

2020

JCT Design and Build Contract 2016 (DB 2016)
relating to the Cat B fit-out works at part 2nd Floor (west side) of the Minster
Building, London EC3R 7AG

The Lords Commissioners of Her Majesty's Treasury acting through the
United Kingdom Debt Management Office ⁽¹⁾ and
Interserve Construction Limited ⁽²⁾

Agreement

Dated

2020

Parties

- (1) The Lords Commissioners of her Majesty's Treasury acting through the United Kingdom Debt Management Office (hereinafter defined as the **Employer** which expression shall include permitted assignees and successors in title).
- (2) Interserve Construction Limited (No. 00303359) whose registered office is Ingenuity House Elmdon Trading Estate, Bickenhill Lane, Birmingham, B37 7HQ (hereinafter defined as the **Contractor**).

Background

- (A) The Employer wishes to procure the design, construction and completion of certain works.
- (B) The Contractor has agreed to carry out the design, construction and completion of those works as required by this Agreement and Contract.
- (C) The Employer and Contractor have agreed to incorporate and amend the JCT Design and Build Contract 2016 edition as set out in this Agreement and Contract.

Agreed Terms

1. This Contract shall incorporate all of the provisions of the JCT Design and Build Contract 2016 edition, except that:
 - 1.1 the Agreement and Attestation contained in the JCT Design and Build Contract 2016 edition shall be replaced in their entirety by this Agreement and Attestation; and
 - 1.2 the JCT Design and Build Contract 2016 edition shall be amended as provided in this Agreement, Attestation, Schedule of Amendments and Annexures, all as attached to this Agreement.
2. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the JCT Design and Build Contract 2016 edition, as amended by this Agreement and Schedule of Amendments.
3. The following documents shall be deemed to form part of and be read and construed as part of this Contract:
 - 3.1 this Agreement, Attestation, Schedule of Amendments and Annexures attached to this Agreement;
 - 3.2 the published JCT Design and Build Contract 2016 edition (as amended by this Agreement, Attestation, Schedule of Amendments and Annexures attached to this Agreement);
 - 3.3 the Employer's Requirements;
 - 3.4 the Schedules;
 - 3.5 the Contractor's Design Documents;
 - 3.6 the Contractor's Proposals;
 - 3.7 the Contract Sum Analysis;

3.8 CCS Government Hubs Fit Out Framework Agreement

4. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby agrees with the Employer to design, carry out and complete the Works and perform its obligations under this Contract, all in accordance with the terms of this Contract.
5. The Employer hereby agrees to pay the Contractor in consideration of the design, carrying out and completion of the Works and performance of the Contractor's obligations under this Contract, all in accordance with the terms of this Contract, such amounts as shall become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.
6. This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

Recitals

Whereas

- First** the Employer wishes to have the design and construction of the following work carried out:
the Cat B fit-out works at the part 2nd Floor (west side) of the Minster Building, London EC3R 7AG (**the Works**)
- and the Employer has supplied to the Contractor documents showing and describing or otherwise stating his requirements (**the Employer's Requirements**);
- Second** in response to the Employer's Requirements the Contractor has supplied to the Employer:
- documents showing and describing the Contractor's proposals for the design and construction of the Works (**the Contractor's Proposals**); and
 - an analysis of the Contract Sum (**the Contract Sum Analysis**);
- Third** the Contractor has examined the Employer's Requirements and confirms that:
- (1) the Contractor is satisfied as to the feasibility and practicality of the Employer's Requirements;
 - (2) the Contractor shall be fully responsible in all respects for the design of the Works (including without limitation any design in the Employer's Requirements);
 - (3) the Contractor's Proposals and the Contract Sum Analysis meet the Employer's Requirements and there is no discrepancy within and/or between these documents; and
 - (4) the Employer's Requirements can be carried out within the timescale envisaged therein and at the cost stated in the Contract Sum Analysis;
- Fourth** for the purposes of the Construction Industry Scheme (**CIS**) under the Finance Act 2004, the status of the Employer is, as at the Base Date, that stated in the Contract Particulars;
- Fifth** the division of the Works into Sections is shown in the Employer's Requirements or in such other documents as are identified in the Contract Particulars;
- Sixth** where so stated in the Contract Particulars, this Contract is supplemented by the Framework Agreement identified in those particulars;
- Seventh** whether any of Supplemental Provisions 1 to 10 apply is stated in the Contract Particulars.

Articles

Now it is hereby agreed as follows:

Article 1: Contractor's obligations

The Contractor shall carry out and complete the design for the Works and carry out and complete the construction of the Works in accordance with the Contract Documents and perform all of its other obligations set out in this Contract.

Article 2: Contract Sum

The Employer shall pay the Contractor at the times and in the manner prescribed by this Contract the VAT-exclusive sum of
One million, thirty two thousand, two hundred and twenty three pounds and seventy pence (£1,032,223.70) (**the Contract Sum**)
or such other sum as becomes payable under this Contract.

Article 3: Employer's Agent

For the purposes of this Contract the Employer's Agent is
[REDACTED UNDER FOIA, SECTION 40 PERSONAL INFORMATION]

or such other person as the Employer nominates in his place. Save to the extent that the Employer may otherwise specify by notice to the Contractor, the Employer's Agent shall have full authority to receive and issue applications, consents, instructions, notices, requests or statements and otherwise to act for the Employer under any of the Conditions; provided that notwithstanding the appointment of the Employer's Agent the Employer shall retain authority to receive and issue applications, consents, instructions, notices, requests or statements or take other action permitted by or enforce other rights it has under the terms of this Contract, from time to time for the purposes of this Contract.

Article 4: Employer's Requirements and Contractor's Proposals

The Employer's Requirements, the Contractor's Proposals and the Contract Sum Analysis are those referred to in the Contract Particulars.

Article 5: Principal Designer

The Principal Designer for the purposes of the CDM Regulations is the Contractor

Article 6: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or such replacement as the Employer at any time appoints to fulfil that role.

Article 7: Adjudication

If any dispute or difference arises out of or in connection with this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 8: Arbitration

Not used – Arbitration does not apply

Article 9: Legal proceedings

Without prejudice to Article 7 and clause 9.2, the Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales which shall have jurisdiction to hear and decide any suit, action or proceedings and/or settle any dispute or claim which may arise out of or in

connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Article 10: The Contractor's Deeds of Collateral Warranty

- 10.1 Upon the date of this Contract the Contractor shall execute as a deed and deliver to the Employer a deed of collateral warranty in the form set out in Annex 1 to this Contract with only such amendments as the Employer may approve and/or reasonably require in favour of the Landlord.
- 10.2 The Contractor shall execute as a deed and deliver to the Employer within 15 Business Days of a written request from the Employer a deed or deeds of collateral warranty in the form set out in Annex 1 to this Contract with only such amendments as the Employer may approve and/or reasonably require in favour of:
- 10.1.1 any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site;
 - 10.1.2 any purchaser of the whole or any part of the Works and/or site;
 - 10.1.3 any organisation providing finance to a purchaser of the whole or any part of the Works and/or site;
 - 10.1.4 any tenant of the whole or any part of the Works and/or site; and
 - 10.1.5 any other landlord of the whole or any part of the Works and/or site.
- 10.3 Notwithstanding any other terms of this Contract, the Contractor and Employer agree that should any deed or deeds of collateral warranty from the Contractor, to be provided pursuant to this Article 10, not be executed as a deed and delivered to the Employer within 15 Business Days of a written request from the Employer (or on the date of this Contract in relation to the collateral warranty in favour of the Landlord) then the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold £7,500 per warranty from any future payments to the Contractor until such time as the relevant deed and/or deeds of collateral warranty have been executed and delivered to the Employer in accordance with the provisions of this Article 10.

Article 11: Consultants, Appointments and Deeds of Collateral Warranty

- 11.1 On the date of this Contract, the Contractor shall have appointed and/or shall appoint the following consultants (or such other consultants as the Employer may approve) for the purposes of the Works:
- interior architect
 - structural engineer
- (together the **Design Consultants** (which term shall include any replacement consultant)).
- 11.2 The Design Consultants shall be appointed by deed on terms to be approved by the Employer such approval shall not be unreasonably withheld with such amendments (if any) as the Employer may approve and/or reasonably require.
- 11.3 In addition to the Design Consultants the Contractor may, subject to the Employer's prior written consent, appoint additional consultants for the purposes of the Works (the **Additional Consultants** (which term shall include any replacement consultant)) provided always that such Additional Consultants are appointed by deed on terms to be approved by the Employer such approval shall not be unreasonably withheld with such amendments (if any) as the Employer may approve and/or reasonably require.
- 11.4 Within 10 Business Days after the appointment of each Design Consultant and Additional Consultant the Contractor shall supply to the Employer a certified copy of the Design Consultant's and Additional Consultant's deed of appointment.
- 11.5 Upon the appointment of every Design Consultant and Additional Consultant, the Contractor shall immediately upon that appointment (in respect of Article 11.7.1) and/or within 15 Business Days of a written request from the Employer (in respect of Articles 11.7.2 to 11.7.6 inclusive) deliver to the Employer a deed or deeds of collateral warranty

from such consultant in the form to be provided by the Employer, executed as deeds by the Contractor and the consultant as appropriate, with only such amendments as the Employer may approve and/or the Consultant may reasonably require in favour of:

- 11.7.1 the Employer;
- 11.7.2 any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site;
- 11.7.3 any purchaser of the whole or any part of the Works and/or site;
- 11.7.4 any organisation providing finance to a purchaser of the whole or any part of the Works and/or site;
- 11.7.5 any tenant of the whole or any part of the Works and/or site; and
- 11.7.6 the Landlord and any other landlord of the whole or any part of the Works and/or site.

11.6 Should any deed or deeds of collateral warranty from the Design Consultants or Additional Consultants, to be provided pursuant to this Article 11, not be executed as a deed and delivered to the Employer within 15 Business Days of a written request from the Employer then the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold £7,500 per warranty from any future payments to the Contractor in respect of that particular Design Consultant's or Additional Consultant's work until such time as the relevant deed and/or deeds of collateral warranty have been executed and delivered to the Employer in accordance with the provisions of this Article 11.

11.7 If the employment of any consultant (including the Design Consultants and Additional Consultants) is terminated before the completion of the services allocated to them, the Contractor shall as soon as is practicable but on 5 Business Days' notice from the Employer appoint another consultant to complete those services (save any consultant to whom the Employer shall make reasonable objection in writing). The foregoing provisions of this Article 11 shall apply to such replacement consultant, mutatis mutandis.

Article 12: Sub-contractors, Sub-contracts and Deeds of Collateral Warranty

12.1 In this Article 12 **Specified Sub-contractors** means any sub-contractor or supplier of the Contractor for the following elements of the Works (or any part thereof):

- structural works including steel frame and roof structure
- mechanical services
- electrical services
- security installations

and shall include any replacement of such sub-contractors and/or suppliers.

12.2 Each of the Specified Sub-contractors shall be appointed by deed prior to them carrying out any design works or services in relation to the Works in a form approved by the Employer in accordance with clause 3.4 of the Contract, and within 10 Business Days of the appointment of a Specified Sub-contractor the Contractor shall supply a certified copy of the sub-contract to the Employer provided that the Contractor shall be entitled to delete the sub-contract sum and any commercially sensitive information from the certified copy of the sub-contract documentation to be provided in accordance with this Article.

12.3 Upon the appointment of every Specified Sub-contractor, the Contractor shall immediately upon that appointment (in respect of Article 12.3.1) and/or within 15 Business Days of a written request from the Employer (in respect of Articles 12.3.2 to 12.3.6 inclusive) deliver to the Employer a deed or deeds of collateral warranty from such Specified Sub-contractor in the form set out in Annex 2 to this Contract, executed as deeds by the Contractor and the Specified Sub-contractor as appropriate, with only such amendments as the Employer may approve and/or reasonably require in favour of:

- 12.3.1 the Employer;
- 12.3.2 any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site;
- 12.3.3 any purchaser of the whole or any part of the Works and/or site;
- 12.3.4 any organisation providing finance to a purchaser of the whole or any part of the Works and/or site;
- 12.3.5 any tenant of the whole or any part of the Works and/or site; and

12.3.6 the Landlord and any other landlord of the whole or any part of the Works and/or site.

- 12.4 Should any deed or deeds of collateral warranty from the Specified Sub-contractors, to be provided pursuant to this Article 12, not be executed as a deed and delivered to the Employer within 15 Business Days of a written request from the Employer then the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold £7,500 per warranty from any future payments to the Contractor in respect of that particular Specified Sub-contractor's work until such time as the relevant deed and/or deeds of collateral warranty have been executed and delivered to the Employer in accordance with the provisions of this Article 12.
- 12.5 If the employment of any Specified Sub-contractor is terminated before the completion of the works and/or services allocated to him, the Contractor shall as soon as is practicable but on 5 Business Days' notice from the Employer appoint another sub-contractor to complete those works and/or services (save any sub-contractor to whom the Employer shall make reasonable objection in writing). The foregoing provisions of this Article 12 shall apply to such replacement sub-contractor, mutatis mutandis.

Article 13: Compliance with the appointments and sub-contracts

- 13.1 In relation to the appointments of the Design Consultants, Additional Consultants, Specified Sub-Contractors and any other sub-contractors or suppliers, the Contractor shall:
- 13.1.1 properly enforce the obligations of such consultants, sub-contractors and suppliers under their appointments and shall not determine or vary the terms of any such appointments or release such consultants, sub-contractors or suppliers from their obligations under their respective appointments without the prior written consent of the Employer;
 - 13.1.2 (without limitation to Article 13.1.1) procure that such consultants, sub-contractors and suppliers comply with their obligations in relation to the provision of deeds of collateral warranties under the terms of their appointments;
 - 13.1.3 duly perform and observe all the obligations and duties on the part of the Contractor under the appointments of any such consultants, sub-contractors and suppliers;
 - 13.1.4 ensure that such consultants, sub-contractors and suppliers are fully and properly instructed in connection with the Works;
 - 13.1.5 diligently take all steps necessary effectually to procure due performance and observance of the obligations and duties of such consultants, sub-contractors and suppliers;
 - 13.1.6 not waive, release, vary or estop itself from enforcing or seeking redress for any such obligation or duty without the prior written consent of the Employer; and
 - 13.1.7 not to do or omit to do any act or thing which would entitle any of such consultants, sub-contractors and/or suppliers to treat as terminated by breach their appointment in connection with the Works.

Article 14: Guarantees

- 14.1 The Contractor shall obtain manufacturer's guarantees in favour of or assignable to the Employer and all manuals, drawings and other information in respect of all items of plant and equipment and other products which are included in the Works as may be reasonably requested by the Employer including (but not limited to) the following:
- generator
 - UPS
 - main MEP services components
 - security equipment
 - IT equipment
 - FF&E and kitchen goods
- 14.2 Should the guarantees, manuals, drawings or other information to be provided pursuant to this Article 14, not be delivered to the Employer within 15 Business Days of a written request from the Employer then, provided such guarantees, manuals, drawings or other

information be available at the time of the Employer's written request the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold all future payments to the Contractor in respect of the relevant item of plant, equipment or other product up to a maximum of £7,500 for each relevant item until such time as the relevant guarantee, manual, drawing or other information has been delivered. Any outstanding guarantees, manuals, drawings or other information shall be provided as soon as reasonably practicable following the date on which they become available and in any event, on or before Practical Completion and the provisions of clause 2.37 shall apply.

Article 15: Parent Company Guarantee

- 15.1 Within 7 days of the date of this Contract the Contractor shall procure the execution and delivery to the Employer of a parent company guarantee in favour of the Employer in the form set out in Annex 3 to this Contract (with only such amendments as the Employer may approve and/or reasonably require). The parent company guarantee shall be executed and delivered by REDACTED UNDER FOIA, SECTION 43 COMMERCIAL INTERESTS
- 15.2 If the Contractor does not procure the execution and delivery of the parent company guarantee in accordance with Article 15.1 then, notwithstanding any other term of this Contract, then the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold 50% of all sums due to the Contractor from any future payments to the Contractor under this Contract while the Contractor remains in default of this Article 15. Any amount unpaid to the Contractor under this Article 15 shall become due for release to the Contractor only when such parent company guarantee is provided (or, if none is provided, on the date on which a parent company guarantee in the form set out in Annex 3 would have lapsed had it been provided, less any amounts which the Employer may have been entitled to claim under the parent company guarantee had such parent company guarantee been provided).

Article 16: Professional Team

- 16.1 The Employer reserves the right to appoint at any time any independent consultants to advise and assist the Employer and details of such consultants shall be notified to the Contractor by the Employer or the Employer's Agent from time to time. The Contractor shall co-operate with such consultants in the performance of their duties and shall liaise with them as necessary (or as the Employer or Employer's Agent on his behalf may direct) in connection with the Works.

Contract Particulars

*Note: An asterisk * indicates text that is to be deleted as appropriate

Clause etc	Subject	
Fourth Recital and clause 4.5	Construction Industry Scheme (CIS)	Employer at the Base Date is not a "contractor" for the purposes of the CIS
Fifth Recital	Description of Sections (if any) <i>(If not shown or described in the Employer's Requirements, state the reference numbers and dates or other identifiers of documents in which they are shown)</i>	Section 1 : IT Comms Room, IT Build Room Section 2 : Completion of the Works
Sixth Recital	Framework Agreement (if applicable) <i>(State date, title and parties.)</i>	CCS Government Hubs Fit-Out Framework
Seventh Recital and Part 1 of Schedule 2	Supplemental Provisions – Part 1 <i>(Where neither entry against one of Supplemental Provisions 1 to 3 below is deleted, that Supplemental Provision <u>does not</u> apply.)</i>	
	Named Sub-Contractors	Supplemental Provision 1 applies.
	Valuation of Changes – Contractor's estimates	Supplemental Provision 2 applies.
	Loss and expense – Contractor's estimates	Supplemental Provision 3 applies.
Seventh Recital and Part 2 of Schedule 2	Supplemental Provisions – Part 2 <i>(Where neither entry against one of Supplemental Provisions 4 to 10 below is deleted, that Supplemental Provision applies.)</i>	
	Acceleration Quotation	Supplemental Provision 4 applies.
	Collaborative working	Supplemental Provision 5 applies.
	Health and safety	Supplemental Provision 6 applies.
	Cost savings and value improvements	Supplemental Provision 7 applies.

	Sustainable development and environmental considerations	Supplemental Provision 8 applies.
	Performance Indicators and monitoring	Supplemental Provision 9 does not apply.
	Notification and negotiation of disputes	Supplemental Provision 10 applies.
	Where Supplemental Provision 10 applies, the respective nominees of the Parties are	Employee's nominee REDACTED UNDER FOIA, SECTION 40 PERSONAL INFORMATION Contractor's nominee REDACTED UNDER FOIA, SECTION 40 PERSONAL INFORMATION or such replacement as each Party may notify to the other from time to time.
Article 4	Employer's Requirements (<i>State reference numbers and dates or other identifiers of the relevant documents</i>)	REDACTED UNDER FOIA, SECTION 43 COMMERCIAL INTERESTS
Article 4	Contractor's Proposals (<i>State reference numbers and dates or other identifiers of the relevant documents</i>)	REDACTED UNDER FOIA, SECTION 43 COMMERCIAL INTERESTS
Article 4	Contract Sum Analysis (<i>State reference numbers and dates or other identifiers of the relevant documents</i>)	REDACTED UNDER FOIA, SECTION 43 COMMERCIAL INTERESTS
Article 8	Arbitration (If neither entry is deleted, Article 8 and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 8 and clauses 9.3 to 9.8 apply.)	Article 8 and clauses 9.3 to 9.8 (Arbitration) *apply/do not apply Not used – legal proceedings apply
1.1	Base Date	6 July 2020
1.1	BIM Documentation (<i>where applicable</i>) (<i>State title, edition, date or other identifiers of the relevant documents.</i>)	N/A
1.1	Date for Completion of the Works (<i>Where completion by Sections does not apply</i>)	23 December 2020

	Sections: Dates for Completion of Sections	Section 1 : 27 November 2020 Section 2 : 23 December 2020
1.7	Addresses for service of notices by the Parties <i>(If none is stated, the address in each case, subject to clause 1.7.3, shall be that shown at the commencement of the Agreement)</i>	Employer REDACTED UNDER FOIA, SECTION 40 PERSONAL INFORMATION Copy by email to: REDACTED UNDER FOIA, SECTION 40 PERSONAL INFORMATION Contractor REDACTED UNDER FOIA, SECTION 40 PERSONAL INFORMATION
2.3	Date of Possession of the site <i>(where possession by Sections does not apply)</i>	
	Sections: Dates of Possession of Sections	Section 1 : 21 September 2020 Section 2 : 21 September 2020
2.4	Deferment of possession of the site <i>(where possession by Sections does not apply)</i>	Clause 2.4 applies
	Sections: deferment of possession of Sections	Section 1 : Maximum period of deferment is 6 weeks Section 2 : Maximum period of deferment is 6 weeks
2.17.3	Limit of Contractor's liability for loss of use etc (if any)	
2.29.2	Liquidated damages <i>(where completion by Sections does not apply)</i>	
	Sections: rate of liquidated damages for each Section	Section 1: Weeks 1 and 2 – Nil per week Week 3 onwards - £3,000 per week or part thereof Section 2 : Weeks 1 and 2 – Nil per week Week 3 onwards - £10,000 per week or part thereof subject to an overall aggregate cap equal to 10% of the Contract Sum (as may be adjusted in accordance with this Contract). For the avoidance of doubt, this aggregate cap applies to all Sections under the Contract.

2.34	Sections: Section Sums	Section 1 : £50,000.00 Section 2 : £982,223.79
2.35	Rectification Period <i>(where completion by Sections does not apply)</i> <i>(If no other period is stated, the period is 6 months)</i>	12 months from the date of Practical Completion of the Works
	Sections: Rectification Periods <i>(If no other period is stated, the period is 6 months)</i>	Section 1 : 12 months from the date of Practical Completion of the Works Section 2 : 12 months from the date of Practical Completion of the Works
4.2, 4.12 and 4.13	Fluctuations Provision <i>(Unless another option or entry is selected JCT Fluctuations Option A applies)</i>	No Fluctuations Provision applies
	JCT Fluctuations Option A (paragraph A.12) or Option B (paragraph B.13) – percentage addition	Not used - no Fluctuations Provision applies
	JCT Fluctuations Option C (paragraph C.1.2) - Formula Rules	Not used - no Fluctuations Provision applies
	<i>(Unless Part II is stated to apply Part I applies)</i>	Not used - no Fluctuations Provision applies
4.6	Advance payment <i>(Not applicable where the Employer is a Local or Public Authority)</i>	Clause 4.6 does not apply
4.6	Advance Payment Bond <i>(Not applicable where the Employer is a Local or Public Authority)</i> <i>(Where an advance payment is to be made, an advance payment bond is required unless stated that it is not required)</i>	an advance payment bond is not required.
4.7.1	Method of payment – alternatives <i>(If no Alternative is selected, Alternative B applies)</i>	periodically in accordance with Alternative B (clause 4.13)
	Alternative A: Stage Payments Stages (insert brief description)	N/A

4.7.2	Interim Payments - Interim Valuation Dates <i>(The dates apply for each Alternative; if no date is stated, the first Interim Valuation Date is one month after the Date of Possession.)</i>	The first Interim Valuation Date is 22 September 2020 and thereafter the same date in each month or the nearest Business Day in that month
4.15.4	Listed Items — uniquely identified (Delete the entry if no bond is required)	*For uniquely identified Listed Items a bond [as referred to in clause 4.15.4] in respect of payment for such items is required for £[●]
4.15.5	Listed Items — not uniquely identified (Delete the entry if clause 4.15.5 does not apply)	*For Listed Items that are not uniquely identified a bond [as referred to in clause 4.15.5] in respect of payment for such items is required for £[●]
4.17	Contractor's Retention Bond <i>(Not applicable where the Employer is a Local or Public Authority and, in other cases, not applicable unless stated to apply, with relevant particulars given below)</i>	Clause 4.17 does not apply
4.18.1	Retention Percentage <i>(The percentage is 3 per cent unless a different rate is stated; if no retention is required, insert "Nil" or "0".)</i>	5 per cent
5.5	Daywork	The Percentage Additions to each section of the prime cost or, if they apply in respect of labour, the All-Inclusive Rates, are set out in the following document: Not Applicable
6.4.1	Contractor's Public Liability insurance: injury to persons or property – the required level of cover is not less than	£10,000,000 (ten million pounds) for any one occurrence or series of occurrences arising out of one event
6.5.1	Insurance – liability of Employer	Not Applicable.
6.7 and Schedule 3	Works Insurance – Insurance Option applicable	Insurance Option A applies £10,000,000 (ten million pounds)
	Percentage to cover professional fees <i>(If no other percentage is stated, it shall be 15 per cent)</i>	fifteen per cent

	Where Insurance Option A applies and cover is to be provided under the Contractor's annual policy (paragraph A.2) the annual renewal date is <i>(as supplied by the Contractor)</i>	30 December 2020
	Where Insurance Option C applies, paragraph C.1 <i>(Unless otherwise stated, paragraph C.1 applies. If it is not to apply, state the reference number and date or other identifier of the replacement document(s).)</i>	N/A
6.10 and Schedule 3	Terrorism Cover – details of the required cover <i>(Unless otherwise stated, Pool Re Cover is required.)</i>	are set out in the following document(s) Pool Re
6.15	Professional indemnity insurance	See new clause 6.15
	Level of cover (If an alternative is not selected the amount shall be the aggregate amount for any one period of insurance. A period of insurance for these purposes shall be one year unless otherwise stated.) (If no amount is stated, insurance under clause 6.15 shall not be required.)	See clause new 6.15
	Cover for pollution and contamination claims (If no amount is stated, such cover shall not be required; unless otherwise stated, the required limit of indemnity is an annual aggregate amount).	See new clause 6.15
	Expiry of required period of Professional Indemnity insurance is (If no period is selected, the expiry date shall be 6 years from the date of Practical Completion of the Works.)	See new clause 6.15
6.17	Joint Fire Code	The Joint Fire Code applies

	If the Joint Fire Code applies, state whether the insurer under Insurance Option A, B or C (paragraph C.2) has specified that the Works are a "Large Project"	Yes
6.20	Joint Fire Code – amendments/revisions <i>(The cost shall be borne by the Contractor unless otherwise stated)</i>	The cost, if any, of compliance with amendment(s) or revision(s) to the Joint Fire Code shall be borne by the Contractor
7.2	Assignment/grant by the Employer of rights under clause 7.2. (If neither entry is deleted, clause 7.2 applies)	See new clause 7
	Sections: rights under clause 7.2 (If clause 7.2 applies, amend the entry if rights under that clause are to apply to certain Sections only)	
7.3.1	Performance bond or guarantee from bank or other approved surety <i>(If this entry is not completed or the required form is not specified, a performance bond or guarantee is not required.)</i>	N/A
	The required form of the bond or guarantee is set out in	
	Initial value	
	Period of validity – if not specified in the required form, the expiry date of the performance bond or guarantee is to be <i>(If no entry is selected, the date shall be the date of Practical Completion of the Works.)</i>	
	Reduction in value – if not specified in the required form and if expiring later than the date of Practical Completion of the Works, the percentage reduction in the initial value on that date is	

	(if no other percentage is stated, it shall be 50 per cent.)	
7.3.2	Guarantee from the Contractor's parent company	See new Article 15
	Parent company's name and registration number	See new Article 15
	The required form of the guarantee is set out in	See new Article 15
7.4	Third Party Rights and Collateral Warranties – details of the requirements for the grant by the Contractor and sub-contractors of P&T Rights, Funder Rights and/or (in the case of sub-contractors) Employer Rights in respect of the Works, either as third party rights or by collateral warranties ('Rights Particulars') are set out in the following document (State reference number and date or other identifier of the relevant document.)	See new Articles 10,11 and 12
8.9.2	Period of suspension (If none is stated, the period is 2 months)	Two months
8.11.1.1 to 8.11.1.6	Period of suspension (If none is stated, the period is 2 months)	Two months
9.2.1	<p>Adjudication</p> <p>Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)</p> <p><i>(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication)</i></p>	<p>The Adjudicator is President or a Vice-President:</p> <p>Royal Institution of Chartered Surveyors</p>
9.4.1	Arbitration – appointor of Arbitrator (and of any replacement)	Not used – legal proceedings apply

	(If no appointor is selected, the appointor shall be the President or Vice-President of the Royal Institute of British Architects)	
--	---	--

Attestation

This Contract has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed (but not delivered until the date hereof) by **The Lords Commissioners of Her Majesty's Treasury** acting by:

By: REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....
Witness Signature

.....
Name

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....

.....

.....
Address

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....
Occupation

And by: REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....
Witness Signature

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....
Name

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....

.....
Address

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION.....
Occupation

Executed as a deed (but not delivered until the date hereof) by **Interserve Construction Limited** acting by two directors or one director and the company secretary:

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION
Director Signature

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION
Director Name

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION
Director/Secretary Signature

REDACTED UNDER FOIA, SECTION 40
PERSONAL INFORMATION
Director/Secretary Name

SCHEDULE OF AMENDMENTS

This Contract shall incorporate all the provisions of the JCT Design and Build Contract 2016 edition (subject to the terms set out in the Agreement), including the following amendments to the Conditions:

CONDITIONS

SECTION 1: DEFINITIONS AND INTEPRETATION

DEFINITIONS

- 1.1 Delete the definitions of "**BIM Protocol**", "**Consultants**", "**Contractor**", "**Employer**", "**Employer Rights**", "**Finance Agreement**", "**Fluctuations Provision**", "**Funder**", "**Funder Rights**", "**P&T Rights**", "**Purchaser**", "**Rights Particulars**" and "**Tenant**".

Amend the definitions in clause 1.1 as follows:

Agreement	delete and insert "the separate Agreement forming part of the documents executed as a deed by the Parties (which replaces the Agreement forming part of the printed JCT Design and Build Contract 2016 edition), including its attached Recitals, Articles and Contract Particulars (which replace the Recitals, Articles and Contract Particulars forming part of the printed JCT Design and Build Contract 2016 edition)."
Article	delete and insert "the separate Articles forming part of the documents executed as a deed by the Parties (which replace the Articles forming part of the printed JCT Design and Build Contract 2016 edition)."
Conditions	at the end of the definition insert "as amended by the Schedule of Amendments".
Contract Documents	delete and insert "all documents listed in the Agreement clauses 3.1 to 3.8 inclusive.
Contract Particulars	delete and insert "the separate Contract Particulars forming part of the documents executed as a deed by the Parties (which replace the Contract Particulars forming part of the printed JCT Design and Build Contract 2016 edition) including the entries made by the Parties."
Contractor's Design Documents	Before "drawings" in line 1, insert "designs, calculations, surveys, levels, setting out dimensions, samples,".
Contractor's Persons	at the end of the definition insert "For the avoidance of doubt, references to Contractor's Person or Contractor's Persons shall include(without limitation) all of the Contractor's consultants, Design Consultants, Additional Consultants, sub-consultants, sub-contractors, Specified Sub-contractors and suppliers."
Interest Rate	delete "5%" and insert "3%".
Recitals	delete and insert "the separate Recitals forming part of the documents executed as a deed by the Parties (which replace the Recitals forming part of the printed JCT Design and Build Contract 2016 edition)."
Statutory Requirements	in line 4 after "regulation" insert "rule". In line 5, after "undertaker" insert "or equivalent or relevant public body". After "Development Control Requirements" insert "(and in particular so as to comply with any requirements relating thereto which may be stipulated as pre-requisites for the adoption of any services, drains, sewers, pipes, wires, cables, or other

service transmission media by any such authority or body (where the same are to be adopted)), and any Statutory Agreements".

Works delete and insert: "the design, carrying out and completion of the works at the site as briefly described in the First Recital, and all work to be designed, carried out and completed and other things to be done or supplied by the Contractor as described in the Contract (including without limitation any changes made to those works in accordance with this Contract, all pre-construction work, any works for the provision of and diversion of services and all ancillary works carried out on or about the site and/or in relation to the works)."

1.1 Insert the following new definitions in clause 1.1:

Agreement for Lease the agreement dated 13 March 2020 between the Landlord and The Secretary of State for Housing, Communities and Local Government including any recitals and all schedules thereto, together with any variations agreed by The Secretary of State for Housing, Communities and Local Government and the Landlord.

Employer's Policies the Employer's policies referenced in the CCS Government Hubs Fit-Out Framework between the Employer and the Contractor, as amended by notification to the Contractor from time to time.

Construction Products Regulations the Construction Products Regulations 2013 (SI 2013/1387), the Construction Products Regulation (305/2011/EU), the Construction Products Regulations 1991 (SI 1991/1620) and the Construction Products Directive (89/109/EC).

Consent the planning permissions referred to in the Employer's Requirements or any other planning permissions relating to the Works and/or site, approval of reserved matters and all details pursuant thereto, building regulation approval, fire officer approval and any other permissions, approvals, certificates and licences that may be necessary pursuant to the Statutory Requirements or otherwise (including for the avoidance of doubt any consents obtained in accordance with clause 2.42) to the carrying out of the Works and if they are destroyed or damaged, the reinstatement of the Works.

Data Protection Laws means, as applicable to either Party and/or to the rights, responsibilities and/or obligations of either Party in connection with this Contract:

(a) the GDPR;

(b) the Data Protection Act 2018;

(c) the Directive 2002/58/EC (ePrivacy Directive) and/or the Privacy and Electronic Communications (EC Directive) Regulations 2003;

(d) any other applicable law relating to the processing, privacy and/or use of Personal Data, as applicable to either Party and/or to the rights, responsibilities and/or obligations of either Party in connection with this Contract;

(e) any laws which implement any such laws; and

(f) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing.

Force Majeure	<p>any exceptional event or circumstance which is attributable either to the forces of nature (excluding exceptionally adverse weather conditions) or to other circumstances not confined in their effects wholly or principally to the Parties, the site or the Works and which:</p> <ul style="list-style-type: none"> (a) is beyond a Party's control; (b) such Party could not reasonably have provided against before entering into this Contract; (c) having arisen such Party could not reasonably have avoided or overcome; and (d) is not substantially attributable to the other Party.
GDPR	the General Data Protection Regulation, Regulation (EU) 2016/679.
Group Company	any subsidiary company or holding company of an assignor, or another subsidiary or holding company of such company, as 'subsidiary' and 'holding company' are defined in the Companies Act 2006 but on the basis that the holding of not less than one quarter of voting rights shall be deemed to satisfy the condition in section 1159(1)(a).
Landlord	REDACTED UNDER FOIA, SECTION 40 PERSONAL INFORMATION
Licence to Alter	the agreement for the licence to carry out works and install plant at the site to be entered into between the Landlord and The Secretary of State for Housing, Communities and Local Government including any recitals and all schedules thereto, together with any variations agreed by The Secretary of State for Housing, Communities and Local Government and the Landlord.
Material	means all designs, drawings, calculations, charts, diagrams, sketches, models, plans, specifications, design details, photographs, brochures, reports, notes of meetings, CAD materials, data, databases, schedules, programmes, bills of quantities, budgets, surveys, levels, setting out dimensions and/or other documents or materials produced or prepared by or on behalf of the Contractor or the Employer in relation to and/or connection with the Works and/or the site (whether in existence or to be made) and all updates, amendments, additions and revisions to them and any works, designs or inventions contained incorporated or referred to in them for any purpose relating to the Works and/or the site.
Moral Rights	moral rights under Chapter IV of Part 1 of the Copyright Designs and Patents Act 1988.
Personal Data	has the meaning given in applicable Data Protection Laws from time to time.
Practical Completion	<p>a state in which the Works or the relevant Section are complete in all respects and free from apparent defects, save for any minor items of incomplete work or minor defects the existence, completion or rectification of which in the opinion of the Employer's Agent would not prevent or interfere with the use and enjoyment (or the fitting out for use) of the Works or the relevant Section and, in relation to Section 1 provided that the conditions specified in the Employer's Requirements have been satisfied, provided that where it is expressly stated in any provisions of the Contract Documents that the testing, commissioning, regulation or adjustment of any mechanical or electrical services is to be completed before the Practical Completion of the Works or the relevant Section, the Works or the relevant Section shall not be considered to be practically completed until the same is done as the Contract Documents require.</p>

Schedule of Amendments	this Schedule of Amendments attached to the Agreement.
Statutory Agreements	an agreement pursuant to section 38 and/or 278 of the Highways Act 1980 and/or an agreement pursuant to section 104 of the Water Industry Act 1991 and/or an agreement pursuant to section 106 of the Town and Country Planning Act 1990 and/or section III of the Local Government Act 1972.
Third Party Agreements	<p>any and all agreements relating to or affecting the Works and/or site or the completed Works (including the execution of the Works and their design) or any part of the Works and/or site, which have been entered into or may be entered into by the Employer from time to time and disclosed to the Contractor (whether on or before the date of this Contract or after the date of this Contract once the Employer has entered into the same) including:</p> <p>the Agreement for Lease; and</p> <p>the Licence to Alter,</p> <p>and any other agreements referred to as such in the Employer's Requirements and any agreements for lease.</p>
Unseen Building Services	means the mechanical, electrical and life safety services within the ceiling void at the 2 nd Floor of the Minster Building where the Works are to be carried out.

INTERPRETATION

1.2 After all instances of "Schedule" insert "or Annex". At the end of the clause insert: "Any reference in these Schedule of Amendments to an Annex is a reference to such Annex to these Schedule of Amendments."

1.3 Delete and insert:

"In the event of any inconsistency occurring between

- (a) the Schedule of Amendments;
- (b) the Agreement;
- (c) the Annexures;
- (d) the JCT Design and Build Contract 2016 edition;
- (e) the Schedules;
- (f) the Employer's Requirements;
- (g) the CCS Government Hubs Fit Out Framework Agreement
- (h) the Contractor's Design Documents;
- (i) the Contractor's Proposals; and
- (j) the Contract Sum Analysis.

the document listed earlier in the order (a) – (j) above shall prevail over any document listed later in that order."

1.4.4 After "body corporate" insert "or any legal entity having legal capacity".

1.6 Delete and insert: "Unless the right of enforcement is expressly provided for it is not intended that a third party should have the right to enforce a provision of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999. This clause shall not affect or prevent any assignees who take the benefit of this Contract pursuant to clause 7 or successors in title to the Employer from enforcing the provisions of this Contract."

1.8.1.1 Delete.

Delete clauses 1.8.2 – 1.8.3 and insert:

- 1.8.2 "The Final Statement or the Employer's Final Statement shall not have effect as provided in clause 1.8.1:
- 1.8.2.1 in any legal proceedings or adjudication commenced before on or within 28 days after the issue of the Final Statement or the Employer's Final Statement if commenced for the purpose of contesting any such issue as is mentioned in clause 1.8.1;
- 1.8.2.2 in any legal proceedings begun before on or within 28 days of an adjudicator's decision in any adjudication commenced in accordance with clause 1.8.2.1 if the purpose of such legal proceedings is to contest such decision or the dispute or difference to which such decision relates.
- 1.8.3 After the final conclusion of such adjudication and/or legal proceedings referred to in clause 1.8.2 the Final Statement or the Employer's Final Statement shall be subject to the final outcome of such adjudication and/or legal proceedings.
- 1.8.4 The powers of the court or adjudicator to open up and review any certificate shall not extend to the Final Statement or the Employer's Final Statement to the extent that such statement is given conclusive effect pursuant to clause 1.8 and section 9 shall be construed accordingly."
- 1.9 Delete "Save as stated in clause 1.8, no" and insert "No comment, notice, certificate, instruction, statement or". Delete "of itself" in line 1.
- 1.11 Delete and insert:

"Miscellaneous

- 1.11.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 1.11.2 All references in these Conditions to "practical completion" shall be deleted and substituted with "Practical Completion".
- 1.11.3 Nothing contained in this Contract (other than as to the giving of notices) shall oust or limit any right of the Employer under any statute or rule of law or of equity in the nature of set-off or abatement of price."
- 1.11.4 **"GDPR**

Each Party shall comply with all Data Protection Laws in connection with the exercise and performance of its respective rights and obligations under this Contract."

SECTION 2: CARRYING OUT THE WORKS

CONTRACTOR'S OBLIGATIONS

- 2.1.1 In line 1 after "proper" insert ", good" and after "workmanlike manner" insert ", in accordance with good building practice". In line 3 after "shall" insert "carry out and". In line 5 and 6 delete "so far as not described or stated in the Employer's Requirements or the Contractor's Proposals."
- 2.1.2 Delete.
- 2.1.5 Insert new clause 2.1.5: "The Contractor shall comply and procure compliance with the BIM Documentation in place for the time being, and in doing so shall have due regard to the relevant requirements and recommendations of the BIM Standards."

- 2.1.6 Insert new clause 2.1.6: "In performing his obligations under this Contract, the Contractor shall and shall ensure that each of his consultants, sub-contractors and suppliers shall comply with the Modern Slavery Act 2015 and the Employer's Policies."
- 2.2.1 After "procurable, be" insert "of satisfactory quality and". Delete "as described in the Contractor's Proposals or other Contractor's Design Documents" and insert "shall be new and of such kinds and of such quality as to enable the Contractor to comply with the Contract Documents and shall be reasonably suitable for their purposes".
- 2.2.2 Delete "as described in the Contractor's Proposals or other Contractor's Design Documents" and insert "shall be of such quality as to enable the Contractor to comply with the Contract Documents and shall be reasonably suitable for their purposes".
- 2.2.5 Delete "encourage" and insert "ensure that". Delete "to be" and insert "are".
- 2.2.6 Insert new clause 2.2.6: "The Contractor warrants that it has not and shall not use and/or permit the use of and/or specify for use in or in connection with the Works any substances materials equipment products kit practices or techniques which by their nature or application do not conform with relevant British Standards or Codes of Practice or regulations or good building practice or any European Union equivalent current at the time of use or permission or specification, nor any substances materials equipment products kit practices or techniques which are generally known or generally suspected within the Contractor's trade and/or the construction industry:
 - 2.2.6.1 to be deleterious in the particular circumstances in which they are used or specified for use to the health or safety of any person;
 - 2.2.6.2 to be deleterious in the particular circumstances in which they are used or specified for use to the health, safety, stability, performance, physical integrity and/or durability of the Works or any part thereof and/or to other structures, finishes, plant and/or machinery;
 - 2.2.6.3 to reduce or possibly reduce the normal life expectancy of works of a type comparable to the Works;
 - 2.2.6.4 to become deleterious without a level or cost of maintenance which is higher than that which would normally be expected in a works of a type comparable to the Works;
 - 2.2.6.5 not to comply with or have due regard to the report entitled "Good Practice in the Selection of Construction Materials" (current edition) published by the British Council for Offices; and/or
 - 2.2.6.6 to be supplied or placed on the market in breach of the Construction Products Regulations.

The Contractor shall immediately notify the Employer if it becomes aware of any such use, permission or specification or failure to comply with this clause."

POSSESSION

- 2.3 In line 2 after "given to the Contractor" insert "on licence".
- 2.6 Delete and insert: "The Contractor shall permit the execution of work not forming part of this Contract by any persons authorised or licensed by the Employer to carry out work on or near the site and the Employer and/or any such persons may at any time re-enter the site and any part of the Works for the purposes of executing any work or installing any goods, equipment or other articles. The Contractor shall provide every reasonable facility for use for such persons to execute their work. The Contractor shall not be entitled to an extension of time or to additional cost in respect of such work where the same was referred to in the Contract Documents and/or the Contractor could have foreseen the extent of such work and could have made provision for it in the Contractor's programme".

SUPPLY OF DOCUMENTS, SETTING OUT ETC.

- 2.7.1 Delete.
- 2.7.2 Delete.

2.7.3 In line 1 after "Employer's Agent" insert "(and any other party authorised by the Employer)"

2.7.4 Delete.

2.8 Delete from "Save for any" to "Contractor's Proposals, the" (inclusive) and insert "The".

2.8A Insert new clause 2.8A:

"Contractor's Programme

Within 5 Business Days after the execution of this Contract the Contractor shall provide to the Employer a programme for the carrying out of the Works, and if and whenever there is any material delay to the execution of the Works, the Contractor shall, within 10 Business Days after it becomes apparent that there is to be a material delay, provide to the Employer a revised programme for the carrying out of the Works."

DISCREPANCIES AND DIVERGENCES

2.11 Delete.

2.12 Delete and insert new clause: "If either Party finds that any design in the Contract Documents and other Contractor's Design Documents contains any defect or inadequacy (including any non-compliance with Statutory Requirements) it shall so notify the other Party and the Contractor shall inform the Employer in writing of his proposals for removing such defect or inadequacy, and with the Employer's consent the Contractor shall remove such defect or inadequacy in accordance with such proposals (as consented to by the Employer), at the Contractor's cost and without any entitlement to an extension of time pursuant to clause 2.25."

2.13 Delete.

2.14 Delete and insert:

"2.14.1 If either Party finds any discrepancy or divergence in or between any of:

- (a) the Employer's Requirements;
- (b) the CCS Government Hubs Fit-Out Framework
- (c) the Contractor's Proposals and/or other Contractor's Design Documents; and/or
- (d) any instruction for a Change;

(including any discrepancy or divergence that results from a Change) it shall immediately give written notice of the discrepancy or divergence to the other Party.

2.14.2 Where there is such a discrepancy or divergence in or between any of the Employer's Requirements, the Contractor's Proposals, the Contractor's Design Documents, the Contractor shall inform the Employer in writing of his proposals for resolving the discrepancy or divergence, and the Employer shall decide between the discrepant or divergent items or otherwise may accept the Contractor's proposals for resolving the discrepancy or divergence (with any such amendments the Employer may require), and the Contractor shall comply with the decision or acceptance of the Employer without cost to the Employer.

2.14.3 Where the discrepancy results from an instruction for a Change, the Employer shall issue a further instruction for a Change to resolve the discrepancy.

2.14.4 (Without prejudice to the provisions of clause 2.14.3) the Contractor shall not have or make any claim for an extension of time or for loss and/or expense and clause 8.9 shall not have effect where and to the extent that the cause of the progress of the Works having been delayed affected or suspended is any such discrepancy or divergence as is referred to in clauses 2.14.1 or 2.14.2 or any failure by the Contractor to provide necessary drawings or documents in due time.

- 2.14.5 Nothing in this clause 2.14 shall relieve the Contractor of the obligation to comply with Statutory Requirements nor of its responsibility for the design of the Works."
- 2.15.1 In the second paragraph delete ", save as provided in clause 2.15.2," and insert "and with no extension of time pursuant to clause 2.25".
- 2.15.2.1 In line 1 after "Statutory Requirements", insert "or the requirements of the fire officer". In line 2 after "the Works," delete the remainder of the clause and insert: "the Contractor shall inform the Employer in writing of its proposed alteration or modification and with the Employer's consent the Contractor shall (entirely at its own cost unless the amendment is necessitated by a change to the Statutory Requirements after the Base Date which was not foreseen by the Contractor at the Base Date and could not reasonably have been foreseen by a competent contractor at the Base Date) complete the design and construction of the Works in accordance with the alteration or modification unless instructed by the Employer not to do so".
- 2.15.2.2 In line 1 after "amendment to the" insert "Employer's Requirements or the". In line 3 after "Development Control Requirements," delete the remainder of the clause and insert: "the Contractor shall inform the Employer in writing of its proposed amendments and with the Employer's consent the Contractor shall (entirely at its own cost unless the amendment is necessitated by a decision by the relevant authority after the Base Date which was not foreseen by the Contractor at the Base Date and could not reasonably have been foreseen by a competent contractor at the Base Date) complete the design and construction of the Works in accordance with the amendment unless instructed by the Employer not to do so".
- 2.15.2.3 Delete.

DESIGN WORK – LIABILITIES AND LIMITATION

- 2.17.1 In line 1 after "comprised in the" insert "Employer's Requirements and/or". In line 3 after "the Contractor" delete the remainder of the clause and insert "has exercised and shall continue to exercise in the performance of the Contract all reasonable skill, care and diligence to be expected of a properly qualified and competent designer experienced in carrying out design such as that required under this Contract in relation to works of a similar nature, value, scope, character, complexity and timescale to the Works."
- 2.17.2 Delete and insert: "Without derogation from any other provision in this Contract the Contractor shall be fully responsible in all respects for:
- 2.17.2.1 the design of the Works including all design work proposed by or on behalf of the Employer prior to the date of this Contract forming part of the Employer's Requirements;
- 2.17.2.2 the design of the Works including but not limited to co-ordination and integration of all design and the interface between design elements for the Works whether carried out by the Contractor or by any other party engaged on the Works; and
- 2.17.2.3 without prejudice to the generality of the foregoing and subject to clause 2.17.1, all aspects of design and design development, selection of goods and materials and the satisfaction of performance specifications included or referred to in the Employer's Requirements, the Contractor's Proposals, the Contractor's Design Documents, this Contract or any Change."
- 2.17.3 Delete and insert:
- "The total liability of the Contractor to the Employer for any matters whether arising in contract, tort, warranty or otherwise in connection with this Contract shall in no case exceed £ 10,000,000 (ten million pounds) (**Overall Liability Cap**) provided that the Overall Liability Cap shall not apply to or be reduced by (and, in calculating the same, no account shall be made in respect of) any liability of the Contractor for: (i) death or personal injury; and/or (ii) fraud or fraudulent misrepresentation, in each case resulting from the Contractor's negligence."

2.17.4 Insert new clause 2.17.4:

"Without prejudice to clause 2.17.3, the total liability of the Contractor to the Employer in respect of any loss of use of the Works, loss of profit, loss of contract or for any other indirect or consequential loss or damage, howsoever caused, which may be suffered by the Employer in connection with this Contract shall in no case exceed 50% of the Contract Sum (as may be adjusted in accordance with this Contract).

FEES, ROYALTIES AND PATENT RIGHTS

2.20.2 In line 1 delete "the Employer or". In line 3 delete "other" and insert "Employer".

UNFIXED MATERIALS AND GOODS – PROPERTY, RISK ETC.

2.22 Renumber clause 2.22 as clause 2.22.1 and insert new clause 2.22.2: "The Contractor shall ensure that the Listed Items are either set apart or have been clearly and visibly marked individually or inset by letters or figures or by reference to a pre-determined code at the premises where they have been manufactured or assembled or stored. The Contractor shall ensure that the Listed Items are identified as being the property of the Employer."

ADJUSTMENT OF COMPLETION DATE

2.23.1 After "delay" insert ", notice". After "further delay" insert ", further notice".

2.25.6.3 At the start of the clause, insert "Save in respect of a Change properly instructed pursuant to clause 5.1.1.4,". At the end of the clause delete "and".

2.25.6.4 Delete the full stop at the end of the clause and insert "; and".

2.25.6.5 Insert new clause 2.25.6.5: "the Contractor shall not be entitled to any extension of time on account of any circumstance arising by reason of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person save were the circumstance arising is the result of a Relevant Event as defined in clause 2.26.9."

2.26.2.1 Delete.

2.26.2.3 In line 2 after "or test" insert "or series of inspections or tests".

2.26.4 Delete.

2.26.6 Insert at the end of the clause "or, in the case of any impediment or prevention, save to the extent that the same is in consequence of the reasonable exercise of the rights of the Employer under this Contract".

2.26.7 Insert at the end of the clause "provided that the Contractor shall have supplied any information required, placed any necessary orders and otherwise performed his obligations under this Contract in respect of such work as soon as is reasonably practicable after the date of this Contract so as not to delay or disrupt the Statutory Undertaker in relation to such works and has taken all reasonable steps to avoid or minimise the delay".

2.26.8 Delete.

2.26.11 Insert at the end of the clause "provided that such strike, lockout or local combination of workmen is of a national nature, does not affect the site of the Works alone and is not restricted to the employees of the Contractor or any sub-contractor, consultant or supplier".

2.26.12 Insert at the end of the clause "provided such exercise of statutory power could not have been reasonably foreseen by a competent contractor at the Base Date".

2.26.13 Delete.

2.26.14 Delete and insert "Force Majeure".

2.26.16 Insert new clause 2.26.16:

"Relevant Events – Covid-19:

the occurrence of any event or circumstance following the date of this Contract relating to the novel coronavirus disease (**COVID-19**) including the implementation in the UK of public health measures in response to COVID-19, only to the extent that the event or circumstance directly causes:

- (i) shortages of labour or supervision; and/or
- (ii) shortages of plant or materials due to delays in their manufacture, importation or transportation; and/or
- (iii) a closure of the site of the Works,

save where the impact upon the execution of the Works, including any shortages in labour, plant or materials, has arisen as a result of the negligence or default of the Contractor or could have reasonably been avoided by the Contractor without the Contractor incurring additional cost and/or expense."

2.26.17 Insert new clause 2.26.17:

"Relevant Events – Brexit:

in the six week period prior to or following the United Kingdom's exit from the European Union, delay in clearing any materials or goods necessary for the Works imported from any country outside the United Kingdom through United Kingdom customs (or any delay in the source country) where such delay is directly attributable the United Kingdom's exit from the European Union;"

PRACTICAL COMPLETION, LATENESS AND LIQUIDATED DAMAGES

2.27 In line 1 after "When" insert "in the opinion of the Employer's Agent" . In line 2, after "clauses 2.37 and 3.16", insert: "and if the Contractor is and remains the Principal Designer he has complied with clause 3.16.2".

2.29.1.2 Delete and insert "the Employer has informed the Contractor in writing that he shall or may require the Contractor to pay or allow liquidated damages,".

2.29.2 Insert a new paragraph at the end of the clause: "and the Employer's notice under clause 2.29.2 may also suffice as the Employer's notification under clause 2.29.1.2".

2.29.3 Insert at the end of the clause: "Interest shall not be payable by the Employer on any amounts payable or repayable hereunder and shall not invalidate any notice of withholding and/or Pay Less Notice given by the Employer in respect of liquidated and ascertained damages."

PARTIAL POSSESSION BY EMPLOYER

2.30 Insert at the end of the clause: "For the avoidance of doubt, any early use by the Employer pursuant to clause 2.5 or the carrying out by the Employer of works not forming part of this Contract shall not be deemed to be or constitute partial possession for the purposes of this clause. Practical Completion of the whole or any part of the Works shall not be deemed to have taken place notwithstanding any notice served by the Contractor under this clause."

- 2.31 Insert at the end of the clause “provided, however, that the Rectification Period for the Relevant Part shall extend until the issue by the Employer of the Notice of Completion of Making Good in respect of the whole of the Works”.
- 2.32 Insert at the end the clause “provided that the Employer shall not be required to issue such notice any earlier than 10 Business Days after the end of the Rectification Period applicable to such Relevant Part.”

DEFECTS

- 2.35 In line 3 after “Contract”, insert “or frost occurring before Practical Completion of the Works or the relevant Section”. Insert new paragraph at end of clause “The provisions of this clause 2.35 are without prejudice to any other rights and remedies the Employer may have.”
- 2.35.2 In line 1 delete “prior to issue of that schedule, “. In line 3, delete “after delivery of that schedule or”.
- 2.35A Insert new clause 2.35A:
“Defects
In cases of urgency and/or if the Employer considers that any such defect shrinkage or other fault is likely to cause unreasonable inconvenience to any person lawfully in occupation of or using the Works or any part thereof and/or if any defect shrinkage or other fault is likely directly or indirectly to cause any further damage to the Works or any part thereof, the Employer may require any matter notified under clause 2.35 to be made good within such period of time specified by the Employer (acting reasonably) as the circumstances require.”
- 2.35B Insert new clause 2.35B: “The foregoing provisions of this clause 2.35 apply mutatis mutandis to any defects, shrinkages or other faults and to any items of incomplete work remaining at Practical Completion.”
- 2.35C Insert new clause 2.35C: “For the avoidance of doubt, all references to or including clause 2.35 of this Contract (whether to or including the whole of the terms of clause 2.35 or only part thereof) shall be deemed to include a reference to and/or including clauses 2.35A and 2.35B.”
- 2.36 Insert at the end of the clause “, provided that the Employer shall not be required to issue any notice to that effect any earlier than 10 Business Days after the expiry of the relevant Rectification Period.”

CONTRACTOR'S DESIGN DOCUMENTS

- 2.37 Delete clause 2.37 and insert:
- 2.37.1 "On or before Practical Completion the Contractor shall without further charge to the Employer supply for the retention and use of the Employer (and in such number as the Employer may reasonably require):
- 2.37.1.1 complete copies of the as-built drawings, plans, sections and specifications;
 - 2.37.1.2 drafts of every maintenance and operating manual (including copies of all test and commissioning certificates and/or statements);
 - 2.37.1.3 originals of all warranties, guarantees and certificates or other documents in respect of plant, machinery, equipment and other products installed in the Works;
 - 2.37.1.4 copies of all maintenance and operating agreements;
 - 2.37.1.5 the original notice of passing of plans under the Building Regulations and confirmation from the relevant authority that all conditions under the Building Regulations have been complied with; and

2.37.1.6 the original and copies of the health and safety file.

Notwithstanding any provision to the contrary in this Contract the Contractor shall not be entitled to any payment of Retention that would (but for this provision) become due and payable under this Contract until the provisions of clause 2.37.1 have been complied with, provided that the provisions of this clause shall not apply to any retention payable to the Contractor prior to Practical Completion by virtue of clause 2.31.

2.37.2 Within three weeks of the date of Practical Completion the Contractor shall without further charge to the Employer supply to the Employer (to the extent they have not been provided in accordance with clause 2.37.1) (and in such number as the Employer may reasonably require):

2.37.2.1 complete reproducible sets of the as-built drawings (together with negative and electronic copies);

2.37.2.2 copies of all maintenance and operating manuals, test and commissioning certificates and statements and any service or other agreements available for all heating, air conditioning and other equipment, plant and machinery installed in the Works;

2.37.2.3 all correspondence and documentation relating to obtaining of the Consents together with the originals of the Consents and copies of all associated drawings and plans and copies of all applications relative thereto;

2.37.2.4 evidence that all Consents have been obtained and complied with in full in relation to the Works;

2.37.2.5 copies of the construction phase plan; and

2.37.2.6 the original completion certificate issued by the relevant authority under the Building Regulations.

2.37.3 If during the course of the Rectification Period errors are discovered in the drawings and information supplied by the Contractor in accordance with clauses 2.37.1 and/or 2.37.2 or if as the result of any adjustment or remedial work carried out during the course of the Rectification Period the said drawings and information no longer show or describe the Works as required by clauses 2.37.1 and/or 2.37.2 then the Contractor as soon as reasonably practicable shall amend the said drawings and information so that they comply with the requirements of clauses 2.37.1 and 2.37.2."

2.38.1 After "behalf of the Employer," insert "and save as otherwise provided in clause 2.38.5,".

2.38.2 Delete and insert:

"2.38.2 The Contractor, with full title guarantee, grants to the Employer an irrevocable, perpetual, non-exclusive, non-terminable, royalty-free licence to use, reproduce and transmit any Material produced or prepared by the Contractor or on the Contractor's behalf for any purpose connected with the Works and/or the site (including without limitation the design, construction, completion, promotion, advertisement, funding, sale, letting, disposal, fitting out, maintenance, use, occupation, management, repair, reinstatement, re-construction, modification, alteration, refurbishment, re-development, decommissioning, demolition and/or extension) but, the intellectual property rights in the Material (produced or prepared by the Contractor or on the Contractor's behalf) shall remain vested in the Contractor. The Employer shall on written request and (subject to clause 2.38.6) upon paying a reasonable copying charge therefor, be entitled to be supplied by the Contractor with copies of such Material."

2.38.3 Delete and insert: "This licence carries the right to grant sub-licences and is transferable without the Contractor's prior consent."

2.38.4 Replace "Contractor's Design Documents" with "Materials (produced or prepared by the Contractor or on the Contractor's behalf)".

- 2.38.5 Insert new clause 2.38.5: "The Contractor agrees on reasonable request at any time and following reasonable written prior notice to give to the Employer or those authorised by him access to the Material produced or prepared by the Contractor or on the Contractor's behalf, and to provide a maximum of three copies of such Material (including copy negatives and electronic copies) thereof at the Contractor's expense".
- 2.38.6 Insert new clause 2.38.6: "The Contractor warrants to the Employer that the Material produced or prepared by the Contractor or on the Contractor's behalf (save to the extent duly appointed sub-contractors or consultants or suppliers have been used to prepare the same) are his own original work and that in any event their use or the use of any proprietary designs or products prepared by others in connection with the Works shall not infringe the rights of any third person. The Contractor further warrants that where duly appointed sub-contractors or consultants or suppliers have been used their work shall be original and that the Contractor shall obtain the necessary consents in relation to clause 2.38.2. If the use of the Material produced or prepared by the Contractor or on the Contractor's behalf as specified in clause 2.38.2 is found to infringe the rights of any third person, the Contractor shall be liable to the Employer for all resulting claims, proceedings, costs, damages and expenses."
- 2.38.7 Insert new clause 2.38.7: "The Contractor hereby waives and agrees not to assert (and to procure that any sub-contractors consultants and suppliers do likewise) any Moral Rights in the Material (produced or prepared by the Contractor or on the Contractor's behalf) under the Copyright, Designs and Patents Act 1988 or any re-enactment or modifications of it."

Insert the following new clauses 2.39 to 2.44:

"ADDITIONAL OBLIGATIONS

2.39 Confidentiality

- 2.39.1 The Contractor shall not (and shall procure that the Contractor's Persons shall not) disclose to any person or publish or make any statement concerning this Contract or the Works or any matters arising from or relating to the Contract or the Works directly or indirectly without the prior written authority of the Employer during the Works or at any time thereafter (except as may be required by law or in order to properly perform its obligations under this Contract).
- 2.39.2 Save in respect of the Employer's rights to use the Materials as set out in clause 2.38, the Employer and the Contractor shall keep confidential and shall not without the other's written consent disclose to any third party any trade or business secrets or similar confidential information supplied by the other Party except as shall be absolutely necessary for the proper performance of this Contract.

2.40 Provision of and compliance with Third Party Documents

- 2.40.1 To the extent that the Third Party Agreements have been provided to the Contractor prior to the date of the Contract, the Contractor shall be deemed to have read the Third Party Agreements and to be fully aware of the obligations, risks and liabilities assumed by the Employer under them.
- 2.40.2 If the Employer makes the Contractor aware of any additional or amended third party agreements which are relevant to and impact on the Contractor's obligations under this Contract after the date of this Contract (**Additional Third Party Agreements**), the Employer shall at the same time notify the Contractor that these additional or amended obligations constitute a Change and shall inform the Contractor which parts of the Contract Documents are affected by the terms of the relevant Additional Third Party Agreements.
- 2.40.3 The Contractor shall perform and assume, as part of its obligations under this Contract, the Employer's obligations, liabilities and risks contained within the Third Party Agreements that relate to the carrying out of the Works as if they were expressly referred to in this Contract as obligations, liabilities and risks of the Contractor, all other things being equal.
- 2.40.4 The Contractor shall ensure that no act, error, omission, negligence, breach or default on its part or on the part of any Contractor's Person in relation to the performance by the Contractor of its

obligations under this Contract shall cause, contribute or otherwise give rise to any breach by the Employer of any of its obligations under the Third Party Agreements.

2.41 Site conditions

- 2.41.1 The Employer gives no warranty or representation as to the condition of the site or any adjoining property or any services in or under the site or as to the accuracy or sufficiency of any soils or survey data or other data contained in any document made available to the Contractor by the Employer, or as to any recommendations or conclusions made or reached in any such document and (save in relation to the Unseen Building Services), the Contractor shall remain fully responsible for ascertaining the site conditions.
- 2.41.2 Save in relation to the Unseen Building Services, the Contractor has before the date of this Contract been afforded the opportunity to inspect the physical and other conditions (including without limitation the nature of the ground and the site, the sub-surface conditions and sub-soil, and the presence and extent of any contamination, cables, conduits, pipes and/or other services) of or affecting the site, and its surroundings and all existing structures thereon, and the available means of access thereto and communication therewith, and the extent and nature and difficulty of the work and materials necessary for the completion of the Works, and the accommodation the Contractor may require. The Contractor shall be deemed to have fully acquainted himself with the same and to have obtained for himself all necessary information as to conditions, risks, contingencies and all other circumstances which may influence or affect the design and construction and completion of the Works and/or the Contract Sum.
- 2.41.3 The Contractor shall not be entitled to any addition to the Contract Sum or to any adjustment of the Completion Date of the Works or to have or make any claim under this Contract or in tort or otherwise by reason of any failure on the part of the Contractor to discover or foresee or understand or interpret any such condition, risk, contingency or circumstance (save in relation to the Unseen Building Services), or on the grounds that he could not have discovered or foreseen or he misunderstood or misinterpreted any such condition, risk, contingency or circumstance, whether referred to in clause 2.41.2 or any other information provided or statement made by or on behalf of the Employer in respect of any such condition, risk, contingency or circumstance.

2.42 Statutory Requirements

- 2.42.1 The Contractor shall be responsible for obtaining and discharging all Consents to enable the Works to be completed in accordance with the Employer's Requirements and should any consent be refused the Contractor shall take such reasonable steps including (if required by the Employer) any appeal to enable the Works to progress.
- 2.42.2 Where the Employer's authorisation or completion of documentation in respect of the Statutory Requirements is required the Contractor shall furnish the relevant documentation to the Employer and permit the Employer a period of 10 Business Days to authorise or complete it.

2.43 Site Operating Procedures

- 2.43.1 If and whenever it becomes reasonably apparent that the carrying out of the Works is or is likely to be adversely affected as a direct result of a revised version of the Construction Leadership Council's "*Site Operating Procedures – Version 4*" being published, the Contractor shall forthwith give notice to the Employer of the material circumstances and the likely adverse impact on the Works in order that the Contractor and the Employer can discuss means of best carrying out and completing the Works and then the Employer may issue instructions which shall be treated as a Change. Alternatively, the Employer may issue a preliminary notice of Change in accordance with clause 5.8 and the provisions in clauses 5.8 to 5.13 shall apply.

2.44 Exclusions

- 2.44.1 Notwithstanding any other provision of this Contract, (and for the avoidance of any doubt this clause takes precedent over, without limitation, the following clauses 2.12, 2.14, 2.15, 2.17.2, 2.41) the Contractor shall have no responsibility for the following:
- 2.44.1.1 asbestos within any part of the building where the Contractor is required to undertake works, including but not limited to the risers (including where they pass through the

floor plates) and roof area, but with the exception of the internal floor plates areas 2nd Floor (west side) of the Minster Building; and

2.44.1.2 the capacity and condition of the existing M&E services to meet the design outputs contained within the Employers Requirements.

2.44.2 Where any works and/or design work is required in relation to clauses 2.44.1.1 and 2.44.1.2 then the Employer may issue instructions which shall be treated as a Change. Alternatively, the Employer may issue a preliminary notice of Change in accordance with clause 5.8 and the provisions in clauses 5.8 to 5.13 shall apply.

SECTION 3: CONTROL OF THE WORKS

ACCESS AND REPRESENTATIVES

3.1 Delete "so far as possible" in lines 4 and 5.

3.2 Insert at the end of the clause: "If at any time before the issue of the Notice of Completion of Making Good the Employer shall request the removal of any of the Contractor's personnel from the Works for reasons of negligence, incompetence or misconduct, the Contractor shall promptly remove such personnel and replace him or them with persons acceptable to the Employer".

3.2A Insert new clause 3.2A: "The Site Manager of the site is to provide and keep up-to-date a daily diary to record, inter alia, progress, site visits, inspections and testings of goods and materials, and workmanship."

3.2B Insert new clause 3.2B: "The Contractor shall attend all project meetings convened by the Employer's Agent upon reasonable notice and at reasonable intervals and representatives of the Employer and of the Employer's other consultants (and any other persons authorised by the Employer and notified to the Contractor in writing for the purpose) shall be permitted to attend such meetings."

SUB-CONTRACTING

3.4 After "Design and Build Sub-Contract." insert "The Contractor shall provide the Employer with a draft of each sub-contract for approval prior to such sub-contract being entered into. The Contractor shall notify the Employer and the Employer's Agent if it wishes to appoint a sub-contractor using a different form of sub-contract and shall provide a full copy of that different form of sub-contract to the Employer for approval prior to such sub-contract being entered into."

3.4.2.5 Delete and insert: "that the sub-contractors provide the deeds of collateral warranty fully in accordance with the provisions of Article 12.3 of this Contract".

3.4.2.6 Insert new clause 3.4.2.6: "that in the case of any sub-contracting of the design of the Works or any part of the Works, the sub-contractor or consultant shall throughout the duration of the Works and for a period of 12 years following the date of Practical Completion of the whole of the Works maintain professional indemnity insurance cover with a reputable insurer with a limit of indemnity of not less than that amount stated in the relevant sub-contract in respect of any claims made against the sub-contractor or consultant in relation to the design of the Works or any part thereof."

3.4.2.7 insert a new clause 3.4.2.7: "that the subcontract shall be executed as a deed in accordance with Article 12.2 of this Contract".

EMPLOYER'S INSTRUCTIONS

3.5.1 Delete.

3.6 At the end of the clause insert "or such costs may be recoverable from the Contractor by the Employer as a debt".

- 3.8 Delete second sentence and insert "Notwithstanding such request the Contractor shall comply with the said instruction and unless it is subsequently decided in any adjudication or legal proceedings that the provision specified by the Employer in answer to the Contractor's request does not empower the issue of the said instruction, then the issue of the same shall be deemed for all the purposes of this Contract to have been empowered by the provision of the Conditions specified by the Employer."
- 3.9.1 In line 1, delete from the words "and provided that the" to the end of the clause.
- 3.9.2 Delete.
- 3.11 At the end of the clause insert: "The Contractor shall not be entitled to any extension to the Completion Date for any such instructions".
- 3.12 In line 1 after "Contractor to" insert "provide samples of materials or".
- 3.13.1 After "removal from the site" insert "or rectification".
- 3.13.2 Delete "(to which the proviso in clause 3.9.1 applies)".
- 3.13.3 In line 6, delete from "but clauses 2.25 and 2.26.2.3..." to the end of the clause, and insert "and clauses 2.25 and 2.26.2.3 shall not apply to any instructions issued under this clause."

CDM REGULATIONS

- 3.16.1 Delete and insert: "The Contractor hereby warrants to the Employer that he has the necessary expertise to undertake the role of Principal Contractor as defined in the CDM Regulations and has sufficient resources and shall allocate those resources to the fulfilment of his duties as Principal Contractor. The Contractor shall carry out all those obligations imposed on him as Principal Contractor under the CDM Regulations fully and faithfully and to this end shall co-operate and liaise with the Principal Designer appointed by the Employer and any designer appointed in connection with the Works."
- 3.16.5 Replace "." at the end of the clause with ";".

SECTION 4: PAYMENT

CONTRACT SUM AND ADJUSTMENTS

- 4.2.3 Delete.
- 4.2.5 Insert at the end of the clause "Provided always that the Contractor shall not be entitled to any payment for increased costs of preliminaries arising from the expenditure of any Provisional Sum."

PAYMENT AND NOTICES – GENERAL PROVISIONS

- 4.9.1 Delete "14" and insert "30"
- 4.9.6 At the end of the clause insert: "The Parties agree that this clause 4.9.6 is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998."
- 4.9.7 Delete the first sentence.
- 4.10.4 Delete and insert: "Any right of the Employer to deduct or to set-off any amount (whether arising under any term of this Contract or under any rule of law or of equity) shall be exercisable against any monies due or to become due to the Contractor, whether or not such monies include or consist of any Retention."

4.11.1 After "intention to suspend the performance of" insert "any or all of".

4.11.3 Delete the words "or on request" and, at the end of the clause, insert "The Contractor shall, on request, submit such further details as are reasonably requested by or on behalf of the Employer."

INTERIM PAYMENTS – CALCULATION OF SUMS DUE

4.12.1.4 Delete. In the sentence that follows deleted clause 4.12.1.4, delete "any applicable Fluctuations Provision or".

4.12.2.5 Delete.

4.12.3.2 Delete "or under any applicable Fluctuations Provision,".

4.13.1.3 Insert before the semi-colon at the end: "and provided further that the Contractor has supplied to the Employer reasonable evidence that property in such materials or goods shall pass to the Employer". In the sentence that follows clause 4.13.1.3, delete "any applicable Fluctuations Provision or".

4.13.2.5 Delete.

4.13.3.2 Delete "or under any applicable Fluctuations Provision".

RETENTION

4.16 Delete and insert: "The Employer shall be under no fiduciary obligation with regard to any Retention and shall be under no obligation to set aside in a separate account any amount representing the Retention. The Employer shall be entitled to the full beneficial interest in any interest accruing on the Retention and shall be under no obligation to account to the Contractor for any such interest."

4.17.5 Delete "of the type referred to in clause 7.3.1".

4.18.1 In line 2 after "practical completion" insert "or for which the drawings and other information referred to in clause 2.37 have not been provided to the Employer".

4.18.2.1 In line 1 after "practical completion" insert "and for which the drawings and other information referred to in clause 2.37 have been provided to the Employer".

LOSS AND EXPENSE

4.19.1 After "subject to clause 4.19.2" insert ", 4.19.3, 4.19.4 and 4.19.5", and insert the following new clauses after clause 4.19.2:

"4.19.3 Without affecting clause 4.19.2, no such entitlement arises and the Contractor shall not claim that such an entitlement arises where any such loss and/or expense arises by reason of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person.

4.19.4 The Contractor shall make all reasonable and proper efforts to avoid or reduce such loss and expense.

4.19.5 Any direct loss and/or expense resulting from any delay in the regular progress of the Works or any part of the Works where such delay is caused by a matter or matters referred to in clause 4.21 which is concurrent with another delay for which the Contractor is responsible shall not be taken into account."

4.20.2 After "reasonably necessary" insert "and/or otherwise reasonably requested by the Employer".

4.20.4 Delete and insert: "The amount of the loss and/or expense which has been or is being incurred shall be ascertained and added to the Contract Sum, provided that the Contractor has complied with its obligations to provide notice, fully in accordance with clause 4.20.1 and 4.20.2."

4.21 At the start of the clause delete "The" and insert "Subject to clause 4.21A, the".

4.21.2.2 In line 2 after "or test" insert "or series of inspections or tests". At the end of clause insert "or unless the inspection or test was reasonably required as a result of a previous inspection or test or series thereof".

4.21.3 Delete.

4.21.5 Insert at the end of the clause delete the full stop and insert "or, in the case of any impediment or prevention, save to the extent that the same is in consequence of the reasonable exercise of the rights of the Employer under this Contract;"

4.21.6 Insert new clause 4.21.6:

"Relevant Matters – Brexit:

provided that the Contractor has used and shall use all reasonable endeavours to mitigate any and all risks arising from or in connection with the United Kingdom's exit from the European Union from each and every contract (however such contract is formed) between the Contractor and each of its consultants, subcontractors, and/or suppliers and/or any other part of their supply chain, then import tariffs (excluding import VAT) imposed by the United Kingdom government on any materials imported from any country outside the United Kingdom directly attributable to the United Kingdom's exit from the European Union."

4.21A Insert new clause 4.21A: "Notwithstanding the provisions of clauses 4.19 to 4.23, the Contractor shall not become entitled to the addition of any amount to the Contract Sum or to any other payment in respect of any cost, loss or expense incurred by reason of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person. For the avoidance of doubt, all references to or including clause 4.21 of this Contract (whether to or including the whole of the terms of clause 4.21 or only part thereof) shall be deemed to include a reference to and/or including this clause 4.21A."

4.23 Delete and insert: "Reimbursement of the Contractor for loss and/or expense under clauses 4.19, 4.20, 4.21 and 4.22 shall be deemed to be full compensation for the Contractor in respect of the matters for which the compensation is paid and the Employer shall have no further liability to the Contractor in respect of such matters arising under the Contract or generally at law."

SECTION 5: CHANGES

GENERAL

5.1.1.4 Insert new clause 5.1.1.4: "the acceleration of the Completion Date for the Works or Section."

5.1.3 At the end of clause 5.1.2.4 change "." to "; and" and insert new clause 5.1.3: "without prejudice to the rest of this clause 5.1, an instruction from the Employer supplementing or amending the Third Party Agreements".

5.2 Insert at the end of the clause: "The Contractor shall not be entitled to any payment for increased cost of preliminaries arising from the expenditure of any Provisional Sum."

THE VALUATION RULES

5.6 At the end of the clause insert ", provided always that the substantial change in the conditions does not arise by reason of act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person."

Insert the following new clauses 5.8 to 5.13:

QUOTATIONS BEFORE CHANGES INSTRUCTIONS

5.8 Employer may issue preliminary notice of Change

Before the Employer issues an instruction effecting a Change pursuant to clause 3.5 he may give to the Contractor a preliminary notice of Change which indicates that any proposed Change to which that preliminary notice relates is to be valued, and the length of any extension of time and the amount of any loss and/or expense to which the Contractor may become entitled in respect thereof shall then be determined in accordance with clauses 5.9 to 5.13.

5.9 Information to be provided by Contractor

Within such reasonable period as the Employer may specify (being not less than 10 Business Days after the receipt by the Contractor of any such preliminary notice of Change as is referred to in clause 5.8) the Contractor shall provide the Employer with:

5.9.1 an estimate of the valuation of the proposed Change in the form of a quotation or quotations from the Contractor; and

5.9.2 an estimate of the length of any extension of time and the amount of any loss and/or expense to which the Contractor may become entitled pursuant to clauses 2.23 to 2.26 and 4.19 to 4.22 in respect of the proposed Change.

5.10 Procedure following receipt of Contractor information

5.10.1 Following receipt by him of the estimates referred to in clause 5.9 the Employer shall for a period of 5 Business Days, or such longer period as the Employer may specify, conduct negotiations with the Contractor with a view to agreeing the said estimates.

5.10.2 If agreement is reached as referred to in clause 5.10.1 the Employer shall issue an instruction to the Contractor pursuant to clause 3.5 confirming the Change (a **Confirmation Instruction** for the purposes of clauses 5.8 to 5.13) and the Employer shall then grant an extension of time pursuant to clauses 2.23 to 2.26 of the agreed length (if any) and effect shall be given to the agreed expense (if any) by making an addition to or deduction from the Contract Sum.

5.10.3 If no agreement can be reached in relation to the estimates referred to in clause 5.9 the Employer shall decide whether the proposed Change should be cancelled or whether a Confirmation Instruction should be issued, in which latter case the Valuation Rules shall apply.

5.11 Consequences of a formal Change instruction not being issued

If the Employer does not issue a Confirmation Instruction pursuant to clauses 5.10.2 or 5.10.3, the Contractor shall have no claim arising out of or in connection with any proposed Change or any failure by the Employer to agree estimates.

5.12 Work not to be carried out until formal Change instruction issued

Whenever the Employer issues a preliminary notice of Change pursuant to clause 5.8, no work pursuant to the proposed Change to which the preliminary notice relates shall be commenced until such time as the Employer so instructs.

5.13 Instruction, comments etc not to be treated as a Change unless expressly stated to be a Change

No act omission comment or document prepared by or on behalf of the Employer shall, in the absence of an instruction confirming that it is to be treated as such, amount to a Change for this purposes of this clause 5."

SECTION 6: INJURY, DAMAGE AND INSURANCE

PERSONAL INJURY AND PROPERTY DAMAGE

- 6.1 In line 3 after "Works", insert "or in the performance of the Contractor's obligations under or in connection with this Contract or out of the presence on site of any person or persons for any other reason,".
- 6.2 In line 3 after "personal" insert "(including without limitation any expense, liability, loss or claim arising from but not limited to obstruction, trespass, nuisance or interference with any right of way, light, air or water)". In line 4 after "Works" insert "or in the performance of the Contractor's obligations under or in connection with this Contract". At the end of the clause after "or any Contractor's Person" and insert "or arising out of the presence on site of any person or persons for any reason whatsoever".
- 6.2.2 Renumber 6.2 as 6.2.1 and insert new clause 6.2.2 "Without prejudice to the generality of clause 6.2.1 the Contractor shall at all times use reasonable endeavours to prevent any public or private nuisance (including without limitation any such nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on a public highway) or other interference with the rights of any adjoining or neighbouring land owner, tenant or occupier or any statutory undertaker arising out of the carrying out of the Works or of any obligation pursuant to, under or in connection with this Contract, and shall defend or at the Employer's option assist the Employer in defending any action or proceedings which may be instituted in relation thereto howsoever such action may arise. The Contractor shall be liable for and shall be liable to the Employer for any expense, liability, loss, claim or proceedings whatsoever and howsoever arising resulting from any such nuisance or interference, save only where such nuisance or interference is a consequence of a Change or other instruction of the Employer (which is not itself the result of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person) and which could not have been avoided by the Contractor using all reasonable and practical means. For the avoidance of doubt the Employer may issue to the Contractor such instructions as he considers necessary if any injunction is granted or Court Order is made in consequence of any such nuisance or interference, but (save as aforesaid) no such instruction shall be construed as a Change."
- 6.2.3 Insert new clause 6.2.3: "Without prejudice to the Contractor's obligations under clause 6.2.2 or elsewhere in this Contract the Contractor shall at all times use reasonable endeavours to ensure that there is no trespass by the Contractor or any Contractor's Person (including without limitation the oversailing of tower crane jibs or the erection of a scaffold or hoarding) on or over any adjoining or neighbouring property arising out of, or in the course of, or caused by the carrying out of the Works and shall take all reasonable safety and other measures to prevent damage or injury to any persons (including but without limitation the occupiers of adjoining or neighbouring property and members of the public); and, if the carrying out of the Works or of any obligation pursuant to under or in connection with this Contract is likely to necessitate any interference (including without limitation the oversailing of any tower crane jibs or the erection of a scaffold or hoarding) with the right of any adjoining or neighbouring land owners, tenants or occupiers, or other persons then the Contractor shall without cost to the Employer obtain the prior written agreement of such land owners, tenants or occupiers or other relevant persons and such agreement shall be subject to the approval of the Employer before execution. The Contractor shall comply in every respect with any conditions contained in any such agreement without cost to the Employer, and shall not be entitled to any extension of time as a result of any condition or obligation contained in that agreement."

INSURANCE OF THE WORKS AND EXISTING STRUCTURES

- 6.8 In the definition of "Joint Names Policy" delete "the Employer and the Contractor" and insert "the Employer, any person acquiring the Employer's interest in the whole or part of the Works and/or site, the Contractor and (if requested by the Employer) any organisation providing finance in connection with the Works and/or site or all or any part of the Works and/or site".
- 6.14 Delete and insert: "If in consequence of the loss of or any damage to an Existing Structure the Employer determines that it is impracticable or not in his commercial interests to proceed with the Works, he may by written notice with immediate effect terminate the Contractor's

employment under this Contract, in which event clause 8.12 (except clause 8.12.3.5) shall apply."

PROFESSIONAL INDEMNITY INSURANCE

6.15 Delete and insert:

"6.15.1 The Contractor shall effect and maintain professional indemnity insurance covering (inter alia) all its liability hereunder upon customary and usual terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom, with a limit of indemnity of not less than £10,000,000 (ten million pounds) for any one claim or series of claims arising out of a single incident and in the aggregate for the period of insurance plus up to two automatic reinstatements of the limit, at all relevant times during the Works and for a period of 12 (twelve) years from the date of Practical Completion of the Works, provided always that such insurance is available at commercially reasonable rates.

The said terms and conditions shall not include any term or condition to the effect that the Contractor must discharge any liability before being entitled to recover from the insurers, or any other term or condition which might adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 2010, or any amendment or re-enactment thereof.

6.15.2 For the purposes of this clause 6.15, "commercially reasonable rates" shall mean such level of premium rates at which other contractors of a similar size and financial standing as the Contractor at each renewal date generally continue to take out such insurance. For the avoidance of doubt, any increased or additional premium required by insurers by reason of the Contractor's own claims record or other act, error, omission, negligence, breach, default, matters or things particular to the Contractor shall be deemed to be within commercially reasonable rates.

6.15.3 The Contractor shall immediately inform the Employer if such insurance ceases to be available at commercially reasonable rates in order that the Contractor and the Employer can discuss means of best protecting the respective positions of the Employer and the Contractor in respect of the Works.

6.15.4 The Contractor shall fully co-operate with any measures reasonably required by the Employer, including (without limitation) completing any proposals for insurance and associated documents, maintaining such insurance at rates above commercially reasonable rates if the Employer undertakes in writing to reimburse the Contractor in respect of the net cost of such insurance to the Contractor above commercially reasonable rates or, if the Employer effects such insurance at rates at or above commercially reasonable rates, reimbursing the Employer in respect of what the net cost of such insurance to the Employer would have been at commercially reasonable rates.

6.15.5 As and when reasonably required by the Employer, the Contractor shall provide satisfactory documentary evidence of the terms of insurance referred to in clause 6.15 and that the insurance referred to in clause 6.15 is being properly maintained in accordance with the terms of clause 6.15, and shall confirm that payment has been made in respect of the last preceding premium due under such insurance.

6.15.6 The above obligations shall continue notwithstanding termination of this Contract or determination of the Contractor's employment under this Contract in either case for any reason whatsoever."

6.16 Delete.

JOINT FIRE CODE - COMPLIANCE

6.19.2 At the end of the clause insert: "or may be recoverable from the Contractor by the Employer as a debt."

6.21 Insert a new clause 6.21:

"Failure to comply by the Contractor

Notwithstanding any other provision in this Contract, if the Contractor fails to comply with any requirement of clause 6 or if the Contractor becomes Insolvent so that its covenant is impaired, then without prejudice to any other remedy it may have, the Employer shall be entitled to recover from the Contractor any premiums reasonably incurred to effect insurance (such as inherent defects insurance or other suitable cover) in order to arrange suitable alternative protection."

SECTION 7: ASSIGNMENT, PERFORMANCE BONDS AND GUARANTEES, THIRD PARTY RIGHTS AND COLLATERAL WARRANTIES

ASSIGNMENT

7. Delete Section 7 in its entirety (clauses 7.1 to 7.6 and 7A to 7E, inclusive) and insert:

"7.1 The Contractor shall not assign transfer or charge any benefit arising under or out of this Contract.

7.2 The Employer may without the consent of the Contractor assign transfer and/or charge the benefit of all or any of the Contractor's obligations under this Contract and/or any benefit arising under or out of this Contract:

- (a) as security to any organisation providing finance in connection with the Works and/or site or any part thereof (and such rights may be re-assigned on redemption);
- (b) by absolute assignment to any Group Company; and
- (c) by absolute assignment on two other occasions only."

SECTION 8: TERMINATION

GENERAL

8.2.1 At the end of the clause insert: "provided always that this clause 8.2.1 shall not apply to any notice or notices given pursuant to clause 8.5."

TERMINATION BY EMPLOYER

8.4.1.3 In line 2 after "remove" insert "or rectify".

8.4.1.5 After "3.16" delete ", " and insert "; or".

8.4.1.6 Insert new clause 8.4.1.6: "fails to comply with clause 6.15."

8.5.3.3 After "the Employer may" insert ", at the Contractor's expense,".

8.6 After "acting or his behalf" insert "or associated with him". At the end of the clause insert: "For the purpose of this clause 8.6, whether a person is associated with another person shall be determined in accordance with section 8 of the Bribery Act 2010 and a person associated with the Contractor includes, but is not limited to, any Contractor's Persons."

8.6A Insert new clause 8.6A:

"Termination – Contractor to vacate site

Notwithstanding clause 2.3 upon any determination of the Contractor's employment (and any purported termination by notice given by the Employer) or if this Contract is determined

repudiated or discharged in any other manner and notwithstanding that the validity of such determination repudiation or discharge may be disputed by the Contractor, the Contractor shall immediately vacate the site and deliver to the Employer possession of the site."

8.7.2 After "the Contractor shall" and before the colon insert ", at the Contractor's expense".

8.7.2.1 At the end of the clause insert: "If within a reasonable time after such requirement has been made the Contractor has not complied therewith in respect of temporary buildings, plant, tools, equipment, goods and/or materials belonging to him, then the Employer may (but without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor."

8.7.2.2 Delete and insert: "provide the Employer (within 10 Business Days) with copies of all the Contractor's Design Documents then prepared whether or not previously provided including without limitation all such documents referred to in clause 2.37 which have been prepared before the date of determination (whether in the course of preparation or completed)".

8.7.4 In line 3 before the colon insert: ", at the Contractor's expense". Delete clauses 8.7.4.1, 8.7.4.2 and 8.7.4.3 and insert:

"8.7.4.1 the amount of any direct loss and/or damage and/or additional expense caused to the Employer as a result of the determination;

8.7.4.2 the amount of any payment made or otherwise discharged in favour of the Contractor; and

8.7.4.3 the total value of work properly executed at the date of determination of the employment of the Contractor, ascertained in accordance with the Conditions, together with any amounts due to the Contractor under the Conditions at the date of determination not included in such total value."

TERMINATION BY CONTRACTOR

8.9.1.2 Delete.

8.9.2 In line 6 after "Contractor's Person", insert: "or, in the case of any impediment or prevention, save to the extent that the same is in consequence of the exercise of the rights of the Employer under this Contract,".

8.10.3 At the end of the clause insert: "and an extension of time for completion shall be given under clause 2.25 equal to the period of suspension".

CONSEQUENCES OF TERMINATION UNDER CLAUSES 8.9 TO 8.11, ETC.

8.12.2.1 After "dispatch", insert "and in such manner and with such precautions as shall prevent injury, death or damage of the classes in respect of which before the date of termination of his employment he was liable to indemnify the Employer under clauses 6.1 and 6.2,".

8.12.3.5 Delete.

8.12.4 Delete.

SECTION 9: SETTLEMENT OF DISPUTES

ADJUDICATION

9.2.2.2 After "the Adjudicator shall", insert "subject to both parties' prior agreement (including in relation to the level of any relevant costs)".

At the end of the clause insert: "Copies of the Adjudicator's instructions to any such expert and any written advice or report received from such an expert shall be supplied to the Parties as soon as practicable."

9.2.2.3 Insert new clause 9.2.2.3: "the Adjudicator shall have power to determine more than one dispute under this Contract at the same time, and if requested to do so by either Party shall determine any matter raised by such Party in the nature of set-off, abatement or counterclaim at the same time as he determines any other matter referred to him."

9.2.2.4 Insert new clause 9.2.2.4: "at the same time as he gives any decision, the Adjudicator shall give reasons for the decision in writing."

ARBITRATION

Delete clauses 9.3 to 9.8.

Schedules

Schedule 1 – Design Submission Procedure

Paragraph 8 In line 2 of paragraph 8.3 after "shall" insert "limit or exclude the Contractor's obligations or liabilities under this Contract or".

Schedule 5 – Third Party Rights

Delete.

Schedule 7 – JCT Fluctuations Option

Delete.

ANNEXURES

Annex 1	REDACTED UNDER FOIA, SECTION 43 COMMERCIAL INTERESTS
Annex 2	REDACTED UNDER FOIA, SECTION 43 COMMERCIAL INTERESTS
Annex 3	REDACTED UNDER FOIA, SECTION 43 COMMERCIAL INTERESTS