



Professional Service Short Contract

This contract should be used for the appointment of a supplier to provide a professional service which does not require sophisticated management techniques, comprises straightforward work and imposes only low risks on both client and consultant

An NEC document

June 2017

(with amendments January 2023)

The Government Construction Board, Cabinet Office UK

The Government Construction Board (formerly Construction Clients' Board) recommends that public sector organisations use the NEC contracts and in particular the NEC4 contracts where appropriate, when procuring construction. Standardising use of this comprehensive suite of contracts should help to deliver efficiencies across the public sector and promote behaviours in line with the principles of the Government Construction Strategy.

The Development Bureau, HKSAR Government

The Development Bureau recommends the progressive transition from NEC3 to NEC4 in public works projects in Hong Kong. With suitable amendments to adapt to the Hong Kong local

environment, NEC4 is expected to further enhance collaborative partnering, unlock innovations and achieve better cost management and value for money in public works projects.

NEC is a division of Thomas Telford Ltd, which is a wholly owned subsidiary of the Institution of Civil Engineers (ICE), the owner and developer of the NEC.

The NEC is a suite of standard contracts, each of which has these characteristics:

- Its use stimulates good management of the relationship between the two parties to the contract and, hence, of the work included in the contract.
- It can be used in a wide variety of commercial situations, for a wide variety of types of work and in any location.
- It is a clear and simple document – using language and a structure which are straightforward and easily understood.

NEC4 Engineering and Construction Subcontract is one of the NEC suite and is consistent with all other NEC4 documents. Also available are User Guides and Flow Charts.

ISBN (complete box set) 978-0-7277-6391-4

ISBN (this document) 978-0-7277-6214-6

ISBN (Establishing a Procurement and Contract Strategy) 978-0-7277-6223-8

ISBN (Preparing a Professional Service Short Contract) 978-0-7277-6227-6

ISBN (Selecting a Supplier) 978-0-7277-6234-4

ISBN (Managing a Professional Service Short Contract) 978-0-7277-6238-2

ISBN (Professional Service Short Contract Flow Charts) 978-0-7277-6270-2 (e-only)

First edition 2013

Second edition June 2017

Reprinted with amendments January 2019

Reprinted with amendments October 2020

Reprinted with amendments January 2023

British Library Cataloguing in Publication Data for this publication is available from the British Library.

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Typeset by Manila Typesetting Company

Printed and bound in Great Britain by Henry Ling, Dorset

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Foreword

Continuous improvement in project delivery is required to build confidence in the UK construction sector so that we can attract more investment. The Infrastructure and Projects Authority (IPA) is the government's centre of expertise for infrastructure and major projects. We sit at the heart of government, reporting to the Cabinet Office and HM Treasury.

The application of the right contract is central to the success of the overall project delivery system. The NEC suite of contracts has been in existence for over the 20 years and has linked the projects, people and processes together to create the correct environment for successful delivery.

This new and updated NEC4 contract embraces the digital changes that are happening in the construction industry, especially around BIM, which I believe will be central to creating a step change in performance. Whilst looking forward it also builds on the fundamentals required for an effective contract.

The use of NEC4 on public sector projects will help to deliver the Government Construction Strategy as we seek to improve central government's capability as a construction client to deliver further savings in the order of £1.7bn across the Government estate. The IPA looks forward to collaborating with industry to make the delivery of projects more efficient and effective.

Tony Meggs, Chief Executive, Infrastructure and Projects Authority



**Infrastructure
and Projects
Authority**

Reporting to Cabinet Office
and HM Treasury

Preface

NEC was first published as a new and innovative way of managing construction contracts in 1993 – some 24 years ago. It was designed to facilitate and encourage good management of risks and uncertainties, using clear and simple language.

The NEC approach to managing contracts was endorsed in “Constructing the team – The Latham Report”, which was a government/industry review of procurement and contractual arrangements in the UK construction industry. This led to a second edition in 1995 incorporating the further recommendations of that review. This contract was used increasingly in the UK and overseas, and a major revision was made with the third edition in 2005.

NEC has played a part in helping the industry do things differently and better. It has done so by introducing effective project management procedures into the contract itself. These require pro-active management of risk and change, and the day-to-day use of an up-to-date programme. The range of pricing options has given Clients flexibility in the allocation of risk and the ability to share risk and manage it, collaboratively.

The NEC suite has evolved over three decades, embedding consultation responses and user feedback, and reflecting industry development, including new procurement approaches and management techniques such as alliances, management of information (BIM) and supply chain engagement. This feedback and the new procurement approaches formed the driver for the development of the next generation contracts and the launch of NEC4.

There were three key objectives in drafting NEC4:

- provide greater stimulus to good management
- support new approaches to procurement which improve contract management and
- inspire increased use of NEC in new markets and sectors.

It was to be evolution, not revolution.

Some features of NEC4 include:

- a new design build and operate contract to allow flexibility between construction and operational requirements in timing and extent
- a new multi-party alliance contract based upon an integrated risk and reward model
- new forms of subcontract to improve integration of the supply chain.

Further enhancements include:

- finalising cost elements during the contract
- incorporating a party-led dispute avoidance process into the adjudication process
- increasing standardisation between contracts and
- providing enhanced guidance to give greater practical advice to users.

NEC has always been known for its innovative approach to contract management, and this revision continues that approach. No other contract suite has had such a transformative effect on the built environment industry as NEC. It has put the collaborative sharing of risk and reward at the heart of modern procurement. It is also unique in providing a complete, back-to-back procurement solution for all works, services and supplies in any sector and any country.

NEC4 continues to set the benchmark for best practice procurement worldwide.

Peter Higgins BSc (Hons), CEng, FICE
Chair of NEC4 Contract Board

Acknowledgements

The original NEC was designed and drafted by Dr Martin Barnes then of Coopers and Lybrand with the assistance of Professor J. G. Perry then of the University of Birmingham, T. W. Weddell then of Travers Morgan Management, T. H. Nicholson, Consultant to the Institution of Civil Engineers, A. Norman then of the University of Manchester Institute of Science and Technology and P. A. Baird, then Corporate Contracts Consultant, Eskom, South Africa.

This fourth edition of the NEC suite was produced by the Institution of Civil Engineers through its NEC4 Contract Board.

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The Institution of Civil Engineers acknowledges the help in preparing the fourth edition given by the NEC4 Contract Board and NEC4 drafting team and the support of the following organisations in releasing their staff:

Anthony Collins Solicitors LLP
Berwin Leighton Paisner LLP
CEMAR
Costain plc
Mott MacDonald Ltd

Amendments

JANUARY 2019

The following amendments have been made to the June 2017 edition.

Page	Clause/location	Amendments
2	The <i>Client's</i> Contract Data	Entry for whether work is to be carried out on a time charge basis deleted
2	The <i>Client's</i> Contract Data	Entry for the <i>defects date</i> amended
3	The <i>Client's</i> Contract Data	Entry for the minimum amount of cover for the second and third insurance in the insurance table amended
4	Contract Data Part one: General	Preamble amended
5	The <i>Consultant's</i> Contract Data	Additional guidance note added after the entry for <i>people rates</i>
5	The <i>Consultant's</i> Contract Data	Entry added for <i>key persons</i>
7	Price List	Price List amended
CC2	15.1	Clause amended
CC7	50.3	Clause amended
CC15	93.4	Clause amended

Full details of these amendments can be found at www.neccontract.com.

OCTOBER 2020

The following amendments have been made to the June 2017 edition.

Page	Clause/location	Amendments
4	The <i>Client's</i> Contract Data	Preamble amended
CC7	50.6	Clause amended

Full details of these amendments can be found at www.neccontract.com.

JANUARY 2023

The following amendments have been made to the October 2020 edition.

Page	Clause/location	Amendments
4	The <i>Client's</i> Contract Data	Preamble amended
CC8	60.1(9)	Clause added
CC14	93.3	Clause amended

Full details of these amendments can be found at www.neccontract.com.

Short Contract

A contract between

The Department for Environment, Food and Rural Affairs

and

Drees & Sommers UK

for

The supply of a CDM Advisor role for the National Biosecurity Centre (NBC) Programme

Contract Forms

Contract Data

The *Consultant's Offer* and the *Client's Acceptance*

Price List

Scope

Notes about the contract are printed in boxes like this one. They are not part of the contract.

Contract Data

The *Client's* Contract Data

The *Client* is

Name The Department for Environment, Food and Rural Affairs (Defra)

Address for communications Animal and Plant Health Agency
Woodham Lane
Addlestone
KT15 3NB

Address for electronic communications NBCPCommercial@defra.gov.uk

The *service* is CDM Advisor

The *starting date* is 1st April 2025

The *completion date* is 31st March 2028 (Option to extend for 12 months + 12 months + 12 months)

The *delay damages* are £0 per day

The *law of the contract* is England, subject to the jurisdiction of the courts of England and Wales

The *period for reply* is 2 Weeks weeks

The *defects date* is 52 Weeks weeks after Completion

The *assessment day* is the Last working day of each month

The United Kingdom Housing Grants, Construction and Regeneration Act (1996) does apply

The *Adjudicator* is

Name

In the event that a first dispute is referred to adjudication, the referring Party at the same time applies to the Institution of Civil Engineers to appoint an Adjudicator. The application to the Institution includes a copy of this definition of the Adjudicator. The referring Party pays the administrative charge made by the Institution. The person appointed is also Adjudicator for later disputes

Contract Data

The *Client's* Contract Data

The interest rate on late payment is % per complete week of delay.

Insert a rate only if a rate less than 0.5% per week of delay has been agreed.

The *Client* provides this insurance

None

Only enter details here if the *Client* is to provide insurance.

The *Consultant* provides the following insurance cover

INSURANCE AGAINST	MINIMUM AMOUNT OF COVER	PERIOD FOLLOWING COMPLETION OR EARLIER TERMINATION
Liability of the <i>Consultant</i> for claims made against it arising out of the <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i> .	£500k in respect of for any one claim, with exclusions for Fire Safety and Asbestos Surveys	6 years following Completion of the whole of the <i>Services</i> or earlier termination
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> Providing the <i>Service</i> .	The amount required by the applicable law	The defects certificate has been issued
Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	£2m in respect of each event, without limit to the number of events	The defects certificate has been issued

The *Consultant's* total liability to the *Client* which arises under or in connection with the contract is limited to

£2m

The *Adjudicator nominating body* is

The Institution of Civil Engineers

The *tribunal* is

Litigation in the courts

If the *tribunal* is arbitration, the arbitration procedure is

n/a

Contract Data

The *Client's* Contract Data

The *conditions of contract* are the NEC4 Professional Service Short Contract June 2017 (with amendments January 2023) and the following additional conditions

Only enter details here if additional conditions are required.

Please refer to the Z clauses at the end of this Contract.

Insert new clauses, section 9 Termination PSSC :

- a) No other payments are made by the Client in consequence of the termination, when 2 weeks notice has been given in writing by the Client
- b) On termination of the contract, the Client is not liable for any loss of profits, bonuses or incentives.

Contract Data

The *Consultant's* Contract Data

The *Consultant* is

Name Drees & Sommer UK

Address for communications
Manchester
M33 7RR

Address for electronic
communications

The *fee percentage* is %

The *people rates* are

category of person	unit	rate
--------------------	------	------

Director	1	<input type="text"/>
----------	---	----------------------

Principal Auditor	1	<input type="text"/>
-------------------	---	----------------------

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------

If the work is to be carried out on a time charge basis the *Consultant* includes *people rates* for its own people and people provided by a subcontractor

The *key persons* are

Name (1)

Job

Divisional Director

Responsibilities	As per scope
Qualifications	<p>Tech IOSH Member</p> <ul style="list-style-type: none"> • CMaPS • NEBOSH National General Certificate NEBOSH Construction Certificate • NEBOSH Fire Safety and Risk Management • APS Principal Designer Qualified • Building Regs Principal Designer • NEBOSH International - Ongoing • CSCS - Professionally Qualified Person • NVQ Level 3 in Administration GNVQ Level 2
Experience	16yrs+
Name (2)	<div></div>
Job	Principal Consultant - Health & Safety/ Senior Consultant and Peer Reviewer
Responsibilities	As per scope
Qualifications	<ul style="list-style-type: none"> • Chartered IOSH (CMIOSH) • CIWFM AND MIIRSM • NVQ Level 6 Management in Health & Safety • NVQ Level 5 Management in Health & Safety • NEBOSH General Certificate in Occupational Health & Safety • NEBOSH Certificate in Fire Safety & Risk Management • NEBOSH Certificate in Construction Health & Safety • Facilities Management Certificate (Level 4) • Working at Heights Trainer • CSCS (Black Card)

- ISO Auditor: 9001, 14001, 18001
- Pat tester Qualified
- Confined Space NVQ 2
- D32/D33 NVQ (Logistics)
- Logistic Management NVQ Level 4
- Equipment Inspection Certification
- QA Qualification
- Face Fitting (RPE) Certificate
- Fire Safety Awareness Instructor Certificate
- Manual Handling Instructor Certificate
- Defib Instructor Certificate
- Teaching Qualification QCF (Level 3)
- First Aid Instructor Certificate (Expiry
- Health & Safety Instructor Certificate
- Fire Safety Instructor Certificate
- TRIM Certificate
- Assessing Qualification

Experience

8yrs

The *Consultant's* Offer and *Client's* Acceptance

The *Consultant* offers to Provide the Service in accordance with these *conditions of contract* for an amount to be determined in accordance with these *conditions of contract*.

The offered total of the Prices is

N/A

Enter the total of the Prices from the Price List. If all work is to be carried out on a time charge basis, enter 'Not Applicable'

Signed on behalf of the *Consultant*

Name

[REDACTED]

Position

Director

Signature

[REDACTED]

Date

07/05/2025

The *Client* accepts the *Consultant's* Offer to Provide the Service

Signed on behalf of the *Client*

Name

[REDACTED]

Position

Commercial Manager

Signature

[REDACTED]

Date

07/05/2025

Price List

The contract does not provide for the *Consultant* to be paid on a mixture of time charge and Prices and one or the other must be selected.

If the work is to be paid on a time charge basis, only expenses should be included. No other entries should be made in the Price List.

If the *Consultant* is to be paid on a priced basis the entries in the first four columns are made either by the Client or the tenderer.

For each row:

- If the *Consultant* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price column only.
- If the *Consultant* is to be paid an amount for the item of work and which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

Costs incurred by the *Consultant* other than the listed expenses are included in the Rates and Prices and the People Rates. If expenses are paid at cost, then 'at cost' should be entered into the Rate column.

Delete or strike through unused rows.

ITEM NUMBER	DESCRIPTION	UNIT	EXPECTED QUANTITY	RATE	PRICE

The total of the Prices

EXPENSES

	Included in day rate				

The method and rules used to compile the Price List are

Scope

The Scope should be a complete and precise statement of the *Client's* requirements. If it is incomplete or imprecise, there is a risk that the *Consultant* will interpret it differently from the *Client's* intention. Information provided by the *Consultant* should be listed in the Scope only if the *Client* is satisfied that it is required, is part of a complete statement of the *Client's* requirements and is consistent with other parts of the Scope.

1 Purpose of the service

Provide a brief summary of why the *service* is being commissioned and what it will be used for.

The purpose of the role is to provide assurance to the Delivery Partner and the Intelligent Client Function that CDM Duty Holders are fulfilling their obligations under CDM 2015. The CDMA would work with all duty holders at all stages of the project, and carry out monitoring of all duty holders, to audit compliance with CDM duties.

2 Description of the service

Give a complete and precise description of what the *Consultant* is required to do.

One person two days per month with support up to one day per month from director. The *Consultant* shall only work additional time following approval from the *Client*.

Audits of Principal Designer against the duties detailed in CDM 2015

- Audits of all Principal Contractors against the duties detailed in CDM 2015
- Audits of the Client Duties against the duties detailed in CDM 2015
- Production, issue and presentation of a dashboard of CDM Compliance
- Facilitation of coordination between different PD's (whilst they exist)

With the option to add:

- Presence at design meetings
- Contractor CDM briefings
- Construction phase plan review
- Review of contractor O&M manuals
- Preview of PD's H&S files

The CDMA would report on levels of compliance, and reports any concerns to the DP, for escalation to the ICF if required. Monthly assurance report to be issued to the ICF.

Option to extend the above services on the same terms and conditions.

1st April 2028- 31st March 2029

1st April 2029- 31st March 2030

1st April 2030- 31st March 2031.

Scope

3 Existing information

List existing information which is relevant to the *service*. This can include documents which the *Consultant* is to further develop.

Monthly reporting matrix of client duties against each project in the Programme to ICF

4 Specifications and standards

List the specifications and standards that apply to the contract.

Construction Design Management Regulations 2015

Scope

5 Constraints on how the *Consultant* Provides the Service

State any constraints on sequence and timing of work and on method and conduct of work including the requirements for any work by the *Client*.

Security requirements:

BPSS confirmation to be provided by supplier

CTC to be done by the Authority

Scope

6 Requirements for the programme

State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

Programme not required

Scope

7 Information and other things provided by the *Client*

Describe what information and other things the *Client* is to provide and by when. Information is that which is not currently available, but will become available during the contract. Other things could include access to a person, place (such as office space or a site) or the *Client's* information technology systems.

ITEM	DATE BY WHICH IT WILL BE PROVIDED

The *additional conditions of contract* are as detailed in the appended Schedule of Amendments which is to be read and construed accordingly.

Z1 - Identified and defined terms

Insert new clause 11.3 additional defined terms.

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

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

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

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

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

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

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

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

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

11.3 (9) Data Protection Legislation is all applicable data protection and privacy legislation in force from time to time in the UK including without limitation, the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426).

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

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

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

11.3 (13) General Anti-Abuse Rule is

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

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

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

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

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

11.3(17) An Occasion of Tax Non-Compliance is

- where any tax return of the *Consultant* submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of
- a Relevant Tax Authority successfully challenging the *Consultant* under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle or
- the failure of an avoidance scheme which the *Consultant* was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime and

where any tax return of the *Consultant* submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Contract Date or to a civil penalty for fraud or evasion.

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

11.3 (19) Prohibited Act is

- to directly or indirectly offer, promise or give any person working for or engaged by the *Client* or other Contracting Body or any other public body a financial or other advantage to
- induce that person to perform improperly a relevant function or activity or
- reward that person for improper performance of a relevant function or activity,
- to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this contract,
- committing any offence

- under the Bribery Act 2010 (or any legislation repealed or revoked by such Act),
- under legislation or common law concerning fraudulent acts or
- defrauding, attempting to defraud or conspiring to defraud the *Client* or

any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.

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

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

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

11.3 (23) UK GDPR is as defined in the Data Protection Legislation.

Z2 - Admittance to site

Insert new clause 18A:

18A.1 The *Consultant* submits to the *Client* details of people who are to be employed by it and its *Subcontractors* in Providing the *Services*. The details include a list of names and addresses, the capabilities in which they are employed, and other information required by the *Client*.

18A.2 The *Client* may instruct the *Consultant* to take measures to prevent unauthorised persons being admitted to the Site.

18A.3 Employees of the *Consultant* and its *Subcontractors* are to carry a *Client's* pass and comply with all conduct requirements from the *Client* whilst they are on the parts of the Site identified in the Scope.

18A.4 The *Consultant* submits to the *Client* for acceptance a list of the names of the people for whom passes are required. On acceptance, the *Client* issues the passes to the *Consultant*. Each pass is returned to the *Client* when the person no longer requires access to that part of the Site or after the *Client* has given notice that the person is not to be admitted to the Site.

18A.5 The *Consultant* does not take photographs of the Site or of work carried out in connection with the *Services* unless it has obtained the acceptance of the *Client*.

18A.6 The *Consultant* takes the measures needed to prevent its and its *Subcontractors'* people taking, publishing or otherwise circulating such photographs.

Z3 - Prevention of fraud and bribery

Insert new clauses:

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

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

17.4.2 During the carrying out of the *Services* the *Consultant* does not

- commit a Prohibited Act and
- do or suffer anything to be done which would cause the *Client* or any of the *Client's* employees, consultants, *Consultants*, *Subcontractors* or agents to contravene any of the Relevant Requirements or otherwise incur liability in relation to the Relevant Requirements.

17.4.3 In Providing the *Services* the *Consultant*

- establishes, maintains and enforces, and requires that its *Subcontractors* establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act,
- keeps appropriate records of its compliance with this contract and make such records available to the *Client* on request and
- provides and maintains and where appropriate enforces an anti-bribery policy (which shall be disclosed to the *Client* on request) to prevent it and any *Consultant's* people or any person acting on the *Consultant's* behalf from committing a Prohibited Act.

17.4.4 The *Consultant* immediately notifies the *Client* in writing if it becomes aware of any breach of clause 17.4.1, or has reason to believe that it has or any of its people or *Subcontractors*

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

17.4.5 If the *Consultant* makes a notification to the *Client* pursuant to clause 17.4.4, the *Consultant* responds promptly to the *Client's* enquiries, co-operates with any investigation, and allows the *Client* to audit any books, records and/or any other relevant documentation in accordance with this contract.

17.4.6 If the *Consultant* breaches Clause 17.4.3, the *Client* may by notice require the *Consultant* to remove from carrying out the *Services* any person whose acts or omissions have caused the *Consultant's* breach.

Z4 Legislation and Official secrets

Insert new clauses:

20.5 The *Consultant* complies with Law in the carrying out of the *Services*.

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

20.7 The *Consultant* notifies its employees and its *Subcontractors* of their duties under these Acts.

Z5 - Freedom of information

Insert new clauses:

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

23.4 The *Consultant*

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

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

23.6 The *Consultant* does not respond directly to a Request for Information unless authorised to do so by the *Client*.

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

23.8 The *Consultant* ensures that all information is retained for disclosure throughout the *Period for Retention* and permits the *Client* to inspect such records as and when reasonably requested from time to time.

Z6 - Confidentiality and Information Sharing

Insert a new clause

23.9 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this

contract, each Party shall

- treat the other Party's Confidential Information as confidential and safeguard it accordingly,
- not disclose the other Party's Confidential Information to any other person without prior written consent,
- immediately notify the other Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information and
- notify the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

23.10 The clause above shall not apply to the extent that

- such disclosure is a requirement of the Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause Z10 (Freedom of Information),
- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner,
- such information was obtained from a third party without obligation of confidentiality,
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this contract or
- it is independently developed without access to the other party's Confidential Information.

23.11 The *Consultant* may only disclose the *Client's* Confidential Information to its insurers or professional advisers or the people who are directly involved in Providing the *Services* and who need to know the information, and shall ensure that such people are aware of and shall comply with these obligations as to confidentiality.

The *Consultant* shall not, and shall procure that the *Consultant's* people do not, use any of the *Client* Confidential Information received otherwise than for the purposes of this contract.

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

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

23.14 Nothing in this contract shall prevent the *Client* from disclosing the *Consultant's* Confidential Information

- to any Crown Body or any other Contracting Bodies. All Crown Bodies or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Body,
- to a professional adviser, *Consultant*, consultant, supplier or other person engaged by the *Client* or any Crown Body (including any benchmarking organisation) for any purpose connected with this contract, or any person conducting an Office of Government Commerce Gateway Review,
- for the purpose of the examination and certification of the *Client's* accounts,
- for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Client* has used its resources,
- for the purpose of the exercise of its rights under this contract or
- to a proposed successor body of the *Client* in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this contract,

and for the purposes of the foregoing, disclosure of the *Consultant's* Confidential Information shall be on a confidential basis and subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the *Client* under this clause 23.14.

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

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

23.17 The *Client* may disclose the Confidential Information of the *Consultant*

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

Z7 – Security Requirements

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

Z8 - Tax Compliance

Insert new clauses:

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

23.19 If, at any point prior to the *defects date*, an Occasion of Tax Non-Compliance occurs, the *Consultant* shall

- notify the *Client* in writing of such fact within 5 days of its occurrence and
- promptly provide to the *Client*
 - details of the steps which the *Consultant* is taking to address the Occasions of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant and
 - such other information in relation to the Occasion of Tax Non-Compliance as the *Client* may reasonably require.

Z9 - Fair payment

Insert a new clause:

52.1 The *Consultant* assesses the amount due to a *Subcontractor* without taking into account the amount certified by the *Client*.

52.2 The *Consultant* includes in the contract with each *Subcontractor*

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

Z10 - Intellectual Property Rights

Insert new clause 22

In this clause 22 only:

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

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

22.2 The *Client* may assign novate or otherwise transfer its rights and obligations under the licence granted pursuant to 22.1 to a Crown Body or to anybody (including any private sector body) which performs or carries on any functions and/or activities that previously had been performed and/or carried on by the *Client*.

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

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

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

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

22.7 The *Consultant* supplies copies of the Documents to the *Client* and to the *Client's* other *Consultants* and consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related *Services*.

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

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

Z11 - Small and Medium Sized Enterprises (SMEs)

Insert new clause:

21.4

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

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

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

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

Z12 - Apprenticeships

Insert new clause:

21.5

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

The *Consultant* takes all reasonable steps to ensure that no less than a percentage of its people (agreed between the Parties) are on formal apprenticeship programmes or that a similar proportion of hours worked in Providing the

Services, (which may include support staff and *Subcontractors*) are provided by people on formal apprenticeship programmes.

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

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

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

the number of people during the reporting period employed on the contract, including support staff and *Subcontractors*,

- the number of apprentices and number of new starts on apprenticeships directly initiated through this contract,
- the percentage of all people taking part in an apprenticeship programme,
- if applicable, an explanation from the *Consultant* as to why it is not managing to meet the specified percentage target,
- actions being taken to improve the take up of apprenticeships and
- other training/skills development being undertaken by people in relation to this contract, including:
 - (a) work experience placements for 14 to 16 year olds,
 - (b) work experience /work trial placements for other ages,
 - (c) student sandwich/gap year placements,
 - (d) graduate placements,
 - (e) vocational training,
 - (f) basic skills training and
 - (g) on site training provision/ facilities.

Z13 - GDPR

The *Client* and the *Consultant* shall comply with the provisions of schedule 1

Z14 – Cyber Essentials

If required the he *Client* and the *Consultant* shall comply with the provisions of schedule 2

New clauses are added as follows:

Z15 - Discrimination

Z15.1 The *Consultant* does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Acts 1995 and 2005 or the Equality Act 2010 (the "Discrimination Acts").

Z15.2 Where possible in Providing the *Services*, the *Consultant* co-operates with and assists the *Client* to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.

Z15.3 Where an employee or *Subcontractor* employed by the *Consultant* is required to carry out any activity alongside the *Client's* employees in any premises, the *Consultant* ensures that each such employee or *Subcontractor* complies with the *Client's* employment policies and codes of practice relating to discrimination and equal opportunities.

Z15.4 The *Consultant* notifies the *Client* in writing as soon as he becomes aware of any investigation or proceedings brought against the *Consultant* under the Discrimination Acts in connection with this contract and

- provides any information requested by the investigating body, court or tribunal in the timescale allotted,
- attends (and permits a representative from the *Client* to attend) any associated meetings,
- promptly allows access to any relevant documents and information and
- co-operates fully and promptly with the investigatory body, court or tribunal.

Z15.5 The *Consultant* indemnifies the *Client* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Client* arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the *Consultant*.

Z15.6 The *Consultant* includes in the *conditions of contract* for each *Subcontractor* obligations substantially similar to those set out above.

Z16 - Quality Management and Audit

Z16.1 The *Consultant* operates a quality management system for Providing the *Services* which

- complies with the relevant parts of ISO 9001:2008 and ISO 9001:2008/Cor 1:2009,
- incorporates an environmental management system consistent with ISO 14001:2004,
- includes processes for delivering continual improvement following the guidance in ISO 9004:2009,
- has third party certification from a UKAS approved accreditation body (or its equivalent) or is operating in preparation for accreditation within 12 months of the Contract Date
- complies with good industry practice and
- otherwise fully complies, and is consistent with the requirements set out in the *Services* Information.

Z17 – Data Protection

Z17.1 The Parties will comply with all relevant provisions of the Data Protection Legislation. The Parties shall ensure that the control and/or processing (as applicable) of all Personal Data is carried out in accordance with such Data Protection Legislation. The *Consultant* shall not transfer any Personal Data outside the UK without the *Client's* prior written consent. The *Consultant* shall maintain complete and accurate records to demonstrate its compliance with this Z17 clause.

SCHEDULE 1

GDPR

The following definitions shall apply to this Schedule 1

Agreement: this contract.

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

GDPR CLAUSE DEFINITIONS:

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

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

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

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

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

DPA 2018: Data Protection Act 2018

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

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

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

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted.

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

1. DATA PROTECTION

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

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

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

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

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

(a) process that Personal Data only in accordance with Schedule 1 Annex A unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:

- (i) nature of the data to be protected;
- (ii) harm that might result from a Data Loss Event;
- (iii) state of technological development; and
- (iv) cost of implementing any measures;

(c) ensure that :

(i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 1 Annex A);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Processor's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following *conditions* are fulfilled:

(i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and

(iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;

(e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

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

(a) receives a Data Subject Request (or purported Data Subject Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

(e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

(f) becomes aware of a Data Loss Event.

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

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

(a) the Controller with full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

(c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the Controller following any Data Loss Event;

(e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

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

(a) the Controller determines that the processing is not occasional;

(b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

(c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

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

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

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

- (a) notify the Controller in writing of the intended Subprocessor and processing;
- (b) obtain the written consent of the Controller;
- (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this clause 1.11 such that they apply to the Subprocessor; and
- (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

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

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

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

1.15 Where the Parties include two or more Joint Controllers as identified in Schedule 1 Annex A in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement.

Schedule 1 Annex A: Processing, Personal Data and Data Subjects

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

1. The contact details of the Controller's Data Protection Officer are: [.....]
2. The contact details of the Processor's Data Protection Officer are: [.....]
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the <i>Client</i> is the Controller and the <i>Consultant</i> is the Processor
Subject matter of the processing	[.....]
Duration of the processing	[.....]
Nature and purposes of the processing	[.....]
Type of Personal Data being Processed	[.....]
Categories of Data Subject	[.....]
<u>Plan for return and destruction of the data once the processing is complete</u>	[.....]
<u>UNLESS requirement under union or member state law to preserve that type of data</u>	

SCHEDULE 2 CYBER ESSENTIALS

CYBER ESSENTIALS SCHEME

1. DEFINITIONS

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

"Cyber Essentials Scheme"	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found here: https://www.gov.uk/government/publications/cyber-essentialsscheme-overview ;
"Cyber Essentials Basic Certificate"	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
"Cyber Essentials Certificate"	Cyber Essentials Basic Certificate, the Cyber Essentials Plus Certificate or the Cyber Essential Scheme certificate equivalent to be provided by the <i>Consultant</i> as set out in the Framework Data Sheet;
"Cyber Essential Scheme Data"	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
"Cyber Essentials Plus Certificate"	the certification awarded on the basis of external testing by an independent certification body of the <i>Consultant's</i> cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. CYBER ESSENTIALS OBLIGATIONS

- 2.1 Where the Scope requires that the *Consultant* provide a Cyber Essentials Certificate prior to the execution of the *Services* the *Consultant* shall provide a valid Cyber Essentials Certificate, then on or prior to the commencement of the *Services* the *Consultant* delivers to the *Client* evidence of the same. Where the *Consultant* fails to comply with this paragraph it shall be prohibited from commencing the carrying out of the *Services* under any contract until such time as the *Consultant* has evidenced to the *Client* its compliance with this paragraph 2.1.
- 2.2 Where the *Consultant* continues to Process Cyber Essentials Scheme Data during the carrying out of the *Services* the *Consultant* delivers to the *Client* evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the *Consultant* under paragraph 2.1.

- 2.3 Where the *Consultant* is due to Process Cyber Essentials Scheme Data after the commencement of the *Services* but before completion of the *Services* the *Consultant* delivers to the *Client* evidence of:
- 2.3.1 a valid and current Cyber Essentials Certificate before the *Consultant* Processes any such Cyber Essentials Scheme Data; and
 - 2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the *Consultant* under paragraph 2.1.
- 2.4 In the event that the *Consultant* fails to comply with paragraphs 2.2 or 2.3 (as applicable), the *Client* reserves the right to terminate this contract for material Default.
- 2.5 The *Consultant* ensures that all sub-contracts with *Sub-Consultants* who Process Cyber Essentials Data contain provisions no less onerous on the *Sub-Consultants* than those imposed on the *Consultant* under this contract in respect of the Cyber Essentials Scheme under paragraph 2.1 of this Schedule.
- 2.6 This Schedule shall survive termination or expiry of this contract.
