



Angela Barnicle
Leeds City Council
Calverley Street
Leeds
LS1 1UR

Network Rail Infrastructure Limited
George Stephenson House
Toft Green
York
YO1 6JT

(the "**Recipient**")

Dated: as at signatures

Dear Recipient,

Funding From Network Rail Agreement for Leeds Existing Station Programme (the "Project")

Network Rail has allocated funding towards the Actual Cost of the Works/Services incurred by the Recipient in undertaking the Project subject to the terms of this letter.

In this letter including the Schedules (hereafter referred to as the "**Agreement**"), the definitions in Schedule 1 shall apply.

We refer to our previous discussions about the Project and confirm our agreement in respect of the funding for the Development phase of this Project as follows:

1 The Works/Services

- 1.1 The Recipient intends to carry out or procure the carrying out of the Works/Services as set out in Schedule 2. Following the physical commencement of the Works/Services, the Recipient shall use its reasonable endeavours to complete the Works/Services by 31/12/2021.
- 1.2 The Recipient confirms that it shall proceed with the Works/Services on the terms set out in this Agreement and in accordance with Good Industry Practice.
- 1.3 In appointing suppliers and contractors to perform the Works/Services the Recipient shall use a competitive procurement process and shall provide evidence of such if required by Network Rail.
- 1.4 Not used.
- 1.5 Not used.

2 Monitoring and reporting

- 2.1 Following physical commencement of the Works/Services, the Recipient shall provide Network Rail with written progress updates each Period in relation to the Works/Services including:
 - (a) information on the progress of the Works/Services;

- (b) a programme showing the timings for the completed and outstanding Works/Services;
 - (c) a cost report showing the current Actual Cost and anticipated final Estimated Cost of the Works/Services; and
 - (d) any significant risks to programme or cost and the proposed mitigation measures.
- 2.2 The Recipient shall provide details of all Actual Costs incurred in delivering the Works/Services and if requested allow Network Rail to audit its accounts.
- 2.3 The Recipient shall retain for six years and make available to Network Rail all invoices, receipts, accounts and records relating to the expenditure of the Funding.
- 2.4 The Recipient shall comply (and shall procure that any contractors and sub-contractors comply) with all requests by Network Rail for information pursuant to the Comptroller and Auditor General of the National Audit Office performing its duties of external audit of Network Rail's activities.

3 Completion of the Works/Services

- 3.1 The Recipient shall notify Network Rail in writing once it considers that the Works/Services have been completed in accordance with the requirements of this Agreement in order to enable Network Rail to certify completion of the Works/Services.
- 3.2 Following receipt of a notification from the Recipient pursuant to clause 3.1, provided that Network Rail is satisfied that the Works/Services comply in all respects with this Agreement, and that all deficiencies, snagging and defects have been rectified, Network Rail shall issue a certificate of completion of the Works/Services. In the event that Network Rail considers that the whole or any part of the Works/Services does not comply as aforesaid, it shall notify the Recipient in writing together with full details of its reasons why the certificate of completion of the Works/Services should not be issued.
- 3.3 Where the certificate of completion of the Works/Services is not issued pursuant to clause 3.2, the Recipient shall have regard to the reasons given by Network Rail and shall carry out such further work as is required to comply with this Agreement. Once the Recipient has completed such further work, the process in clauses 3.1 and 3.2 shall be repeated.

4 Funding by Network Rail

- 4.1 Subject to the issue of a certificate of completion for the relevant Works/Services in accordance with clause 3.2 Network Rail shall pay the amount of Funding (plus VAT where applicable) in respect of the Project, in accordance with Schedule 2, paragraph 5.
- 4.2 Network Rail shall make payment to the Recipient within 28 days following receipt by Network Rail of a valid invoice.

5 Termination or alternative remedies

- 5.1 Unless terminated earlier in accordance with clause 5.2, 5.4 or 5.6, this Agreement will automatically expire upon:
- (a) the certificate of completion for the Works/Services having been issued consistent with clause 3.2; and
 - (b) the Funding having been paid in full to the Recipient by Network Rail.
- 5.2 Network Rail may terminate this Agreement immediately by written notice to the Recipient if the physical commencement of the Works/Services has not occurred by the Long Stop Date.
- 5.3 **Without prejudice to Network Rail's other rights and remedies, Network Rail** may at its absolute discretion, by written notice to the Recipient and with immediate effect, withhold or suspend payment of all or part of the Funding, if:
- (a) the Recipient is in material breach of this Agreement
 - (b) the Recipient suffers an Insolvency Event;

- (c) any information given or representation made by the Recipient in any correspondence, report or other document submitted to Network Rail relating to the Works/Services or otherwise under this Agreement is found to be incorrect or incomplete to an extent which Network Rail acting reasonably considers to be material or which is likely to have a materially detrimental effect on the Recipient's ability to achieve the completion of the Works/Services;
- (d) the Recipient and/or one or more of its employees commits any fraud in connection with the Works/Services or otherwise in connection with this Agreement; or
- (e) the Recipient uses all or part of the Funding other than in accordance with the terms of this Agreement;

provided that Network Rail shall exercise its rights and remedies in a timely manner and where any material breach continues to subsist and payment has been withheld or suspended for a period in excess of 21 days, unless the Recipient is diligently proceeding with an agreed rectification plan, Network Rail shall either reinstate the payments or terminate this Agreement in accordance with its rights under clause 5.4.

5.4 Without prejudice to Network Rail's other rights and remedies, Network Rail may terminate this Agreement immediately by written notice to the Recipient if:

- (a) the Recipient is in material breach of this Agreement and the breach is either:
 - (i) not capable of rectification; or
 - (ii) not rectified within 21 days of receipt by the Recipient of written notice of such breach from Network Rail;
- (b) or on any of the grounds listed in clauses 5.3(b) to (e) inclusive.

5.5 Without prejudice to Network Rail's other rights and remedies, Network Rail may at its absolute discretion, on any of the grounds listed in clauses 5.4(a) or (b), require repayment of all or part of the Funding it has paid to the Recipient to the extent that such Funding has not delivered Works/Services properly completed in accordance with Clause 3 or been spent on the Works/Services in accordance with the terms of this Agreement. Where Network Rail requires such repayment, Network Rail shall provide written notice of the repayment amount to the Recipient and the Recipient shall repay the amount concerned within 20 Working Days of receiving the written demand for repayment. The liability to meet such a demand shall be enforceable as a contractual debt. Network Rail may require interest to be paid on any amount repayable by the Recipient at a rate of 4% above the Bank of England Base Rate.

5.6 Without prejudice to the Recipient's other rights and remedies, the Recipient may terminate this Agreement immediately by written notice to Network Rail if:

- (a) Network Rail is in material breach of this Agreement and the breach is either:
 - (i) not capable of rectification; or
 - (ii) not rectified within 21 days of receipt by Network Rail of written notice of such breach from the Recipient; or
- (b) Network Rail suffers an Insolvency Event.

5.7 Upon termination of this Agreement for material breach, the party in material breach shall pay the other party's reasonably and properly incurred costs in relation to the termination.

5.8 On termination the Recipient shall take all reasonable steps to leave any Works/Services on or close to the Network in a manner which:

- (a) is safe and secure such that there is minimal risk to rail users; and
- (b) minimises any costs to Network Rail associated with a replacement contractor completing the Works/Services.

- 5.9 Upon expiry or earlier termination of this Agreement, all provisions of this Agreement shall cease except for the following provisions, which shall survive such expiry or earlier termination and continue in force (or come into force, as applicable) in accordance with their terms:
- (a) this clause 5 (Termination or alternative remedies);
 - (b) clauses 6.2, 6.5, 6.7 and 6.8 (General);
 - (c) clause 7 (Confidential Information);
 - (d) clause 8 (Freedom of Information);
 - (e) clause 12 (Miscellaneous); and
 - (f) any other provision that is expressly or by implication intended to come into or continue in force on or after expiry or earlier termination,

and save also for any antecedent breach by, and accrued rights of, either party.

6 General

- 6.1 The Recipient will use its reasonable endeavours to enable Network Rail to receive the **benefit of all the capital allowances in respect of Network Rail's Funding towards the Actual Cost** of the Works/Services, to the extent that Network Rail is entitled to those allowances.
- 6.2 Title in the Works/Services shall vest in Network Rail upon issue of the certificate of completion or termination of the Agreement.
- 6.3 Not used.
- 6.4 The Recipient shall not carry out the Works/Services on terms other than terms which are in writing and clearly and adequately set out the terms and conditions on which payment is to be made to its contractors, and by its contractors to any sub-contractors and so on down the sub-contracting chain (and shall procure that its contractors and any sub-contractors comply with such terms).
- 6.5 The Recipient shall as soon as it becomes, or ought reasonably to have become, aware of any sum incorrectly paid to it by Network Rail, whether as a result of an administrative error or otherwise, promptly repay such sum to Network Rail.
- 6.6 Should the Recipient be subject to financial or other difficulties which are capable of having a material impact on its compliance with this Agreement, it will notify Network Rail as soon as possible so that, if possible, and without creating any legal obligation, Network Rail will have an opportunity to provide assistance in resolving the problem or to take action to protect Network Rail.
- 6.7 **Network Rail's aggregate liability** in respect of this Agreement (whether in contract, tort, breach of statutory duty or otherwise) shall be limited to a sum equal to the Funding less the aggregate of any amounts already paid by Network Rail in accordance with clause 4. Such limitation shall not apply to any liability in respect of fraud, or death or personal injury resulting from a negligent act or omission or breach of statutory duty by Network Rail.
- 6.8 The Recipient grants to Network Rail an irrevocable, perpetual, non-exclusive royalty-free licence to use all the intellectual property created as a result of the design and implementation of the Works/Services for all purposes **in connection with Network Rail's** permitted business, including the right to sub-licence.

7 Confidential information

- 7.1 Each party shall treat as confidential all information provided by the other party pursuant to this Agreement and neither party shall disclose any confidential information save as required:
- (a) by any enactment or requirement of any regulatory authority (including the Information Acts as set out in clause 8);

- (b) pursuant to any judicial or arbitral process;
- (c) to enable that party to perform its obligations pursuant to this Agreement, including the disclosure of such information to any employee, consultant, agent, officer, contractor, sub-contractor (of any tier), lender or adviser provided that such disclosure is made in good faith and only to the extent necessary to enable the party to fulfil its obligations under this Agreement;
- (d) by Network Rail, as required by its statutory duties or Network Licence; or
- (e) where the information comes into the public domain through no fault of the receiving party.

8 Freedom of Information

- 8.1 Each party acknowledges that the other party may be required, under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 (collectively, the Information Acts) to respond to requests for information relating to the subject matter of this Letter.
- 8.2 If one party (the first party) receives a request for information under the Information Acts, the other party shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the first party to enable it to comply with its obligations under the Information Acts; and
 - (b) provide the first party with a copy of all information belonging to it (which is not held by the first party and which is in the other party's possession or control and held on behalf of the first party) in the form that the first party reasonably requests within five Working Days (or such other period as may reasonably be specified by the first party).
- 8.3 Each party acknowledges that the other may be required under the Information Acts to disclose information without consulting or obtaining consent from the other.
- 8.4 The party receiving a request for information shall take reasonable steps to notify the other party of a request for information and shall consider reasonable and timely representations made by the other party regarding the application of exemptions to the requested information.
- 8.5 Notwithstanding any other provision in this Agreement, the party receiving the request for information shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.

9 Anti-bribery and Slavery

- 9.1 The Recipient shall perform its obligations under this Agreement in accordance with all applicable anti-bribery, anti-corruption and anti-slavery legislation including the Bribery Act 2010 and Modern Slavery Act 2015
- 9.2 The Recipient shall not, purchase any raw materials, resources or products from any country that have been sourced from any producer or manufacturer using forced labour in its operations or practice.

10 Conflicts of interest and financial impropriety

- 10.1 In relation to the Project:
- (a) the Recipient and all officers, employees and other persons engaged or consulted by the Recipient in connection with the Project shall not be in a position where there is a conflict of interest. The Recipient is required to have formal procedures obliging all such persons to declare any actual or potential personal or financial interest in any matter concerning the Project, and to be excluded from any discussion and decision-making relating to the matter concerned;
 - (b) if the Recipient has any grounds for suspecting any financial impropriety in the use of any amount paid under this Agreement, it must notify Network Rail immediately,

explain what steps are being taken to investigate the suspicion, and keep Network Rail informed about the progress of the investigation. For these purposes "financial impropriety" includes fraud or other impropriety, mismanagement, and use of the Funding for improper purposes;

- (c) Network Rail shall be entitled to interview employees of the Recipient if fraud or other financial impropriety is suspected by Network Rail on the part of the Recipient, its officers, employees or other persons engaged or consulted by the Recipient in connection with the Project.

11 Equality and Diversity

11.1 The Recipient shall perform its obligations under this Agreement in accordance with:

- a) 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"); and
- b) any other requirements and instructions which Network Rail reasonably imposes in connection with any equality obligations imposed on Network Rail at any time under any applicable equality law

11.2 The Recipient shall take all reasonable steps to secure the observance of clause 11.1 by its employees, agents, representatives, contractors and consultants

11.3 The Recipient acknowledges that Network Rail 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 Recipient shall assist and co-operate with Network Rail where possible in satisfying this duty.

12 Miscellaneous

12.1 Neither party intends that any term of this Agreement should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person other than Network Rail or the Recipient.

12.2 Any notice pursuant to this Agreement shall be in writing and shall be duly and validly served if delivered by email and receipt is confirmed by the receiving party, or delivered by hand or sent by first class post to the registered office of the relevant party. Any notice sent by post shall be conclusively treated as having been served two Working Days after posting.

12.3 Neither party may assign or charge its rights or interests under this Agreement without the prior written consent of the other party (not to be unreasonably withheld or delayed).

12.4 No amendment to or variation of this Agreement shall be effective unless in writing and signed by or on behalf of each party. No general terms and conditions contained in any purchase order or other document customarily required by either party in connection with a request for works or services shall be binding on the parties.

12.5 Should a dispute between the parties arise out of or in connection with this Agreement, **the parties' respective representatives shall initially** discuss and attempt to resolve the dispute. **If the parties' representatives are unable to resolve the dispute to the satisfaction of both parties within 7 days, it shall be escalated to the parties' appropriate senior managers for resolution.** If the senior managers are unable to resolve the dispute to the satisfaction of both parties within 7 days, **it shall be escalated to the parties' directors for resolution.** If the directors are unable to resolve the dispute to the satisfaction of both parties within 7 days, the dispute shall be referred to adjudication in accordance with clause 12.6.

12.6 Either party may refer to adjudication any dispute arising out of or in connection with this Agreement in accordance with the Housing Grants, Construction and Regeneration Act

1996. The adjudicator shall be agreed between the parties and failing agreement within 7 days of receipt by one party of a proposal by the other the adjudicator shall be nominated at the request of either party by the President or Vice President for the time being of the Technology and Construction Bar Association.

12.7 This Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement and supersedes any previous agreements between the parties. Each party acknowledges that in entering into this Agreement it is not relying upon any statement or representation not set out in this Agreement.

12.8 The rights and remedies of the parties in connection with this Agreement are cumulative and are not exclusive of and may be exercised without prejudice to any other rights or remedies provided in this Agreement, by law, statute, equity or otherwise.

12.9 Not used.

12.10 This Agreement shall be governed by and construed in accordance with the laws of England and Wales. Save as expressly provided otherwise, the parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any disputes that may arise out of or in connection with this Agreement.

Please sign and return a copy of this Agreement to confirm your agreement to the above.

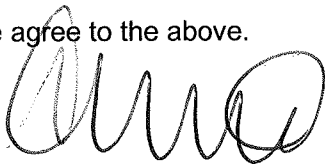
Yours faithfully,



23rd March 2022

For and on behalf of Network Rail Infrastructure Limited

We agree to the above.



For and on behalf of Leeds City Council

Dated 31.3.22.

Schedule 1
Definitions and Interpretation

1. In this Agreement the following words and expressions shall have the following meanings unless the contrary intention appears:

"Actual Cost" means the actually incurred aggregate cost of performing the Works/Services;

"Estimated Cost" means the aggregate cost of performing the Works/Services estimated at the date of the Agreement in accordance with paragraph 4 of Schedule 2 and subsequently as updated in accordance with clause 2.1(c);

"Funding" means the lesser of the Actual Cost of the Works/Services or the Maximum Funding amount;

"Good Industry Practice" means in relation to the performance of any Works/Services activity under this Agreement, the exercise of that degree of skill, diligence, prudence and foresight as would reasonably be expected from a properly qualified and competent person engaged in carrying out works or services of a similar size, nature, scope, type and complexity, complying with all laws and applicable British, European and International standards and published codes of practice and in relation to any Works/Services being carried out on the Network any applicable railway standards;

"Information Acts" has the meaning given in clause 8;

"Insolvency Event" in relation to either party means:

- (a) such party stopping or suspending or threatening to stop or suspend payment of all or a material part of its debts, or becoming unable to pay its debts, or being deemed unable to pay its debts under section 123(1) or (2) of the Insolvency Act 1986, except that in the interpretation of this paragraph, section 123(1) of the Insolvency Act 1986 shall have the effect as if "£750" was substituted to "£50,000";
- (b) any step being taken by any person with a view to the winding up of such party or any person presenting a winding-up petition which is not dismissed within five Working Days;
- (c) a receiver, manager, administrative receiver or administrator being appointed in respect of such party;
- (d) such party ceasing or threatening to cease to carry on all or a material part of its business, except for the purpose of and followed by a reconstruction, amalgamation, reorganisation, merger or consolidation on terms approved by the other party before such step is taken (which approval shall not be unreasonably withheld or delayed); or
- (e) any event occurring which, under the law of any relevant jurisdiction, has an analogous effect to any of the events listed above;

"Long Stop Date" means 01/04/2021;

"Maximum Funding" means £556,380 plus VAT where applicable;

"Network" means the railway facilities of which Network Rail or an Operator is the facility owner (as defined in section 17(6) of the Railways Act 1993)

"Network Licence" means the licence to operate the Network granted to Network Rail pursuant to section 8 of the Railways Act 1993;

"Period" means a railway accounting period;

"Protection Mechanism" means the conditions that are agreed between the Recipient and Network Rail for Works/Services on or close to the Network;

"Working Day" means any day (other than a Saturday, a Sunday or a public holiday) on which banks are open for business in England and Wales;

"Works/Services" means the works/services as described in Schedule 2.

2. In this Agreement, unless the context otherwise requires:
- (a) references to a statute, treaty or legislative provision or to a provision of it shall be construed, at any particular time, as including a reference to any modification, extension or re-enactment at any time then in force and to all subordinate legislation made from time to time under it;
 - (b) references to any agreement or document include its schedules and attachments, references to **"clauses"** and **"Schedules"** are references to the clauses and Schedules of this Agreement and references to **"paragraphs"** are references to the paragraphs in the relevant Schedule;
 - (c) references in the singular shall include references in the plural and vice versa, words denoting any gender shall include any other gender and words denoting natural persons shall include any other persons;
 - (d) headings are for ease of reference only and shall not be taken into consideration in the interpretation or construction of this Agreement;
 - (e) references to an agreement, deed, instrument, licence, code or other document (including this Agreement), or to a provision contained in any of these, shall be construed, at the particular time, as a reference to it as it may then have been amended, varied, supplemented, modified, suspended, assigned or novated;
 - (f) the words **"include"** and **"including"** and **"in particular"** are to be construed without limitation;
 - (g) a reference to a **"law"** includes common or customary law and any constitution, decree, judgment, legislation, order, ordinance, regulation, statute, treaty or other legislative measure (and **"lawful"** and **"unlawful"** shall be construed accordingly);
 - (h) a reference to a **"party"** means a party to this Agreement and includes its successors in title, permitted assignees and permitted transferees and **"parties"** shall be construed accordingly;
 - (i) reference to a **"person"** includes any person, firm, body corporate, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or two or more of the foregoing;
 - (j) a **"regulation"** includes any regulation, rule or official directive of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (k) a reference to **"writing"** includes email transmission and any means of reproducing words in a tangible and permanently visible form; and
 - (l) the words in this Agreement shall bear their natural meaning.

Schedule 2

The Works/Services

1. Background

The Leeds Integrated Station Portfolio is a series of interventions to redevelop the existing station and integrate it with the new HS2 Station. A partnership governance structure has been established to manage the implementation of the portfolio. The Leeds Existing Station Programme (LESP) is an RNEP aligned programme to address projected growth within the station as it impacts pedestrian capacity and interfaces with future rail programmes including Northern Powerhouse Rail (NPR) and the arrival of a new HS2 station in the South Bank area of Leeds which will integrate with the existing station.

The programme for LESP is already on critical programme with significant capacity issues anticipated by 2026.

A Strategic Outline Business Case (SOBC) has been produced for the programme which has been endorsed by DfT and the Secretary of State. A partial award of funding has been confirmed by HM Treasury.

The SOBC demonstrates a strong strategic case for RNEP investment. It has been agreed with DfT that a single option will be progressed through Outline Business Case (OBC) with the intention that detailed design of enabling works will be progressed in parallel.

2. Scope of Works/Services

The Recipient will provide programme management services. The scope of services to be provided includes:

- Provide multi disciplinary support for design development equivalent to a planning performance agreement
- Implement Managing Successful Programmes principles
- Support the management of interfacing elements of the Leeds Integrated Station portfolio
- Support the strategic management of the programme and the development of business cases seeking necessary consents and approval
- Manage workpackages as necessary
- Embed lessons learned for future delivery
- Manage stakeholder engagement initiatives and Partnership Communications Board Sub Group
- Manage LISP partnership governance maintaining and developing the partnership and providing the guiding mind for LISP

3. Programme

Programme Management Services to be provided throughout development of Outline Business Case and through the following approval processes until 30th June 2022.

4. Estimated Cost of the Works/Services

The Estimated Cost of the Works/Services is:

Item	Works/Services description	Estimated Cost
1	Provision of Programme Management Services in relation to Leeds Existing Station Programme	£556,380
	Total	£556,380

5. Payment Schedule

Network Rail shall pay the amount of the Funding upon completion of all Works/Services following the issue of a certificate of completion consistent with clause 3.2.

6. Contact information & representatives

(i) Network Rail's representative is: Maria Clayton

Tel. No.: 07710939696
E-mail: Maria.Clayton@networkrail.co.uk

(ii) The Customer's representative is: Angela Lawson

Tel. No.: 0113 378 5832
E-mail: Angela.Lawson@leeds.gov.uk

