

DATED

2021

THE SECRETARY OF STATE FOR (1)
WORK AND PENSIONS
and

ISG FIT OUT LIMITED (2)

NEC4 OPTION A TERM SERVICE
CONTRACT IN RELATION TO CARDIFF
TY TAF TREFOREST

MILLS & REEVE

THIS AGREEMENT is made on November 2021 **BETWEEN:**

- (1) **THE SECRETARY OF STATE FOR WORK AND PENSIONS** acting as part of the Crown (the “**Client**”); and
- (2) **ISG FIT OUT LIMITED** (company number 06954059) whose registered office is at Aldgate House, 33 Aldgate High Street, London, EC3N 1AG (“**Contractor**”).

WHEREAS:

The *Client* wishes to enter into an agreement with the *Contractor* on the terms set out in this contract for the carrying out and completion of the Services.

NOW IT IS AGREED THAT:

1 Services

- 1.1 The *Contractor* Provides the Services and carries out his duties in accordance with the contract.

2 Price

- 2.1 The *Client* pays the *Contractor* the amount due under and carries out his duties in accordance with the contract.

3 Conditions

- 3.1 The terms and conditions of the NEC4 Term Service Contract Option A (June 2017 Edition) have effect as modified by this Agreement and the Schedules to this Agreement (together referred to as the “contract”).
- 3.2 Where a reference is made to a clause of the NEC4 Term Service Contract Option A (June 2017 Edition) contract it shall be read and construed to be a reference to that clause as amended by this Agreement including without limitation Schedule 3 Option Z (additional conditions of contract).
- 3.3 If there is any ambiguity or inconsistency in or between the documents comprising this contract, the priority of the documents is in accordance with the following sequence:
 - 3.3.1 this Agreement (conditions 1 to 12);
 - 3.3.2 the completed Contract Data part 1 (Schedule 2);
 - 3.3.3 the option z additional conditions of contract (Schedule 3);
 - 3.3.4 the other conditions of contract (Schedule 1);
 - 3.3.5 the completed Contract Data part 2 (Schedule 2);
 - 3.3.6 the Scope (Schedule 5); and
 - 3.3.7 any other document forming part of the contract

4 Complete agreement

- 4.1 The contract is the complete and entire agreement between the *Client* and the *Contractor* in relation to the *service*, and supersedes all other oral and/or written communications. The Parties are not bound by, or liable for, any statement, representation, promise, inducement or understanding not contained in the contract. No amendments or modifications of the contract are valid unless recorded in writing and executed as a deed by both Parties, save for Task Orders (defined in the contract), instructions and any other changes permitted by the contract.
- 4.2 Without prejudice to clause 4.1, nothing in the *Contractor's* tender for the *service* shall operate to exclude or limit the liability of the *Contractor* under the contract.

5 Tort

- 5.1 The contract shall be without prejudice to any rights either party may have against the other in tort.

6 Contracts (Rights of Third Parties) Act

- 6.1 The Contracts (Rights of Third Parties) Act 1999 is excluded from applying to the contract and nothing in it, save as expressly stated, confers or purports to confer on any third party, any benefit or right to enforce any of its terms and or conditions.

7 Disputes and governing law

- 7.1 The contract is governed by, and construed and interpreted in accordance with, English law.

8 Variation

- 8.1 No variation to this contract shall be effective unless executed as a Deed.

9 Severance

- 9.1 If any provision of this contract is held by any court or other competent authority to be void or unenforceable in whole or in part, this contract shall continue to be valid as to the remaining provisions and the remainder of the affected provision provided that the invalidity or unenforceability of the said provision shall not prevent performance of this contract.

10 Remedies

- 10.1 The rights and remedies of each party shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time or by any failure or delay by it in asserting or exercising its rights or remedies.

11 Counterparts

- 11.1 The contract may be executed in one or more counterparts. Any single counterpart or set of counterparts executed, in either case, by both Parties shall constitute a complete original of this Deed for all purposes.

12 Execution as a deed

12.1 The contract is executed as a deed and was delivered when it was dated.

IN WITNESS whereof the contract has been executed as a deed by the Parties hereto the day and year first before written.

The corporate seal of Secretary of State for)
Work and Pensions is hereunto) affixed
and authenticated by:)

)
)
)
)

SEAL OF SECRETARY OF STATE FOR WORK AND PENSIONS

Executed as a deed by **ISG FIT OUT LIMITED** acting by:

Signature.....

Name... Redacted

Title: Attorney

Under a Power of Attorney dated 05th August 2021

Date

In the presence of:

Signature of witness

Name of witness... Redacted

Address of Witness... Aldgate House, 33
Aldgate High Street, London, EC3N 1AG

Occupation of Witness... Group Legal
Director

Schedule 1

NEC4 Term Service Contract Option A (June 2017 Edition)

The NEC4 Term Service Contract Option A (June 2017 Edition) is appended hereto and incorporated herein and is supplemented and/or (as applicable) amended by the terms of [Schedule 2 to Schedule 10 of this Agreement

Schedule 2

Contract Data

Part one – Data provided by the *Client*

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

Statements given in all contracts

1. General

- The *conditions of contract* are the core clauses of the NEC4 Term Service Contract (June 2017) together with main Option A, dispute resolution Option W2, Option Z additional conditions of contract set out in Schedule 3 and the following secondary Options: Option X2: Change in Law

Option X18: Limitation of liability

Y(UK)2 The Housing Grants, Construction and
Regeneration Act 1996

- The *service* is identified in the Scope.
- The *Client* is The Secretary of State for Work and Pensions Claire Thomas, 5th Floor, Caxton House, London SW1H 9NA
- The *Service Manager* is John Reid Sodexo and may be its nominated Manager from time to time from Sodexo 3200 Century Way, Leeds, LS15 8ZB, UK
- The Affected Property is the buildings or parts of building occupied by the *Client* as set out in Schedule 4.
- The Scope is in Schedule 5.
- The *shared services* which may be carried out outside the Service Areas are HVAC system.
- The *language of this contract* is English.
- The *law of the contract* is the law of England and Wales.
- The *period for reply* is 12 weeks.
- The following matters will be included in the Early Warning Register as set out in Schedule 5:
- Early warning meeting are to be held at intervals no longer than weekly.

3. Time

- The *starting date* is 8th November
- The *service period* is 12 weeks from commencement date.

- The *Contractor* submits revised plans at intervals no longer than 5 working days.
- The period within which the Contractor is to submit a Task Order programme for acceptance is to be agreed.
- If no plan is identified in part two of the Contract Data, the period after the Contract Date within which the *Contractor* is to submit a first plan for acceptance is to be agreed.

4 Quality management

- The period after the Contract Date within which the Contractor is to submit a quality policy statement and quality plan is to be agreed.

5 Payment

- The *currency of the contract* is the: GBP (pounds sterling).
- The *assessment interval* is weekly.
- The *interest rate* is two (2) % per annum above the base rate of the Bank of England.
- If the period for certifying a final assessment is not thirteen weeks, the period for certifying a final assessment is agreed.

6 Compensation events

- The value engineering percentage is 50% unless another percentage is stated here.
- If there are additional compensation events, these are additional compensation events: N/A

8 Risks and insurance

- These are additional Client's liabilities:
- Insurance for all existing structures and contents at the Site which the Client elects to self-insure and in doing so, accepts all of the Client's associated risks arising out of or in relation to such self-insurance (including the risk of loss and /or damage to the existing structure and contents and the risk of claims by the landlord and or the landlords insurer in relation to same).
- The minimum amount of cover for insurance against loss of or damage caused by the *Contractor* to the *Client's* property (excluding existing structures and contents at the Site) is £5,000,000.
- The minimum amount of cover for insurance in respect of loss of or damage to property (except the *Client's* property, existing structures and contents at the

Site, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the *Contractor*) arising from or in connection with the *Contractor's* Providing the Service for any one event is £5,000,000.

- The minimum limit of indemnity for insurance in respect of death of or bodily injury to employees of the *Contractor* arising out of and in the course of their employment in connection with this contract for any one event £10,000,000.
- If the *Client* is to provide Plant and Materials: N/A
- The *Client* provides these insurances from the Insurance Table: N/A

Optional statements

Resolving and avoiding disputes:

- The *tribunal* is The Chairman for the time being of the Technology and Construction Solicitors Association.
- The Senior Representatives of the *Client* is Jerry Scott, Commercial Directorate, DWP Estate Deputy Director.
- The *Adjudicator* is The Technology and Construction Solicitors Association

Y(UK)2: The Housing Grants, Construction and Regeneration Act 1996

- If Y(UK)2 is used and the date on which a payment is due is not fourteen weeks after the end of the accounting period or Service Period
- If Y(UK)2 is used and the final date for payment is not fourteen days after the date on which payment becomes due, the period for payment is 30 days after the date on which payment becomes due.

Clause X18 is used

- The Contractor's liability to the ☐ Nil (£0,000,000)
Client for indirect or consequential loss
is limited to
- For any one event, the ☐ Five million pounds
Contractor's liability to the Client (£5,000,000)
for loss of or damage to the
Client's property is limited to
- The Contractor's liability for ☐ One million pounds Defects due to his design
which (£1,000,000) are not listed on the Defects
Certificate is limited to
- The Contractor's total liability to ☐ 100% of the Contract the Client for all matters
arising Prices
under or in connection with this
contract, other than the excluded
matters is limited to

- The end of liability date is ☐ On completion of the whole of the works

If Option Z is used

- ☐ The *additional conditions of contract* are contained in Schedule 3.

Part two – Data provided by the Contractor

Completion of the data in full, according to the Options chosen, is essential to create a complete contract.

- The *Contractor* is

Name ISG Fit Out Ltd

Address Aldgate House, 33 Aldgate Street, London, ECN 1AG

- The *fee percentage* is 2.50%
- The *service areas* are: HVAC Ventilation System
- The *subcontracted fee percentage* is 17.5%
- The *key persons* are

(1) Name - Redacted

Job - Senior Project Manager

Responsibilities - Limited Overview, Management of Sub-Contractor and Client Liaison – Half a Day only.

Qualifications - Redacted

Experience - Over 12 Years

(2) Name - Redacted

Job - Managing Quantity Surveyor

Responsibilities - Commercial Management of the Works

Qualifications Redacted

Experience – Over 20 Years

- The following matters will be included in the Early Warning Register as set out in schedule 6

Optional If the Contractor is to provide Scope for his plan Statements

- The Scope for the Contractor's plan is in As HVAC Maintenance Service Agreement

If a plan is identified in the Contract Data

- The plan identified in the Contract Data is to be included as set out in schedule 4 & 5

If Option A, C or E is used

- The *price list* is in as set out in schedule 7

If Option A or C is used

- The tendered total of the Prices is £55,316.22

Resolving and avoiding disputes

- The *Senior Representatives* of the *Contractor* are: Paul Jones

Data for the Short Schedule of Cost Components

- The people dates are:
Project Manager - Redacted
Senior Site Manager - Redacted
Commercial Manager - Redacted
Senior Quantity Surveyor - Redacted
Quantity Surveyor - Redacted
- The published list of Equipment is the edition current at the Contract Date of the list published by N/A
- The percentage for adjustment for Equipment in the published list is N/A
- The rates for other Equipment N/A
- The rates for Defined Cost of manufacture and fabrication outside the Service Areas by the *Contractor* are N/A The rate for people providing shared services outside the Service areas are N/A :

Schedule 3

Option Z (Additional conditions of contract)

Schedule of Amendments to the NEC4 Term Service Contract Option A (April 2013 Edition).

Option Z1 – Amendments to core clauses

Insert the following new clauses:

11.3 (23) Coronavirus is the virus strain known or previously known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and any mutations and/or strains and/or variants thereof.

11.3 (24) A Site Closure is when the Site is closed pursuant to Health Guidance and/or the Contractor having reasonable cause to close the Site due to Coronavirus and/or the Contractor agreeing to a request from the Employer or the Project Manager to close the Site due to Coronavirus.

11.3 (26) The Health Guidance is any statute, statutory instrument, regulation, rule, guidance, direction or notice published by any ministerial department or other executive agency of the government of the United Kingdom of Great Britain and Northern Ireland and/or any local authority and/or any officer of any local authority and/or any local government body having any jurisdiction with regard to the works and arising as a consequence or result of Coronavirus to the extent such guidance affects or relates to the ability of the Contractor to Provide the Works.

11.3 (29) The Site Operating Procedures are the site operating procedures as published by the Construction Leadership Council.

11.3 (30) The Construction Leadership Council is the organisation described as such as referred to at <https://www.constructionleadershipcouncil.co.uk/>.

11.3 (31) The World Health Organization is the organisation described as such as referred to at <https://www.who.int/>.

11.3 (32) Future Health Emergency is a pandemic and/or epidemic including, without limitation, any virus being, or causing a disease being, confirmed, declared or designated as a pandemic or as a public health emergency of international concern by the World Health Organization and/or confirmed, declared or designated as an epidemic or similar by any authority with competent jurisdiction with respect to the Works.

Add new Core Clause 20.3 as follows:

The *Contractor* is not liable for a Defect which arose from its design unless it failed to carry out that design using the skill and care normally used by professionals designing services similar to the *services*.

In Core Clause 19.1, delete “are not more than the estimated cost to the *Client* of late completion of the Task” and replace with “shall not exceed the sum of £0.00 per day.”

Add new Core Clause 60.1(19) as follows:-

60.1(19) The carrying out by a local authority, statutory undertaker or utility company of work in pursuance of its statutory obligations or otherwise in relation to the works, or the failure to carry out any such work, or delays otherwise caused by any statutory body or relating to any utility company.

Add new Core Clause 60.1(20) as follows:-

60.1(20) a Site Closure provided always that there shall be no change to the Prices as result.

Add new Core Clause 60.1(21) as follows:-

60.1(21) any change to the Site Operating Procedures after the Contract Date.

Add new Core Clause 60.1(22):-

60.1(22) The occurrence and/or outbreak of a Future Health Emergency which affects the ability of the Contractor to Provide the Works provided always that there shall be no change to the Prices as result.

Add new Core Clause 60.1(23)

Loss or damage occasioned by fire, lighting, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion (collectively the "Specified Perils")

Add new Core Clause 60.1(24)

The carrying out by a local authority, statutory undertaker or utility company of work in pursuance of its statutory obligations or otherwise in relation to the works, or the failure to carry out any such work, or delays otherwise caused by any statutory body or relating to any utility company.

Add new Core Clause 60.1(25) The

threat or use of terrorism.

Add new Core Clause 60.1(26)

Loss of or damage to the works, Plant and Materials due to terrorism, nuclear risks and or sonic bang.

Amend Core Clause 61.4

Insert the following at the end of the third bullet point:

"unless such fault relates to loss or damage to the works, Plant, Material, existing structure or contents".

Amend clause 80.1 as follows:-

In the 4th bullet point, 1st sub-bullet point In line 1 after "insurrection" insert "terrorism, asbestos, nuclear risks, sonic bang".

Delete 6th bullet point and add new bullet point "Loss or damage to the existing structure and contents howsoever caused"

Amended clause 81.1 as follows:-

Delete the 3rd bullet point.

Amend clause 83.3 (Insurance table 2nd item) as follows:

In line 2 after "(except" insert "the existing structure and contents,"

Option Z2 - Identified and defined terms

Insert new clause 11.3 additional defined terms.

11.3 (1) Client Confidential Information is all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and contractors of the Client, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential.

11.3 (2) Client Data is the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and

- which are supplied to the Contractor by or on behalf of the Client,
- which the Contractor is required to generate, process, store or transmit pursuant to this contract or
- which are any Personal Data for which the Client is the Data Controller to the extent that such Personal Data is held or processed by the Contractor.

11 (3) Commercially Sensitive Information is the information agreed between the Parties (if any) comprising the information of a commercially sensitive nature relating to the Contractor, the charges for the works, its IPR or its business or which the Contractor has indicated to the Client that, if disclosed by the Client, would cause the Contractor significant commercial disadvantage or material financial loss.

11.3 (4) Confidential Information is the Client's Confidential Information and/or the Contractor's Confidential Information.

11.3 (5) Contracting Body is any Contracting Body as defined in Regulation 5(2) of the Public Contracts (Works, Service and Supply) (Amendment) Regulations 2000 other than the Client.

11.3 (6) Contractor's Confidential Information is any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and contractors of the Contractor, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including the Commercially Sensitive Information.

11.3 (7) Crown Body is any department, office or agency of the Crown.

11.3 (8) Data Controller has the meaning given to it in the Data Protection Act 2018.

11.3 (9) DOTAS is the Disclosure of Tax avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

11.3 (10) Environmental Information Regulations is the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.

11.3 (11) FOIA is the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

11.3 (12) General Anti-Abuse Rule is

- the legislation in Part 5 of the Finance Act 2013 and
- any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements and to avoid national insurance contributions.

11.3 (13) Halifax Abuse Principle is the principle explained in the CJEU Case C-255/02 Halifax and others.

11.3 (14) Intellectual Property Rights or "IPRs" is

- copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information,
- applications for registration, and the right to apply for registration, for any of the rights listed in the first bullet point that are capable of being registered in any country or jurisdiction,
- all other rights having equivalent or similar effect in any country or jurisdiction and
- all or any goodwill relating or attached thereto.

11.3 (15) Law is any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Contractor is bound to comply under the law of the contract.

11.3(16) An Occasion of Tax Non-Compliance is

- where any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of
- a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle or
- the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime and
- where any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Contract Date or to a civil penalty for fraud or evasion.

11.3(17) Personal Data has the meaning given to it in the Data Protection Act 2018.

11.3 (18) Prohibited Act is

- to directly or indirectly offer, promise or give any person working for or engaged by the Client or other Contracting Body or any other public body a financial or other advantage to
- induce that person to perform improperly a relevant function or activity or
- reward that person for improper performance of a relevant function or activity,
- to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this contract,
- committing any offence
- under the Bribery Act 2010 (or any legislation repealed or revoked by such Act),
- under legislation or common law concerning fraudulent acts or
- defrauding, attempting to defraud or conspiring to defraud the Client or
- any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.

11.3 (19) Request for Information is a request for information or an apparent request under the Code of Practice on Access to government Information, FOIA or the Environmental Information Regulations.

11.3 (20) Relevant Requirements are all applicable Laws relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

11.3 (21) Relevant Tax Authority is HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

11.3 (22) Security Policy means the Client's security policy attached as Appendix 1 to Contract Schedule J (Security Provisions) as may be updated from time to time. **Option Z 4 - Admittance to site**

Insert new clause 19A:

19A.1 The Contractor submits to the Service Manager details of people who are to be employed by it and its Subcontractors in Providing the Works. The details include a list of names and addresses, the capabilities in which they are employed, and other information required by the Service Manager.

19A.2 The Service Manager may instruct the Contractor to take measures to prevent unauthorised persons being admitted to the Site.

19A.3 Employees of the Contractor and its Subcontractors are to carry a Client's pass and comply with all conduct requirements from the Client whilst they are on the parts of the Site identified in the Scope.

19A.4 The Contractor submits to the Service Manager for acceptance a list of the names of the people for whom passes are required. On acceptance, the Service Manager issues the passes to the Contractor. Each pass is returned to the Service Manager when the person no longer requires access to that part of the Site or after the Service Manager has given notice that the person is not to be admitted to the Site.

19A.5 The Contractor does not take photographs of the Site or of work carried out in connection with the works unless it has obtained the acceptance of the Service Manager.

19A.6 The Contractor takes the measures needed to prevent its and its Subcontractors' people taking, publishing or otherwise circulating such photographs.

Option Z5 - Prevention of fraud and bribery

Insert new clauses:

18.4.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any of its people, have at any time prior to the Contract Date

- committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act or
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

18.4.2 During the carrying out of the services the Contractor does not

- commit a Prohibited Act and
- do or suffer anything to be done which would cause the Client or any of the Client's employees, consultants, contractors, sub-contractors or agents to contravene any of

the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

18.4.3 In Providing the Service the Contractor

- establishes, maintains and enforces, and requires that its Subcontractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act,

keeps appropriate records of its compliance with this contract and make such records available to the Client on request and

- provides and maintains and where appropriate enforces an anti-bribery policy (which shall be disclosed to the Client on request) to prevent it and any Contractor's people or any person acting on the Contractor's behalf from committing a Prohibited Act.

18.4.4 The Contractor immediately notifies the Client in writing if it becomes aware of any breach of clause 18.4.1, or has reason to believe that it has or any of its people or Subcontractors have

- been subject to an investigation or prosecution which relates to an alleged Prohibited Act,
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act or
- received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this contract or otherwise suspects that any person or party directly or indirectly connected with this contract has committed or attempted to commit a Prohibited Act.

18.4.5 If the Contractor makes a notification to the Client pursuant to clause 18.4.4, the Contractor responds promptly to the Client's enquiries, co-operates with any investigation, and allows the Client to audit any books, records and/or any other relevant documentation in accordance with this contract.

18.4.6 If the Contractor breaches Clause 18.4.3, the Client may by notice require the Contractor to remove from carrying out the services any person whose acts or omissions have caused the Contractor's breach.

Option Z7 - Legislation and Official secrets

Insert new clauses:

20.3 The Contractor complies with Law in the carrying out of the services.

20.4 The Official Secrets Acts 1911 to 1989 and, where appropriate, the provisions of section 11 of the Atomic Energy Act 1946 apply to this contract.

20.5 The Contractor notifies its employees and its Subcontractors of their duties under these Acts.

Option Z10 - Freedom of information

Insert new clauses:

28.1 The Contractor acknowledges that unless the Service Manager has notified the Contractor that the Client is exempt from the provisions of the FOIA, the Client is subject to the requirements of the Code of Practice on Government Information, the FOIA and the Environmental Information Regulations. The Contractor cooperates with and assists the Client so as to enable the Client to comply with its information disclosure obligations.

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28.2 The Contractor

- transfers to the Service Manager all Requests for Information that it receives as soon as practicable and in any event within two working days of receiving a Request for Information,
- provides the Service Manager with a copy of all information in its possession, or power in the form that the Service Manager requires within five working days (or such other period as the Service Manager may specify) of the Service Manager's request,
- provides all necessary assistance as reasonably requested by the Service Manager to enable the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations and
- procures that its Subcontractors do likewise.

28.3 The Client is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

28.4 The Contractor does not respond directly to a Request for Information unless authorised to do so by the Service Manager.

28.5 The Contractor acknowledges that the Client may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of information Act 2000, be obliged to disclose information without consulting or obtaining consent from the Contractor or despite the Contractor having expressed negative views when consulted.

29.6 The Contractor ensures that all information is retained for disclosure throughout the period for retention and permits the Service Manager to inspect such records as and when reasonably requested from time to time.

Option Z13 - Confidentiality and Information Sharing

Insert a new clause

29.7 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this contract, each Party shall

- treat the other Party's Confidential Information as confidential and safeguard it accordingly,
- not disclose the other Party's Confidential Information to any other person without prior written consent,
- immediately notify the other Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information and

- notify the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

29.8 The clause above shall not apply to the extent that

such disclosure is a requirement of the Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause Z10 (Freedom of Information),

- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner,
- such information was obtained from a third party without obligation of confidentiality,
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this contract or
- it is independently developed without access to the other party's Confidential Information.

29.9 The Contractor may only disclose the Client's Confidential Information to the people who are directly involved in Providing the Service and who need to know the information, and shall ensure that such people are aware of and shall comply with these obligations as to confidentiality. The Contractor shall not, and shall procure that the Contractor's people do not, use any of the Client Confidential Information received otherwise than for the purposes of this contract.

29.10 The Contractor may only disclose the Client Confidential Information to Contractor's people who need to know the information, and shall ensure that such people are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality. In the event that any default, act or omission of any Contractor's people causes or contributes (or could cause or contribute) to the Contractor breaching its obligations as to confidentiality under or in connection with this contract, the Contractor shall take such action as may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any Contractor's people, the Contractor shall provide such evidence to the Client as the Client may reasonably require (though not so as to risk compromising or prejudicing the case) to demonstrate that the Contractor is taking appropriate steps to comply with this clause, including copies of any written communications to and/or from Contractor's people, and any minutes of meetings and any other records which provide an audit trail of any discussions or exchanges with Contractor's people in connection with obligations as to confidentiality.

29.11 At the written request of the Client, the Contractor shall procure that those members of the Contractor's people identified in the Client's request signs a confidentiality undertaking prior to commencing any work in accordance with this contract.

29.12 Nothing in this contract shall prevent the Client from disclosing the Contractor's Confidential Information

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- to any Crown Body or any other Contracting Bodies. All Crown Bodies or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Body,
- to a professional adviser, contractor, consultant, supplier or other person engaged by the Client or any Crown Body (including any benchmarking organisation) for any purpose connected with this contract, or any person conducting an Office of Government Commerce Gateway Review,

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for the purpose of the examination and certification of the Client's accounts,

- for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources,
- for the purpose of the exercise of its rights under this contract or
- to a proposed successor body of the Client in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this contract,

and for the purposes of the foregoing, disclosure of the Contractor's Confidential Information shall be on a confidential basis and subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Client under this clause 29.12.

29.13 The Client shall use all reasonable endeavours to ensure that any government department, Contracting Body, people, third party or subcontractor to whom the Contractor's Confidential Information is disclosed pursuant to the above clause is made aware of the Client's obligations of confidentiality.

29.14 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

29.15 The Client may disclose the Confidential Information of the Contractor

- to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement,
- to the extent that the Client (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions.

Option Z14 - Security Requirements

The Contractor complies with, and procures the compliance of the Contractor's people, with the Security Policy and the Security Management Plan produced by the Contractor and the Contractor shall ensure that the Security Management Plan fully complies with the Security Policy and Contract Schedule J.

Option Z16 - Tax Compliance

Insert new clauses:

29.16 The Contractor represents and warrants that at the Contract Date, it has notified the Client in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.

29.17 If, at any point during the service period an Occasion of Tax Non-Compliance occurs, the Contractor shall

- notify the Client in writing of such fact within 5 days of its occurrence and
- promptly provide to the Client

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details of the steps which the Contractor is taking to address the Occasions of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant and

- such other information in relation to the Occasion of Tax Non-Compliance as the Client may reasonably require.

Option Z22 - Fair payment

Insert a new clause:

56.1 The Contractor assesses the amount due to a Subcontractor without taking into account the amount certified by the Service Manager.

56.2 The Contractor includes in the contract with each Subcontractor

- a period for payment of the amount due to the Subcontractor not greater than 5 days after the final date for payment in this contract. The amount due includes, but is not limited to, payment for work which the Subcontractor has completed from the previous assessment date up to the current assessment date in this contract,
- a provision requiring the Subcontractor to include in each subsubcontract the same requirement (including this requirement to flow down, except that the period for payment is to be not greater than 9 days after the final date for payment in this contract and
- a provision requiring the Subcontractor to assess the amount due to a subsubcontractor without taking into account the amount paid by the Contractor.

Option Z42 - The Housing Grants, Construction and Regeneration Act 1996

Add an additional clause Y2.6

Y2.6

If Option Y(UK)2 is said to apply then notwithstanding that this contract relates to the

carrying out of construction operations other than in England or Wales or Scotland, the Act is deemed to apply to this contract.

Option Z44 - Intellectual Property Rights Insert the following clause 30:

“**Document**” means all designs, drawings, specifications, software, electronic data, photographs, plans, surveys, reports, and all other documents and/or information prepared by or on behalf of the Contractor in relation to this contract.

30.1 The Intellectual Property Rights in all Documents prepared by or on behalf of the Contractor in relation to this contract and the work executed from them remains the property of the Contractor. The Contractor hereby grants to the Client an irrevocable, royalty free, nonexclusive licence to use and reproduce the Documents for any and all purposes connected with the construction, use, alterations or demolition of the services. Such licence entitles the Client to grant sub-licences to third parties in the same terms as this licence provided always that the Contractor shall not be liable to any licensee for any use of the Documents or the

Intellectual Property Rights in the Documents for purposes other than those for which the same were originally prepared by or on behalf of the Contractor.

30.2 The Client may assign novate or otherwise transfer its rights and obligations under the licence granted pursuant to 30.1 to a Crown Body or to anybody (including any private sector body) which performs or carries on any functions and/or activities that previously had been performed and/or carried on by the Client.

30.3 In the event that the Contractor does not own the copyright or any Intellectual Property Rights in any Document the Contractor uses all reasonable endeavours to procure the right to grant such rights to the Client to use any such copyright or Intellectual Property Rights from any third party owner of the copyright or Intellectual Property Rights. In the event that the Contractor is unable to procure the right to grant to the Client in accordance with the foregoing the Contractor procures that the third party grants a direct licence to the Client on industry acceptable terms.

30.4 The Contractor waives any moral right to be identified as author of the Documents in accordance with section 77, Copyright Designs and Patents Acts 1988 and any right not to have the Documents subjected to derogatory treatment in accordance with section 8 of that Act as against the Client or any licensee or assignee of the Client.

30.5 In the event that any act unauthorised by the Client infringes a moral right of the Contractor in relation to the Documents the Contractor undertakes, if the Client so requests and at the Client's expense, to institute proceedings for infringement of the moral rights.

30.6 The Contractor warrants to the Client that it has not granted and shall not (unless authorised by the Client) grant any rights to any third party to use or otherwise exploit the Documents.

30.7 The Contractor supplies copies of the Documents to the Service Manager and to the Client's other contractors and consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related services.

30.8 After the termination or conclusion of the Contractor's employment hereunder, the Contractor supplies the Service Manager with copies and/or computer discs of such of the Documents as the Service Manager may from time to time request and the Client pays the Contractor's reasonable costs for producing such copies or discs.

30.9 In carrying out the services the Contractor does not infringe any Intellectual Property Rights of any third party. The Contractor indemnifies the Client against claims, proceedings, compensation and costs arising from an infringement or alleged infringement of the Intellectual Property Rights of any third party.

Option Z47 - Small and Medium Sized Enterprises (SMEs)

Insert new clause 31:

The *Contractor* is required to take all reasonable steps to engage SMEs as Subcontractors and to seek to ensure that no less than the SME percentage of Subcontractors stated in the Contract Data are SMEs or that a similar proportion of the Defined Cost is undertaken by SMEs.

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The *Contractor* is required to report to the *Client* in its regular contract management monthly reporting cycle the numbers of SMEs engaged as Subcontractors and the value of the Defined Cost that has been undertaken by SMEs.

Where available, the *Contractor* is required to tender its Subcontracts using the same online electronic portal as was provided by the *Client* for the purposes of tendering this contract.

The *Contractor* is to ensure that the terms and conditions used to engage Subcontractors are no less favourable than those of this contract. A reason for the *Service Manager* not accepting subcontract documents proposed by the *Contractor* is that they are unduly disadvantageous to the Subcontractor.

Option Z48 - Apprenticeships

Insert new clause 32:

The *Contractor* takes all reasonable steps to employ apprentices, and reports to the *Client* the numbers of apprentices employed and the wider skills training provided, during the delivery of the *services*.

The *Contractor* takes all reasonable steps to ensure that no less than a percentage of its people (agreed between the Parties) are on formal apprenticeship programmes or that a similar proportion of hours worked in Providing the Service, (which may include support staff and Subcontractors) are provided by people on formal apprenticeship programmes.

The *Contractor* makes available to its people and Subcontractors working on the contract, information about the Government's Apprenticeship programme and wider skills opportunities.

The *Contractor* provides any further skills training opportunities that are appropriate for its people engaged in Providing the Service.

The *Contractor* provides a report detailing the following measures in its regular contract management monthly reporting cycle and is prepared to discuss apprenticeships at its regular meetings with the *Service Manager*

- the number of people during the reporting period employed on the contract, including support staff and Subcontractors,
- the number of apprentices and number of new starts on apprenticeships directly initiated through this contract,
- the percentage of all people taking part in an apprenticeship programme,
- if applicable, an explanation from the Contractor as to why it is not managing to meet the specified percentage target,
- actions being taken to improve the take up of apprenticeships and
- other training/skills development being undertaken by people in relation to this contract, including:
 - (a) work experience placements for 14 to 16 year olds,
 - (b) work experience /work trial placements for other ages,
 - (c) student sandwich/gap year placements,

- (d) graduate placements,
- (e) vocational training,
- (f) basic skills training and
- (g) on site training provision/ facilities.

Option Z100 - GDPR

Insert new clause Z100 as follows:

Z100 GDPR

The *Client* and the *Contractor* shall comply with the provisions of schedule 9.

Option Z101 – Cyber Essentials

Insert new clause Z101 as follows:

Z101 Cyber Essentials

The *Client* and the *Contractor* shall comply with the provisions of schedule 10.

SCHEDULE

J

1. CONTRACT SCHEDULE J - SECURITY PROVISIONS

1.1 Definitions

For the purposes of this schedule the following terms shall have the meanings given below:

"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
"Breach of Security"	<p>in accordance with the Security Requirements and the Security Policy, the occurrence of:</p> <p>(a) any unauthorised access to or use of the service the Client Premises, the Sites, the Contractor System and/or any ICT, information or data (including the Confidential Information and the Client Data) used by the <i>Client</i> and/or the <i>Contractor</i> in connection with this contract; and/or</p> <p>(b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Client Data), including any copies of such information or data, used by the <i>Client</i> and/or the <i>Contractor</i> in connection with this contract.</p>
"Clearance"	means national security clearance and employment checks undertaken by and/or obtained from the Defence Vetting Agency;
"Contractor Equipment"	the hardware, computer and telecoms devices and equipment supplied by the <i>Contractor</i> or its Subcontractors (but not hired, leased or loaned from the <i>Client</i>) for the carrying out of the <i>service</i> ;
"Contractor Software"	software which is proprietary to the <i>Contractor</i> , including software which is or will be used by the <i>Contractor</i> for the purposes of carrying out of the <i>service</i> ;
"Contractor System"	the information and communications technology system used by the <i>Contractor</i> in carrying out of the <i>service</i> including the Software, the <i>Contractor</i> Equipment and related cabling (but excluding the Client System);
"Control"	<p>means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management</p> <p>and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and "Controls" and "Controlled" shall be interpreted accordingly;</p>

"Default"	any breach of the obligations of the relevant party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant party, its employees, servants, agents or Sub contractors in connection with or in relation to the subject-matter of this contract and in respect of which such party is liable to the other;
"Dispute Resolution"	the dispute resolution procedure set out in this contract (if any) or as agreed between the parties;
"Client Premises"	means premises owned, controlled or occupied by the <i>Client</i> or its Affiliates which are made available for use by the <i>Contractor</i> or its Subcontractors for carrying out of the <i>service</i> (or any of them) on the terms set out in this contract or any separate agreement or licence;
"Client System"	the <i>Client's</i> computing environment (consisting of hardware, software and/or telecommunications net service or equipment) used by the <i>Client</i> or the <i>Contractor</i> in connection with this contract which is owned by or licensed to the <i>Client</i> by a third party and which interfaces with the <i>Contractor</i> System or which is necessary for the <i>Client</i> to receive the <i>service</i> ;
"Environmental Information Regulations"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;
"FOIA "	the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;
"Good Industry Practice"	the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector;
"ICT"	information and communications technology;
"ICT Environment"	the Client System and the <i>Contractor</i> System;
"Impact Assessment"	an assessment of a Compensation Event;
"Information"	has the meaning given under section 84 of the Freedom of

"Information Assets Register"	the register of information assets to be created and maintained by the <i>Contractor</i> throughout the carrying out of the <i>service</i> as described in the contract (if any) or as otherwise agreed between the parties;
"ISMS"	the Information Security Management System as defined by ISO/IEC 27001. The scope of the ISMS will be as agreed by the parties and will directly reflect the scope of the <i>service</i> ;
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the <i>service</i> but excluding know how already in the <i>Contractor's</i> or the <i>Client's</i> possession before this contract;
"List x"	means, in relation to a Subcontractor, one who has been placed on List x in accordance with Ministry of Defence guidelines and procedures, due to that Sub contractor undertaking work on its premises marked as CONFIDENTIAL or above;
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
"Process"	has the meaning given to it under the Data Protection Legislation but, for the purposes of this contract, it shall include both manual and automatic processing;
"Protectively Marked"	shall have the meaning as set out in the Security Policy Framework.
"Regulatory Bodies"	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this contract or any other affairs of the <i>Client</i> and "Regulatory Body" shall be construed accordingly;
"Request for Information"	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;
"Security Management Plan"	the <i>Contractor's</i> security plan prepared pursuant to paragraph 1.5.3 of schedule J (Security Management Plan) an outline of which is set out in Appendix 1 of schedule J (Security Management Plan);

"Security Policy Framework"	means the Cabinet Office Security Policy Framework (available from the Cabinet Office Security Policy Division);
"Security Requirements"	means the requirements in the contract relating to security of the carrying out of the <i>service</i> (if any) or such other requirements as the <i>Client</i> may notify to the <i>Contractor</i> from time to time
"Security Tests"	shall have the meaning set out in Appendix 2 (Security Management Plan) [Guidance: define "Security Tests" in Security Management Plan]
"Software"	Specially Written Software, <i>Contractor</i> Software and Third Party Software;
"Specially Written Software"	any software created by the <i>Contractor</i> (or by a third party on behalf of the <i>Contractor</i>) specifically for the purposes of this contract;
"Staff Vetting Procedures"	the <i>Client's</i> procedures and departmental policies for the vetting of personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures, including, but not limited to, the provisions of the Official Secrets Act 1911 to 1989;
"Statement of"	shall have the meaning set out in ISO/IEC 27001 and as agreed by the parties during the procurement phase;
"Standards"	the British or international standards, <i>Client's</i> internal policies and procedures, Government codes of practice and guidance together with any other specified policies or procedures referred to in this contract (if any) or as otherwise agreed by the parties;
"Third Party Software"	software which is proprietary to any third party other than an Affiliate of the <i>Contractor</i> which is or will be used by the <i>Contractor</i> for the purposes of carrying out of the <i>service</i> ; and

1.2 Introduction

1.2.1 This schedule covers:

1.2.1.1 principles of protective security to be applied in carrying out of the *service*;

1.2.1.2 wider aspects of security relating to carrying out of the *service*;

1.2.1.3 the development, implementation, operation, maintenance and continual improvement of an ISMS;

1.2.1.4 the creation and maintenance of the Security Management Plan;

- 1.2.1.5 audit and testing of ISMS compliance with the Security Requirements;
- 1.2.1.6 conformance to ISO/IEC 27001 (Information Security Requirements Specification) and ISO/IEC27002 (Information Security Code of Practice) and;
- 1.2.1.7 obligations in the event of actual, potential or attempted breaches of security.

1.3 Principles of Security

- 1.3.1 The *Contractor* acknowledges that the *Client* places great emphasis on the confidentiality, integrity and availability of information and consequently on the security provided by the ISMS.
- 1.3.2 The *Contractor* shall be responsible for the effective performance of the ISMS and shall at all times provide a level of security which:
 - 1.3.2.1 is in accordance with Good Industry Practice, the *law of the* contract and this contract;
 - 1.3.2.2 complies with the Security Policy;
 - 1.3.2.3 complies with at least the minimum set of security measures and standards as determined by the Security Policy Framework (Tiers 1-4) available from the Cabinet Office Security Policy Division (COSPD);
 - 1.3.2.4 meets any specific security threats to the ISMS; and
 - 1.3.2.5 complies with ISO/IEC27001 and ISO/IEC27002 in accordance with paragraph 1.3.2 of this schedule; 1.3.2.6 complies with the Security Requirements; and
 - 1.3.2.7 complies with the *Client's* ICT standards.
- 1.3.3 The references to standards, guidance and policies set out in paragraph 1.3.2.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, from time to time.
- 1.3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the *Contractor* gives an early warning to the *Service Manager* of such inconsistency immediately upon becoming aware of the same, and the *Service Manager* shall, as soon as practicable, advise the *Contractor* which provision the *Contractor* shall be required to comply with.

1.4 ISMS and Security Management Plan

- 1.4.1 Introduction:

- (i) The *Contractor* shall develop, implement, operate, maintain and continuously improve and maintain an ISMS which will, without prejudice to paragraph 1.3.2, be accepted, by the *Service Manager*, tested in accordance with the provisions relating to testing as set out in the contract (if any) or as otherwise agreed between the Parties, periodically updated and audited in accordance with ISO/IEC 27001.

1.4.1.1 The *Contractor* shall develop and maintain a Security Management Plan in accordance with this Schedule to apply during the carrying out of the *service*.

1.4.1.2 The *Contractor* shall comply with its obligations set out in the Security Management Plan.

1.4.1.3 Both the ISMS and the Security Management Plan shall, unless otherwise specified by the *Client*, aim to protect all aspects of the *service* and all processes associated with carrying out of the *service*, including the construction, use, alterations or demolition of the *service*, the *Contractor* System and any ICT, information and data (including the Client Confidential Information and the Client Data) to the extent used by the *Client* or the *Contractor* in connection with this contract.

1.4.2 Development of the Security Management Plan:

1.4.2.1 Within 20 Working Days after the Contract Date and in accordance with paragraph 1.4.4 (Amendment and Revision), the *Contractor* will prepare and deliver to the *Service Manager* for acceptance a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan set out in Appendix 2 of this Part 2 of this Contract Schedule J.

1.4.2.2 If the Security Management Plan, or any subsequent revision to it in accordance with paragraph 1.4.4 (Amendment and Revision), is accepted by the *Service Manager* it will be adopted immediately and will replace the previous version of the Security Management Plan at Appendix 2 of this Part 2 of this Contract Schedule J. If the Security Management Plan is not accepted by the *Service Manager* the *Contractor* shall amend it within 10

Working Days or such other period as the parties may agree in writing of a notice of non- acceptance from the *Service Manager* and re-submit to the *Service Manager* for accepted. The parties will use all reasonable endeavours to ensure that the acceptance process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the parties may agree in writing) from the date of its first submission to the *Service Manager*. If the *Service Manager* does not accept the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure. No acceptance to be given by the *Service Manager* pursuant to

this paragraph 1.4.2.2 of this schedule may be unreasonably withheld or delayed. However any failure to accept the Security Management Plan on the grounds that it does not comply with the requirements set out in paragraph 1.4.3.4 shall be deemed to be reasonable.

1.4.3 Content of the Security Management Plan:

1.4.3.1 The Security Management Plan will set out the security measures to be implemented and maintained by the *Contractor* in relation to all aspects of the *service* and all processes associated with carrying out of the *service* and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the *service* comply with the provisions of this schedule (including the principles set out in paragraph 1.3);

1.4.3.2 The Security Management Plan (including the draft version) should also set out the plans for transiting all security arrangements and responsibilities from those in place at the Contract Date to those incorporated in the *Contractor's* ISMS at the date notified by the *Service Manager* to the *Contractor* for the *Contractor* to meet the full obligations of the Security Requirements.

1.4.3.3 The Security Management Plan will be structured in accordance with ISO/IEC27001 and ISO/IEC27002, cross-referencing if necessary to other schedules of this contract which cover specific areas included within that standard.

1.4.3.4 The Security Management Plan shall be written in plain English in language which is readily comprehensible to the staff of the *Contractor* and the *Client* engaged in the *service* and shall only reference documents which are in the possession of the *Client* or whose location is otherwise specified in this schedule.

1.4.4 Amendment and Revision of the ISMS and Security Management Plan:

1.4.4.1 The ISMS and Security Management Plan will be fully reviewed and updated by the *Contractor* annually or from time to time to reflect:

- (a) emerging changes in Good Industry Practice;
- (b) any change or proposed change to the *Contractor* System, the *service* and/or associated processes;
- (c) any new perceived or changed security threats; and (d)

any reasonable request by the *Service Manager*.

1.4.4.2 The *Contractor* will provide the *Service Manager* with the results of such reviews as soon as reasonably practicable after their completion and amend the ISMS and Security Management

Plan at no additional cost to the *Client*. The results of the review should include, without limitation:

- (a) suggested improvements to the effectiveness of the ISMS;
- (b) updates to the risk assessments;
- (c) proposed modifications to the procedures and controls that effect information security to respond to events that may impact on the ISMS; and
- (d) suggested improvements in measuring the effectiveness of controls.

1.4.4.3 On receipt of the results of such reviews, the *Service Manager* will accept any amendments or revisions to the ISMS or Security Management Plan in accordance with the process set out at paragraph 1.4.2.2.

1.4.4.4 Any change or amendment which the *Contractor* proposes to make to the ISMS or Security Management Plan (as a result of a *Service Manager's* request or change to the *service* or otherwise) shall be subject to the early warning procedure and shall not be implemented until accepted in writing by the *Service Manager*.

1.4.5 Testing

1.4.5.1 The *Contractor* shall conduct Security Tests of the ISMS on an annual basis or as otherwise agreed by the parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the *Service Manager*.

1.4.5.2 The *Service Manager* shall be entitled to witness the conduct of the Security Tests. The *Contractor* shall provide the *Service Manager* with the results of such tests (in a form accepted by the *Client* in advance) as soon as practicable after completion of each Security Test.

1.4.5.3 Without prejudice to any other right of audit or access granted to the *Client* pursuant to this contract, the *Service Manager* and/or its authorised representatives shall be entitled, at any time and without giving notice to the *Contractor*, to carry out such tests (including penetration tests) as it may deem necessary in relation to the ISMS and the *Contractor's* compliance with the ISMS and the Security Management Plan. The *Service Manager* may notify the *Contractor* of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the carrying out of the *service*. If such tests adversely affect the *Contractor's* ability to carry out the *service* in accordance with the Scope, the *Contractor* shall be granted relief against any resultant under-performance for the period of the tests.

1.4.5.4 Where any Security Test carried out pursuant to paragraphs 1.4.5.2 or 1.4.5.3 above reveals any actual or potential Breach of Security, the *Contractor* shall promptly notify the *Service Manager* of any changes to the ISMS and to the Security Management Plan (and the implementation thereof) which the *Contractor* proposes to make in order to correct such failure or weakness. Subject to the *Service Manager's* acceptance in accordance with paragraph (i), the *Contractor* shall implement such changes to the ISMS and the Security Management Plan in accordance with the timetable agreed with the *Service Manager* or, otherwise, as soon as reasonably possible. Where the change to the ISMS or Security Management Plan is made to address a non-compliance with the Security Policy or Security Requirements, the change to the ISMS or Security Management Plan is Disallowed Cost.

1.5 Compliance with ISO/IEC 27001

1.5.1 Unless otherwise agreed by the parties, the *Contractor* shall obtain independent certification of the ISMS to ISO/IEC 27001 within 12 months of the Contract Date and shall maintain such certification until the Defects Certificate or a termination certificate has been issued.

1.5.2 In the event that paragraph 1.5.1 above applies, if certain parts of the ISMS do not conform to Good Industry Practice, or controls as described in ISO/IEC 27002 are not consistent with the Security Policy, and, as a result, the *Contractor* reasonably believes that it is not compliant with ISO/IEC 27001, the *Contractor* shall promptly notify the *Service Manager* of this and the *Client* in its absolute discretion may waive the requirement for certification in respect of the relevant parts.

1.5.3 The *Service Manager* shall be entitled to carry out such regular security audits as may be required and in accordance with Good Industry Practice, in order to ensure that the ISMS maintains compliance with the principles and practices of ISO 27001.

1.5.4 If, on the basis of evidence provided by such audits, it is the *Service Manager's* reasonable opinion that compliance with the principles and practices of ISO/IEC 27001 is not being achieved by the *Contractor*, then the *Service Manager* shall notify the *Contractor* of the same and give the *Contractor* a reasonable time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) to become compliant with the principles and practices of ISO/IEC 27001. If the *Contractor* does not become compliant within the required time then the *Service Manager* has the right to obtain an independent audit against these standards in whole or in part.

1.5.5 If, as a result of any such independent audit as described in paragraph 1.5.4 the *Contractor* is found to be non-compliant with the principles and practices of ISO/IEC 27001 then the *Contractor* shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the *Client* in obtaining such audit.

1.6 Breach of Security

1.6.1 Either party shall give an early warning to the other in accordance with the agreed security incident management process as defined by the ISMS upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

1.6.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 1.6.1, the *Contractor* shall:

1.6.2.1 immediately take all reasonable steps necessary to:

- (a) remedy such breach or protect the integrity of the ISMS against any such potential or attempted breach or threat; and
- (b) prevent an equivalent breach in the future.

such steps shall include any action or changes reasonably required by the *Service Manager*; and

1.6.2.2 as soon as reasonably practicable provide to the *Service Manager* full details (using such reporting mechanism as defined by the ISMS) of the Breach of Security or the potential or attempted Breach of Security.

Appendix 1 – Security Policy

[Append Security Policy]

Appendix 2 – Security Management Plan

[Append Security Management Plan]

Schedule 4

Affected Property



620866 Treforest - HVAC
assets and 3mo

Schedule 5

Scope

HVAC Maintenance Service

Cardiff Ty Taf Treforest,

DESCRIPTION OF WORK:

Performance of the following:

1. Carry out maintenance works to the HVAC system (including daily checks, reactive maintenance, PPM and statutory certifications). In accordance with Government Soft Landing principles, allow for demonstrating the operation of the systems to FM providers over the final 6 weeks including providing any training sessions in readiness for the FM providers to take over the system after 3 months.
2. Delivery of PPM schedule for HVAC system and associated equipment as specified in the maintenance schedule provided as Appendix A. Details contains within Excel doc "HVAC assets and 3 month PPM"/ CMB Maintenance proposal.
3. Completion of all defects identified and detailed in report: CMB report 23.09.2021. Subject to investigation and cause of defect. CMB to advise of any recoverable costs.
4. To undertake a full and comprehensive performance review of HVAC equipment ensuring the system is functioning correctly and predictably and where necessary complete all and any repairs to any identified defects. – To include a review and full transparency of any recoverable costs for consumables/replacements if not covered under warranty.
5. To record all ongoing servicing, (reactive and planned PPM (including out of hours works) activity and ensure all documentation pertaining to statutory compliance, faultfinding and repair is logged and full details provided to the property services provider (Mitie & Sodexo) throughout the contract term and at the end of the service period.
6. All labour and travel costs associated with the planned preventative maintenance of the equipment are covered in contract. CMB to advise of any recoverable costs such as call outs or additional labour required for callouts/breakdowns service.
7. Maintenance on all equipment in line with HVCA Guidelines.
8. To provide 2-hour attendance to site in normal working hours and 8-hour attendance to site outside of work hours for reactive works. If CMB resource is available on-site additional charges for labour do not apply. Additional charges only apply where extra labour is required for assistance or when out of hours callout are required.
9. Organisation of maintenance schedule & storage of service records that CMB are responsible for to send on to relevant parties.
10. To report all remedial works to be raised as work orders (WO's) through Sodexo Helpdesk system – CMB to raise all work orders via mechanism below through (Sodexo helpline) as part of performance of this contract.
 - 0870 606 0065
 - Suppliers.DWP.UK@sodexo.com

11. To provide all associated statutory compliance certification in line with legal requirements and report completion of all PPM activities to Sodexo as part of this contract.
12. To provide a full and comprehensive list of parts, equipment, consumables and materials used to deliver a fully operational and effective HVAC system delivering optimum performance.
13. 6-week handover period with end user to include information on correct performance and running of HVAC systems
14. To provide sufficiently skilled and knowledgeable support to deliver training to Mitie MST and suitably qualified personnel that can be delivered as required throughout the contracted period and as part of specified training period. For purposes of clarity, the three (3) calendar months contract includes six (6) weeks training and support as described above (it is NOT an additional period at the end of the contract period).
15. To complete a full and comprehensive handover to Mitie and Sodexo personnel of HVAC system and all associated equipment at the end of the contracted period.
16. As this maintenance contract is within the ISG Cat B Construction Contract Defects Liability Period, any Cat B defective parts and defective works discovered under this maintenance contract will be replaced/repared under the ISG Cat B project contract one year warranty (ending April 2022). Please therefore capture and record details of faults that are under CAT A & B construction separately to avoid warranty queries. – Subject to root cause and thorough investigation of issues to be detailed as part of this contract.

NB: This does not include any Cat A defects that are now outside warranty period.

17. All maintenance to be carried out and certified in accordance with F Gas Specification, HVCA & NICEIC
18. PPM in staff occupied areas may only be carried out during normal working hours by agreement with DWPs Senior Responsible Office (SRO), otherwise needs to be undertaken outside normal working hours
19. Billable items will include:
 - Labour and travel costs associated with call outs and breakdowns, damage due to vandalism or misuse of equipment by operator error.
 - New works, which would be charged at daywork, rates or quoted separately.
 - Consumables – Such as filters, Chemical additives, and drive belts

Schedule 6

Form of Risk Register

The risk register will be developed based in the weekly reviewing meeting.

Schedule 7

Price List

[INSERT PRICE LIST]

Redacted

It is essential that a demonstratable cooperation and coordination of services is required to ensure that the property and tenant hard services provider (Mitie and Sodexo) at the end of the contracted and training period are able to perform all specific system ongoing and statutory maintenance, servicing and repair duties required by the property HVAC system.



HVAC Maintenance
Contract Works - Revi

Schedule 9 GDPR

Agreement : this contract;

Processor Personnel : means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement

GDPR CLAUSE DEFINITIONS:

Data Protection Legislation : (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 subject to Royal Assent to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

Data Protection Impact Assessment : an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Controller , Processor , Data Subject , Personal Data , Personal Data Breach , Data Protection Officer take the meaning given in the GDPR.

Data Loss Event : any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

Data Subject Request : a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018 : Data Protection Act 2018

GDPR : the General Data Protection Regulation (Regulation (EU) 2016/679)

Joint Controllers: where two or more Controllers jointly determine the purposes and means of processing

LED : Law Enforcement Directive (Directive (EU) 2016/680)

Protective Measures : appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule [x] (Security).

Sub-processor : any third party appointed to process Personal Data on behalf of that Processor related to this Agreement

1. DATA PROTECTION

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the *Client* is the Controller and the *Contractor* is the Processor unless otherwise specified in this contract. The only processing that the Processor is authorised to do is listed in this contract by the Controller and may not be determined by the Processor.

1.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.

1.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the *service*;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

- (a) process that Personal Data only in accordance with Schedule [X], unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule X);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Processor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

1.5 Subject to clause 1.6, the Processor shall notify the Controller immediately if it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

1.6 The Processor's obligation to notify under clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.

1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

- (a) the Controller with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Controller following any Data Loss Event;
- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

- (a) the Controller determines that the processing is not occasional;
- (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
- (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

1.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation .

1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:

- (a) notify the Controller in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Controller;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause [X] such that they apply to the Sub-processor; and

(d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

1.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

1.15 Where the Parties include two or more Joint Controllers as identified in Schedule [X] in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Schedule [Y] in replacement of Clauses 1.1-1.14 for the Personal Data under Joint Control.

Annex A - Part 2: Schedule of Processing, Personal Data and Data Subjects

Schedule 9 A Processing, Personal Data and Data Subjects

This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are all as per the details contained within the Contractor's policies, procedures and other measures
2. The Processor shall comply with any further written instructions with respect to processing by the Controller.
3. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the <i>Client</i> is the Controller and the <i>Contractor</i> is the Processor in accordance with Clause 1.1.
Subject matter of the	There is no personal data within in contract .

Schedule 10

CYBER ESSENTIALS

CYBER ESSENTIALS SCHEME

1. DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings:

"Cyber Essentials Scheme"

The Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found here: <https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>;

"Cyber Essentials Basic Certificate"

the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;

"Cyber Essentials Certificate"

Cyber Essentials Basic Certificate, the Cyber Essentials Plus Certificate or the Cyber Essential Scheme certificate equivalent to be provided by the *Contractor* as set out in the Framework Data Sheet;

"Cyber Essential Scheme Data" sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and

"Cyber Essentials Plus Certificate" the certification awarded on the basis of external testing by an independent certification body of the *Contractor's* cyber security

approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. CYBER ESSENTIALS OBLIGATION

2.1 Where the Scope requires that the *Contractor* provide a Cyber Essentials Certificate prior to the execution of the *service* the *Contractor* shall provide a valid Cyber Essentials Certificate, then on or prior to the commencement of the *service* the *Contractor* delivers to the *Client* evidence of the same. Where the *Contractor* fails to comply with this paragraph it shall be prohibited from commencing the carrying out of the *service* under any contract until such time as the *Contractor* has evidenced to the *Client* its compliance with this paragraph

2.1.

2.2 Where the *Contractor* continues to Process Cyber Essentials Scheme Data during the carrying out of the *service* the *Contractor* delivers to the *Client* evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the *Contractor* under paragraph 2.1.

2.3 Where the *Contractor* is due to Process Cyber Essentials Scheme Data after the commencement of the *service* but before completion of the *service* the *Contractor* delivers to the *Client* evidence of:

2.3.1 a valid and current Cyber Essentials Certificate before the *Contractor* Processes any such Cyber Essentials Scheme Data; and

2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the *Contractor* under paragraph

2.1.

2.4 In the event that the *Contractor* fails to comply with paragraphs 2.2 or 2.3 (as applicable), the *Client* reserves the right to terminate this contract for material Default.

2.5 The *Contractor* ensures that all sub-contracts with Sub-Contractors who Process Cyber Essentials Data contain provisions no less onerous on the Sub-Contractors than those imposed on the *Contractor* under this contract in respect of the Cyber Essentials Scheme under paragraph 2.1 of this Schedule

2.6 This Schedule shall survive termination or expiry of this contract.