Agreement” means any agreement (excluding Freight Access Agreements) entered into between the Employer and any other party and incorporating the Network Code.
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25.2	“Freight Access Agreement” means any agreement (excluding Track Access Agreements) entered into between the Employer and any other party for non-passenger services and incorporating the Network Code.
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25.3	“Network Code” means the document entitled “Network Code” dated 23 September 2009, as amended and modified from time to time.
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Notwithstanding any other provision of this Agreement, the liability of the Contractor to compensate the Employer in respect of any consequential or indirect losses arising from an act or omission of the Contractor, or any sums payable by the Employer pursuant to Schedules 4 and 8 of any Track Access Agreement or the equivalent provisions of any Freight Access Agreement in respect of any Contract Order, whether in contract, tort, delict or otherwise shall not exceed in aggregate the Contract Price in respect of that Contract Order. Any amounts which may be payable under clause 14.4 shall not be taken into account in the calculations anticipated by this clause 25.

26 Site Security

Unauthorised persons	26.1	The Contractor shall take all reasonable steps and all steps required by this Agreement to prevent unauthorised persons being admitted to the Sites. If the Employer’s Representative gives the Contractor notice that any person is not to be admitted to a Site, the Contractor shall take all practicable steps to prevent that person being admitted.
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26.2	Where access to any Site is required by way of the Employer’s land, the route of such access shall be approved by the Employer’s Representative. The Contractor shall be responsible for ensuring that no person employed on its
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behalf trespasses beyond the agreed limits of the working area or access route and shall, if required so to do, provide and maintain to the satisfaction of the Employer's Representative temporary fencing of an approved type to prevent trespass on the railway or neighbouring land.

Passes	26.3	Passes are required for admission to a Site and the Employer shall either issue them to the Contractor or arrange for their issue by the Contractor. The Contractor shall submit to the Employer's Representative a list of the names of the relevant employees and other persons issued or to be issued with passes, and any other information which the Employer's Representative reasonably requires. The passes shall be returned at any time on the demand of the Employer's Representative and in any case on the completion of the Works.
Records	26.4	The Contractor shall maintain a record of all visitors to any Site and shall, if and when instructed by the Employer's Representative, give to the Employer's Representative a list of names and addresses of all persons who are or may be at any time concerned with the Works or any part thereof, specifying the capacities in which they are so concerned, and giving such other particulars as the Employer's Representative may reasonably require.

27 Speed Restrictions, Track Possessions and/or Isolations

Confirmation of Requirements	27.1	After the Contract Order has been accepted and the Employer has instructed the Contractor to commence the Works in that Contract Order, the Contractor shall in all cases submit written notice to the Employer confirming any speed restrictions, track possession or isolation requirements in accordance with the Employer's current planning procedures (or as otherwise laid down in the Contract Order) in advance of any proposed commencement of work on or near the railway lines.
	27.2	The Employer reserves the right to cancel or alter the dates and times of the agreed speed restrictions, track possessions or isolations at short notice if this proves necessary because of any emergency affecting the safe or uninterrupted running of rail traffic, but in such an event alternative arrangements will be made as soon as the Employer's programme permits.
Agreements by Contractor	27.3	Where any part of the Works has to be carried out during an agreed period of a speed restriction, track possession or isolation, the Contractor shall make adequate arrangements to ensure that such part can commence as programmed, and can be completed as early as possible, and in any case within that period. The arrangements shall include the provision of sufficient and suitable equipment (including,

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where practicable, standby equipment) and sufficient labour.

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| Cancellation prior to possession | 27.4 | Prior to the commencement of any speed restriction, track possession or isolation, if the Employer's Representative is of the opinion that the Contractor has failed to comply with the requirements of this clause, he may at his discretion cancel the speed restriction, track possession or isolation, or reduce the extent of the work that the Contractor may carry out during such speed restriction, track possession or isolation, and shall notify the Contractor accordingly. |
| Cancellation during possession | 27.5 | If, during a speed restriction, track possession or isolation, the Employer's Representative is of the opinion that the Contractor will be unable to complete the planned work (or any revision thereof proposed by the Contractor) to his satisfaction so as to permit the termination of the speed restriction, track possession or isolation at the time agreed, then the Employer's Representative may instruct the Contractor to reduce the extent of or vary the dates and times of the work to be carried out during such speed restriction, track possession or isolation. |

28 Compliance with Standards

The Contractor shall comply with Railway Group Standards, Network Rail Standards and/or any other equivalent standards. If there is a change in Railway Group Standards or Network Rail Standards affecting the Works after the date of this Agreement which necessitates a variation to the Works, such variation shall be treated as if it were an Employer's Instructions to which the provisions of clause 6.

29 Definitions

In clauses 30 to 31 the following terms bear the meanings set out below:

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| 29.1 | "Laboratory Testing" means the testing operations and processes necessary for the preparation of the Report to be carried out in accordance with this Agreement at a laboratory approved by the Employer on samples and cores obtained during the Works. |
| 29.2 | "Report" means the report to be prepared and submitted in accordance with the Agreement. |
| 29.3 | "Investigation" means the Works together with the Laboratory Testing and Report preparation and submission. |

30 Unforeseen Conditions

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| 30.1 | If the Employer's Representative decides that the physical conditions or artificial obstructions encountered are such that the Works in any Contract Order cannot be completed to the extent of or by the methods under this Agreement it shall |
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discuss with the Contractor the extent to which the Works can be completed and shall issue any Employer's Instructions it considers desirable to complete such work. In the event that any part of the Works is, in the Employer's Representative's opinion, impossible impracticable or undesirable as a result of the conditions or obstructions encountered, he shall notify the Contractor accordingly.

30.2 If during the Investigation, the Contractor encounters contamination or hazardous conditions which could not in its opinion reasonably have been foreseen it shall immediately:

- (a) inform the Employer;
- (b) take whatever steps it considers necessary to protect its staff and other persons and property and to secure the Site insofar as is possible or safe;
- (c) notify any local or other authority of any potential risk to public health or safety;
- (d) notify the Employer of the Contractor's assessment of the nature of the contamination or hazard.

If as a result of encountering such conditions it is in the Contractor's opinion necessary whether for reasons of safety or protection of persons and property or otherwise to suspend the Works or part of the Works it shall do so forthwith taking whatever steps may be necessary to secure the Site and exclude access by unauthorised persons.

30.3 If on considering the circumstances the Employer considers that the Investigation is more hazardous than could have been foreseen it shall:-

- (a) after discussion with the Contractor and any local or other authority confirm or amend the steps taken by the Contractor under clause 30.2(b);
- (b) confirm or amend any suspension of the Works;
- (c) issue an Employer's Instruction to which clause 6.3 shall apply.

30.4 If during the carrying out of the Works the Contractor shall encounter ground or geological conditions or other physical conditions which, in its opinion make it necessary for the effectiveness of the Investigation or for the adequacy of the Report to vary the Investigation or to continue the Works to a greater extent than specified in this Agreement it shall advise the Employer immediately and request an Employer's Instruction. In the event that the Employer is not available to issue an Instruction, the Contractor may continue such operations or change the mode of operation at its own discretion provided the additional cost of such changes does not exceed the sum specified in the Contract Order. Any

such change to the Investigation shall be treated as though it was carried out pursuant to an Employer's Instruction and clause 6.3 shall apply, unless the Employer decides that the change was unnecessary.

- 30.5 On completion of a borehole to its specified depth or to a greater depth under clause 30.4 the Contractor may unless this Agreement provides otherwise, backfill the boreholes in accordance with the Technical Workslope.

31 Services of a specialist

If this Agreement shall require or the Employer directs the Contractor to make available on any Site or elsewhere the services of suitably qualified persons for the description of soils and rocks, logging of trial pits, carrying out of geological and geotechnical appraisals, other technical and advisory services and the preparation of technical reports, the extent and scope of the service required shall be specified in the relevant Contract Order.

32 Anti-Bribery Requirements

- 32.1 The Contractor shall comply with all applicable anti-bribery and anti-corruption legislation including, without limitation, the Bribery Act 2010 and any applicable European Union Directives. The Contractor shall also comply with Network Rail's codes and policies on business ethics, interests in transactions and corporate hospitality, and any updates thereof. Any breach of this clause shall be deemed a material breach under the Agreement. (Note: These codes and policies are available on request).
- 32.2 Throughout the term of this Agreement the Contractor shall maintain and enforce its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with all applicable anti-bribery and anti-corruption legislation and European Union Directives. Adequate procedures shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of the Act).
- 32.3 The Contractor shall use all reasonable endeavours to ensure that all persons associated with the Contractor (as defined by section 8 of the Bribery Act 2010) including any subcontractors and suppliers comply with clause 32.1 and 32.2 above.

33 Entire Agreement

This Agreement and the documents referred to in it constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of this Agreement.

34 Instructions to stop or not start work

The Employer's Representative may instruct the Contractor to stop or not to start any work and may later instruct him that he may re-start or start it.

35 Set-Off

Without prejudice to the Employer's other rights and remedies, the Employer may deduct from any sums due to the Contractor under the Contract an amount equivalent to any sum due from the Contractor to the Employer (whether such sums are due to the Employer under the Contract or under any other agreement between the Contractor and the Employer) and may also deduct any sum of money that is recoverable from or payable by the Contractor under this Contract from any sum then due or which at any time thereafter may become due under any other agreement between the Contractor and the Employer.

36 Freedom of Information

36.1 The Contractor acknowledges that:

36.1.1 The Employer may be required, under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 (collectively, the **Information Acts**), to disclose information relating to the subject matter of this Agreement; and

36.1.2 notwithstanding any other provision in this Agreement, the Employer shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.

36.2 The Contractor shall provide all necessary assistance and cooperation as reasonably requested by the Employer to enable it to comply with its obligations under the Information Acts.

37 Corporate Tax

37.1 The Contractor shall keep (and shall procure that its Sub-Contractors keep) records of all expenditure, costs and other outgoings incurred in the performance of its obligations under this Agreement, to enable, validate and support claims and compliance requirements made by the Employer under UK tax legislation with particular reference, but not limited to, reliefs provided under the Capital Allowances Act 2001 ("CAA2001"). In particular, but without limitation, the Contractor shall provide (and shall procure that any Sub-Contractors provide) a breakdown of costs at a sufficiently

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granular level to enable identification of costs attributable to assets qualifying for tax relief under CAA2001.

- 37.2 The Contractor shall provide (and shall procure that its Sub-Contractors provide) such records in the form that the Employer may request and such other documentation as they may have in their possession for the purposes set out in Clause 37.1 above.

38 Cyber Security

The Contractor shall comply with Network Rail's Security Policy for Procurement CS15/01 for the level of security risk shown in the Appendix.

CONTRACT SPECIFIC CONDITIONS

Payment (Self Billing Process)

Appendix

- 2 Payment (clause 7) Alternative C shall apply

CONDITIONS

Insert

1 Definitions

“**COOM Electronic Purchase Order**” means a form for a Contract Order (in a format identified by Network Rail from time to time);

2 Contract Orders

Delete Clauses 2.1 to 2.3

Insert

- 2.1 Each Contract Order shall be a binding agreement for the supply of the Works which shall be the relevant Call Off Order Management (COOM) Electronic Purchase Order in accordance with Clause 2.3, and which shall incorporate the terms of this Agreement
- 2.2 Each Contract Order will incorporate the terms and conditions set out in this Agreement, together with:
- 2.2.1 The Works to be executed pursuant to the Contract Order
- 2.2.2 The Site in respect of such Works
- 2.2.3 The Period for Completion
- 2.2.4 The lump sum price in respect of the Works calculated by the Employer on a fair and reasonable basis having regard to the rates and prices included in the Pricing Document
- 2.3 Each Contract Order shall be formed on the issuing of a COOM Electronic Purchase Order by the Employer to the Contractor and acceptance by the Contractor thereof. No Contract Order will come into existence until a COOM Electronic Purchase Order is issued by the Employer to the Contractor
- 2.4 Subject to Clause 2.5, the Contractor shall not commence the Works without a Contract Order being formed in accordance with Clause 2.3 and that the terms of the Contract Order are complied with.
- 2.5 Where the Employer has an emergency requirement for Works without a COOM Electronic Purchase Order being in place the Employer's Representative may make such requirement known to the Contractor who will supply such Works to the Employer under the terms of this Agreement. The parties agree that in such circumstances they will work together to put in place a COOM Electronic Purchase Order, for the relevant Works as soon as possible
- 2.6 The Employer shall order the Works using Contract Orders (COOM Electronic Purchase Order) which will be sent to the Contractor via i-Supplier. Notifications will be sent electronically to the Contractor via the i-Supplier Portal to alert them that an order requires acknowledgment within 48 hours. On receipt of the COOM Electronic Purchase Order, the Contractor will either accept or reject a COOM Electronic Purchase Order and,

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where rejected, notify the Employer that it does not accept the COOM Electronic Purchase Order in which case it shall state in detail what element of the COOM Electronic Purchase Order it does not accept and the reasons therefore. COOM Electronic Purchase Orders that are not accepted by the Contractor will be recorded as part of the contract management. Accepted COOM Electronic Purchase Orders will be final and binding on the parties. The Contractor shall provide The Employer with an email address to be used for all i-Supplier notifications.

- 2.7 The Contractor shall immediately notify the Employer if the Contractor is at any time unable to supply the Works requested by the Employer for any COOM Electronic Purchase Order that has been accepted pursuant to Clause 2.6. Nothing in this Clause shall relieve the Contractor of its obligations under this Agreement or the relevant Contract Order or otherwise prejudice the rights and remedies of the Employer
- 2.8 The Employer's requirements may vary and this Agreement shall not place the Employer under any obligation to procure the Works from the Contractor at a particular time or at all. This Agreement is not an exclusive arrangement and nothing in this Agreement shall operate to prevent the Employer from engaging any other organisations or persons to provide works similar to or the same as the Works"

7 Payment

Delete Clauses 7.2 to 7.12

Insert ALTERNATIVE C

7.2 Self Billing Process

For work ordered on a lump sum or measured work rate basis, every third week of each Agreed Rail Industry Period a period progress meeting will be held. Valuation of such work properly done for the first three weeks of the period and the final week of the previous period will be calculated and agreed with a signed valuation form. The Employer shall operate a Self Billing process by receipting the Works and raising a self billing invoice on behalf of the Contractor. This information shall then be available for the Contractor to view and extract on i-Supplier. The Contractor shall be paid the amount properly due together with VAT thereon on or before the final date for payment which shall be 21 days from the date of the self billing invoice

7.3 HGCR Act

Invoices and receipts posted on i-Supplier shall be treated as notices for the purposes of s110A of the Housing Grants, Construction and Regeneration Act 1996 of the payment proposed to be made by the Employer to the Contractor.

7.4 Property in goods and materials

The property in any goods, materials, equipment or plant intended for the Works shall vest in the Employer when they have been incorporated into the Works or when the Contractor has received payment for them, whichever is the earlier. Where the value of any goods, materials, equipment or plant is included in any self billing receipt or invoice, the Contractor shall ensure that such goods, materials, equipment or plant are not removed from the places where they are situated at the date of the receipt/invoice except for delivery to the Site.

7.5 Correction of errors

The Employer may on any payment delete, correct or modify any sum previously paid by it. No payment issued or made by or on behalf of the Employer under this Agreement shall relieve the Contractor from any liability arising out of or in connection with this Agreement.

7.6 Set-off

Without prejudice to the Employer's other rights and remedies, the Employer may deduct from any sums due to the Contractor under this Agreement an amount equivalent to any sums due from the Contractor to the Employer (whether such sums are due to the Employer under this Agreement or under any other agreement between the Contractor and the Employer) and may also deduct any sum of money that is recoverable from or payable by the Contractor under this Agreement from any sum then due or which at any time thereafter may become due under any other agreement between the Contractor and the Employer. The Employer shall give to the Contractor written notice of any such deduction or set-off and such notice shall specify:

- 7.6.1 the amount proposed to be withheld and the ground for withholding payment; or
- 7.6.2 if there is more than one ground, each ground and the amount attributable to it. Such notice shall be given not later than five days before the final date for payment of each self billing receipt/invoice.

7.7 Interest on late payment

If the Employer fails to pay the Contractor any sum properly payable under this Agreement on or before the final date for payment of it, the Employer shall pay the Contractor simple interest on that sum from the relevant final date for payment until the actual date for payment calculated at a rate of 4% above the Bank of England Base Rate. It is agreed that this provision constitutes a substantial remedy for the purposes of Section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998

14 Commencement and delays in the execution of the Works

Delete Clause 14.4 Liquidated Damages

20 Termination

Insert

"20.1.4 Fails to hold either a Principle Contractors Licence (PCL) or a Railway Contractors Certificate (RCC)

20.1.5 Fail to hold the necessary tax exemption certificates or comply with such HMRC requirements or the like that are required to allow self-billing to operate (COOM)."

21 Consequences of Termination

Delete Clauses "21.2.1"

Insert

"21.2.1 the Employer shall issue a self billing invoice or receipt in accordance with the appropriate requirements of the clause 7 payment provisions stating the amount due to the Contractor which shall be calculated in accordance with the provisions of clause 21.2.2; and"

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TECHNICAL WORKSCOPE

Refer to Technical Workscope

NETWORK RAIL 4(MT)

CONTRACT REQUIREMENTS HSEA

Refer to Contract Requirements HSEA

NETWORK RAIL 4(MT)

PRELIMINARIES

Refer to Preliminaries

NETWORK RAIL 4(MT)

PRICING DOCUMENT

Refer to Pricing Document

NETWORK RAIL 4(MT)

PROCESS FOR ISSUING CONTRACT ORDERS

1. CALL OFF MECHANISM

- (i) This section sets out the process for issuing Contract Orders under the Vegetation Management contract.
- (ii) There are three options to issue a Contract Order: -
 - a) COOM Direct
 - b) COOM Competitive
 - c) Request for Quotation (RFQ)
- (iii) The table below is included as an example to demonstrate under what scenario the various Contract Order options will be utilised by Network Rail.

Option	Order Value	Contractors involved	How it works	When is it used?
COOM	Below £10k	Tier 1 Only	<ul style="list-style-type: none"> Order placed direct from COOM system catalogue to one of the three Tier 1 Contractors against the standard Schedule of Rates (day work or/and measured works) for the service A COOM Order in this category, for day work is defined as a single order not exceeding £10,000 which has a defined start and end date, identified work location and activity which will not exceed a value of £10,000. If the £10,000 cap is exceeded please refer to option COOM Competitive. COOM orders can be issued to any of the Tier 1 Contractors based upon Geographical coverage i.e. best placed resources. If more than 1 Contractor has suitably placed resources then a rotation award approach should be considered <p><i>Important note: In instances where the Tier 1 Contractors are unable to undertake the works (for example due to capacity issues) then the remaining Contractors within the Lot can then be approached.</i></p>	<p>Emergency/Urgent call outs</p> <p>Short term requirement for day work (one to two weeks) aligned to COOM rates</p> <p>Small quantities of measured works (Inc. CEFA)</p>
COOM Competitive	£10k & above	All 8 Contractors	<ul style="list-style-type: none"> At the beginning of each contract year the Resource Planner prepares a Route Sourcing Request indicating what operative skills/quantity are required based upon ordering day work staff for: <ul style="list-style-type: none"> 3 to 7, 8 to 12, 13 to 26 and 27 to 52 weeks This is passed to the Commercial Business Manager or equivalent person who will review and issue to the Route Buying team to issue an RFQ to the 8 Contractors for pricing The COOM catalogue will be revised to include the rates from the 8 Contractors with the COOM orders being issued to the most competitive day work rates for the applicable ordering timescale. Should a Contractor be unable to fill an order it will be offered to the next most competitive Contractor Only rates which are less than the initial 	<p>Medium term day work requirement e.g. multiple 3 man basic clearance / tree climbing gangs for three+ weeks</p> <p><i>(It is not anticipated that measured works will be required under COOM Competitive as they will either be sub £10k or specified within an RFQ)</i></p>

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			<p>award rates in COOM will be added</p> <ul style="list-style-type: none"> Shortly before 12 months have elapsed the above process must be repeated <p><i>Important note: CEFA measured rates are not subject to COOM Competitive requirements. CEFA works to be ordered using the COOM catalogue (table 6 within contract)</i></p>	
Request for Quotation (RFQ)	£10k & above	All 8 Contractors	<ul style="list-style-type: none"> Full RFQ issued via eSourcing to all Lot Contractors with full scope of works specification for pricing and fixed price lump sum return. COOM orders issued via £1.00 item with RFQ reference within order <p><i>Important note: CEFA measured rates are not subject to RFQ requirements. CEFA works to be ordered using the COOM catalogue (table 6 within contract)</i></p>	Vegetation Management scope of work packages above £10k in value

- (iv) It is a condition of this Agreement that the Contractor must hold either Principal Contractors Licence (PCL) or Rail Contractors Certificate (RCC) formal status prior to the issue of any Contract Order.

2. COOM DIRECT AWARD - TIER 1 STATUS

- (i) Tier 1 status is only applicable when using the COOM Direct Award option to issue a Contract Order.
- (ii) The Tier 1 Contractor status per Lot will be continually refreshed throughout the duration of the Agreement at points to be determined by Network Rail. The refresh will be based on the latest set of KPI scores per Contractor within the Lot, whereby the highest three KPI scoring Contractors will replace the existing Tier 1 Contractors for a period of time to be determined by Network Rail.
- (iii) Network Rail will determine the most appropriate use of Dayworks v Schedule of Rates for each specific Contract Order, which will be dependent on the type, duration and scope of the works.

3. CONTRACT AREA STRUCTURE (Lot)

- (i) Network Rail reserves the right to amend the Lot structure, including but not limited to increasing and reducing the number of Lot's, combining one or more Lot's and/or changing the postcode/geographical/area coverage of any Lot of combination of Lot's.
- (ii) Network Rail reserves the right to change the number of Contractors appointed to the Agreement and individual Lot's.

4. COMPETITIVE TENDERING OF WORKS

- (i) As referred to in clause 1(ii)b and 1(ii)c, during the period of this Agreement the Employers Representative will request that the Contractors submit tenders for the delivery of works, where the Employer's Representative has estimated that the works are likely to be £10k or over.
- (ii) The Employer's Representative will notify all the Contractors within the relevant Contract Area (Lot) with a request for quotation comprising of:

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- a) Request for quotation giving a brief description of the work, contact details and the like.
 - b) Site specific vegetation clearance / maintenance proposal
 - c) Work site location map
 - d) A programme
- (iii) Network Rail reserves the right to invite Contractors from other Contract Areas to competitively tender for works in any instances including, but not limited to, whereby Network Rail determines there is a requirement to increase competition and/or competency coverage capability.
- (iv) Network Rail reserves the right to segment Contractors for the purposes of inviting to a specific request for quotation event within each Lot and/or multiple of Lot's against areas including, but not limited to, geographical coverage/area of work, specific scope, type and/or volume of works, vegetation competency capability, resource requirements, and equipment/ machinery requirements.
- (v) The evaluation weighting to be used under the request for quotation option will be based against a range, which can be adjusted and set at the discretion of Network Rail for each request for quotation event, providing the overall evaluation weighting always equals 100%.
 - a) Cost range, 80% to 20%
 - b) Quality range, 20% to 80% (e.g. resource, method, H&S, programme)
- (vi) Network Rail reserves the right to include a project specific incentivised staged payment structure as part of Contract Order conditions, in order to incentivise the Contractor to achieve 100% completion of all works included within the scope of the Contract Order.

Vegetation Management Clearance & Maintenance

Contract Requirements

Clause 1.5 Technical Worksopce

A. Scope of Works

1. General Description of the Work

1.1. The Works comprise of the management of vegetation along rail Routes in order to keep the rail infrastructure clear of vegetation in compliance with Management of Lineside Vegetation Line Standard NR/L2/TRK/5201 and other Network Rail Standards, BS3998:2010 and allow the safe operation of passenger and freight trains at line speed with the minimum of delay and disruption, including without limitation:

1.2. Vegetation works

- 1.2.1. Maintenance of lineside vegetation cleared of trees and scrub to vertical line 6.5m from the running rails or 3.5m from Overhead Line Equipment, whichever is the greater (may include maintenance of rock cuttings);
- 1.2.2. Maintenance of lineside vegetation cleared of trees and scrub to a vertical line – distance specified on scoping document (incl signal & level crossing sighting and may include rock cuttings and steep cutting slopes and embankments);
- 1.2.3. Maintenance of lineside vegetation cleared of trees and scrub in and around infrastructure assets (incl signal sighting);
- 1.2.4. Maintenance and /or clearance of vegetation from within track and ballasted areas
- 1.2.5. Maintenance and /or clearance of vegetation from structures
- 1.2.6. Clearance of lineside vegetation to vertical line 6.5m from outside running rails or 3.5m from Overhead Line Equipment, whichever is the greater (incl signal & level crossing sighting)
- 1.2.7. Clearance of lineside vegetation to a vertical line - distance specified on scoping document (incl signal & level crossing sighting)
- 1.2.8. Clearance of lineside vegetation between 6.5m from the running rails and the boundary (may be selective felling / clear fell , selective pruning, crown reduction and other methods)
- 1.2.9. Clearance of lineside vegetation via pesticide treatments to kill wood stumps (Ecoplug preferred method).
- 1.2.10. Clearance of lineside vegetation on rock cuttings
- 1.2.11. Clearance of lineside vegetation on steep cutting slopes
- 1.2.12. Clearance of lineside vegetation on & around infrastructure assets
- 1.2.13. Clearance / management of hazardous trees (may be selective felling / clear fell, selective pruning, crown reduction and other methods).
- 1.2.14. Control of injurious and invasive weeds
- 1.2.15. Maintenance / clearance of vegetation outside the Employer's boundary – normally as response to related outside party requests and public complaints
- 1.2.16. Emergency response to signal sighting and other vegetation related incidents;
- 1.2.17. Tree and shrub planting, together with aftercare;
- 1.2.18. Vegetation survey works
- 1.2.19. Civils Examination Framework Agreement (CEFA) – clearance of vegetation in connection with enabling works
- 1.2.20. Civils Examination Framework Agreement (CEFA) – clearance of vegetation in advance of earthworks examinations

1.3. Vegetation Management Competencies

The Contractor shall advise the Employer's Representative as per Appendix 3 on the levels of competencies they can deliver against as part of the monthly KPI reporting pack. This shall include numbers of employees against the competencies and records shall be available for audit.

All Personnel will comply with the Network Rail Code of Conduct (Version 1).

2. Maintenance of Lineside Vegetation

- 2.1. The Contractor shall carry out maintenance of lineside vegetation cleared of trees and scrub. These works shall either be priced at the rates stated in the Pricing Document or shall be competitively tendered against other Contractors providing similar works to Network Rail.

3. Emergency Response to signal sighting and other vegetation related incidents

- 3.1. The Contractor's workforce delivering work items in clause 1.2 shall also be available 24hrs 7 days a week and have sufficient resources to respond to Contract Order issued on behalf of the Employer's Representative by Network Rail's Integrated Control Centre to clear vegetation obscuring signals or otherwise impinging upon the rail infrastructure, with arrival of a competent workforce at the work site as soon as possible (and at least within 2 hours of call-out if the call is made during normal working hours). The Contractor shall provide a 24 hour call out telephone number to the Employer's Representative which shall also be available to Network Rail's Integrated Control Centre.
- 3.2. Emergency response to vegetation related incidents, e.g. tree failure, signal sighting. First line response to vegetation related incidents affecting the railway shall be by the Employer's operatives. However, the Contractor shall have a robust 24 hour control and communication facility which shall be able to respond to requests for assistance from Network Rail's Integrated Control Centre to deal with vegetation related incidents.

When instructed by Integrated Control Centre or the Employer's Representative, a team of operatives may be either placed on standby or instructed to immediately respond to a vegetation related incident.

Where a team is placed on standby during normal working hours (Monday to Friday 07:00 – 18:59hrs), no additional charge will be made if the team is not required to respond. If a team is required to be placed on standby outside normal working hours, a team standby rate shall apply for each 12 hour team shift. Where a team responds to an incident, the emergency contract call out rate shall apply and the team will remain on standby for a 12 hour period.

In extended periods of inclement weather, the Contractor is expected to manage rostering of his teams to ensure continuous emergency cover.

4. Other Vegetation and Associated Works

- 4.1. All other vegetation and associated works shall be instructed by the Employer's Representative as and when required by Contract Order. These works shall either be priced at the rates stated in Schedule of Rates of the Pricing Document or shall be competitively tendered by the Contractor against other Contractors providing similar works to the Employer.

5. Provision of Labour, Equipment, Plant and Materials on a Call-off Basis under Network Rail Supervision

- 5.1. When requested by Contract Order the Contractor shall provide suitably qualified operatives on a call-off basis to carry out vegetation works and other associated works under the supervision of the Employer with stated equipment, plant, materials and transport. For these works the Employer shall be responsible for the provision of all planning (including SSOWPs planning, permit system / Safe Work Leader process), provision of method statements, obtaining access, arrangement and provision of possessions, protection and isolations and compliance with all environmental and legislative requirements. The rates for such operatives, equipment, plant and materials shall be as stated in the Pricing Document
- 5.2. The use of On Track Plant (OTP) and Plant working within 3m of the line. Operations utilising OTP and/or non-rail mounted Plant working within 3m of the line shall only be undertaken by an approved Plant Operating Scheme (POS) provider.

All operations utilising OTP and non-rail mounted Plant working within 3m of the line are included within the scope of the mandatory POS Rules.

6. Quantity of Work

- 6.1. There is no guarantee regarding the quantity of work that may be ordered under this contract, unless otherwise agreed by the Employer.

7. Lot Structure

- 7.1. The Lot Structure is defined in the Appendix 1 and 2 herein. The Contract Area referred to in clause 13 of the Appendix to the Agreement shall be this Lot Structure.

B. Specification

1. Definitions

The following definitions shall apply to this Contract:

1.1. Arisings

Arisings are any cut vegetation

1.2. Assets

Assets means any Network Rail property which forms part of its rail infrastructure and includes, without limitation, structures, operational lineside buildings and their compounds, location & power cabinets, level crossings, walking routes, cess paths, cable routes, overhead lines and associated equipment, gantries, return conductors (incl ATF), radio antenna / masts and compounds, wire and rod runs.

1.3. Cutting / Embankment

Slopes with an angle less than 33° to the horizontal (1:1.5 gradient).

1.4. Hazardous Tree (often colloquially referred to as 'DDD')

Trees assessed using the protocol defined in NR/L3/TRK/003/TEF3077 or TEF3245.

1.5. Exclusion zone

A zone of at least 2 metres radius and not within 5m of the track around a bird's nest identified during the bird nesting season where no work shall be carried out until advice is sought from the Employer's Representative or his appointed Environment Specialist.

1.6. Injurious and invasive weeds

Plants listed in The Weeds Act 1959 including Common Ragwort (*Senecio jacobaea*), The Wildlife and Countryside Act 1981 including Japanese Knotweed (*Fallopia japonica*) and Giant Hogweed (*Heracleum mantegazzianum*), Giant Knotweed (*Fallopia sachalinensis*), Hybrid Knotweed (cross between Japanese and giant) (*Fallopia x bohemica*) and Himalayan Balsam (*Impatiens glandulifera*), Maretail / Horsetail and Rhododendron. See NR/L2.TRK/5201 cl 7.1

1.7. Leaf fall species

Tree species with leaves known to cause railway track adhesion problems in Autumn, such as Sycamore (*Acer pseudoplatanus*), Ash (*Fraxinus excelsior*), Sweet Chestnut (*Castanea sativa*), Horse Chestnut (*Aesculus hippocastanum*), Poplar (*Populus species* – except *Aspen*, *p. tremula*) and Lime (*Tilia species*) and any deciduous tree species in dense concentrations.

1.8. Outside Party

Any neighbour of the Employer, or body with whom the Contractor may have to interact.

1.9. Pruning

The removal of living or dead parts of a tree leaving a smooth and sound face without damage to the surrounding tissue (BS3998:2010 refers).

- 1.10. Scrub
Small woody ground cover; brambles, weeds (incl buddleia), gorse, broom and tall grasses.
- 1.11. Siding up
Removal of branches from one side of a tree, from the ground by use of a pole saw, or by climbing the tree and using a chainsaw, leaving a tree that is well balanced (BS3998:2010 refers)
- 1.12. Site Management Statement
A statement agreed between Network Rail and Natural England, the Natural Resources Wales (NRW) or Scottish Natural Heritage detailing admissible vegetation maintenance works within or adjacent to Sites of Special Scientific Interest (S.S.S.I.).
- 1.13. Steep Cutting / Steep Embankment
Slopes with an angle greater than 33° to the horizontal (1:1.5 gradient).

2. General Requirements for Vegetation Management:

- 2.1. Standards
The Contractor shall carry out the works in compliance with the Forestry Industry Safety Accord (FISA) Guidance Notes or any replacement HSE guidance, all relevant British Standards, including BS 3998:2010, BS5837 and BS7370, and Network Rail's Biodiversity Action Plan and Environmental Guidance Notes. The Contractor shall also comply with all relevant Group and Network Rail Standards included in this contract
- 2.2. The Contractor shall carry out all necessary SSOWP planning for the Works in accordance with NR/L2/OHS/019.
- 2.3. The Contractor shall carry out all necessary Permits to Work Planning for the Works in accordance with NR/L2/OHS/133.
- 2.4. Possessions
The Employer shall be responsible for identifying any Possessions or isolations requirements, but shall be assisted in this activity by the Contractor. The Employer and the Contractor shall work together to minimise the use of and length of any Possessions or isolations needed in order to perform the Works.
The Contractor may be required to attend 4 weekly Work and Possession planning meetings. The Contractor shall be wholly responsible for refining and delivering the detailed plans and Work Package Planning for the execution of the Works.
The Employer will use reasonable endeavours not to change or cancel Work or Possessions, but has the absolute right to do so if the Employer deems this necessary, and will consult with the Contractor as far as possible prior to any change or cancellation.
Unless the Employer has specifically notified the Contractor in writing that such personnel are to be provided by the Employer or others employed by the Employer, the Contractor shall at their own cost provide Engineering Supervisors, Nominated Persons, Controllers of Site Safety (COSS), Safe Work Leader and the contact details for such personnel at least 10 days before the start of the week in which the relevant Possession occurs and shall ensure that all procedures have been followed and documentation produced for the successful and safe execution of the Possession
- 2.5. Man-hours
The Contractor shall comply with the requirements of the European Working Time Directive and the Hidden report recommendations and shall monitor the number of man-hours worked on the Infrastructure (i.e. exposure time) and supply written details to the Employer's Representative at the end of each period. Red and Green Zone working shall be separately identified. Red zone working is not permitted without prior consent from the Employer's Representative.

2.6. Vandalism and theft

Any incidents of vandalism, theft etc. on Network Rail's infrastructure and within the Contractor's site shall be advised to Network Rail Integrated Control centre and the British Transport Police (BTP) through their Police Control Room.

2.7. Use of rubber tyred road vehicles

To avoid the possibility of damage to the ballast shoulder and track geometry, rubber tracked vehicles shall only be permitted between the cess ballast extremities with the approval of the Employer's Representative.

2.8. Protection of Assets

The Contractor shall take all necessary precautions to protect the Employer's Assets whilst carrying out the Works (particularly to vulnerable exposed cables and cable troughs), shall report any damage caused to the Employer's Representative and shall be responsible for the cost of any making good.

2.9. Fenced Infrastructure Compounds

Work within fenced infrastructure compounds near sensitive or potentially dangerous assets shall be planned and agreed with Employer and the Employer shall provide a dedicated supervisor for the duration of the work. Failure by the Contractor to reasonably follow the planned work programme may result in the Contractor being charged for the supervisor's time and similarly, failure by the Employer to reasonably provide a supervisor may allow the Contractor to charge for lost time.

2.10. Bank Stability

If during the course of the works a potential problem is encountered, work must cease and the Employer's Representative must be notified immediately.

2.11. Waste

Waste must be handled in accordance with the Employer's Waste Management Manual (NR/GN/ENV/004). Where waste is removed from the Employer's land it must be removed to appropriate licensed tips and all waste management documentation must be made available for inspection by the Employer's Representative upon request. The Contractor will provide periodic reports of the volumes of all waste handled through this contract separated by waste type e.g. line side litter, fly tipping etc.

2.12. Photographs

Photographic evidence of the 'before and after' condition of each work site is to be provided by the Contractor prior payment of any associated works. Photographs must be provided in digital format of sufficient resolution to see the required detail and shall be in colour and dated. Specific photographic evidence of any existing dilapidation to infrastructure noted by the Contractor prior to work commencing shall be provided to the Employer's Representative.

2.13. Measuring of works completed

The Employer reserves the right to re-measure all works upon completion in order to agree the re-measured quantities with the Employer's Representative prior to payment of any associated works.

2.14. Ellipse Reporting of Works Completed

The Employer is responsible for operating a safe and efficient rail network. Effectively managing lineside vegetation is an important component of that activity and the Employer has a standard (NR/L2/TRK/5201) that defines how this should be carried out. The Employer maintains an asset management and maintenance system (Ellipse) to record vegetation management work planned and completed, and to provide management information on activity that has taken place to clear and maintain the lineside to compliance with the standard. Consequently it is important that the Contractor provides accurate information of the work completed which will either be by completion of a standard form or via an iPhone/iPad app, depending on the extent to which the technology has been implemented, to update and maintain the asset management system.

The Contractor will provide the Employer's Representative with a fully completed and detailed report in the latest Network Rail Ellipse Reporting format following completion of all works

commissioned under the Framework Agreement including but not limited to Vegetation clearance and planned maintenance works prior to payment of any associated works.

2.15. Competency Level Assessment

The Employer reserves the right to undertake a competency level assessment against the Contractor at any point throughout the duration of the Contract.

2.16. Competency Level Profile

It is envisaged that the profile usage of the competency levels are likely to evolve throughout the life of the Contract as the Employer's vegetation requirements transfer from a major clearance focus to an increased maintenance / management regime.

3. Environment

3.1. Works in or Adjacent to Environmentally Sensitive Sites

Prior to commencing work on any site the Contractor shall check the Network Rail Hazard Directory and any public records to identify any nearby Sites of Special Scientific Interest (SSSIs), nature reserves or conservation areas. Where vegetation works are in or adjacent to such areas, the Contractor shall refer to and comply with any Site Management Statements (SMS) and notify the Employer's Representative prior to commencing work. Where work is outside the scope of the Site Management Statement liaison is required with Natural England, Natural Resources Wales (NRW) or Scottish Natural Heritage. Where SMS's have not been provided, the Contractor shall seek guidance from the Employer's Representative. Work shall be carried out in accordance with Network Rail's Protected Sites and Species Management document (NR/L3/MTC/EN0099). For other designated sites such as AONB or National Parks the relevant government body shall be consulted prior to work. Also refer to the Lineside Management Vegetation Guide – Environmental & Community Requirements.

Some environmentally sensitive sites may not be recorded and if discovered, the Contractor shall immediately advise the Employer's Representative and comply with any applicable restrictions.

3.2. Tree Preservation Orders

Prior to commencing work on any trees the Contractor shall check with the local planning authority to identify any Tree Preservation Orders and shall then comply with such restrictions and if necessary apply for the necessary permission and inform the Employer's Representative.

3.3. Protected Species

The presence of protected species may be identified in the Hazard Directory and where identified appropriate mitigation measures or licences shall be applied for by the Contractor prior to works being undertaken. For all sites, the Contractor shall undertake a risk assessment that addresses the likelihood of protected species at the site and subsequently identify whether an ecology survey should be undertaken. All ecology survey work shall be agreed with the Employer's Representative. Any recommendations from such surveys shall be discussed with Employer's Representative. Work shall be carried out in accordance with Network Rail's Protected Sites and Species Management document (NR/L3/MTC/EN0099) and where required licences shall be applied for from the appropriate organisation. Copies of initial ecological assessments and any resulting surveys shall be provided to the Employer's Representative.

Notwithstanding any prior survey work, before commencing each day's work the site shall be checked to identify areas which need to be excluded because of the presence of protected species – this work site check shall be carried out by suitably competent operatives. If protected species are located by either the daily check or during operations, work shall stop and a suitable exclusion zone set up according to the species (in line with current guidance) at the affected location until advice is obtained from the Employer's Representative and (where applicable) the Contractor's ecologist. During the bird nesting season, an exclusion zones shall also be identified around birds' nests until advice is obtained from the Employer's Representative.

Details of any protected species or significant nesting sites that are not recorded on Network Rail's databases shall be notified to the Employer's Representative for future inclusion.

4. Communications

4.1. Notification of Significant Works

Where significant works of vegetation management are required to be carried out, the Employer's Representative shall complete a Community Impact Assessment Form and shall pass to Network Rail Community Relations ten weeks prior to work commencement. No contact shall be made by Contractors with outside parties prior to this time without consent from the Employer's Representative

The Contractor shall satisfy himself that the notification to Network Rail Community Relations has been undertaken and shall then undertake the necessary stakeholder notifications such as Environmental and Legislative checks such as TPOs, SSSIs, Protected Species and the like. Where necessary, applications for licences and permissions to undertake work shall be made at this time. An invitation can also be made for a stakeholder representative to attend a site visit together with the Contractor and the Employer's Representative

These approaches shall be made in liaison with the Employer's Representative with records kept of all contacts made and these contact details shall be made available to the Employer's Representative

The Employer is responsible to the Contractor for determining who shall receive pre-notification letters and shall provide a list of addresses to the Contractor. The Contractor shall, if requested, carry out delivery of the letters on behalf of The Employer and shall confirm that notification has been undertaken as the list provided

It is recognised that on occasions, Work will need to be undertaken within shorter timescales than detailed above. In these situations, contact shall be made with all the parties as soon as possible and preferably prior to the Work being carried out. If prior contact is not possible, then explanation of the reasons for the Work shall be distributed to the relevant parties within 7 working days of the start of operations.

4.2. Notification for Routine Maintenance Works

For routine maintenance work, if the work has an impact on the local community, the Employer shall determine who should receive pre-notification letters and shall request the Contractor to deliver same to a list of agreed addresses. The Contractor shall confirm in writing to the Employer's Representative that this has been undertaken.

Notification letters for routine or significant works shall always be prepared on the Employer headed paper and by the Employer.

5. Specific Requirements for Vegetation Management

5.1. Maintenance, Clearance & Management of Lineside Vegetation

All vegetation situated on NR property is within scope, however once the NR boundary line is reached the vegetation outside is the property and liability of the relevant landowner (refer to section 5.5 Overhanging Outside Party Vegetation)

Lineside vegetation from 0m to vertical line at 6.5 metres or to within 3.5m of Overhead Line Equipment shall include all vegetation growing on or overhanging any land 6.5 metres (measured horizontally regardless of actual ground slope) from the outside edge of the outside rail and any vegetation outside of this zone which is required to be maintained in order to meet the required sighting distance of signals and level crossings as laid out in NR/L2/TRK/5201.

Trees below 150mm diameter that overhang into the 0-6.5m or within 3.5m of Overhead Line Equipment zone shall be removed completely and not sided up.

When siding up a tree > 150mm diameter on Network Rail land outside the 0-6.5m or 3.5m from Overhead Line Equipment zone with overhang into the 0-6.5m zone, if more than 30% crown reduction is required to create a well balanced tree, the tree shall be removed completely.

5.2. Maintenance by Road Rail Vehicles with Mechanical Flails

Lineside vegetation where growth has been vigorous may be maintained / cleared by the use of Road Rail Vehicles (RRV) with mechanical flails / mulching units subject to the consent of the Employer's Representative. Flailing / mulching shall not be used on vegetation greater than 75mm diameter and trunks of retained trees shall be avoided and left undamaged. All damage to woody plant material greater than 75mm diameter shall be made good with a BS3998:2010 compliant pruning cut. Flail and mulching heads must be appropriate to the vegetation to be maintained. Stumps >50mm diameter that have been flailed should be tidied by chainsaw to BS3998:2010. All equipment and machinery must be used in strict accordance with the manufacturer instructions.

5.3. Herbicides

The Contractor shall be registered with BASIS or use BASIS qualified advisors and only use herbicides approved by the Employer's Representative. Selective and non-selective herbicides shall be used as appropriate. The selection of the appropriate herbicides should be in accordance with the Network Rail herbicide protocol available from the Employer's Representative and specified by a nominated BASIS approved person. Staff using herbicides must have the appropriate competency (i.e. NPTC – Herbicide application (spraying) competency PA1 and PA6, NRoSO National Register of Spray Operators). Records must be kept of this training.

A copy of each Pesticide Application Record Form TEF3069 should be provided to the Employer's Representative within 4 weeks of the application.

The Contractor shall provide to the Employer's Representative full details (including COSHH assessments) of all chemicals to be used. This information must also be available at all work sites. Herbicides shall be stored in accordance with the manufacturer's Orders in tightly sealed and correctly labelled containers in a locked store, accessible only to authorised persons. The storage and transport of herbicides, and COSHH record keeping, must be maintained in line with the Code of Practice for using Plant Protection Products.

The Contractor is responsible for ensuring appropriate herbicides are used in Water Source Protection Areas identified in the Network Rail Hazard Directory and shall accommodate these restrictions in his work plans.

Before any product approved for use in or near water is used, the Environment Agency/Scottish Environmental Protection Agency (where applicable) must be consulted. The Codes of Practice for using Plant Protection Products also states that water abstractors should be made aware. The Environment Agency has a form ([WQM1](#)) that is used to facilitate this requirement. In addition, Natural England, Natural Resources Wales (NRW) or Scottish Natural Heritage (where applicable) may also need to be contacted if the herbicide is used in a protected site.

The location, type and quantities of all herbicides used for the Works shall be recorded by the Contractor and copied to the Employer's Representative using TEF3069. A process must be put in place to ensure that these records can be made available to the regulatory authorities on an annual and ad hoc basis.

5.4. Work to Trees

All tree work shall be carried out by competent, and where applicable N.P.T.C. certificated Contractor's personnel and in accordance with BS 3998:2010, BS 5837, BS 7370: Part 4 and applicable Forestry Industry Safety Accord (FISA) Guidance Notes. The Contractor shall provide to the Employer's Representative and keep up to date a register and copies of relevant certificates in forestry work for all personnel.

Should the Contractor mark trees prior to felling or other work, red or green paint shall not be used. Tags attached to trees during the National Lineside Tree Survey that are identified for felling shall be removed only once the tree is felled and passed to the Employer's Representative

The necessity for a felling licence shall be determined by the Contractor for the particular work, and if required, a felling licence shall be obtained prior to felling commencing.

Tree felling shall be carried out in a controlled manner, using guide ropes where appropriate to ensure that the trees or branches fall away from the tracks, property and equipment. Trees shall be felled as close to ground level as is practicable, but left no higher (before stump treatment where applicable) than 100mm off ground level.

To prevent re-growth, stumps shall be treated with Ecoplug as the preferred method. Alternatively application of an herbicide and marker dye can be used (to aid identification of treated stumps) if approved by the Employer's Representative and specified by a nominated BASIS approved person. Spray stump treatment must be undertaken within 15 minutes of felling as work progresses. Ecoplug stump treatment shall be undertaken within 1 calendar month of felling. Delay in treating or failure of the initial treatment shall require the stump to be re-cut and treated. On occasion, the Employer's Representative may instruct tree stumps to be either removed by excavation or grinding.

If, during the course of carrying out the contract, the Contractor notes any trees that may pose a potential danger or nuisance to the operational railway, its staff or the public, they shall be reported to the Employer's Representative using TEF 3077 or TEF 3245. The Employer's Representative shall note the report and take appropriate action which may include the issue of an appropriate Contract Order.

Where trees are risk assessed by the Contractor using TEF 3077 or TEF 3245 and identified as requiring urgent action, the Contractor shall contact both the Employer's Representative and the Integrated Control Centre and seek their Order.

Siding up of trees leaving a poorly balanced tree shall only be allowed by written agreement of the Employer's Representative.

5.5. Overhanging Outside Party Vegetation

The Contractor may cut small branches of vegetation overhanging the lineside boundary fence. Where more extensive tree surgery is required to Outside Party trees or where Outside Party hedges obscure safe sightings of trains, signals or signs and need to be extensively cut or removed, the Contractor shall contact the Outside Party and undertake the work in agreement with the Outside Party. If the Outside Party refuses to allow the work or disputes the quality of work done, the Contractor shall refer the matter to the Employer's Representative.

5.6. Outside Party trees are the responsibility of the Outside Party.

5.7. Disposal of Arisings

Unless specifically agreed otherwise all arisings from vegetation maintenance works shall be chipped and evenly disposed of on-site to a depth not to exceed 100mm and without fouling assets, particularly drainage ditches and water courses, catch pits, track ballast, access routes and fence lines. All other forms of deleterious material shall be removed from site. Recovered materials with a residual value remain the property of the Employer and the Contractor shall seek instructions from the Employer's Representative for their retention or disposal accordingly. Where these are not used for another purpose such as logs or biofuel records must be kept of where the arisings are disposed of e.g. licensed tip and included in the periodic report of waste.

Where there is no safe site access to provide a chipping machine or because only a few trees require felling or there is limited possession time, or where trunks are too large to reasonably chip (i.e. requiring multiple splits of the trunk), the arisings may be retained on site.

If arisings are to be retained on site, this shall only be allowed with the written approval of the Employer's Representative in advance and the arisings shall be laid neatly in drifts, butt ends facing the same direction and cut on site to a size sufficient to avoid a tripping hazard and trunks shall be left either whole or cut, stacked and banded perpendicular to the track so as minimise risk of route crime.

Chipping on steep cuttings (>33°) shall only be allowed with the agreement of the Employer's Representative.

Burning of arisings will not be permitted on the Employer's Infrastructure.

A rate reduction will apply for any woody arisings left on site.

5.8. Vegetation on structures

Vegetation growing and/or rooted on structures shall be cut using hedge-cutters or chainsaws and shall be killed with an appropriate herbicide application. Ivy roots shall be cut at ground level and treated with an appropriate herbicide. Pulling of ivy rooted in the structure shall be prohibited.

5.9. Control of injurious and invasive weeds

Injurious and invasive weeds shall be treated following the guidance in NR/L3/TRK/002/D14. Sites shall be recorded and advised to the Employer's Representative. See 7.1 of L2/TRK/5201. Any other techniques can be proposed to the Employer's Representative and used following their written agreement.

5.10. Tree and Shrub Planting

The location of groups to be planted, the size of the group, spacing between trees and type of planting shall be decided on site by the Employer's Representative and the Contractor's representative. All stock shall comply with the specification for nursery stock as set out in BS 3936 Parts 1, or 10 as appropriate. Planting shall conform to BS 3975, BS 4156 and BS 4428. Bare-rooted whips shall be lifted from the nursery between mid-October and mid-March. Planting is to be carried out in accordance with the Code of Practice laid down in the Horticultural Trades Association publication "Handling and Establishing Landscape Plants" (1996). The Contractor shall ensure that the area around the new planting is clear of weeds. All new tree/shrub planting is to be protected using rabbit spirals 1.2m for trees .75m for shrubs and to be staked using bamboo canes or by another method approved by the Network Rail. Refer to the Network Rail Planning Planting and Maintenance Schedule.

5.11. Response to vegetation related outside party and public complaints

When instructed to do so by the Employer's Representative the Contractor shall respond to vegetation related public complaints, carrying out such works as are instructed.

5.12. Emergency response to signal sighting and other vegetation related incidents

First line response to vegetation related incidents affecting the railway shall be by Network Rail operatives. However, the Contractor shall have a robust 24 hour control and communication facility which shall be able to respond to requests for assistance from Network Rail's Integrated Control Centre to deal with vegetation related incidents.

When instructed by Integrated Control Centre or the Employer's Representative, a team of operatives may be either placed on standby or instructed to immediately respond to a vegetation related incident.

Where a team is placed on standby during normal working hours (Monday to Friday 08:00 – 17:00hrs), no additional charge will be made if the team is not required to respond. If a team is required to be placed on standby outside normal working hours, a team standby rate shall apply for each 12 hour team shift. Where a team responds to an incident, the emergency contract call out rate shall apply and the team will remain on standby for a 12 hour period.

In extended periods of inclement weather, the Contractor is expected to manage rostering of his teams to ensure continuous emergency cover.

5.13. Repairs to Fencing

Contractor shall notify Employer's Representative immediately of any damaged or missing fencing not recorded in dilapidation photographs and shall take appropriate measures to secure the boundary.

5.14. Road Closures

Where part of full road closures are required to carry out the work the Contractor will obtain all necessary permits from the Local Authorities and / or Roads Departments. All fees associated with obtaining the necessary permits, attendance on meetings will be at the Contractor's expense, except where work priced using rates

5.15. Clearance on Completion

The Contractor shall include for the clearance of all debris resulting from the execution of the works.

5.16. All Works shall include the provision of :-

- A site and task specific risk assessment, which will be briefed to all workers employed on the site prior to work commencing.
- All sites will be supervised at all time by a directly employed individual (of the Contractor) who will not be engaged in any tree climbing or rescue activities at any time whilst engaged in the supervisory capacity.
- All activities will be undertaken in line with the Network Rail Task Risk Control Manual and relevant Forestry Industry Safety Accord (FISA) guides.

5.17. Civils Examination Framework Agreement (CEFA) - Vegetation Removal Works from Structures

The rate for vegetation clearance is deemed to include the following:

- All vegetation clearance including trees and scrub up to 500mm girth measured at cut height.
- Ground based fall arrest trained teams working under site warden.
- The rates exclude costs associated with :
 - Traffic management
 - Night time possessions
 - Mewps
 - Specialist rope access teams
- The rates will also allow for the application of a herbicide onto the cut stumps to restrict regrowth

The Sites will be visited by the Contractors supervisor/manager to undertake a site specific risk assessment to assist in the preparation of a Task briefing sheet. This visit will also confirm with dated photos and the extent of the vegetation clearance required. Details of the site visit will be sent electronically to the Employer's Representative and included in the rates.

Where ladder access is required vegetation will be removed from the face of the structure but to clear back 1m from the engineered edge and to clear 2m along the foot of walls over 2m high.

The Contractor will also survey and report back if additional clearance is required to create safe access to the structure.

The Contractor will prior commencing a worksite look for the signs of nesting birds and for the physical signs of bat roosts and they will undertake a simple environmental risk assessments. If a full ecological survey is required the Contractor is to report their findings to the Employer's Representative.

Programme will be devised that clears structures in a logical order following line of route to give best value. The Contractor is to submit to the Employer's Representative on a weekly basis a progress report details planned start, actual start, finish date, details of delays/blockers.

The works will be re measured on completion and the quantities agreed with the Employer's Representative.

5.18. CEFA Vegetation Clearance Works for Earthworks examinations.

All works to be carried out in accordance with:

- Management of Lineside Vegetation Standard NR/L2/TRK/5201
- The work shall comply with the Forestry Industry Safety Accord (FISA) Guidance Notes or any replacement HSE guidance, all relevant British Standards, including BS 3998:2010 and BS7370, and Network Rail's Biodiversity Action Plan and Environmental Guidance Notes.
- The Contractor shall also comply with all relevant Group and Network Rail Standards
- Earthworks De-vegetation types – soil cuttings, embankments, natural slopes, rock cuttings

The rate for vegetation clearance is deemed to include the following:

- All vegetation clearance including trees and scrub up to 500mm girth measured at cut height.
- Ground based fall arrest trained teams working under site warden.
- The rates exclude costs associated with :
 - Traffic Management
 - Night time possessions
 - Specialist rope access teams
- The rates will also allow for the application of a herbicide onto the cut stumps to restrict regrowth

The Sites will be visited by the Contractors supervisor/manager to undertake a site specific risk assessment to assist in the preparation of a Task briefing sheet. This visit will also confirm with dated photos and the extent of the vegetation clearance required. Details of the site visit will be sent electronically to the Employer's Representative and included in the rates.

The Contractor will prior commencing a worksite look for the signs of nesting birds and for the physical signs of bat roosts and they will undertake a simple environmental risk assessments. If a full ecological survey is required the Contractor is to report their findings to the Employer's Representative.

Programme will be devised that clears earthwork sites in a logical order following line of route to give best value. The Contractor is to submit to the Employer's Representative on a weekly basis a progress report details planned start, actual start, finish date, details of delays/blockers.

The works will be re measured on completion and the quantities agreed with the Employer's Representative

5.19. Ecological Surveys - Competence of Surveyors

Surveys should be undertaken by competent ecologists, the Employer will engage the works of those consultants on the Employer Rail Ecology Works Framework or other Employer approved ecological consultants.

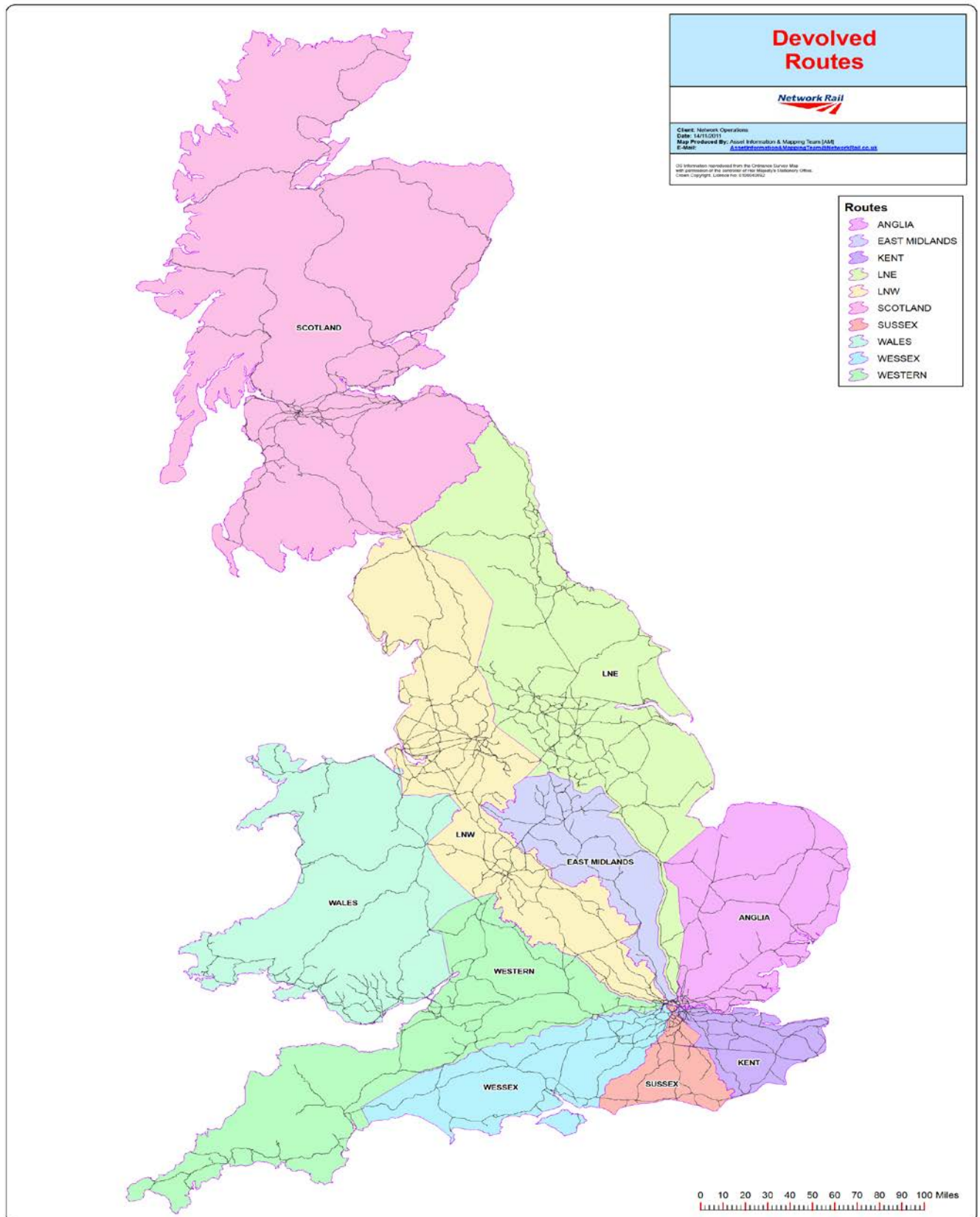
If surveys are to be undertaken by ecologists employed, or commissioned, by the appointed Vegetation management Contractor, it is recommended that a Quality Assurance procedure is put in place to ensure the competence of the surveyors being used, including but not limited to; ensuring that details, including CVs, of the ecologists to be utilised, are submitted with the tender document of the vegetation management Contractor. Ecologists should ideally be members of the Chartered Institute of Ecology and Environmental Management (CIEEM). It is also recommended that a proportion of the reports submitted are reviewed by the Route Environment Specialists.

Appendix 1

Lot Structure with Delivery Units

Vegetation LOT no.	Description	Delivery Units
1	Anglia	Route wide
2	Wessex	Route wide
3	Western	Route wide
4	Wales	Route wide
5	Scotland	Route wide
6	LNE & East Midlands South	Bedford, Hitchin
7	LNE & East Midlands Central	Leeds, Doncaster, Sheffield, Derby
8	LNE North	Newcastle Upon Tyne, York
9	LNW North	Carlisle, Preston
10	LNW Central	Chester, Liverpool, Manchester,
11	LNW South	Birmingham, Stafford, Bletchley, Euston
12	South East (Kent & Sussex)	Route wide

Appendix 2 – Network Rail Route Structure



Appendix 3 – Vegetation Competencies

Capability Category	Capability Level & Detail
Category (A) Maintenance Activities	<p>Level 1 (a) Clearance of grass, weeds, scrub and small sapling trees (up to 150mmdbh (tree diameter at breast height) by the use of trimmers, brushcutters and hand saws by competent staff.</p> <p>Level 1 (b) Maintenance of cleared areas with herbicide by spray treatment from knapsack sprayers. PA 1 & PA 6 herbicide treatment competency required by operatives plus safe and regulated application and storage of herbicides by the Contractor.</p>
Category (B) Vegetation Clearance Operations Motor Manual	<p>Level 2 Felling and clearance of small and medium size trees, up to greater than 150mmdbh, from the ground by chainsaw and disposal of arisings by chipper or rashed (drifts cut by chainsaw to small lengths) on site, by competent staff.</p> <p>Level 3 Felling of medium and large size trees, greater than 150mmdbh, by chainsaw, where the sectional dismantling and felling of the tree requires additional controls including roping and climbing by competent staff.</p> <p>Level 4 Felling of medium and large size trees, by chainsaw, where the sectional dismantling and felling of the tree is undertaken from a MEWP (either tracked/wheeled or rail mounted), by MEWP (mobile elevated work platform) competent staff.</p> <p>Level 5 Clearance of grass, weeds, bushes and small sapling trees by the use of non-rail mounted machinery, i.e., flails, mulcher, bushfighter or similar, by competent staff.</p>
Category (C) Vegetation Clearance Mechanised	<p>Level 6 Clearance of weeds, bushes and small sapling trees by the use of rail mounted machinery, e.g., RRV flails, and use of other rail mounted machinery to assist with clearance of arisings (i.e. rail mounted chippers) and timber log grab attachments, plus felling of small to medium size trees (up to 8"dbh) by RRV Bracke saw attachment, and undertaken by competent staff, in track possessions.</p> <p>Level 7 Clearance and removal of vegetation arisings by large non-rail mounted machinery i.e. Forestry Forwarder machine, and large diameter tracked chippers, operated by competent staff.</p> <p>Level 8 Clearance and removal of vegetation arisings by large rail mounted machinery i.e. RRV Forwarder machine, with log grab and 24" chipper attachment, operated by competent staff in track possessions.</p>
Category (D) Mechanised Herbicide Treatment	<p>Level 9 Maintenance of cleared areas with herbicide by spray treatment from rail mounted RRV machines fitted with herbicide tanks and lances, by competent staff and regulated application of herbicides by competent staff.</p>

CONTRACT AGREEMENT

Clause 1.6

Contract Requirements HSEA

CONTRACT REQUIREMENTS HSEA

Section A - Health and Safety

- 1 Legislation and Standards - Generic**
- 2 Legislation and Standards - Operational Railway***
- 2 Legislation and Standards - High St Environment***
- 3 Permissions**
- 4 Statutory Notices**
- 5 Reporting of Accidents and Incidents**
- 6 Network Rail Principal Contractor Licence**
- 7 Periodic Safety Reports**
- 8 Contract Specific Requirements**

Section B - Quality

- 1 General**
- 2 QA Classification of Products**
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Section C - Environment

- 1 Legislation and Standards**
- 2 Environmental Policy**
- 3 ERA, EMP and IRP**
- 4 Reporting of Environmental Incidents**
- 5 Periodic Environmental Performance Reports**
- 6 Contract Specific Requirements**

Appendix A - Periodic Safety and Environmental Report

Section A - Health and Safety

1 Legislation and Standards - Generic

The Contractor shall comply with all applicable health and safety:

- European Union (EU) Directives;
- Legislation;
- Group Standards;
- Railway Safety and Standards Board (RSSB) Guidance Notes; and
- Network Rail Standards;

including, without limitation:

1.1 EU Directives, Legislation, Approved Codes of Practice and Guidance Notes

Confined Spaces Regulations
Construction (Design and Management) Regulations
Control of Substances Hazardous to Health Regulations
Control of Asbestos Regulations
Control of Vibration at Work 2005
Dangerous Substances and Explosive Atmospheres Regulations
Developing and maintaining staff competence Railway Safety Principles and Fire Precautions (Factories, Offices, Shops and Railway Premises) Order
Electricity at Work Regulations - Guidance, Part 3, Section A ^{Note 4}
Display Screen Equipment Regulations
Health and Safety at Work, etc. Act
Health and Safety (Consultation with Employees) Regulations
Health and Safety (First-Aid) Regulations
Health and Safety Information for Employees Regulations
Lifting Operations and Lifting Equipment Regulations
Management of Health and Safety in Construction
Management of Health and Safety at Work Regulations
Management of Health and Safety at Work and Fire Precautions (Workplace) Regulations
Managing Health and Safety in Construction, C(DM) Regs - ACOP
Manual Handling Operations Regulations
Noise at Work Regulations
Personal Protective Equipment at Work
Pregnant and Young Workers Directive
Provision and Use of Work Equipment Regulations
Railway and Other Guided Transport Systems (Safety) Regulations
Reporting of Injuries, Diseases and Dangerous Occurrences Regulations
Regulatory Reform Order (Fire Safety)
Transportation of Dangerous Goods
Temporary Workers Directive
Work at Height Regulation
Workplace (Health, Safety and Welfare) Regulations

1.2 Network Rail Standards (applicable to all Contracts)

NR/L1/FIR/100	Company Fire Safety Handbook (formerly NR/CS/FIR/100)	<p>Network Rail's Fire Safety Policy mandates requirements applicable to the control of risks arising from fire to the safety of Network Rail workforce, contractors, customers, assets and business activity.</p> <p>The Company Fire Safety Policy defines the policy and procedures for the delivery of effective fire safety management in accordance the Network Rail Health Safety Management System.</p> <p>This policy is supported by a suite of Level 3 standards for use by the Local Manager nominated as the Person Responsible for Fire Safety (PRFS) within all staffed and un-staffed premises and for those managers responsible for sections of Network Rail Controlled Infrastructure.</p>
NR/L1/OHS/051	Drugs and Alcohol (formerly NR/CS/OHS/051)	<p>The purpose of this standard is to set out Network Rail's policy and related implementation arrangements to control the risks of employees and contractors working for or on behalf of Network Rail being unfit through drugs or alcohol at work. It is designed to deliver compliance with the requirements of the Transport and Works Act 1992, Network Rail's Railway Safety Case and Railway Group Standard GE/RT8070 Drugs and Alcohol.</p>
NR/L1/INI/CP1010	Policy on Working Safely in the vicinity of Buried Services	<p>To set out Network Rail's policy and related implementation arrangements for employees and contractors to be able to work safely in the vicinity of buried services. The objective is to reduce the risk of a buried services strike or near miss incident.</p>
NR/L2/INV/002	Accident and Incident Reporting and Investigation	<p>The purpose of this Network Rail standard is to mandate the use of the Reporting and Investigation Manual in order to provide a consistent, comprehensive and structured process:</p> <ul style="list-style-type: none"> • for the reporting of accidents and incidents; • for the investigation of accidents and incidents in order to prevent, or reduce the risk of, their recurrence, without apportioning blame or liability; • that enables information obtained from investigations to be shared with, and used by, organisations with a direct responsibility for maintaining, or improving railway safety. <p>This standard and the Level 3 standards forming the Reporting and Investigation Manual apply to:</p> <ol style="list-style-type: none"> a) Events occurring on Network Rail Managed Infrastructure (NRMI); b) Events that do not occur on NRMI but which cause, or have the potential to cause, an increase in risk on NRMI; c) Events occurring on Network Rail managed stations; d) Events involving rail vehicles operated by Network Rail; e) Accidents involving Network Rail employees whilst on duty, including whilst travelling in road vehicles (whether owned, hired or leased by Network Rail); f) Occupational ill health affecting Network Rail employees; g) Accidents and assaults involving employees

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		<p>of contractors whilst undertaking work for Network Rail;</p> <p>h) Accidents to members of the public occurring on NRMI or Network Rail managed stations including cases of suicide, suspected suicide and attempted suicide;</p> <p>i) Enforcement action taken by the Office of Rail Regulation or other enforcing authority concerning issues relating to operations or activities on or affecting NRMI and Network Rail managed stations;</p> <p>j) Judicial Inquiries, RAIB Investigations, Network Rail led Formal and Local Investigations, and investigations led by other Railway Group members.</p>
NR/L2/AIF/1020	Buried Services Data Provision (formerly NR/L2/AMG/1020)	Standard that defines a consistent method for obtaining buried services search information before work commences on site.
NR/L2/INI/CP1030	Working Safely in the Vicinity of Buried Services	Standard that identifies the process for a consistent method of planning a safe system of work and how to work safely with these assets when on site.
NR/L2/AIF/1040	Buried Services Data Feedback (formerly NR/L2/AMG/1040)	To identify the process for the supply of as-built buried services drawings/plans following completion of ground disturbance work on Network Rail infrastructure. The feedback of buried services drawings/plans is a safety essential requirement to be able to advise workers who may undertake further ground disturbance work at the same location and to protect the assets for the future.
NR/L2/OHS/00124	Competence Specific Medical Fitness Requirements	The document defines the competence specific medical fitness requirements for employees and contractors working on Network Rail managed infrastructure.
NR/L2/OHS/00120	Pre-employment, pre appointment and periodic testing for Drugs and Alcohol	Document setting out the arrangements for pre-employment, pre-appointment and periodic medical testing for Drugs and Alcohol in support of Network Rail's Drugs and Alcohol Policy
NR/L2/OHS/018	Supplier requirements for the approval of medical assessments and Drug and Alcohol Screening and Certification	This document details the minimum requirements for suppliers to administer medical assessments and drugs and alcohol screening to allow for registration as an Approved Network Rail Supplier. It also details the required certification. The standard is designed to support the achievement of safe, appropriate and effective quality services by a Supplier who wishes to become a registered Approved Network Rail Supplier for medical assessment and/or drug and alcohol screening for the railway infrastructure
NR/L2/OHS/021	Personal Protective Equipment and Work Wear (PPE) (formerly NR/SP/OHS/021)	Standard which specifies the minimum standards and requirements for Personal Protective Equipment (PPE) and Work Wear to be worn when working on Network Rail infrastructure.
NR/L2/MTC/006	Maintenance and Contents of the National Hazard Directory	This specification relates to hazards on Network Rail's controlled infrastructure, access points and other locations (e.g. stations and sidings) on the rail infrastructure. Hazards listed in the directory shall be of a permanent or semi-permanent nature, not of a temporary nature e.g. missing drain cover. Such temporary hazards should be notified to Network Rail staff and contractors responsible for their repair.
NR/L2/INI/CP0043	Requirements for the Safety Management of Third Party Works (formerly RT/LS/P/043)	This Standard sets out requirements for the application of equivalent controls to be established when external bodies (herein referred to as "Third Parties") wish to specify, manage and/or deliver infrastructure projects upon Network Rail's

Clause 1.6 Contract Requirements HSEA

		Managed Infrastructure, and where the works is on the Network Rail Managed Infrastructure, a Network Rail licensed Principal Contractor is employed.
NR/L3/MTC/SE0115	Confined Spaces Working and Entry Procedure (NR/PRC/MTC/SE0115)	This procedure defines the actions and controls to be applied before entering any Confined Space, to ensure the work can be carried out safely and without risk of injury or death.
NR/L3/INI/CP0036	The Provision of Welfare Facilities	The purpose of this standard is to specify the process required whereby all personnel working on Network Rail Managed Infrastructure are provided with welfare facilities that are clean, properly maintained and fit for purpose. This standard interprets the Construction (Design and Management) Regulations 2007 and other applicable Health and Safety legislation.
NR/L3/INI/CP0046	The Reporting and Investigation of Accidents and Incidents within Investment Projects and Asset Management Works Delivery	This standard outlines the process to be followed to achieve compliance with NR/L2/INV/002 and the supporting standards and guidance note within the Reporting and Investigation Manual for the reporting and investigation of accidents and incidents occurring during work managed by Network Rail's Investment Projects and Asset Management Works Delivery. The requirements contained within the standard apply to all projects regardless of their current GRIP stage.

2 Legislation and Standards – Operational Railway

2.1 Group Standards

GERT8000	Rule Book & Associated Handbooks	This module will contain those amendments previously published in the Periodical Operating Notice. It will also contain amendments published for the first time and amendments that do not justify reissue for the module concerned
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Note : Current Group Standards can be viewed and downloaded at:
www.rgsonline.co.uk

2.2 Railway Safety and Standards Board Guidance Notes

GEEN8532 Note 4	Guidance Note: Railway Fog Signals	Document provides guidance on the supply, control and disposal of railway fog signals
GOGN3518 Note 4	Guidance Note: Incident Response Planning and Management	Document gives guidance on interpreting the requirements of RGS GORT3118
GORT3215	Requirements for WON, PON and Sectional Appendix	Document mandates requirements for the production of information related to engineering work, alterations to track and signalling arrangements, local operating instructions and localised amendments to National Operations Publications

Note : Current Railway Safety and Standards Board Guidance Notes can be viewed and downloaded at: www.rgsonline.co.uk

2.3 Network Rail Standards

NR/L2/INI/CP0070	Supplier Licensing (formerly NR/L2/CPR/202)	NR/L2/INI/CP0070 specifies: a) specify the arrangements for the licensing of Principal Contractors and Rail Plant Operating Companies in Possessions. b) describe the means by which Network Rail obtains assurance that all reasonably practicable steps have been taken to appoint such specifically competent and adequately resourced suppliers. c) describe how suppliers maintain the validity of their licence(s).
NR/L3/INI/CP0073	Supplier Licensing Requirements	This standard sets out the management system requirements for suppliers prioritised by Network Rail for either a Principal Contractor Licence (PCL) or a Rail Plant Operating Company in Possessions Licence (POL). This standard has been developed to bring together the requirements for suppliers engaged in contracts directly with Network Rail, either as a Principal Contractor or as a Rail Plant Operating Company in Possessions Licence holder.
NR/L3/INI/CP0044	Work Package Planning Process	NR/L3/INI/CP0044 defines the contents and acceptance criteria regarding the provision of sufficient information to on site staff to enable them to manage the risks of the work activity. The process includes three stages, namely: a) Construction Phase Plan (that will be part of the overall project management plan); b) Work Package Plan; c) Task Briefing. The Work Package Planning Process is mandatory on all physical work undertaken on behalf of Network Rail Investment Projects.
NR/SP/OHS/050	Sentinel Scheme Rules	The purpose of this document is to define the procedure and the mandatory requirements associated with NCCA and the Sentinel Scheme

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		<p>Rules.</p> <p>Sentinel scheme rules apply to all competencies covered by the scheme and all individuals who hold associated competencies.</p>
NR/L2/OHS/019 or NR/L2/OHS/133	Safety of People Working On or Near the Line (NR/SP/OHS/019) Permit to Work	<p>To control the risks to personnel from train movements by requiring effective planning of on track activities and establishing a hierarchy of protection and warning methods. To specify the requirements for establishing and publishing details of Green Zone availability and prohibitions on Red Zone working. To support the requirements of the Rule Book by requiring effective safe systems of work to mitigate the risk of people being struck by trains. To define the process for planning and documenting the Safe System of Work arrangements both in normal and Exceptional Circumstances.</p> <p>This specification applies in respect of all work (including walking as a group) on or near the line for Network Rail, outside parties and their contractors and sub- contractors. It also applies to all work done either individually by a Controller of Site Safety (COSS) or Individual Working Alone (IWA) or by groups under the control of a COSS who may also be a Protection Controller (PC).</p>
NR/L2/OHS/020	Track Visitor Permits (formerly RT/LS/S/020)	Details arrangements for the issue and control of Track Visitor Permits (TVPs) issued in accordance with Network Rail Company Specification NR/SP/CTM/021 for people without Personal Track Safety (PTS) certification.
NR/L2/ERG/003	Management of fatigue: Control of Working Hours for Staff undertaking Safety Critical Work	This standard outlines the requirements for managing fatigue and working hours. It applies to all Network Rail employees who undertake safety critical work, and to those suppliers whose employees undertake safety critical work on Network Rail controlled infrastructure.
NR/L3/INI/CP0078	Working on or Adjacent to the Conductor Rail	This standard identifies a process, to be followed by Network Rail and its contractors, when planning and undertaking work on or adjacent to conductor rail(s) within Investment Projects and the project delivery arm of Asset Management. This standard is applicable to both third / fourth rail systems and applies to Investment Project and Asset Management staff, managers and contractors who are planning / preparing to perform, or are currently working on or adjacent to, a live conductor rail.
NR/SP/ELP/29987	Working on or about 25 kV A.C. Electrified Lines (RT/E/S/29987)	NR/SP/ELP/29987 comprises a suite of thirteen modules. The specification includes the responsibilities of persons required to work on, or so near to, electrified lines that danger may arise. Further requirements are contained in Rule Book GE/RT8000, (Modules AC1, AC2 and AC3).

Network Rail Line Standards are available by subscription from IHS (Technical Indexes Ltd). HIS contact [REDACTED], email [REDACTED] Tel: [REDACTED], or online at: www.uk.ihs.com/products/standards/network-rail-company-standards.htm.

2.4 Network Rail Safety Central Link

Safety Central is a one-stop shop to promote best practice health and safety within the rail industry. You'll find information about a multitude of health and safety topics, advice and guidance, useful contacts, and plentiful resources including presentations and safety videos, including Safe Work Leader (SWL), Railway Contractors Certificate (RCC), On Track Plant Operations Scheme (POS), and Code of Conduct.

Clause 1.6 Contract Requirements HSEA

The work to be delivered through this Framework is part of the Network Rail programme described as Planning & Delivery Safe Work.

There are three elements to the Programme: -

New Electronic Permitting (ePermit) technology or Permit to Work tool, which will replace safe system of work packs: “The new Permit to Work tool will bring multiple improvements to all personnel working on the railway. It will guide users through the planning and risk assessment processes to produce relevant paperwork that fully describes the plan, and attached track schematics will allow us to visualise all activity on our infrastructure in one place”.

A Single National Control of Work Process: “With the aid of the ePermit tool we will make use of the new Control of Work Process, which will be used to plan, risk assess, deliver and hand back all work carried out on Network Rail infrastructure”.

A Single Accountable Person: “One of the largest changes being introduced will be the new competence of Safe Work Leader (SWL). All individuals appointed to act as the SWL will be the person accountable for safe delivery of work within a worksite, ensuring that risks associated with both work site and task are appropriately managed”.

A link to safety central can be found below, searching under PDSW

<https://www.safety.networkrail.co.uk/>

Notes regarding all of the above listings of Legislation and Standards

Note 1: The above lists are not exhaustive.

Note 2: The Contractor is responsible for arranging and undertaking the required level of briefing (i.e. technical and awareness) to all affected parties. Arrangements for such briefings shall be in accordance with the Contractor's own processes and procedures.

Note 3: Under Contractor Licensing conditions, the Contractor is required to have processes in place to identify new and revised Legislation, Group and Network Rail Standards.

Note 4: Items marked ^{Note 4} denote documentation that has been written to provide guidance. Compliance with such documentation cannot be enforced, however the Contractor is advised to consider and comply with the information contained within such guidance documentation.

Note 5: Network Rail Standards are available by subscription from IHS (Technical Indexes Ltd), Tel: 01344 328039, or go online at:
www.uk.ihs.com/products/standards/network-rail-company-standards.htm.

3 Permissions

- 3.1 The Contractor shall seek permission, in writing, from the Employer's Representative prior to undertaking the following:

Access to sub-stations, electrical switchrooms, telecom or signal equipment rooms, and areas with gas fire protection systems

1. The Contractor shall not work in such rooms without written authority from the Employer's Representative. The Contractor shall give the Employer's Representative not less than 28 days written notice, separately for each site, of their intended presence on the Site. He shall submit to the Employer's Representative for his approval details of the nature and duration of the work, methods of isolation (where required) and the number and location of their personnel scheduled to be on the Site. The Contractor shall operate a Permit to Work system for these sites.

Prohibition on the use of explosives

2. The Contractor shall not use explosive and explosive devices, including track detonators and bolt guns, except as may be specifically permitted in the Contract or as approved by the Employer's Representative and then only with the appropriate control and accounting mechanisms in place.

Use of radios, electrical equipment and mobile telephones

3. Radio transceivers, mobile phones and data transmission devices which can cause distraction or interference with safety critical railway systems shall not be used on or adjacent to the line or near open signalling equipment cabinets, without the written approval of the Employer's Representative. A written request shall be submitted 14 days before the proposed use of such radio equipment and must include the following information:
 - a) the output power;
 - b) the licence number allocated by the Department of Trade and Industry; and
 - c) the allocated frequency.

Movement and storage of materials, plant and equipment

4. Due to structural limitations or surface finishes, movement and storage of materials may be restricted. In carrying out route surveys and agreeing installation methods, the Contractor shall ascertain any such limitations. The Contractor shall not undertake any lifting, transportation or storage of heavy items through the Employer's railway, any station or public areas or use any existing structural member as a lifting or tie-back point without the prior written approval of the method of working by the Employer's Representative. The Contractor shall give the Employer's Representative the floor loadings to be imposed when moving or storing heavy plant or materials. At least 14 days notice of such work shall be given in writing.
5. The Contractor shall not surcharge existing retaining walls. All vehicles, plant and materials shall be positioned at least 3 metres away from the back faces of such walls, unless specifically allowed by the Employer's Representative.
6. The Contractor may only convey loads (other than hand-held loads) on escalators and in lifts when not in use by the public and after prior written

Clause 1.6 Contract Requirements HSEA

authority from the Employer's Representative has been obtained for their movement.

Note: The above does not constitute a comprehensive listing of all instances where the Contractor is required to seek permission from the Employer's Representative. Further requirements are to be found in the Network Rail Standards and other Contract documents.

4 Statutory Notices

- 4.1 The Contractor shall provide the Employer's Representative with copies of any statutory notices received by the Contractor in relation to the Works within one working day of receipt of such notice, including, without limitation, notices from the Health and Safety Executive, the Office of Rail Regulation, local authorities, environmental agencies, utility companies, or any other government agency, and particularly any improvement or prohibition notices. The Contractor shall then keep the Employer's Representative fully informed regarding any actions proposed by the Contractor to address the notice.

5 Reporting of Accidents or Incidents

- 5.1 Contractors shall report accidents and incidents that are a danger to trains to the appropriate signaller in accordance with the requirements of the Rule Book (GE/RT8000).
- 5.2 All accidents and incidents shall also be reported in the format required by the Employer's Representative;
- (a) For IP contracts in accordance with the requirements contained in Network Rail Standard NR/L3/INI/CP0046 as well as to the following Integrated Control Centre:
- NSC 24/7 (Formerly known as AMCC) - 01908 723500
- (b) For NSC contracts in accordance with the requirements contained in Network Rail Standard NR/L3/INV/0101 as well as to the following Integrated Control Centre:
- NSC 24/7 (Formerly known as AMCC) - 01908 723500
- (c) For Maintenance contracts in accordance with the requirements contained in Network Rail Standard NR/L3/INV/0101 as well as to the following Integrated Control Centre:

NSC 24/7 (Formerly known as AMCC)	-	01908 723500
Network Rail Anglia	-	0207 979 3600
Network Rail Kent	-	0207 979 3777
Network Rail London North Eastern	-	01904 718031
Network Rail Midland & Continental, Derby	-	01332 442400 / 442312
Network Rail HS1 Kent	-	01233 739420
Network Rail London North Western (South)-		0121 345 6540
Network Rail London North Western (North) -		0161 880 1300 / 1301
Network Rail London North Western (Sandhills)-		0151 702 1551
Network Rail Scotland	-	0141 335 2020
Network Rail Sussex	-	0207 979 3801
Network Rail Wessex	-	0207 979 3901
Network Rail Western	-	01793 389201
Network Rail Wales	-	029 2092 0658

Clause 1.6 Contract Requirements HSEA

- 5.3 Close Call – The Contractor shall report Close Calls to the NSC 24/7 Close Call number - 01908 723 500 - when outside a possession and through the Principal Contractor's Close Call reporting procedure when operating within a possession.

6 Network Rail Principal Contractor Licence

- 6.1 Where the Contractor holds a Principal Contractor Licence awarded by Network Rail, the Contractor shall maintain such licence for the duration of the Contract. Any failure to maintain such licence may result in the Contractor being charged for additional safety supervision by the Employer.

7 Periodic Safety Reports

- 7.1 Not more than one working day after the end of each Agreed Rail Industry Period (<https://nr-hse-kpi-reporting.co.uk/calendar>) the Contractor shall provide the Employer's Representative with an electronic copy of their Periodic Safety Report in the format, and containing the information, detailed in Appendix A at the end of this document.
- 7.2 Contractors shall report via the HSE Reporting System <https://nr-hse-kpi-reporting.co.uk/>
- 7.3 Contractors shall supply the necessary performance indicators (link to data requirements - login required) <https://nr-hse-kpi-reporting.co.uk/kpis/listKpis>

8 Contract Specific Requirements

8.1 Pre-Construction Information Pack

The health and safety matters specific to this Contract are contained in the Pre-Construction Information Pack which is provided herewith. All of the matters contained in it shall be taken into account by the Contractor when developing its Construction Phase Plan, Site Rules, Work Package Plans and Task Briefing Sheets, and during the actual execution of the Works.

8.2 Work Package Plans

- 8.2.1 The Contractor shall produce a Work Package Plan for the Works in the format detailed in Network Rail Standard NR/L3/INI/CP0044. All of the matters relating to the safe execution of the Works and any site specific information available to the Contractor or provided by the Employer shall be taken into account by the Contractor when producing Work Package Plans. Work Package Plans must be submitted to the Employer's Representative for acceptance at least 21 days prior to the commencement of any work on site.
- 8.2.2 All of the matters contained in Work Package Plans shall be taken into account by the Contractor when developing the site/job specific Task Briefing Sheets and during the actual execution of the Works.

Clause 1.6 Contract Requirements HSEA

- 8.2.3 On framework contracts, a generic Work Package Plan is required in addition to the site-specific version.

Section B - Quality

1 General

- 1.1 Unless otherwise agreed in writing by the Employer's Representative, the Contractor shall maintain an auditable documented quality management system (QMS) and quality plan (QP) for this Contract, either certified to BS EN ISO 9001:2008, or sufficient to meet the requirements of this standard to the satisfaction of the Employer's Representative. The Contractor shall notify the Employer's Representative of any material changes to his QMS.
- 1.2 The Contractor shall provide the Employer's Representative with details of any significant failures revealed at either internal or third party audit of the Contractor's QMS or QP for this Contract and also allow the Employer's Representative to carry out similar audits if he so requires. The Contractor shall provide access to all staff, premises and records as necessary to assist the Employer's Representative in such audits.

2 QA Classification of Products

- 2.1 In accordance with Network Rail's QA Policy Statement 2011 (available at <http://www.networkrail.co.uk/supplier-quality-assurance.aspx>), where the Specification and/or Product Acceptance Certificates specify quality assurance classifications (QA1 to QA5) for certain products to be used in the Works, if the Contractor is the manufacturer of such products he shall comply with the specified level of quality assurance required for each product and allow Network Rail access to carry out its quality assurance checks. Where such products are being supplied to the Contractor by others, the Contractor shall be aware of the foregoing requirements and through its contract for such supply help facilitate Network Rail's quality assurance checks as necessary.

3 Contract Specific Requirements (For Investment Projects)

- 3.1 In addition to the general requirements detailed above the Contractor shall comply with Network Rail Standard NR/L3/INI/CP0028 as required by the following schedule:

Form NR/L3/INI/CP0028/F0054, referred to in the Standard NR/L3/INI/CP0028 must be completed to identify the clauses applicable in the table below.

Clause	Description	Required
6	General Requirements	✓
7.1	Quality Reports	
7.2	Records	
7.3.1	Resources – Human Resources	
7.3.2	Resources – Infrastructure & Work Environment	
7.4.1	Customer Specifications – Process Potential Studies	

Clause 1.6 Contract Requirements HSEA

7.4.2	Customer Specifications – Process Control Plans	
7.5	Customer Communication	
7.6.1	Design & Development Verification	
7.6.2	Design & Development Validation	
7.7	Change Management	
7.8.1	Storage & Handling – Identification & Traceability	
7.8.2	Storage & Handling – Customer Supplied Product	
7.9.1	Monitoring & Measurement – Statistical Process Control	
7.9.2	Initial Sample Submission	
7.9.3	Failure Mode Effects Analysis	
7.10	Control of Monitoring & Measuring Equipment	
7.11	Inspection & Test Plans	
7.12	Audit	
7.13	Non-conformance Management	
Contractor to submit Quality Plan _____ days from Contract Award. (Note: Submission timescales default to 28 days after contract award, if not otherwise stated.)		

Section C - Environment

1 Legislation and Standards

The Contractor shall comply with all applicable environmental:

- European Union (EU) Directives;
- Legislation;
- Group Standards;
- Railway Safety and Standards Board (RSSB) Guidance Notes; and
- Network Rail Standards;

including, without limitation:

1.1 EU Directives, Legislation, Approved Codes of Practice and Guidance Notes

Ancient Monuments and Archaeological Areas Act
Clean Air Act
Clean Neighbourhoods and Environment Act
Climate Change Act
Contaminated Land Regulations
Control of Pollution Act
Control of Pesticides Regulations
Environment Act
The Environmental Damage Regulations
Environmental Protection Act
Environmental Permitting (England and Wales) Regulations
Ground Water Regulations
Hazardous Waste Regulations
Landfill Regulations
National Heritage Act
Packaging Waste Regulations
Protection of Badgers Act
Pollution, Prevention and Control Regulations
Registration, Evaluation, Authorisation and Restriction of Chemicals Regulations (REACH)
Road Traffic Act
Town and Country Planning Act
Waste Industry Act
Waste (England and Wales) Regulations
Waste (Scotland) Regulations
Water Resources Act
The Water Environment and Water Services (Scotland) Act
Waste Electrical and Electronic Equipment Regulations (WEEE)
Wildlife and Countryside Act
Mandatory requirements of the relevant local planning, highways, environmental health or other statutory authority or agency

1.2 Network Rail Standards

NR/L2/ENV/015	Contract Requirements – Environment
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Note : Network Rail Standards are available by subscription from IHS (Technical Indexes Ltd), Tel: 01344 328039, or go online at:

www.uk.ihs.com/products/standards/network-rail-company-standards.htm.

2 Environmental Policy

- 2.1 The Supplier shall comply with Network Rail's Environmental Sustainability Policy and Sustainable Development Strategy.

[Environmental Sustainability Policy](#)

[Sustainable Development Strategy](#)

3 ERA, EMP and IRP

- 3.1 The Contractor shall take particular cognisance of Network Rail Standard NR/L2/ENV/015 and the need to produce an Environmental Risk Assessment (ERA), Environmental Management Plan (EMP) and Incident Response Plan (IRP) as appropriate for the Works and required by this standard.

4 Reporting of Environmental Incidents

- 4.1 The Contractor shall report all environmental incidents that occur to the relevant control centre detailed above under the general health and safety paragraph headed "Reporting of accidents and incidents".

5 Periodic Environmental Performance Reports

- 5.1 Not more than one working day after the end of each Agreed Rail Industry Period (<https://nr-hse-kpi-reporting.co.uk/calendar>) the Contractor shall provide the Employer's Representative with an electronic copy of their Periodic Environmental Performance Report in the format, and containing the information, detailed in Appendix A at the end of this document.

- 5.2 Contractors shall report via the HSE Reporting System
<https://nr-hse-kpi-reporting.co.uk/>

- 5.3 Contractors shall supply the necessary performance indicators (link to data requirements - login required)
<https://nr-hse-kpi-reporting.co.uk/kpis/listKpis>

6 Contract Specific Requirements

- 6.1 The Contractor shall comply with all of the contract specific environmental requirements included in the Pre-Construction Information Pack and Work Package Plans.

Appendix A - Periodic Safety and Environmental Report

Workforce Safety Key Performance Indicator	
Accident Frequency Rate (AFR)	
Rolling Average	
8.12 A Possession Planned Tiii	
The number of T(iii) possessions used in the period.	
The number of 'owned' irregularities that have occurred in these possessions	
8.12B Protection Planned Tii	
The number of Planned T(ii) protections used in the period.	
The number of 'owned' irregularities that have occurred in these protections	
8.12C Protection Planned T12	
The number of T(12) protections used in the period.	
The number of 'owned' irregularities that have occurred in these possessions	
Red / Green Zone Working	
The number of occasions of Red Zone working	
The number of occasions of Green Zone working	
Red Zone Irregularities	
The number of Red Zone irregularities (excluding near misses involving trains and Contractors).	
Near Misses With Workforce	
The number of near misses with trains involving members of the workforce	
Line Blockage Booking	
Number of requests for line blockages made to GZAM	
Number of line blockages agreed by GZAM	
Number of line blockages declined by GZAM	
Planned Blockages	
Number of booked blockages granted by signaller	
Number of booked blockages refused by signaller	
Number of booked blockages not requested	
Risk Exposure	
Person hours worked in Green Zones	
Person hours worked in Red Zones with ATWS or TOWS	
Person hours worked in Red Zones with LOWS. Pee Wee or Lookouts	
Total number of Red zone worked.	
Total number of Green Zone Worked.	
Planning	
Number of jobs done using pre-planned safe systems of work	
Number of jobs done using re-planned safe systems of work	
Number of jobs done using safe system of work planned on site	

Hours Worked	
Total hours worked	
Total Hours Worked – High Street Environment	
Period Accidents	
RIDDOR Major Injuries	
RIDDOR Lost Time Accidents	
Other Accidents	
Lost Time Accidents (not RIDDOR)	
Minor Accidents (not RIDDOR / LTA)	
Total Number of Accidents	
Contractor / Direct Workforce Safety	
Number of RIDDOR reportable accidents this period	
Number of Non RIDDOR accidents this period	
Number of days lost due to lost time accidents for the period	
Number of RIDDOR Dangerous Occurrences during the period	
Number of Safety Critical Working Time Exceedances for the period	
Contractor / Direct Workforce Monitoring	
Number of worksite inspections planned for the period by Contractor	
Number of worksite inspections undertaken for the period by Contractor	
Number of worksite inspections planned for the period by Signal Production Support	
Number of worksite inspections undertaken for the period by Signal Production Support	
Number of worksite inspection actions active at the beginning of the period	
Number of worksite inspection actions raised during the period	
Number of worksite inspection actions overdue at the end of the period	
Period Incidents	
RIDDOR Reportable Dangerous Occurrences (not inc in AFR)	
Number of Diseases RIDDOR (All) (not inc in AFR)	
Other incidents	
Number of environmental incidents	
Number of safety incidents	
Total Number of incidents	
Body Count Injury	
Head	
Back/Torso	
Arm	
Eyes	
Face	
Hands	
Legs	
Feet	
Total Number	

**CONTRACT
AGREEMENT**

**CLAUSE 1.7:
PRELIMINARIES**

Preliminaries.

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- (ii) Standards
- (iii) Delivery of the Works
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- (ii) Site Access
- (iii) Site Access Constraints
- (iv) Adjacent Projects
- (v) Advertising Rights – Site

3. Rules and Regulations other than the Employer's

4. Drawings

5. Co-ordination

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6. Contractor's Personnel

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- (i) The Employer's Delegated Representatives
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- (iv) Numbering of Instructions
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14. Applications for Payment

Attachments

- A Project Insurance Manual (separate document)
- B Possessions and Rules of the Route
- C Completion Certificate
- D Contract Order
- E Self-Billing Agreement
- F KPI Reporting

15. COOM Payment (Self Billing Process)

16. Social Value Act Deliverables

1. **Description of the Works**

(i) **Description**

The Works comprise all temporary/preparatory and permanent works, in connection with Vegetation Management.

(ii) **Standards**

The Contractor shall carry out the works in compliance with the Forestry Industry Safety Accord (FISA) Guidance Notes, all relevant British Standards, including BS 3998, BS5837 and BS7370, and Network Rail's Biodiversity Action Plan and Environmental Guidance Notes. The Contractor shall also comply with all relevant Group and Network Rail Standards included in this contract

(iii) **Delivery of the Works**

In delivering the Works the Contractor shall provide all labour, contractor's equipment, materials (other than any free issue Employer Supplied or Facilitated Resources), supervision and management in order to design, construct, test, commission and handover the Works, all as more particularly described in the Technical Workscape.

(iv) **Delivery of the Works via a third party**

The Contractor shall provide services and goods in accordance with the rates and operation of this Agreement via any Network Rail approved third party whereby the associated services and goods are to be delivered as part of Network Rail Infrastructure requirements.

2. **Site Details**

(i) **Site Location and Boundaries**

The geographical location and boundaries of the site(s) shall be defined on the Contract Order

(ii) **Site Access**

The Contractor shall obtain permission from the Employer's Representative prior to entering the site(s).

The Contractor shall recognise and ascertain the logistical requirements of exceptional loads and constructional plant and ensure that movements are made with the agreement and permission of all appropriate local authorities, and routed with police escort where deemed by those authorities to be necessary.

All access points and routes to end on the site(s) shall be as agreed with the Employer's Representative, and no others.

The Contractor shall not interfere with or obstruct more than is strictly necessary any public or private rights of way or property (including, without limitation, the Employer's property, railway operations and traffic, road traffic and highways or navigable waterways).

(iii) Site Access Constraints

The Contractor shall make his own arrangements and at his own cost in providing physical access to the site(s) from other than via the Employer's property/lands or public property or rights of way.

(iv) Adjacent Projects

The Contractor shall be aware and shall interface his Works as necessary with the any adjacent Projects:

The Contractor should be aware that they may need to share work sites or possession(s)

(v) Advertising Rights - Site

The Employer shall have the sole right, free of charge, to exhibit or sell space for advertisements or railway notices on all work hoardings and fences on or surrounding the site(s) whether or not they have been erected by the Contractor, and the Contractor shall not exhibit or permit to be exhibited any other advertisements of any kind, other than with the express permission of the Employer's Representative, for which the Employer may charge a commercial fee.

3. Rules and Regulations other than the Employer's

- (i) The Contractor shall comply with the rules and regulations applied by others, including but not limited to Railway Operating Companies (Trains and Freight), London Underground Limited and Docklands Light Railway Limited, when working on or near their railway systems. The Contractor shall ascertain by careful examination of the Scope of Work and by making appropriate enquiry as necessary, the extent to which his operations may be affected by or impinge upon such other railway systems. The Contractor shall obtain copies of such rules and regulations as are applicable. The Employer's Representative shall provide all reasonable assistance in this regard, upon request. The Contractor shall comply with all changes and additions to those rules and regulations, notified to the Contractor by the Employer's Representative, the Employer's Representative having been advised of the same, which changes and additions shall be deemed to be a variation ordered by the Employer's Representative.

4. Drawings

Drawings are listed in the Technical Workscope.

Notwithstanding that the information given on the drawings has been obtained from the various "service authorities", the Employer does not accept any responsibility for the accuracy thereof. The Contractor shall determine by his own independent enquiries, the position, line and level of any existing services.

5. Co-ordination

(i) Contractor's Obligations

The Contractor shall ensure that the Employer's Representative is provided with all necessary and relevant data for co-ordination with all other parties during the progress of the Works. The provision to the Employer's Representative of such data shall be made at such times as to enable all other parties to be co-ordinated in order to meet the requirements of the programme and to ensure that the Contractor is able to achieve the completion of the Works by the scheduled date.

6. Contractor's Personnel

(i) The Contractor's Representative

The Contractor shall prepare a letter nominating the Contractor's Representative on the Contractor's official letterhead and submit it when returning the signed copy of the Contract and in any case, prior to any commencement on the Site.

(ii) Contractor's Key Personnel

Solely for the purpose of continuity and assurance of an acceptable standard of performance and without prejudice to the Contractor's status as an independent contractor it is agreed that:

The Employer's Representative shall designate certain of Contractor's personnel as Key Personnel, for both project management functions and safety critical works functions.

All personnel so designated shall remain in their designated capacities as long as they remain in the Contractor's employ and shall not be relieved from this capacity until the completion of the Works, except with the prior written consent of the Employer's Representative.

The Contractor shall maintain a level of personnel taking into account areas such as experience, qualifications, competence throughout the duration of the Framework in line to the level that was evaluated at the initial Framework Award stage.

(iii) Personnel Register

The Contractor shall maintain a register of personnel undertaking work on the Employer's property from commencement until completion of the Works. The register shall contain details of all the Contractor's and subcontractor's personnel involved and shall be updated daily or as necessary.

The register shall contain the following information for each person, as a minimum:-

- Name
- Date of birth

- Employer/Employment history
- Position
- Any other local site specific safety/competency certification (where applicable)
- Sentinel scheme Card No. and expiry date (where applicable)
- Qualifications and licences held (where applicable)
- Medical Certificate of Fitness
- Principal duties during the Contract
- Signature of the Network Rail Code of Conduct (Version 1)

The register is subject to initial acceptance by the Employer's Representative and subsequent acceptance of changes thereto. Following initial acceptance by the Employer's Representative, the Contractor shall maintain the register and update it as necessary throughout the duration of the Contract. Each update shall be submitted to the Employer's Representative for acceptance. The Contractor shall maintain an up-to date copy of the register in his site safety file, which shall be made available for inspection by the Employer's Representative upon request.

In addition to regular updating of the above register, the Contractor shall notify the Employer's Representative immediately of any proposed change in his management Key Personnel.

1. Communications, Correspondence and Meetings

(i) Communications

The Contract requires single point contact between the Contractor and the Employer's Representative. The Contractor's Representative shall be the person authorised by the Contractor in this respect.

(ii) Correspondence

All correspondence between the Contractor and the Employer's Representative shall be by signed fax or letter. E-mails are only acceptable for expediency and must be followed up formally in writing within twenty-four (24) hours.

All Correspondence between the Contractor and other parties appointed by, or under control of, the Employer's Representative shall be through the Employer's Representative unless otherwise authorised by the Employer's Representative.

(iii) Start-up Meeting (Pre-Construction Meeting)

At the earliest possible date after Contract award, the Employer's Representative shall convene a start-up meeting with the Contractor. This meeting shall be used to establish and clarify all details of control, administration, reporting and management of the Contract, to confirm lines of communication, information flows, change control, payment certification processes and procedures, and the like.

(iv) Progress Review and Coordination Meetings

These meetings shall be held fortnightly, or as otherwise agreed depending on the circumstances. The following subjects shall be discussed:

- Contractor's progress since the previous meeting and comparison to scheduled progress
- Outstanding action items from previous meetings, their status and resolution
- Schedule and proposed plans/progress for the next schedule period
- Mark-up (status) schedule for progress to date (the Contractor will here submit their rolling four-week schedule showing one week actual progress and a three-week look-ahead forecast)
- Technical issues
- Possessions requirements
- Interfaces, critical items, and current and potential problems.
- Health, safety, quality and environment issues
- Status of Employer's Instructions
- Progress on Final Account

Generally meetings between the Employer and the Contractor will be arranged by the Employer's Representative. Meetings shall be held at the location designated by the Employer's Representative and the Contractor's contract price is deemed to have allowed for attendance of meetings held at any location as may be reasonably designated.

Unless otherwise specified, meetings will be chaired by the Employer's Representative, who may delegate responsibility for preparation of the minutes. Minutes of meetings will be drafted (and agreed) at the meeting and identify the parties required to take action, and will be issued prior to the following meeting for acceptance.

The Contractor shall attend, as necessary, design, installation, account or other interface meetings when and where directed by the Employer's Representative which may be in addition to the progress review meetings.

The Employer's Representative may, at his discretion, issue a schedule of progress meeting dates for the Contract, and the Contractor shall issue Progress Reports.

8. Planning and Progress Reporting

(i) General

The Contractor shall provide a comprehensive planning and progress control system for the purpose of managing the Works and for the reporting of progress. The Contractor shall be responsible for appraising and monitoring the performance of his Subcontractors and Suppliers and shall ensure that all control documentation supplied by them is appropriate and is incorporated into the Contractor's reports to the Employer's Representative.

The Contractor shall make themselves familiar with the Employer's Possession Planning System (PPS) through which all track

possessions and access are obtained and managed, and his role and responsibilities within it. All work that affects the normal running of the railway must be planned through this process and scheduled in accordance with the Rules of the Route or where situated within a depot, to the Depot Manager's requirements and the requirements of the Employer's Representative. The Contractor's inability to comply with the constraints of the Rules of the Route, Depot Manager's or Employer's Representative's requirements during the Contract shall be notified to the Employer's Representative at the earliest possible time, and preferably at time of tender.

The Contractor shall be responsible for attending relevant possession planning meetings.

The Contractor shall produce a KPI reporting pack as per Attachment D every 4 weeks for the Employer's Representative.

9. Insurance

(i) General

The Contractor is to provide insurance cover in accordance with the requirements of the Contract. Upon award of the Contract, the Contractor shall cause its Insurer to certify that the required insurance covers are in force.

(ii) Owner Controlled Project Insurance Scheme

Construction 'All Risks' and Public / Products Liability insurance (Project Insurance) will be provided in accordance with the **Project Insurance Manual Attachment A**.

10. Construction

(i) Compliance with European Specifications

Where reference to specific products or materials is made in the Specification or Technical Worksopce, the Contractor shall allow for and provide such products. The use of alternative equivalent products or materials shall be subject to prior written consent being obtained from the Employer's Representative.

Where reference is made in the Specification for products or materials to comply with a particular British Standard, the Contractor shall allow for and provide products or materials that either comply with this Standard or with the corresponding European Union Standard.

If there is a difference in "Standard" between a British Standard and an equivalent European Union Standard, then the Contractor shall advise the Employer's Representative of the conflict, and await resolution.

To the extent that the standard of products or materials cannot be specified the Contractor shall use the best of their respective kind and in accordance with good industry practice.

(ii) Planning the Work

The Contractor shall be wholly responsible for refining and delivering the detailed plans and Work Package Planning for the execution of the Works.

The Contractor shall manage the Works and the works plan within a framework of weekly depot planning meetings.

Following the issue of any Contract Order if the Contractor requires any further information in order to execute the Works, the Contractor shall request such information from the Network Rail in sufficient time to allow the Network Rail a reasonable period in which to respond without delay to the relevant item of Work provided that the requirement for such information could not have been reasonably foreseen by a competent Contractor.

Network Rail will use their reasonable endeavours not to change or cancel Work or Possessions, but has the absolute right to do so if he deems this necessary, and will consult with the Contractor as far as possible prior to any change or cancellation.

Unless Network Rail has specifically notified the Contractor in writing that such personnel are to be provided by the Network Rail or others employed by the Network Rail, the Contractor shall at his own cost provide Engineering Supervisors, Nominated Persons, Safe Work Leaders and the contact details for such personnel at least 10 days before the start of the week in which the relevant Possession occurs and shall ensure that all procedures have been followed and documentation produced for the successful and safe execution of the Possession

(iii) Asset Data Management

Where the Contractor undertakes Works which replace, change or remove infrastructure assets, the Contractor shall provide to the Employer's Representative, asset change data which is compliant with the requirements for format, accuracy, currency and completeness to the timescales specified in the relevant sections of the Network Rail – Asset Data Management for Ellipse and GEOGIS NR/L3/AIF/003, and include an entry on his performance against these requirements in the Four Weekly Report, referred to in Preliminaries, General, Planning and Progress Reporting - Reporting.

(iv) Employer Supplied or Facilitated Resources

The Contractor shall provide all accommodation, utilities, materials, and plant necessary to carry out the Works, but shall obtain the Employer Supplied resources scheduled in the Contract Order from the Employer and should obtain Employer Facilitated Resources from one of the named suppliers (unless the Contractor has good reason

not to; such as better quality, lower cost, more consistent delivery, etc).

Based on the Contractor's programme (which shall take account of the need for each resource, the ordering lead times and any sensible contingency allowances) the Contractor shall commence discussions regarding ordering of Employer Supplied or Facilitated Resources in good time to allow timely issue of formal orders.

The Contractor shall provide the Employer's Representative with a schedule of Employer Supplied or Facilitated Resources at each progress meeting which shall provide an update on the status of all such resources (including details of quantities required and the progress of orders and deliveries). The Employer reserves the right to charge the Contractor for the supply of any Employer Supplied resources that the Contractor Orders in excess of the required quantities at the net cost of supply (unless such additional requirements are due to Employer's Instructions).

The Employer shall be responsible for the quality and timely delivery of Employer supplied resources in accordance with the conditions of the Contract and the Employer's supply arrangements, but shall take no responsibility for Employer facilitated resources for which the Contractor shall take full responsibility.

Where the Contractor is being provided with Employer Supplied Resources he shall comply with the entire Employer's requirements regarding off-loading, checking, handling, returns of packaging or surpluses, and site operations.

(v) Employer's Premises

Where the Employer provides premises for the Contractor's use, the Contractor shall be a licensee and not a tenant of such premises, and shall not have, or be entitled to, exclusive possession thereof, or be liable for any rent or other payment in respect of such use.

The Contractor shall maintain such premises in accordance with any requirements of the Contract or requirements made known to the Contractor by the Employer's Representative, and in compliance with any applicable law or regulations. Unless specifically detailed elsewhere in the Contract, the Contractor shall pay or indemnify the Employer against all utility charges relating to such premises (but not council tax or rates); and shall vacate such premises, returning the keys to the Employer's Representative, promptly at the time stated in the Contract or after the completion of the Works or on determination of the Contract (whether or not the validity of such determination is contested), whichever is the earlier, or even earlier if so required by the Employer's Representative (which shall be deemed to be a variation ordered by the Employer's Representative), leaving the premises in the same condition as when first made available to the Contractor. The Employer's Representative may also substitute other premises for premises previously provided (which shall be deemed to be a variation ordered by the Employer's Representative).

The Contractor shall, in relation to all such premises described in the Contract, be deemed to have satisfied themselves as to their state and condition, and as to their compliance with the law applicable at the place of performance of the Contract, and shall be responsible for such compliance at his own expense.

(vi) Possessions and Isolations

Network Rail shall be responsible for specifying any Possessions or isolations, but shall be assisted in this activity by the Contractor.

The Employer has an objective to ensure that Green Zone Working is maximised when designing, building, operating and maintaining its infrastructure, in accordance with the Employer's Rule Book. Whenever reasonably practicable, the Contractor shall ensure that the design will allow the following to be done in Green Zones:

- The demolition or dismantling of any existing infrastructure, which is to be replaced.
- All aspects of construction of the new infrastructure, including site surveys, delivery of materials, building/installations work, testing and commissioning.

The Contractor shall:

- Be responsible for all arrangements and management of any possessions, plant or equipment disconnections and isolations;
- Provide and allow for all necessary protection arrangements and personnel for both possession, disconnection or isolation work;
- Follow the procedures, set out in the Employer's Rule Book, for taking any form of possession of a line;
- Attend all Employers' possession planning meetings and briefings.
- Allow a cost for isolations within their proposal which will be an option for Network Rail to accept as part of any subsequent Contract Order depending on the circumstances of the individual works;
- Comply **with Attachment B Possessions and Rules of the Route**

Possession availability is defined in the Rules of the Route.

In addition to complying with the Rules of the Route, the circumstances in which, on electrified lines, the Contractor may require the electric traction power supply to be isolated are given in the Network Rail documents:

Working Instructions for AC Electrified Lines, for lines electrified with 25,000 volt AC overhead line equipment; and
Electrified Lines Working Instructions, for lines electrified with the 750 volt DC third rail conductor equipment.

The Contractor shall prepare and submit to the Employer's Representative weekly "Real-Time" possession reports by noon on Tuesday of the following week.

(vii) Specialist Suppliers or Subcontractors

The Contract may require certain materials, plant or equipment to be provided to the Contractor by specialist suppliers or subcontractors. Representatives from the specialist suppliers or subcontractors shall ensure that such items are installed and/or tested and commissioned in accordance with the suppliers'/subcontractors' recognised practices and recommendations.

Within fourteen days of the award of the Contract, the Contractor shall provide the Employer's Representative with a schedule detailing the estimated start dates and durations for any supplier or subcontractor representatives required by the Contractor to supervise the installation, testing or commissioning of Employer furnished materials, plant or equipment. This schedule shall be updated at each progress meeting by the Contractor and as more detailed information becomes available, and the Contractor shall formally request, in writing, the services of any vendor representative a minimum of sixty three days prior to the required-on-site date.

The Contractor shall provide whatever assistance is required by the supplier or subcontractor representative for the installation, testing or commissioning of the materials, plant or equipment.

The Contractor is required to follow the instructions and guidance offered by the supplier or subcontractor representatives. Should the instructions or guidance be unacceptable to the Contractor then the matter shall be referred to the Employer's Representative who will make a determination.

The implementation of all and any instructions or guidance given by supplier or subcontractor representatives or, of any determination made by Employer's Representative, shall be at no additional cost to the Employer.

Ecological Surveys - Competence of Surveyors

Surveys should be undertaken by competent ecologists. Network Rail will engage the services of those consultants on the NR Ecology Services Framework or other NR approved ecological consultants.

If surveys are to be undertaken by ecologists employed, or commissioned, by the appointed Vegetation management contractor, it is recommended that a QA procedure is put in place to ensure the competence of the surveyors being used, including but not limited to; ensuring that details, including CVs, of the ecologists to be utilised, are submitted with the tender document of the vegetation management contractor. Ecologists should ideally be members of the Chartered Institute of Ecology and Environmental Management (CIEEM).

It is also recommended that a proportion of the reports submitted are reviewed by the Route Environment Specialists.

11. Contract Close Out

When the Contractor considers the whole of the Works, or any independent portion of the Works, to be complete and ready for acceptance, the Contractor shall notify the Employer's Representative in writing. The Employer's Representative, with the Contractor's cooperation, shall conduct such reviews, inspections and tests as may reasonably be required to satisfy the Employer that the Works, or such independent portion of the Works, conform(s) to all the requirements of the Contract.

At the appropriate time (at the discretion of the Employer's Representative) prior to completion of the Works, the Contractor shall review and agree with the Employer's Representative, a short-term programme with method statements and schedules, for the Works close-out and handover. Advice and views will be sought, as appropriate, from all interested parties within the Employer's organisation concerning particular aspects, including but not limited to:

Status of spares under heading of:

- Coding systems
- Orders placed
- Delivered and stored in agreed location(s)
- Outstanding with anticipated delivery dates

Handover of documents:

- Drawings
- Specifications
- Operating instructions
- Manuals
- CAD quality "As-built drawings"
- Any data required to assist in the updating of ELLIPSE & GEOGIS
- Health and Safety file

- Clear definition of any work still outstanding, how and when it will be completed, and by whom.

- Clear definition of warranties, guarantees, etc. for all work, material and equipment, their commencement dates and durations.

- Outline proposals for demobilisation of any Contractor's temporary facilities, and clearance and reinstatement of the worksite(s).

12. **Contract Orders**

(i) **The Employer's Delegated Representatives**

Prior to the contract start date, the Employer's Representative will provide the Contractor with a list of named Employer's delegated representatives who have authority to issue a Contract Order to the Contractor.

(ii) Contract Orders

Network Rail shall be responsible for specifying the Works, the Site, the time period within which it shall be completed and specifying the type and duration of attendant Possessions, but shall be assisted in this activity by the Contractor. The Employer's Representative and the Contractor shall work together to minimise the intrusion and length of any Possessions needed in order to perform the Works.

Where the Agreement contains a pricing document then the Contract Orders (**either the Contract Order - Attachment D or the COOM electronic purchase order**) shall be priced in accordance with the Pricing Document or as specified by the Employers Representative.

If the Agreement does not contain a comprehensive pricing document then any estimates shall be priced in accordance with the Rail Method of Measurement.

Such estimates shall be reviewed by the Employer's Representative who shall advise the Contractor whether:

- a) the estimate is rejected, or
- b) on-hold, pending discussion/preliminary evaluation, or
- c) issue a Contract Order.

No work shall take place until the Contractor receives a Contract Order

Contract Orders will be submitted to the Contractor either by email (as an attachment to the Purchase Order) or by issue of a COOM Electronic Purchase Order, (which will be sent via i-supplier).

On receipt of the Contract Order the Contractor shall;

- Complete a Work Package Plan and risk assessment
- Contact the relevant adjacent landowners to advise them that the Works are to be carried out and to arrange any necessary additional access.
- Confirm the exact location of the works. It is the Contractor's responsibility to identify all the relevant information in this respect
- If the Contract Order cannot be completed in the timescales indicated on the Contract Instruction then the Contractor is to inform the Employer's Representative with a suggested alternative date.
- Carry out the Works.
- Once the works are completed, the Contractor is to leave the site in a clean and tidy condition.

- Request a Completion Certificate
- Complete and issue all supplemental information

If the Contractor on completion of the works considers that further work is necessary, or that there are potential or continuing related issues at the site, the Contractor should inform the Employers Representative immediately, so that the appropriate action can be taken.

If at any time the Contractor considers that the Contract Order should not be carried out, terminated or amended for any reason, the Contractor shall advise the Employer's Representative in writing.

The Contractor should note that only works ordered by the Employer's Representative shall be executed under this contract. Any works instructed by third parties shall have no effect unless confirmed in writing by the Employer's Representative.

(iii) Completion Certificate:

The Contractor shall notify the Employers Representative when the work site in the respect of the Contract Order is ready for inspection. Abortive visits to work sites not deemed to be complete by the Employers Representative may be charged for. Works shall only be identified as complete when a final site visit has taken place, any snagging is rectified and all supporting paperwork required under the contract has been duly submitted and verified by the Employer's Representative. Paperwork may include, but is not limited to, photographs, herbicide spraying records, outside party permission slips, copies of licenses, test certificates, CAD quality drawings, manufacturers warranties or guarantees and the like

Only when a Completion Certificate (**Completion Certificate - Attachment C**) has been issued by the Employer's Representative shall the Contractor be entitled to payment for the work completed at that site.

If a request is made for a progress payment against Contract Orders that are not signed as complete. Then the contractor shall submit sufficient details together with photographs to allow the Employers Representative to verify that the value of work applied for is correct. Progress payments are at the sole discretion of the Employer's Representative.

13. Employer's Instructions

(i) Initiation of Changes

In accordance with the Contract, all changes are to be quantified and controlled in writing. The Employer will control any changes and will require supporting data and documentation to be presented by the Contractor.

If at any time the Contractor believes that any act or omission by the Employer constitutes a change to the Works not already covered by a relevant Instruction, the Contractor shall within 10 working days of its occurrence, or of the Contractor obtaining knowledge of its occurrence, or in accordance with the Contract, submit a written notice to the Employer's Representative detailing the basis of the request. Such request shall be accompanied with all necessary data as defined hereinafter.

The estimating effort associated with a proposed change will not in itself be a valid basis for extending the completion date or increasing the price.

(ii) Evaluation of Changes

Such notices shall be reviewed by the Employer's Representative who shall advise the Contractor whether:

- a) The notice is rejected, or
- b) On-hold, pending discussion/preliminary evaluation, or
- c) Issue an instruction to evaluate the change

Upon receipt of an instruction to evaluate a proposed change, the Contractor shall address the cost and programme implications of the change, review the total effect on the Contract Order and submit the details to the Employer's Representative within the timescale indicated by the Employer's Representative at the time of instruction, together with:

- a) Back up for the estimated price.
- b) Back up for the effects on the Completion Date
- c) A brief description of the changes to the Works involved.
- d) A statement defining the latest date by which approval to proceed with the Change can be given by the Employer's Representative without affecting the Completion Date.

Upon agreement being reached on the total effect of the proposed change, the Employer's Representative shall decide upon whether or not to proceed with the Change and shall advise the Contractor accordingly. If affirmative, the Employer shall issue an instruction to proceed with the change.

(iii) Employer's Instruction Issue

Employers Instructions will be instructed in accordance with the Contract.

(iv) Numbering of Employer's Instructions

Employers Instructions will be numbered sequentially and refer to the Contract and/or the relevant Contract Order

The numbering sequence for Contractor generated notices shall be readily distinguishable from instructions generated by the Employer.

Such numbering sequences to be adopted shall be determined at the Start-up Meeting.

The Employer's Representative shall maintain a log of all Employers' Instructions, which shall include:

- a) Instruction Number
- b) Date of Issue
- c) Brief description of requested change
- d) Evaluation date
- e) Proposed price adjustment (if any)
- f) Estimated effect on the Completion Date (if any)
- g) Date of Change Instruction not to proceed
- h) Approved price adjustment
- i) Cumulative total approved price adjustments
- j) Approved effect on Completion Date

(v) Site Instructions

Exceptions to the general requirement for adherence to the above procedure may be necessary from time to time. The Employer's Representative may instruct the Contractor to undertake work immediately for reasons of safety, emergency, security or practicality. This shall be done through the issue of a Site Instruction.

Each Site Instruction shall carry a unique identifying number which shall be recorded in a log together with all pertinent details and dates and the reason for issue of the Site Instruction.

A Site Instruction does not necessarily constitute an entitlement to further payment and its impact should be assessed in accordance with the Contract.

14. Applications for Payment

All Applications for Payments shall be supported by the following where applicable:

Detailed progress report for each Contract Order stating the percentage completed.

Carbonated signed timesheets or day work sheets (Photocopies are not acceptable) for items reimbursed on a time and material basis.

Copies of invoices to support any items reimbursed at prime cost e.g. specialist plant, materials on site, professional fees, and the like.

Copies of dimension books to support the re-measured quantities

Where the Contract Order is reported to be complete, a Completion Certificate (**Completion Certificate - Attachment C**) signed by the Employers Representative confirming that all work and supporting documentation i.e. before/after photos, records and the like, has been carried out in accordance with the Contract.

Applications for Payments are to be sent to the named Route Commercial Manager responsible for the Contract.

15. COOM Payment (Self Billing Process)

Where a self-billing process applies the Contractor shall enter into a self-billing agreement with the Employer for the purposes of Regulation 13 of the Value Added Tax Regulations 1995 (**Self-Billing Agreement - Attachment E**)

16. Social Value Act Deliverables

The Contractor shall be responsible for delivery of the range of initiatives associated to the Social Value Act throughout the duration of this Agreement. The delivery plan and timescale of each initiative shall be agreed with the Employer's Representative.

Attachment A

Project Insurance Manual

Please refer to under separate document

Attachment B

Possessions and Rules of the Route

Rules of the Route

Rules of the Route is a document which describes when particular sections of line can be blocked in order to permit Construction or Engineering work to proceed. It will describe the possession pattern available on a whole route, and not at any particular place. This has particular significance when considering sections of line where not all of the lines available are blocked, e.g. 2 of 4 lines between point A and point B, or 1 of 2 lines in many other places, with reversible or single line working in place on the other line. However, the mere presence of a T3 possession opportunity within Rules of the Route, does **not** mean that the possession would be available. Similarly only a limited number of single line working opportunities are available on a route, as these create bottlenecks, as well as causing delay.

The Rules of the Route pertaining to this Project are available on request.

Possession Planning System (PPS) and Network Rail Guide to T3 Possessions

PPS is Network Rail's computerised database used to accomplish Engineering planning. The Employer's Representative has access to this system. It is important that all Engineering planning paperwork is completed as fully as possible for the system to work properly.

The following guide is for the Contractor when wishing to utilise possessions or temporary speed restrictions in order to work on or near the line. Please note that for Engineering planning purposes, Network Rail works in four week periods. Period One starts at the end of March/beginning of April. The Network Rail week numbering system matches the financial year. A week starts at 0001 hrs on Saturday and ends 2359 hrs on Friday.

The guide following shows the minimum steps required for Engineering work to proceed within track possessions. Other meetings may be required in addition to those shown, and the Contractor will be advised of these. Further advice can be obtained directly from the Employer's Representative.

GUIDE FOR APPLICATION FOR A TYPICAL T3 POSSESSION

32 Weeks Prior to First Day of each Four Week Period in which work occurs

Request from the Contractor to the Employer's Representative for T3 possessions and Temporary speed Restrictions (TSRs). Full details of all Engineering train movements on the railway must be quoted, as well as movements of on track machines and plant. The ITTE may outline the agreed possession details with which the Contractor must comply.

30 Weeks Prior to First Day of each Four Week Period in which work occurs

The Employer's Representative submits T3 and TSR applications to Network Rail Region for all Disruptive Possessions and as many Non-disruptive Possessions as possible. This is done via PPS.

26 Weeks Prior to First Day of each Four Week Period in which work occurs

Regional Logistics Meeting. This is the forum to resolve overlap issues.

10 Weeks Prior to First Day of each Week in which work occurs (final date)

Request from the Contractor to the Employer's Representative for Non-disruptive T3 possessions.

9 Weeks Prior to First Day of each Week in which work occurs (final date)

The Employer's Representative submits final Non-disruptive Possession applications to Network Rail Region via PPS.

6 Weeks Prior to First Day of each Four Week Period in which work occurs

Local Detail Planning Meeting (also known as Pre-Planning Meeting). The **Contractor must be represented at this meeting**. His representative is to be able to answer questions regarding technical aspects of the work and method involved. The Employer's Representative may also be represented.

By 0800 hrs on Monday prior to each week in which work occurs

PICOP name to be submitted by the Contractor to the Employer's Representative with telephone details.

Any weekday prior to each week in which work occurs within a T3 Possession

Local PICOP meeting. Where other work is happening within the T3 possession, a PICOP meeting will be held to finalise details of the work. The Contractor's ESICOW or PICOW must attend. It is the responsibility of all others working in a possession to contact the lead Contractor for advice of the time and location of the PICOP meeting. Where a contractor is nominated as the lead Contractor and there are other worksites, they should arrange for a PICOP meeting to be held.

By 1200 hrs on Thursday prior to each week in which work occurs

The Contractor to submit details of work activities to the Employer's Representative, including details of names, telephone and pager numbers of those involved in the work activity and on-call personnel.

By 0830 hrs on Monday after each week in which work occurs

The Contractor to advise the Employer's Representative of preliminary details of the last seven (7) days' activities.

The Contractor using this guide to identify his responsibilities with regard to possession management is advised to contact the Employer's Representative to identify and clarify any areas of uncertainty that may exist.

Note: The Employer's Representative may nominate other Network Rail functionaries to undertake his activities defined above.

Attachment C
VEGETATION MANAGEMENT
CONTRACTOR COMPLETION / SNAGGING FORM
 (Circle or Tick as appropriate)



CONTRACTOR		SITE NAME & REF or INST. NUMBER	
CONTRACTOR REPRESENTATIVE		BEFORE & AFTER PHOTOS ATTACHED.	YES NO
CONTACT No		ELR	
NETWORK RAIL REPRESENTATIVE		LOCATION	

The contractor confirms that the vegetation works have been completed as the scope, specifications and contract requirements, it has been inspected by the contractor and is now ready for handing over to Network Rail

SIGN		PRINT		DATE	
------	--	-------	--	------	--

MILEAGE FROM		UP DN BOTH
MILEAGE TO		

<i>To be completed by Network Rail representative</i>	YES	NO	N/A
1. HAS ALL VEGETATION WORK BEEN COMPLETED AS SCOPING DOCUMENT? (ESSENTIAL THAT SCOPING DOCUMENT USED WITH THIS FORM)			
2. HAVE ALL ARISING BEEN CHIPPED AND SPREAD TO A DEPTH NO GREATER THAN 100MM AND IN POSITION SUCH THAT THEY WILL NOT POSE FUTURE PROBLEMS WITH CESSES, DRAINS, BALLAST CONTAMINATION, SITE ACCESS ETC?			
3. HAS ALL UNCHIPPED TIMBER BEEN REMOVED FROM SITE AND CHIPPINGS NOT LEFT ON STEEP CUTTINGS?			
4. WHERE PERMISSION HAS BEEN GIVEN TO RETAIN ARISING ON SITE, IS TIMBER STACKED / BANDED / LEFT IN A SECURE MANNER AND / OR BRASH CUT AND LEFT CORRECTLY IN STAGGERED PILES < 1m HIGH, < 5m LONG, > 5m FROM THE RUNNING RAIL / > 2m FROM THE BOUNDARY?			
5. IF FENCING HAS BEEN REMOVED / CUT TO GAIN ACCESS, HAS IT BEEN REPAIRED / REPLACED TO THE CORRECT SPECIFICATION? (USE FENCING SNAG SHEET IF NECESSARY)			
6. HAVE ALL STUMPS BEEN CUT TO CORRECT LEVEL NO HIGHER THAN 100mm ABOVE GROUND LEVEL, AND TREATED WITH ECOPLUGS OR APPROVED APPROPRIATE CHEMICAL HERBICIDE (AND BLUE DYE IF REQ'D), AND USE OF CHEMICAL RECORDED ON TEF3069? (FORMS TO BE COMPLETED AND RETURNED TO NR)			
7. HAS ALL TREE WORK BEEN UNDERTAKEN TO BS3998? (EG PRUNING CUTS TO RETAINING BRANCH COLLAR)			
8. HAVE RETAINED TREES BEEN LEFT IN A BALANCED STATE AS BS3998			

(I.E. NR TREES NOT LEFT SIDED UP ON ONE SIDE)			
9. HAVE NR TEF3069 FORMS (OR CONTRACTOR EQUIVALENTS) BEEN SUBMITTED TO NR FOR ALL HERBICIDE APPLICATION?			
10. HAS SITE BEEN LEFT SECURE, CLEAN AND TIDY INCL STUMP REMOVAL WHERE NECESSARY?			
11. IF ARISINGS HAVE BEEN LEFT ON 3 rd PARTY LAND, HAS EVIDENCE OF RELEVANT PERMISSION BEEN PROVIDED?			
12. IF WORK HAS OCCURED ON 3 rd PARTY TREES, HAS EVIDENCE OF RELEVANT PERMISSION BEEN PROVIDED?			
IF 'NO' TO ANY OF THE ABOVE, SNAGGING LIST TO BE CREATED BELOW:			
IF NECESSARY, CONTINUE SNAGS ON SEPARATE SHEET. WHEN SNAGS COMPLETED CONTRACTOR SHALL SIGN OFF AND NR REPRESENTATIVE SHALL CONFIRM COMPLETION OF WORKS WITH ANY COMMENTS AS NECESSARY			

TO BE COMPLETED BY CONTRACTOR	
HAVE ALL SNAGS NOTED ABOVE BEEN RECTIFIED?	YES NO
IF 'NO' WHY?	

SIGN		PRINT		DATE	
------	--	-------	--	------	--

TO BE COMPLETED BY NETWORK RAIL REPRESENTATIVE	
ARE YOU SATISFIED THAT TO THE BEST OF YOUR KNOWLEDGE, THE ABOVE WORKS HAVE BEEN COMPLETED, INCLUDING SNAGGING ITEMS, AND ALL RELEVANT DOCUMENTATION SUCH AS WEEDSPRAYING CHEMICAL APPLICATION (TEF3069), CONSENT FORMS, COPIES OF ENVIRONMENTAL LICENSES ETC., HAS BEEN HANDED OVER BY THE CONTRACTOR?	YES NO

Preliminaries

**IF 'NO' WHY? & ADD COMMENTS (copy to be returned to contractor, NR
Commercial Assistant and original kept with SM(OT))**

SIGN		PRINT		DATE	
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Attachment D

Contract Order

NR04 (MT) CONTRACT ORDER FORM

Agreement Title:	CPA Ref:
-------------------------	-----------------

To:

From:

Network Rail Infrastructure Ltd

Contract Order	Title:
	Ref No:
	Purchase Order No:
	Date of Issue:

Periods for Completion of the Works:	
Liquidated Damages (clause 14):	
Payment instalment method:	
Principal Contractor (clause 18):	Principal Designer (clause 18):

In accordance with Agreement clause 2 you are hereby instructed to carry out the following works:

<i>Add works and pricing details here (Attachment D Appendix A Pricing Details)</i>
Lump Sum (if applicable) £

<p align="center">For the Contractor</p> <p>Signature:.....</p> <p>Printed Name:</p> <p>Date:.....</p>	<p align="center">For Network Rail (with Authority to Contract)</p> <p>Signature:.....</p> <p>Printed Name:</p> <p>Date:.....</p>
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Attachment E

Self-Billing Agreement

- 1 This self-billing procedure shall apply between the Employer and the Contractor in respect to all Works under this Agreement and the Parties hereby enter into a self-billing agreement for the purposes of Regulation 13 of the Value Added Tax Regulations 1995.
- 2 For the purpose of self-billing the VAT Numbers set out below shall apply:
 - 2.1 Employer: VAT Number 2987563980
 - 2.2 The Contractor: VAT Number
- 3 The Employer agrees to:
 - 3.1 issue self-billed invoices for all Works made to them by the Contractor under this Agreement during the Term;
 - 3.2 complete self-billed invoices marked: "SELF BILLING – THE VAT SHOWN IS YOUR OUTPUT TAX DUE TO HMRC" and showing the Contractor's name, address and VAT registration number, together with all the other details which constitute a full VAT invoice in accordance with the Value Added Tax Regulations 1995;
 - 3.3 make the Contractor aware in the event that the Employer's VAT registration number changes; and
 - 3.4 inform the Contractor if the issue of self-billing invoices will be outsourced by the Employer to a third party.
- 4 The Contractor agrees to:
 - 4.1 accept self-billed invoices raised by the Employer under this Agreement during the Term;
 - 4.2 not issue VAT invoices for the Works provided under this Agreement; and notify the Employer immediately if the Contractor:
 - 4.2.1 changes its VAT registration number;
 - 4.2.2 ceases to be VAT registered; or
 - 4.2.3 sells or otherwise transfers to the third party its business or part of its business

Attachment F – Key Performance Indicators

Area	KPI	Target	Measure
Safety	Safety Information	100%	Monthly reporting of safety statistics to include: <ol style="list-style-type: none"> 1. Total hours worked on site 2. Lost Time Injuries 3. Number of close calls reported 4. Number of major RIDDOR reportable accidents 5. Number of minor RIDDOR reportable accidents 6. Number of minor injuries 7. Total Recordable Injury Rate (TRIR data)
	Provision of PPE	100%	Provision of PPE in line with the Sentinel Guidelines and adhering to the Code of Conduct section Tools & Equipment
Quality	Completion Handback	100%	All works completed with full dated evidence, (before and after) photographic / video provided prior to attempting handback stage. In certain instances evidence of completed works may also be confirmed via a documented “walk through” of the work site.
	Planned Maintenance Regime	100%	Retain required standard of all in scope areas throughout duration of the Planned Maintenance Agreement
Programme	Delivery of Works	100%	Delivery of all work packages within the agreed programme and cost set at the outset of the specific Contract Order.
	RFQ submissions	100%	Response to all RFQ submissions within timescales stated in the invitation, returning all required completed documentation per invitation
Reporting	Ellipse Reporting	100%	Complete Ellipse reporting requirements in order to provide data of all vegetation works completed
	Monthly KPI Reporting	100%	The Contractor to provide monthly reporting to support the measurement of performance against all KPI measures
	Competency Levels	100%	The Contractor will provide regular updates to Network Rail on any changes that will impact (positively or negatively) the company capability to delivery works against the Competency Levels



PROJECT INSURANCE MANUAL

This document is the property of Network Rail.

2 January 2015

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1. INTRODUCTION

This Project Insurance Manual outlines the insurance policies that have been arranged by Network Rail as follows:

- Construction "All Risk" Insurance
- Third Party Liability Insurance
- Insurance of Network Rail's Property

and includes procedures and instructions for the notification and handling of claims under these insurance policies.

The insurance policies arranged by Network Rail extend to cover its contractors, subcontractors, suppliers, manufacturers and consultants of any tier (or provide for a waiver of subrogation in their favour) and no cost should be included in their prices for insurance cover to the extent it is provided by the Network Rail arranged insurance policies.

Network Rail's contractors, subcontractors, suppliers, manufacturers and consultants should provide and maintain insurance policies against such other exposures as specified in their contracts and/or they deem necessary, including but not limited to:

- Liability to their employees for injury sustained out of and in the course of their employment
- Professional liabilities (if undertaking professional activities, e.g. design)
- Loss or damage to their owned or hired construction plant and equipment and/or temporary buildings
- Liability under the Road Traffic Act (in Scotland the Roads (Scotland) Act 1984) arising out of motor vehicles registered for use on public roads.

Enquiries should be directed to:

Redacted
under
Regulation 13
EIR

2. SUMMARY OF INSURANCE COVERAGE

CONSTRUCTION "ALL RISKS" INSURANCE

This insurance provides an indemnity against the cost of reinstatement of physical loss or damage to the works, temporary works and materials.

Insured:	Employer	(1) Network Rail Limited and/or Network Rail Infrastructure Limited and/or their Subsidiary Companies and/or their Associated Companies
		(2) Any organisation or entity, including but not limited to local authorities, passenger transport authorities, train operating companies and railway infrastructure operators, by whom the Contractor (1) has been engaged in connection with the Project
	Contractor	(1) Network Rail Limited and/or Network Rail Infrastructure Limited and/or their Subsidiary Companies and/or their Associated Companies
		(2) Alliance Partners and/or Framework Contractors
		(3) Project Managers, Management Contractors and/or Construction Managers
		(4) Bechtel Limited, Bechtel Holdings and/or related entities and/or Project Managers, Management Contractors and/or Construction Managers in respect of the Reading Station Area Development Programme and the Crossrail On-Network Works Project
		(5) all contractors and/or sub contractors of any tier
		(6) supplier manufacturers and/or consultants of any tier and/or others engaged to provide goods or service, in respect of their manual site activities only
		for their respective rights and interests.

Cover: "All Risks" of physical loss or damage to the permanent works and Temporary Works (as defined below) including materials and goods incorporated or for incorporation therein all being the property of the Insured or for which the Insured is responsible or has instructions to insure, and/or temporary buildings and construction plant and equipment provided by the Employer.

Includes physical loss or damage arising from defective design, materials or workmanship for the benefit of the Employer and the Contractor (1), (2), (3) (4) and (5).

For the purpose of the insurance "Temporary Works" means all structures and their materials which are not intended to form part of the permanent works but which are intended to provide working access to the site or to the permanent works or which are intended to provide support to the permanent works under construction but shall not mean site accommodation and contents. Without limiting the generality of the foregoing it is specifically agreed that shuttering, formwork, scaffolding, cofferdams, sheet steel piling, temporary fabrication yards, temporary bridges and temporary roads facilitating the performance of the project shall be regarded as Temporary Works.

Territorial Limits: Anywhere in Europe.

Sums Insured: £200,000,000 each and every loss anyone contract site consequent upon one source or original cause exclusive of any inner limits contained in the Memoranda.

Excesses: £250,000 each and every loss consequent upon one source or original cause in respect of the defective part itself in the event of loss destruction or damage arising from defective design, plans and specification, materials or workmanship

£50,000 each and every loss consequent upon one source or original cause resulting from loss destruction or damage to non defective Insured Property arising from defective design, plans and specification, materials or workmanship

£50,000 each and every loss consequent upon one source or original cause resulting from storm, tempest, flood, subsidence or collapse in respect of civil engineering works other than civil engineering works which are incidental to the carrying out of building or other construction activities.

Definition of Civil Engineering for purposes of excess application: Civil Engineering Works shall be defined as work undertaken for the construction of tunnel roads, bridges, viaducts, underpasses, tidal works, tunnels, earthmoving, site remediation and retaining walls. (The laying of ballast, sleepers and railway tracks thereon is not considered to be civil engineering works for the purposes of the application of this Excess).

£ 10,000 each and every other loss consequent upon one source or original cause

Where more than one Excess applies to loss destruction or damage the total amount deducted on account of Excesses shall not exceed in all the highest single applicable Excess

Insurers: Network Rail Insurance Ltd, Zurich Insurance Company Limited and Others

For full details of the terms, conditions and exceptions applicable to this insurance reference must be made to the policy wording, a copy of which is available on request.

THIRD PARTY LIABILITY INSURANCE

This insurance provides an indemnity in respect of legal liability for third party injury and third party property damage.

Insured:	<ol style="list-style-type: none">1) Network Rail Limited and direct and indirect subsidiaries including Network Rail Infrastructure Limited2) Any Contractor engaged under contract by Network Rail Limited and/or Network Rail Infrastructure Limited where under the terms of the contract Network Rail Limited and/or Network Rail Infrastructure Limited has undertaken to provide and maintain insurance for the benefit of the Contractor.3) In respect of construction, erection, installation, alteration, repair, refurbishment, renovation projects or works where under the terms of the contract for such works Network Rail Limited and/or Network Rail Infrastructure Limited has undertaken to provide and maintain insurance for the benefit of all interested parties:<ol style="list-style-type: none">(a) Alliance partners, project managers, management contractors and/or construction managers;(b) All other contractors and/or sub-contractors in any tier;(c) Suppliers, manufacturers and/or professional consultants in any tier in respect only of their activities carried out at the site where the construction, erection, installation, alteration, repair, refurbishment, renovation works are being physically undertaken
Cover:	<p>Legal liability of the Insured to pay damages and claimants' costs and expenses in respect of:</p> <ol style="list-style-type: none">(i) death or bodily injury to or illness or disease contracted by any person(ii) loss of or damage to property(iii) nuisance, trespass, obstruction, loss of amenities or interference with any right of way, air, light, water or other easement <p>happening during the period of insurance and arising in connection with the works</p>
Territorial Limits:	Worldwide excluding physical site works undertaken in the United States of America or Canada
Limit of Indemnity:	£155,000,000 any one occurrence unlimited as to the number of occurrences
Excess:	Nil for injury and £10,000 each and every other occurrence
Insurers:	QBE Insurance (Europe) Limited and Others

For full details of the terms, conditions and exceptions applicable to this insurance reference must be made to the policy wording, a copy of which is available on request.

INSURANCE OF NETWORK RAIL'S PROPERTY

This cover provided by insurance or self insurance arrangements, indemnifies the Insured against the cost of reinstatement of physical loss or damage to the property of Network Rail and business interruption costs consequent upon such physical loss or damage.

- Insured:
- a) Network Rail Limited and its direct and indirect subsidiaries, including Network Rail Infrastructure Limited, and any associated company or joint venture in which such are involved (the Policyholder)
 - b) any train operating company or other lessee of the Policyholder's property
 - c) additional insureds for their respective rights and interests.

- Cover: Indemnity in respect of:
- a) All risks of direct physical loss or damage including theft, subsidence and terrorism
 - b) Loss of gross revenue, rent receivable, payment of penalty sums and additional costs of working incurred by the Policyholder on account of interruption to or interference with its business consequent upon physical loss or damage to property indemnified under paragraph a).

- Waiver of Subrogation: In the event of a claim arising under this insurance, the insurer agrees to waive any rights, remedies or relief, to which it might become entitled by subrogation against:
- a) any maintenance, renewals or enhancement contractor who is a joint insured under the Network Rail third party liability insurance programme
 - b) any other party to the extent required by a contract or agreement entered into by Network Rail.

Territorial Limits: Worldwide.

Sums Insured: £450,000,000 any one occurrence

Excess: As regards beneficiaries of the Waiver of Subrogation provision: £10,000 each and every occurrence.

Insurers: QBE Insurance (Europe) Limited and Others

This summary is subject to the terms, conditions and exceptions of the Policy.

3. CLAIMS

INSURANCE CLAIMS NOTIFICATION & HANDLING INSTRUCTIONS

3.1 Introduction

These instructions are intended to make site personnel aware of the procedures in place for the notification and handling of claims under the insurance cover arranged by Network Rail. It is important that the procedures are complied with so that all insured parties are adequately protected and the position of the insurers is not prejudiced.

It is important that the requirements of the procedures are followed and communicated to all parties who have an interest under the insurance policies arranged by Network Rail. In addition to the notification of claims to the insurers, it is necessary that the requirements of Claims Allocation and Handling Agreement 1 April 2011 and in England and Wales (but not in Scotland) the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) and its attendant new Civil Procedure Rules (Lord Justice Jackson's reforms), are met.

It should be noted that these procedures are a claims guide only and nothing contained herein overrides the terms and conditions of the policies which remain paramount in the consideration of any claim.

Claims handling flow charts are provided for ease of reference in Appendix 1 (Construction "All Risks" claims) and Appendix 2 (Third Party Liability claims).

3.2 Responsibility

It is the responsibility of all site management, both Network Rail and the Contractor, to make sure that these procedures are adhered to and that all incidents of loss, damage or injury are reported as detailed herein.

It is the responsibility of all site personnel, both Network Rail and the Contractor, to take reasonable steps to mitigate further loss in the event of an incident occurring.

3.3.1 Claims for loss of or damage to Network Rail's property

Incidents of damage to Network Rail's existing property resulting from works carried out by its contractors (or others) should be notified immediately to the relevant Network Rail project team.

3.3.2 All other claims

All other claims are to be submitted to the appointed Loss Adjuster - Cunningham Lindsey International Limited as detailed in the following claims procedure which has been prepared by Cunningham Lindsey in conjunction with Aon UK Limited and Network Rail, to provide guidance in the event of an incident which may give rise to an insurance claim. The procedure gives advice on claims handling from notification of an incident through to settlement and notes on suggested measures to be taken to assist with the processing of a claim.

For the avoidance of doubt this procedure applies to the following categories of claim which Cunningham Lindsey is appointed to handle:

- (i) Loss of or damage to Contract Works
- (ii) Loss of or damage to Third Party Property (not property of Network Rail)
- (iii) Third Party Injury (but not Employers Liability)

3.3.3 Uninsured Losses and Excess

Until practical completion the Works are at the risk of the contractor and therefore all uninsured losses are to be paid by the contractor including excesses applicable to insurance claims. For example any excess applicable to insurance related claims for storm, tempest or flood are payable by the contractor.

Cost Reimbursable Contracts

The cost of repairing, replacing or reinstating loss of or damage to the contract works and/or materials for incorporation therein that is the subject of cover under Network Rail's Construction "All Risks" Insurance programme is not an "admissible cost". Such cost must be paid by the Contractor and is not reimbursed.

The Contractor receives the amount recovered from insurers on account of the insurance claim made under the Construction "All Risks" Insurance programme and suffers the uninsured cost, i.e. essentially the excess applicable to the claim under the terms of the Construction "All Risks" Insurance programme.

Target Cost Contracts and Alliance Agreements

The cost of repairing, replacing or reinstating loss of or damage to the contract works and/or materials for incorporation therein that is the subject of cover under Network Rail's Construction "All Risks" Insurance programme is admitted to Actual Cost.

The amount recovered from insurers on account of the insurance claim made under the Construction "All Risks" Insurance programme is credited to Actual Cost.

Thus Actual Cost is increased by the uninsured cost, i.e. essentially the excess applicable to the claim under the terms of the Construction "All Risks" Insurance programme. The Target Cost is not increased and, therefore, the uninsured cost falls within the "pain/gain share" arrangements.

(1) What should be notified?

Initial notification should be made directly to Cunningham Lindsey using the Internet based reporting system via www.newloss.com as detailed in paragraph (2)(b), of all:

- loss or damage to permanent and/or temporary works and materials for incorporation therein
- construction plant/equipment, temporary buildings and contents owned or hired-in by Network Rail
- liability incidents, i.e. those involving injury to third parties and/or damage to property belonging to third parties.

In the event this is not possible, contact should be made by phone, email and/or fax with any of the adjusters listed in paragraph (2)(d).

It is important that the name and addresses of all witnesses to an incident are recorded along with a good description of the specific area and the local conditions.

(2) How to Notify Claims

- (a) In the event of any incident likely to give rise to a claim, notification should be made immediately to:

Cunningham Lindsey International Ltd – Construction Division
60 Fenchurch Street
London EC3M 4AD

For the attention of [REDACTED]

- (b) Electronic Notification:

- Go to the Website www.newloss.com
- Click on **Registered Users** on the menu bar at the top of the page.
- Enter **Networkrail** as the username and **buffer** as the password and click on **submit**.
- On the next page, choose **My Accounts/Projects** and click **Go There!**
- Choose the type of claim being notified from the drop down list (Network Rail **Liability** or **Contract Works**) and click **View Form**.
- Fill in the claim form with relevant details and click **Submit Claim**.
- You will now be given a newloss.com claim number and the loss will be submitted to newloss.com. Relevant parties will also be E-Mailed and/or text messaged with a notification of the loss.

- (c) By fax – complete a fax incident report form (attached as Appendix 3) and send to 020 7816 1816, marked for the attention of [REDACTED].

- (d) By phone/-mail:-

<u>Adjuster</u>	<u>Work</u>	<u>Mobile</u>	<u>Out of Hours</u>	<u>E-mail</u>
[REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
24 hour help line	029 2038 6713			

(3) Serious Incidents

Incidents involving significant loss or damage or serious personal injury or death must be reported to Cunningham Lindsey immediately by phone.

(4) Criminal loss/damage

Theft losses and those involving malicious damage and any other form of crime should be reported to the police as soon as possible and a crime reference number obtained from the investigating police officer together with his name, number and station.

(5) Legal Documents and Letters of Claim

Very strict rules have recently been introduced for the handling of personal injury claims in England and Wales (Lord Justice Jackson's reforms). These replace previous rules, which themselves laid down onerous requirements as regards the time allowed for the investigation of claims. Non-compliance with these new rules will have serious financial and reputational consequences. The new rules do not apply to claims from third parties for loss of or damage to their property.

In the case of personal injury claims in future you may receive either **(i)** a formal "Claim Notification Form" from the claimant's solicitors, or **(ii)** an enquiry from the claimant's solicitors asking you to identify your public liability insurer.

- (i) You** must acknowledge receipt of the "Claim Notification Form" (by fax or e-mail) **within 24 hours**. In that acknowledgement **you** must tell the claimant's solicitors that you have forwarded the "Claim Notification Form" to Cunningham Lindsey who represents your public liability insurer*. **You** must **immediately** e-mail a copy of the "Claim Notification Form" to [REDACTED] and [REDACTED] of Cunningham Lindsey, because Cunningham Lindsey **must** then acknowledge the "Claim Notification Form" on behalf of your public liability insurer **within a further 24 hours**.

You should include in your email to [REDACTED] and [REDACTED] the name, mobile and landline telephone numbers and e-mail address of a manager or senior supervisor who was on site at the time of the accident (whether it was reported to you or not) who can answer questions raised by Cunningham Lindsey.

- (ii) You** must reply to the claimant's solicitor's enquiry **immediately** informing them that Cunningham Lindsey is instructed to represent your public liability insurer and **you** should tell the solicitors that any claim can be notified on the Portal with Cunningham Lindsey International as the Compensator, whose portal reference is X00171*.

(* Suitable wordings for the acknowledgement to a "Claim Notification Form" and response to a claimant's solicitor's enquiry are attached in the Appendix 4.)

Cunningham Lindsey has 40 working days to give the solicitors an answer to the allegations made against you. That time limit is absolute and inextensible. It is a very short period in which to investigate a claim and, therefore, having received a "Claim Notification Form", Cunningham Lindsey will require you to provide full information such as:

- All documents generated by your company concerning the accident including, but not limited to, the relevant Works Package Plan, Task Briefing Sheet, Permit to

Work, internal accident report/s, statements recorded after the accident, training and induction records, photographs, plans and so on.

- A copy of any relevant sub-contract.

(6) Emergency Repairs

The insurers accept that essential emergency repairs to the damaged property may have to be carried out urgently and before Cunningham Lindsey has had an opportunity to carry out an inspection, in order to mitigate further damage or loss or for reasons of safety. However such emergency repairs must be reasonable in relation to the extent of the loss or damage that has been suffered.

(7) Access by Loss Adjuster and others

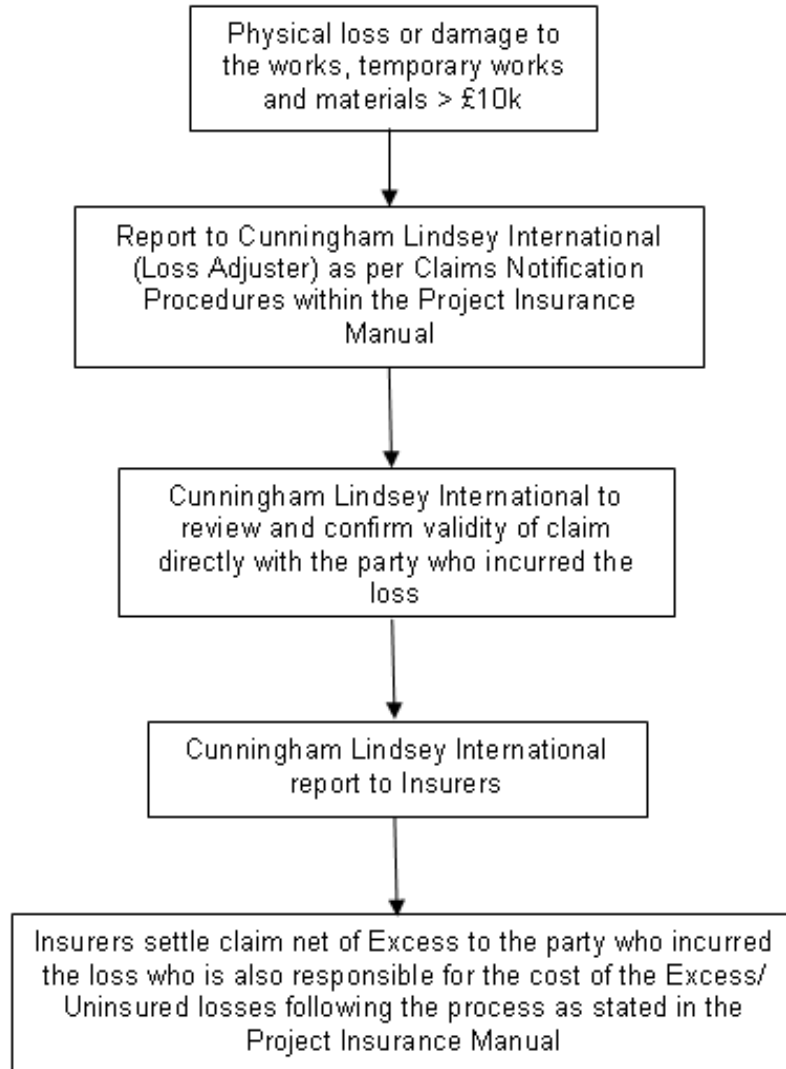
The insurers and/or Cunningham Lindsey must be allowed reasonable access to inspect damaged property and such property should not be destroyed or repaired until they have confirmed it is in order to do so. However, if it is essential to undertake repairs to the damaged property prior to Cunningham Lindsey's inspection, e.g. as in the case of emergency repairs, photographs of the damage should be taken as a record so as to assist in evidencing the extent of the claim.

Full co-operation with Cunningham Lindsey and any request for documentation to support a claim, must be given as Network Rail will monitor the progress of every loss, to ensure the matter is brought to a swift conclusion and insurance moneys are recovered from insurers within a reasonable time.

APPENDICES

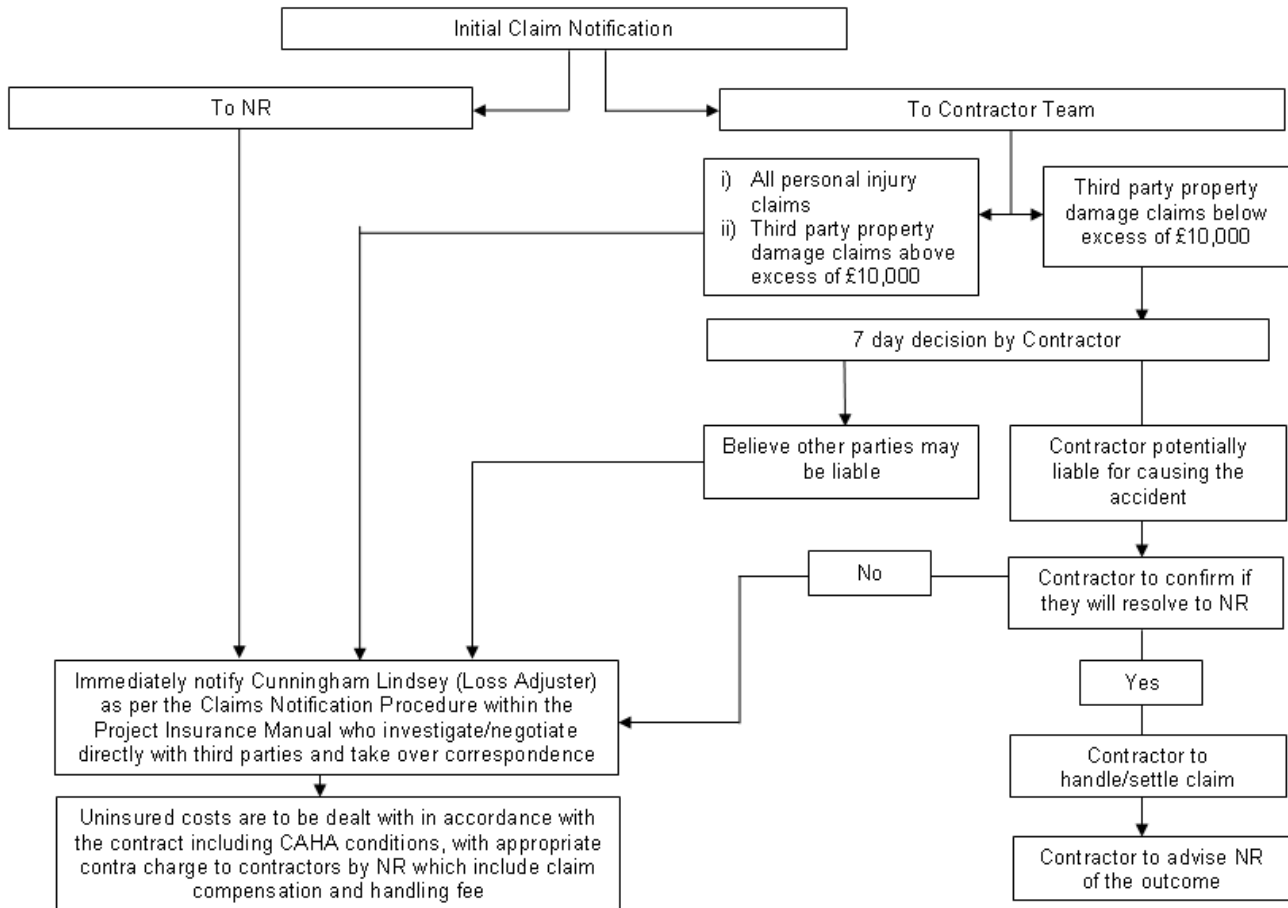
APPENDIX 1

Claims Handling in respect of all Construction “All Risks” Claims on Network Rail Projects



APPENDIX 2

Claims Handling in respect of all Third Party Claims on Network Rail Project including those below excess (£10,000)



APPENDIX 3
NETWORK RAIL
EMPLOYER'S CONSTRUCTION INSURANCE - CLAIM FORM

PROJECT

NETWORK RAIL ROUTE

CONTRACTOR

EXACT LOCATION OF INCIDENT

CIRCUMSTANCES

NATURE OF DAMAGE / INJURY

DATE OF INCIDENT

CLAIMANT'S NAME & ADDRESS
(for Liability claims)

CONTACT NAME

COMPANY NAME

COMPANY ADDRESS

TELEPHONE

MOBILE

FAX


E-MAIL ADDRESS

Signed..... **Name**.....

Dated..... **Position**.....

Please attach any sketches, photographs, correspondence, witness statements, account book entries, etc.

Return to:


Cunningham Lindsey International Ltd
International House
1 St Katharine's Way
London E1W 1UU.

Tel: 020 7816 1830

Fax: 020 7816 1816

APPENDIX 4

ACKNOWLEDGEMENT TO “CLAIM NOTIFICATION FORM”

Without Prejudice

Dear Sirs

Re: Alleged Accident to [insert name of Claimant]

We acknowledge your Claim Notification Form dated [insert date] in respect of the above. The Claim Notification Form has been forwarded to Cunningham Lindsey International Limited, International House, 1, St Katherine's Way, London, E1W 1UU, who represent our insurers.

Yours faithfully

[signature]

RESPONSE TO SOLICITOR'S ENQUIRY

Without Prejudice

Dear Sirs

Re: Alleged Accident to [insert name of Claimant]

In response to your enquiry we can confirm that our insurers are represented by Cunningham Lindsey International Limited, International House, 1, St Katherine's Way, London, E1W 1UU. Any claim can be notified on the Portal with Cunningham Lindsey International as the Compensator, whose portal reference is X00171.

Yours faithfully

[signature]

**Vegetation Management
Clearance & Planned Maintenance**

**Contract
Requirements**

**Clause 1.8
Pricing Document**

1. PRICING PHILOSOPHY

The intent of this document is to procure work using one of the following methods:

- Competitive tendering of Work Packages (RFQ & COOM Competitive)
- Pricing of work using the Schedule of Rates (COOM Direct)
- Dayworks (COOM Direct & COOM Competitive)

2. PRICING PREAMBLES

In consideration of the proper performance and completion of the Works, the Employers shall pay the Contractor in accordance with this Agreement.

The method of pricing to be used shall be determined by the Employer's Representative before any work is authorised.

The rates for activities shall include everything necessary to carry out the activities in accordance with all of the requirements of this Agreement.

The Employers Representative shall be responsible for agreeing the completion of the Works.

Where during the execution of the Works the contractor identifies and notifies the Employer's Representative of works at variance to the Contract Order then it shall be agreed and valued at fair rates in accordance with Clause 6 of the NR4(MT) Contract.

Network Rail reserve the right to implement a staged payment model as part of any Contract Order which would be structured to ensure full completion of all works is delivered and evidenced prior to any release of final payment stage(s) as set out in the RFQ invitation.

3. TENDERING OF WORK PACKAGES (RFQ) applies only to the submission of tenders for work packages within the framework contract

During the period of this Agreement the Employers Representative may request that the Contractor submits tenders for the delivery of packages of work.

The Employer's Representative will notify the Contractor via eSourcing with a Request for Quotation (RFQ) comprising of:

- Request for Quotation giving a brief description of the work (Appendix D), contact details and the like
- Detailed site specific Vegetation Proposal (As document ref: Appendix B)
- Detailed vegetation survey (As document ref : Appendix C)
- Work site location map

A Request for Quotation will be made to all Contractors within the LOT subject to clauses contained within document 1.9 of this Contract.

The contractor overhead and profit percentages can be reduced but shall not exceed the levels agreed and set at Contact award stage and shall be shown clearly in the calculation of the Lump Sum as part of every RFQ response.

4. PRICING OF WORKS - SCHEDULE OF RATES

During the period of this Contract the Employer's Representative may require the Contractor to undertake work other than as a Work Package. This work may be on the basis of the provision of labour only, or the provision of labour and materials with or without plant. Such work shall be initiated using a Contract Order. The works shall be priced using the rates set out in the Schedule of Rates or will be subject to competition under a COOM Competitive route at the discretion of Network Rail.

Schedule of Rates
Rates
Redacted Under 12 (5)(e) EIR

Daywork
Labour – Individuals and Gangs
Redacted Under 12 (5)(e) EIR

Applicable Rates

An hourly rate for the grades of personnel will be paid based on the time of week that the labour works as follows:

- Weekday – shall be any day shift from Monday to Friday where the shift starts at or after 07:00 hours to 18:59 hours or for the duration specified by the Network Rail.
- Weeknight – shall be any night shift from Monday to Friday where the shift starts at or after 19:00 hours to 06:59 hours or for the duration specified by the Network Rail.
- Weekend – shall be where the shift starts at or after 19:00 hours on Friday to 06:59 hours on Monday, or the day following a Bank Holiday or for the duration specified by Network Rail.
- Christmas – shall be where the majority of the shift takes place between 22:00 hours on 24th December to 06:59 hours on 27th December.
- New Year – shall be where the majority of the shift takes place between 22:00 hours on 31st December to 06:59 hours on 2nd January.
- Operator rates shall be adjusted in accordance with Network Rail's annual notification letter in the event of any shifts which occur on Christmas Day, Boxing Day or New Year's day.

5. PRICE REVIEW

6. PAYMENT REQUIREMENT DETAILS

(i) Self-Billing and Invoice Process

The Self Billing and Invoice Process will be supported by the following where applicable;

- a. Completion Certificate (or a detailed progress report stating the percentage completed for interim payments on competitively tendered works exceeding £10k)
- b. Signed original timesheets (photocopies are not acceptable)
- c. Copies of invoices to support local authority fees, hired plant, materials, waste disposal and the like

7. EMERGENCY RESPONSE

Emergency response to vegetation related incidents, e.g. tree failure, signal sighting. First line response to vegetation related incidents affecting the railway shall be by Network Rail operatives. However, the Contractor shall have a robust 24 hour control and communication facility which shall be able to respond to requests for assistance from Network Rail's Integrated Control Centre to deal with vegetation related incidents.

When instructed by Integrated Control Centre or the Employer's Representative, a team of operatives may be either placed on standby or instructed to immediately respond to a vegetation related incident.

Where a team is placed on standby during normal working hours (Monday to Friday 07:00 – 18:59hrs), no additional charge will be made if the team is not required to respond. If a team is required to be placed on standby outside normal working hours, a team standby rate shall apply for each 12 hour team shift. Where a team responds to an incident, the emergency contract call out rate shall apply and the team will remain on standby for a 12 hour period.

In extended periods of inclement weather, the Contractor is expected to manage rostering of his teams to ensure continuous emergency cover.

Redacted Under 12 (5)
(e) EIR

Appendix B

Ref:

VEGETATION PROPOSAL

1. This proposal specifies the extent of the sites to be priced, provides general details of the site and a preliminary assessment of the work to be undertaken. For the purposes of the contract this document should be considered as the Particular Specification.

[illegible]

- ### 3. Brief Description of the Sites

- #### 4. General Condition & Notable Defects

5.	<p>Access Details</p> <p>It is the Contractors responsibility to apply for and manage all possessions and plan the volume of work possible to be delivered in any Possession and to book and manage a suitable number of Possessions & Isolations to complete the work within timescales and accept all associated costs. It should not be assumed that any abnormal Possessions will be granted.</p> <p>The Contractor is responsible for all 3rd Party access agreements, and no additional sums will be considered for said accesses by Network Rail.</p> <p>The Contractor will provide Network Rail with written confirmation of all 3rd party Access Agreements signed by both parties 30 days prior to commencement of any works or use of 3rd party accesses.</p>
----	--

6.	<p>Working Restrictions for the vegetation works</p> <p>Hazard Directory</p> <p>Limited clearance</p> <p>Overhead cables and buried services.</p> <p>Highways and notices.</p> <p>Noise Notices, Tree Preservation Orders and Legislative Bodies.</p> <p>Third party arrangements.</p> <p>SSSIs, Conservation Areas, EPS, Wildlife & Countryside Act & subsequent amendments, other environmental and ecological legislation</p> <p>Working over water.</p> <p>Working at heights and roped access.</p>	Y/N
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7.	<p>Work to be Undertaken</p> <p>Vegetation Extent</p> <p>All vegetation requiring removal has been identified on the attached site specific scope sheet. Previously felled or fallen trees and limbs must also be chipped or removed from site.</p> <p>All chipped materials must be spread out to a maximum depth of 100mm, no chipping shall be permitted on steep cuttings or slopes (>33deg) and arisings should not contaminate the track or ballasted areas.</p> <p>All tree stumps to be treated with Eco plugs as recommended by suppliers (quantity per tree is generally diameter in mm divided by 4 or diameter in inches divided by 1.5). Where the diameter of any cut prevents this the vegetation shall be chemically treated to prevent regrowth. Chemical must contain blue dye.</p> <p>Mileages which include station areas will be included within the contractors plans.</p> <p>All material must be either chipped or removed from site, no application for rashing or windrowing will be considered at pricing stage</p> <p>When cut material is to be stored temporarily awaiting removal it shall be securely banded each day.</p> <p>Contractors are reminded that if a crown reduction or removal of more than 30% of any tree is required to meet the specification, the whole tree shall be removed. Pollarding is not a preferred option.</p>
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Fencing

Any fencing removed for access requirements must not be left unattended and must be made secure at the end of the shift, with before & after photographs being available for such accesses.

Any damaged fencing must be replaced on a like for like basis at the Contractors own cost before the end of the shift.

Drainage

Allow for clearing vegetation from all open drainage routes, water courses and ditches where applicable.

No chipped material shall be allowed to enter or contaminate a watercourse, drainage system or be in danger of blocking any such system. Any such blockages will be cleared by the Contractor at their own cost.

Completion

Upon completion of the sites, the Contractor is to provide the employers representative with an electronic report of the work carried out including before and after photographs of each site.

Environmental (Restrictions, Housing, Animals)

Contractor to provide an ecological survey 30 days prior to the commencement of works for each site and to include detail relating to as a minimum:

Nesting Birds, Badgers, Bats, Sand Lizards, Crested Newts, European Protected Species

8. Safety Arrangements

Work Package Plans must be submitted to Network Rail & signed as accepted prior to commencement of any works.

Refer to the Network Rail Hazard Directory for information to enable setting up safe systems of work.

All safe systems of work will be the responsibility of the contractor.

9. Notification to Local Residents

The Contractor's attention is drawn to the sensitive nature of the work with adjacent landowners and the general public.

Where tree-felling works are to be carried out adjacent to occupied domestic property, the Contractor must identify each site to Network Rail 40 days prior to works commencing whereupon the occupier shall be notified by Network Rail. Network Rail is obliged to give 4 weeks' notice to residents.

10. Contact Details

Project Manager

TBA to successful contractor upon awarding of contract

Supervisors

TBA to successful contractor upon awarding of contract

Maintenance Protection Co-ordinator

Senior Asset Engineer (Lineside)

This information is not exhaustive and is accurate to the best of the author's knowledge at the time of publication. It is the responsibility of the tenderer to ensure the accuracy and completion of the information.

Prepared by [redacted] (print name)

Date: [redacted]

Signature: [redacted]

Appendix C - Vegetation Survey

ELR		Start Track Mileage		
Local Name		Finish Track Mileage		
Up / Down		Date of Site Visit		
Fast / Slow Lines		Prepared By (Name & Tel No)		
ACTIVITY	DESCRIPTION		ACTIVITY	DESCRIPTION
A	Maintenance and / or clearance of lineside vegetation to a vertical line 6.5m from the running rail or 3.5m from any OLE whichever is the greater including retaining walls, rock cuttings, steep cutting slopes, embankments, signal & level crossing sighting		J	Clearance / surgery of hazardous trees. Work must be specified in comments box or from NR Tree hazard report
B	Maintenance and / or clearance of lineside vegetation to a vertical line specified from the running rail including retaining walls, rock cuttings, steep cutting slopes, embankments, signal & level crossing sighting		K	Maintenance / clearance of vegetation outside NR boundary - normally as response to outside party requests and public complaints. Work must be specified in comments box
C	Maintenance and / or clearance of lineside vegetation measured from 5m from the rail to the boundary (may include rock cuttings, steep cutting slopes, signal & level crossing sighting)		L	Control of injurious and / or invasive weeds. Work may need specific action in comments box
D	Maintenance and / or clearance of lineside vegetation from on, around and adjacent to lineside assets (may include signal & level crossing sighting)		M	Clearance of vegetation to reduce leaf fall risk scores (may be done separately or with other activities)
E	Maintenance and / or clearance of vegetation from the track and ballasted area		N	Planting, (may include aftercare)
F	Maintenance and / or clearance of vegetation from structures		O	Other - specify requirements in comments box and relevant specifications required
G	Maintenance and / or clearance of lineside vegetation in rock cuttings		P	Vegetation Survey Works (specify in comments box)
H	Maintenance and / or clearance of lineside vegetation on steep soil cutting slopes		R	Emergency response to signal sighting and other vegetation related incidents (specify in comments box)
Note:	All dimensions horizontally from edge of rail and are approximate			TP = Third Party
	Distance from rail required where activity 'B' specified			
Down Side (or Left if on single line in direction of increasing mileage)				Up Side (or Right if on single line in direction of increasing mileage)
Comment	Activity	Boundary Width	Mile Yard	Mile Yard Boundary Width Activity Comment

Appendix D – RFQ Activity Specification

Activity	General Specification
A	Removal of all woody vegetation from 6fts,10fts, wideways & 0m to vertical line at 6.5m (measured horizontally regardless of actual ground slope) from the outside of the outermost running rails and any vegetation outside of this zone that is required to be maintained / cleared to meet the required sighting distance of signals and level crossings as laid out in NR/L2/TRK/5201, including all vegetation to a vertical line 1m around all operational assets that need to be inspected or accessed such as cess paths, walkways, overhead lines, structures incl OLE gantries and switches, location cabinets, signal rodding, cable runs, troughing, REBs, PSBs, relay rooms, radio antennae and fenced compounds. All injurious and invasive weeds are to be removed to the Network Rail boundary. Trees less than or equal to 150mm dbh that overhang into the 6m area shall be removed and not sided up. When siding up a tree > 150mm dbh outside the 0-6m zone with overhang into the 0-6m zone, if more than 30% crown reduction is required to create a well balanced tree, the tree shall be removed completely (refer BS3998). All stumps shall be treated with Ecoplugs or approved appropriate herbicide to prevent re-growth.
B	As Activity A but the distance to the vertical line to which woody vegetation shall be removed shall be specified in the comments box. (Note: this may specify, for example, either 6.5m or 3.5m from OLE whichever is the greater to allow for compliance at overhead line equipment (incl boosters and AutoTransformer Feeder system), or may be less e.g. 5m)
C	Vegetation in this area shall be managed such that the risk to the operational railway of NR & 3rd parties is kept as low as reasonably practicable. The trees to be removed when specifying this activity shall be identified in the comments box and marked on site and shall be removed with minimal interference to the adjacent scrub layer. All stumps shall be treated with Ecoplugs or approved appropriate herbicide to prevent re-growth. For example, removal of all trees within str king distance of OLE or cess (3m from rail)
D	All vegetation shall be cleared to a vertical line measuring 1m around all operational assets that need to be inspected or accessed. This applies to, but not limited to, cess paths, walkways, overhead lines, structures incl OLE gantries and switches, location cabinets, signal rodding, cable runs, troughing, REBs, PSBs, relay rooms, radio antennae and fenced compounds.
E	In track and ballasted areas, all vegetation shall be removed. Generally all woody vegetation shall be removed and where removal of grasses and weeds is impractical, all areas shall be trimmed and weedsprayed with appropriate herbicide such that no more than 5% re-growth by area of weeds & grasses shall be allowed. All ground frame signals, hand points and other assets within the ballasted / track area shall be cleared
F	On structures (bridges, culverts, retaining walls, tunnel portals etc) and boundary walls vegetation shall be removed to 3m beyond the top of the face of the structure, stumps shall be left as low as possible and no greater than 100mm above ground level measured on the upper slope side. Where vegetation is growing out of the structure, the cut shall be flush with the surface and the stump treated with an appropriate herbicide to prevent re-growth. Care to be taken not to damage the structure
G	In rock cuttings, all woody vegetation shall be removed to a distance of 1m beyond the top of the cutting. Stumps shall be cut flush with the cutting face and treated with an appropriate herbicide to prevent regrowth. Grasses, weeds & ruderal herbs may remain unless they interfere with other assets or affect sighting of signals and /or level crossings or fall within a vertical line 3.5m from any OLE, in which instance they shall be removed
H	In steep soil cuttings (>33 deg approx 1 in 1.5), all woody vegetation with a diameter greater than 150mm dbh shall be removed to a distance of 1m beyond the top of the cutting. Generally all shrub (hawthorn, blackthorn etc) shall remain unless specifically included in comments box however where working space is required, the contractor shall ensure only the minimum of shrub is removed
J	Clearance / surgery work to hazardous trees identified using the NR hazardous tree survey forms (TEF3077 & TEF3245) and/or the National Lineside Tree Survey information shall be specified on the hazard form and attached to the proposal & survey document. Where removal is specified any ID tag shall be retained and passed to the Employer's Representative, where surgery is specified, the Contractor shall confirm that the specific actions have been undertaken
K	For work required to 3rd party trees & other vegetation, specific detail of work required shall be shown in the comments box. In all instances, no work shall proceed without the approval of the MPC (Maintenance Protection Coordinator).
L	Invasive and injurious weeds are defined in Schedule 4 as plants listed in The Weeds Act 1959 [including Common Ragwort (Senecio Jacobaea), The Wildlife and Countryside Act 1981 [including Japanese Knotweed (Fallopia Japonica) and Giant Hogweed (Heracleum Mantegazzianum)], Giant Knotweed (Fallopia Sachalinensis), Hybrid Knotweed (cross between Japanese and giant) (Fallopia x Bohemica) and Himalayan Balsam (Impatiens Glandulifera). Buddleia (if not already covered in other work activities as woody vegetation) is considered to be injurious by Network Rail and shall be included for removal / treatment. They shall be treated following the guidance in NR/L3/TRK/002/D14. Comments box to be used for any specific requirements. Local treatment specification may be issued
M	Removal of all Sycamore (Acer Pseudoplatanus), Ash (Fraxinus Excelsior), Sweet Chestnut (Castanea Sativa), Horse Chestnut (Aesculus Hippocastanum), Poplar (Populus species – except Aspen, P. Tremula) and Lime (Tilia species) within the area specified. Additionally, any further tree removal of any deciduous tree species in dense concentrations shall be specified in the comments box and clearly marked on site
N	Planting: the location, extent, spacing and type of planting shall be decided on site by the Employer's Representative and the contractor's representative and recorded in the comments box (or an attached sheet).
O	Other work not described in any of the activity specifications or combinations of activities shall be specified in the comments box but shall be in accordance with NR/L2/TRK/5201 and good practice (BS3998)
P	Survey work shall be specified in the comments box and, where applicable, recorded on relevant TEFs
R	Emergency (rapid) response shall be specified in the comments box - it is likely that this may be completed after the incident as confirmation of work undertaken. Gnenerally, unless specified, the emergency response shall be to take minimal action to clear the vegetation fault and further instructions issued regarding the clearing of arisings and the like.

Redacted under Reg 12(5)(e) EIR

