

Schedule 16: Change Notice

Part 1 – Non-Material Changes prior to Works Completion

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|--|--|
| Contract <i>[insert details]</i> | NMC Change Proposal No. <i>[insert details]</i> |
| <p>To: The Transport Agency (Change recipient)</p> <p>From: The Contractor (Change proposer)</p> | |

| |
|--|
| Section 1 – Details of proposed Change (to be completed by Change proposer) |
| <p>Non-Material Change prior to Works Completion</p> <p>Details of Non-Material Change</p> <p><i>[Insert details of Non-Material Change]</i></p> <p>Basis for Non-Material Change</p> <p><i>[Insert details of Contractor’s reasons for proposing the Change].</i></p> <p>Signed for and on behalf of the Contractor by:</p> <p>.....</p> <p>Name: _____ Date: _____</p> <p>Position: _____</p> |

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|--|
| Section 2 – Change Proposal (to be completed by Contractor) |
| <ol style="list-style-type: none"> 1. <i>Statement of Work</i> <ul style="list-style-type: none"> • <i>[set out the steps that the Contractor proposes to take to implement and verify completion of the Non-Material Change, and any schedule impact of implementing the Non-Material Change (including, if applicable, a revised Construction Programme).]</i> 2. <i>Consents required or required to be amended (including Consents from financiers and authorisations from insurers)</i> <ul style="list-style-type: none"> • <i>[Drafting note: WGP to confirm whether financier consent is required for Non-Material Changes.]</i> |

Section 3 – Contractor’s Certifications (to be completed by a director of the Contractor General Partner)

The Contractor certifies that the Change is a reasonable consequence of the development of the design that, if implemented, will not

1. reduce the TG Project’s ability to meet the Objectives;
2. adversely affect:
 - (a) project stakeholders;
 - (b) any persons entitled, prior to the Service Commencement Date, to access rights over the TG Project Site;
 - (c) any persons entitled, following the Service Commencement Date, to access and/or use the relevant elements of the TG Project; or
 - (d) the Transport Agency’s reputation;
3. result in any change to the Unitary Charge or otherwise adversely change any risk or Liability of the Transport Agency;
4. increase the likelihood of the Contractor failing to meet the Transport Agency’s Requirements; or
5. materially and adversely affect the Contractor’s ability to perform its obligations under this Agreement (including by breaching any Law or Consent).

Signed for and on behalf of the Contractor

.....

Name

Position

Date

Section 4 – Approval of Non-Material Change (including any change proposal variations)

Section 4.1 (to be completed by the Transport Agency)

Change proposal variations: No/Yes [if yes, set out particulars]

Section 4.2: Technical approval (to be completed by the appropriate Transport Agency officers and to signify approval of Change Proposal subject to any permitted specified change proposal variations)

Proposed Non-Material Change, when read subject to the change proposal variations noted above

(if any)

.....

Name

Branch

Date

Section 4.3: Overall approval of Change (to be completed by the Transport Agency and to signify approval of the Change Proposal subject to any permitted specified change proposal variations and any formal variations to the Agreement set out in section 5 below)

Proposed Non-Material Change, when read subject to the change proposal variations noted above, and the variations to the Agreement set out in section 5 below (in each case, if any)

Overall Approval (Transport Agency)

.....

Name

Branch

Date

Section 5 – Formal variations to the Agreement (to be completed by the Transport Agency)

[insert details of all amendments needed to the Agreement to implement the agreed Non-Material Change.]

Part 2 – Other Changes

| Contract <i>[insert details]</i> | Change Proposal No. <i>[insert details]</i> |
|--|---|
| <p>To: (Change recipient)</p> <p>From: (Change proposer)</p> | |

Section 1 – Details of proposed Change (to be completed by Change proposer)

- Material Change
- Non-Material Change after the Service Commencement Date

Details of Change

All Changes - insert details, including in the case of:

- Change to Works Provisioning - details of the nature of the Change;
- where applicable, which of the provisions of the Works Requirements, Construction Programme, the Completion Plans and/or the Works Project Management Plan are required to be amended to accommodate the relevant Change;
- Change that requires additional works as part of the Works Provisioning - details of:
 - the nature and scope of the relevant additional works to the same level of detail as set out in Works Requirements; and
 - the times at or by which the work to implement the relevant TG Project is proposed to be commenced and completed; and
- Change to the Services - details of the nature of the Change and which of the provisions of the Service Requirements and/or the Services Documentation are required to be amended to accommodate the relevant Change.

Material Change proposed by the Transport Agency

If the Transport Agency is the party sending the Change Notice:

- whether the Transport Agency intends to require the Contractor to use its best endeavours to seek funding for Capital Expenditure – Yes/No
- whether the Transport Agency requires the Contractor to seek competitive quotations for any element of the Change (where it comprises a Significant Material Change) – *[specify details]*

Change proposed by Contractor

If the Contractor is the party sending the Change Notice, insert details of Contractor's reasons for proposing the Change.

Signed for and on behalf of the Change proposer by:

.....

Name:
Position:

Date:

Section 2 – Change Proposal (to be completed by Contractor)

1. *Statement of Work*

- set out all the steps that the Contractor proposes to take to implement and verify completion of the Change;
- set out the schedule for implementing the Change (including, as applicable, a revised Construction Programme); and
- detail all the consequences of the Change that are reasonably foreseeable consistent with Good Industry Practice.

2. *Cost of Change (to be determined in accordance with Schedule 17 (Change Compensation Principles) and to be disclosed on an Open Book Basis)*

- detail the proposed Change in Costs (on an Open Book Basis) and the Contractor's proposal for financing such Change in Costs, including:
 - confirmation that the Contractor has used its best endeavours to source finance for any Capital Expenditure, and the extent to which the Contractor has actually sourced finance to cover any Capital Expenditure; and
 - any Capital Expenditure for the account of the Transport Agency;

taking into account for these purposes:

- how any expenditure that has been avoided or that is anticipated to be incurred as a result of the Material Change has been taken into account in determining the estimated Change in Costs and/or any Capital Expenditure that is or may be for the account of the Transport Agency;
- any impact upon the Unitary Charge from any Capital Expenditure required or no longer required as a result of the Material Change and, if appropriate, such increase or decrease in Capital Expenditure broken down into:
 - in respect of any Material Change made or to be made during Works Provisioning:
 - the likely valuation of the proposed Change and/or the capital costs likely to be incurred; and
 - any capitalised interest, expenses, third party financing costs or other costs to be incurred by the Contractor as a result of any delay in achieving the Planned Service Commencement Date or any other consequence of the Change; and/or
 - in respect of any Material Change made or to be made following the Service

Commencement Date:

- direct labour (person rates and wage rates);
- materials (including specialist tools);
- travel and subsistence;
- overheads;
- finance charges (including arrangement fees); and
- any sub-contracted work where the value of such work is in excess of \$5,000,000 (indexed) identifying:
 - each sub system, package of work, service or purchase of components and raw materials;
 - a detailed breakdown of prices/rates quoted for each tender requirement and the means by which prices are determined to be fair and reasonable;
 - the identity of the proposed Sub-contractor; and
 - any other relevant factors,

(in each case and to the extent applicable, as per the schedule of rates referred to in Schedule 17 (Change Compensation Principles)) and, if the Contractor does not propose to invite competitive tenders for such sub-contracted work and the value of such work exceeds \$[*Significant Material Change threshold*] (indexed), the Contractor shall provide full details of its reasons for not doing so; and

- any effect on the Unitary Charge as a result of the Material Change, including by reason of any costs required or no longer required as a result of the Change and, if appropriate, the Unitary Charge that would result from such increase or decrease in operating costs broken down into:
 - any increase or decrease in the costs for the TG Project;
 - any increase or decrease in the utility costs; and
 - any increase or decrease in the costs of staff, consumables and sub-contracted or bought in services;
- insert details of any estimated overhead recoveries that are anticipated after the Material Change is implemented;
- insert details of any:
 - additional insurance costs;
 - pricing assumptions made; and/or
 - costs of repair or replacement as a consequence of the Material Change;
- insert proposed payment schedule – including the timing of Capital Expenditure payments where the Transport Agency is paying the Capital Expenditure. Where payment for any part of the Change reflects the carrying out of, or specific progress towards, an element of

the Change, the payment schedule is to include an objective means of providing evidence confirming that the part of the Change corresponding to each occasion when payment falls due under the payment schedule, has been carried out;

- describe steps taken to mitigate the adverse effects of a Material Change, to take advantage of any positive or beneficial effects of any Change and to maximise any reduction in costs arising from that Material Change; and
- the matters set out in clause 41.2 (Material Change – Value for Money) of the Base Agreement.

3. *Consents required or required to be amended (including Consents from financiers and authorisations from insurers)*

- All Changes: *[insert details]*
- All Changes other than to Operative Documents: *[Financier consent has been obtained and a copy is attached] or [Financier consent has been sought and a copy of the consent will be provided to the Transport Agency once obtained and prior to implementation of the Change.]*

4. *Timing of implementation of Change*

- All Changes: *[insert details]*

[Note: except in relation to changes to Operative Documents, the timing of the implementation must be after the Transport Agency has received a copy of the consent of the financiers or due confirmation as to their deemed consent]

5. *Certification of successful implementation of Change*

- *[insert details of certification procedures if required]*

6. *Other consequences of Change to be specified*

To include (to the extent known or predicted and applicable) the effects of the proposed Change on:

- workmanship, quality or appearance or durability of any part of the TG Project;
- the design, construction or commissioning of the TG Project;
- the management and maintenance of the TG Project;
- the residual value of the TG Project;
- the TG Project continuing to be Fit for the Intended Purposes;
- the provision of the Operational Services;
- the capability of the Contractor to meet the Service Requirements;
- the Transport Agency's relationships with third parties;
- any applicable Rectification Programme;
- any applicable Prevention Plan;

- any warranty given by the Contractor under the Project Documents;
- the performance of any other of the Contractor's obligations under the Project Documents; and
- the TG Project, including its risk profile (to the extent not covered above).

Note: for Non-Material Changes after the Service Commencement Date, all sections above are required to be completed except for section 2 (which must state 'no change in costs').

Section 3 – Contractor's Certifications (to be completed by a director of Contractor)

The Contractor certifies that:

1. to the extent the proposed Change occurs after the Service Commencement Date, the Change the subject of this Change Notice cannot be accommodated within the next planned refurbishment of the relevant part of the TG Project;
2. it is not aware of any material omission or inaccuracy in the facts and pricing assumptions provided by it, on which the cost of the Change in Section 2 of this Change Notice is based;
3. in estimating the costs on which the cost of the Change recorded in Section 2 of this Change Notice is based, it has observed the requirements of Part 12 (Changes) of the Base Agreement and the Change Compensation Principles;
4. in costing the Change, full account has been taken of all insurance moneys on which the Contractor has made or may be able to make a claim under any Insurance Policies or which it might have been able to make a claim on if it had complied with its insurance obligations under this Agreement;
5. the proposed Change will not cause any part of the TG Project not to be Fit for the Intended Purposes, nor prevent, impede or increase the cost of the Works Provisioning, nor adversely affect performance of the Contractor's other obligations under this Agreement, except to the extent that it is expressly stated or referenced in Section 2 of this Change Notice; and
6. the proposed Change will not prevent, impede or increase the cost of the Operational Services or adversely affect the Service Requirements or the performance of the Contractor's other obligations under this Agreement except to the extent that it is expressly stated or referenced in Section 2 of this Change Notice.

Signed for and on behalf of the

Contractor

.....

Name

Position

Date

Section 4 – Approval of Change (including any change proposal variations)

Section 4.1(a) (to be completed by the Transport Agency)

Material Change

Initiated by the Transport Agency

Change proposal variations: No/Yes [if yes set out particulars]

Section 4.1(b) (to be completed by the Transport Agency)

Changes proposed by Contractor

Change proposal variations: No/Yes [if yes set out particulars]

Section 4.2: Technical and finance approval (to be completed by the appropriate Transport Agency officers and to signify approval of Change Proposal subject to any permitted specified change proposal variations, subject to Transport Agency approval)

All Changes [when read subject to the change proposal variations noted above]

| | |
|-------------------|-------------------|
| (Project Manager) | (Finance Manager) |
| | |
| Name | Name |
| Branch | Branch |
| Date | Date |

Section 4.3: Overall approval of Change (to be completed by the Transport Agency and to signify approval of the Change Proposal subject to any permitted specified change proposal variations and any formal variations to the Agreement set out in section 7 below)

All Changes [when read subject to the change proposal variations noted above, and the variations to the Agreement set out in section 7 below]

Overall Approval (Transport Agency)

.....

Name

Branch

Date

Section 5 – Confirmation that implementation of Change completed (to be completed by Contractor)

All Changes

Section 6 – Certification of Work covered by Change (to be completed by or on behalf of the Transport Agency)

All Changes

Section 7 – Formal variations to the Agreement (to be completed by the Transport Agency)

[insert details of all amendments needed to the Agreement to implement the agreed Change. Attach draft amendment agreement (where applicable). Any amendment or variation agreement concluded in respect of this Change will comprise part of the Confirmed Change.]