

SCHEDULE 6 PART 2

CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2007

SCOTTISH MINISTERS' REQUIREMENTS

CONTENTS	Page No.
1. OVERALL REQUIREMENTS	1
1.1 Definitions	1
1.2 Role of the Operating Company	2
1.3 Construction (Design and Management) Regulations 2007 – CDM Coordinator	3

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 6 PART 2

CONSTRUCTION (DESIGN AND MANAGEMENT) REGULATIONS 2007

1. OVERALL REQUIREMENTS

1.1 Definitions

1.1.1 For the purpose of this Part the terms "client", "CDM Coordinator", "construction phase plan", "designer", "health and safety file", "pre-construction information" "principal contractor" shall have the meanings assigned to them in the CDM Regulations.

1.1.2 The term Client's Representative relates to the single point of contact for the client in respect of the CDM Regulations. This role is not required by the regulations but is considered to be best practice. The Operating Company, when undertaking the Client's Representative role, will be delegated with the responsibility of ensuring that the client's duties in respect of the CDM Regulations are undertaken although the ultimate legal responsibility will remain with the Scottish Ministers. For the purposes of this Contract a member of the Core Management Team will be nominated as the Client's Representative for consent by the Director.

1.1.3 The nominated Client's Representative shall be a Chartered member of at least one of the following:

- (i) the Institution of Civil Engineers,
- (ii) Institution of Structural Engineers,
- (iii) Institute of Highway Engineers, or
- (iv) Institution of Highways and Transportation.

and shall have demonstrable knowledge of health and safety in construction issues and Legislation, experience of significant work on similar schemes with comparable hazards and complexity, to the Operations and Works to be carried out under this Contract. The nominated Client's Representative shall in addition be a registered member of the Association of Project Safety (RMaPSM) or member of the Institution of Construction Safety (M Inst. CS or F Inst. CS), and shall have not less than ten years experience relevant to health and safety in design, construction and management.

1.1.4 The Client's Representative shall not carry out the role of CDM Coordinator or any other duty holder under the CDM Regulations in respect of Operations carried out under this Contract.

1.1.5 The Client's Representative shall assist the Scottish Ministers in discharging their duty as the client under the CDM Regulations and provide services in relation to all planning, design, construction and maintenance activities for Operations and Works undertaken or proposed to be undertaken by the Operating Company including collection and provision to the Director of detailed information on individual Operations and Works, health and safety risk identification and management and health and safety performance. During Mobilisation Period 1 and at least 60 days prior to Commencement of Service Date 1 the Client's Representative shall submit

to the Director for his consent initial proposals for discharging the role of Client's Representative and be available to discuss such proposals. The Client's Representative will be expected to critically analyse health and safety information processes and procedures related to Operations and Works and advise the Director on potential risks and the range of actions that can be taken to address any such risks, within the scope of client duties under the CDM Regulations. The Client's Representative shall attend monthly meetings with the Director and prepare and submit a monthly report to the Director five Working Days prior to the monthly meeting.

1.2 Role of the Operating Company

1.2.1 The Operating Company shall:

- (i) be appointed as the Client's Representative in respect of the CDM Regulations and will be required to assist the Scottish Ministers in fulfilling its duties as client, in accordance with the CDM Regulations in respect of all activities under this Contract that shall be covered by the CDM Regulations, and
- (ii) be responsible for acting as designer and CDM Coordinator, or
- (iii) assist the Director in the appointment of other organisations as designer(s) or CDM Coordinator(s) as shall be required during the Contract Period.

The Operating Company, as Client's Representative, shall assist the Director in the appointment of designer(s) and CDM Coordinator(s) until the Service End Date. This will require carrying out the appropriate checks on the organisation's competence and resources in relation to the role for which it is being considered, and the production of a report for the consideration of the Director prior to formal appointment of the organisation, in writing, by the Director. Where the full requirements of the CDM Regulations apply, and prior to issuing tender invitations for Works Contracts, the Operating Company, as Client's Representative, shall advise the Director in writing that the CDM Regulations apply and shall require the tenderers to confirm their willingness to undertake the role of principal contractor. This requirement is in addition to the duties of the CDM Coordinator appointed for any Scheme.

1.2.2 The Operating Company, as Client's Representative, shall advise the Director of the suitability of a company (including a direct labour organisation) for appointment as the principal contractor prior to the award of a Works Contract. The appointment of the principal contractor shall be concurrent with contract award.

1.2.3 The Operating Company shall be appointed to be the principal contractor when undertaking Operations to which the CDM Regulations apply and that require notification to the Health and Safety Executive. This appointment shall be made, in writing, by the Director. The Operating Company, as Client's Representative, must ensure that any appointments made in relation to these Operations are formally recorded in writing.

1.2.4 During Mobilisation Period 1, the Operating Company shall develop a documented procedure for ensuring compliance with the CDM Regulations as part of the Management System including the Quality Plan that shall include as a minimum:

- (i) the secure storage and location (both hard copy and Electronic Copy) of all the files and other records required by the CDM Regulations (which files and records shall be Records for the purposes of this Contract) including but not limited to:
 - (a) appointments made or altered,
 - (b) construction phase plans,
 - (c) agreements as to who shall provide the health and safety file,
 - (d) health and safety files, including as a minimum those received from the Director relating to Network 2 and any previous operating company for any part of the Unit and those forming part of Historical Records,
 - (e) survey and investigation reports,
 - (f) notification to Health and Safety Executive (F10 forms),
 - (g) the pre construction information and other information obtained from the client,
 - (h) advice given and information transferred to the CDM Coordinator, designer and principal contractor, and
 - (i) advice received from the CDM Coordinator, designer and principal contractor,
 - (ii) the methods by which the information required by the CDM Regulations to be made available by the Operating Company to the CDM Coordinator, designer and principal contractor shall be transferred to these parties.
- 1.2.5 The Operating Company shall ensure that the health and safety files are prepared and handed over by the CDM Coordinator in full compliance with the CDM Regulations.to comply with the CDM Regulations.
- 1.2.6 All documentation and or information produced by the Operating Company in terms of this Part shall be a Record and in addition to the requirements of this Part shall be retained as set out in Schedule 5 Part 2.
- 1.3 Construction (Design and Management) Regulations 2007 – CDM Coordinator**
- 1.3.1 The CDM Coordinator shall be an individual with appropriate qualifications and competence as identified in Schedule 5 Part 4 to carry out the function of CDM Coordinator. The CDM Coordinator shall be able to demonstrate the independence of this role from that of the team responsible for design and planning to the Director, to the Operating Company, and to any person nominated by either of them. This will apply for all instances where a CDM Coordinator is appointed either within the Operating Company or externally.
- 1.3.2 The CDM Coordinator appointed for each part of the Operations, each Scheme or Work Contracts shall be required to comply with the general duties of a CDM Coordinator as set out under the CDM Regulations.
- 1.3.3 Individuals nominated as CDM Coordinator shall be assigned to Operations, Schemes and or Works Contracts on the basis of their competence and experience and not as a general appointment for all Operations, Schemes and or Works Contracts under this Contract.

- 1.3.4 The contact details for individuals nominated as CDM Coordinator(s) shall be provided to the Operating Company and the Director within 14 days of each or any appointment.