

2025

JCT Consultancy Agreement (Public Sector) 2016 (CA 2016) Schedule of
Amendments
relating to

Older Buildings Research — Principal Designer Role

The Secretary of State for Education⁽¹⁾ and
Arcadis Consulting (UK) Limited ⁽²⁾

Schedule of Amendments to the
JCT Consultancy Agreement (Public Sector) 2016 (CA 2016)

The Contract shall comprise the JCT Consultancy Agreement (Public Sector) 2016 (CA 2016), subject
to the amendments in this Schedule of Amendments, and shall be construed accordingly.

Agreement

THIS CONTRACT is made on JUNE 2025

BETWEEN:

- (1) THE SECRETARY OF STATE FOR EDUCATION of Sanctuary Buildings, Great Smith Street,
London, SW1P 3BT (the "Client")
- (2) ARCADIS CONSULTING (UK) LIMITED (company number 2212959) whose registered office is situated at
80 Fenchurch Street, London, EC3M 4BY (the "Consultant")

Recitals

First the Client wishes to have the following services carried out at the Consultant's usual place
of working (the "Project") as more particularly described in the Client's Brief;

Second for the purposes of the Project, the Client has requested the Consultant to act in the
capacity specified in the Contract Particulars and for the fee specified in Annex A (the
"Fee") to provide the services set out in Annex B (the "Services"), which the Consultant has
agreed to do on the terms of this Agreement;

Third Delete,

Articles

Article 1: Consultant's obligations

After "Conditions" insert "and this Contract".

Article 2: Payment

After "Conditions" insert "and this Contract",

Article 3A: BIM Information Manager

Not used. BIM Co-ordinator does not apply.

Article 5: Arbitration

Not used — Arbitration does not apply

Article 6: Legal proceedings

Delete and insert "Without prejudice to Article 4 and clause 12.2, 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 7: The Consultant's Deeds of Collateral Warranty

Not used. Consultant's Deeds of Collateral Warranty do not apply.

Article 8: Sub-consultants, Sub-contracts and Deeds of Collateral Warranty

Not used. Sub-consultants, Sub-contracts and Deeds of Collateral Warranty do not apply.

Article 9: Incorporation of Schedule of Amendments

Insert a new Article g:

"The Schedule of Amendments attached hereto is hereby incorporated into this Contract and the Agreement, Conditions and Schedules set out in the standard form shall take effect as amended by the Schedule of Amendments. If there is any discrepancy between the Agreement, Conditions and Schedules and the Schedule of Amendments, the wording contained in the Schedule of Amendments shall prevail. "

Contract Particulars

Amend the Contract Particulars as follows:

Clause etc	Subject	
Article 5	Arbitration	Do not apply = legal proceedings apply
1 .1	BIM Protocol	1 .1 BIM Documentation — not applicable
2.1 1 .1	Consultant's aggregate liability (excluding liability for personal injury or death) is limited to	£5,000,000 (five million pounds) in the aggregate
2.1 1+2	Consultant's liability in respect of pollution or contamination damage (excluding liability for	E5,000t000 (five million pounds) in the aggregate

	personal injury or death) is limited to	
8.1 .1	Professional Indemnity insurance	See clause 8.1.1
8.2.1	Professional Indemnity insurance — expiry of the required period of insurance is	See clause 82.1
10.2	Novation Clause 102 (if neither entry is deleted, clause 10.2 wil/ not apply) Where 10.2 applies, the form of Novation Agreement (Identify the form or the document in which it is set out)	Does not apply
1 1.2	Suspension: Remobilisation — period for recommencement instructions	Does not apply
12.3	Arbitration - appointor of Arbitrator (and of any replacement)	Not used legal proceedings apply
Part 2	Third Party Rights and Collateral Warranties	Not used — see Articles 7 and 8

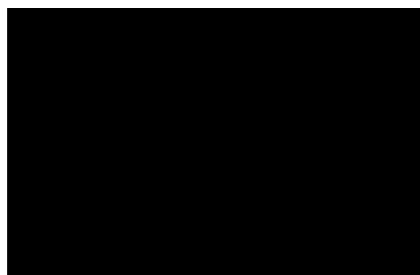
Attestation

Execution as a Deed by the Client and Consultant

The CORPORATE SEAL of the SECRETARY) OF STATE
FOR EDUCATION herewith affixed) and
authenticated

Authorised by the
Secretary of State

Full name (Block
Capitals)



EXECUTED AS A DEED by Arcadis Consulting (UK) Limited
acting by a Director and a witness

Director

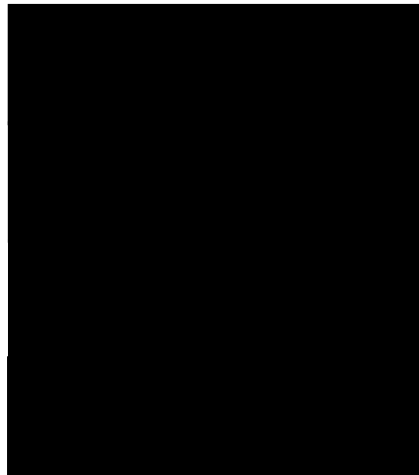
Witness

Witness

Name

Witness

Address



CONDITIONS

SECTION 1: DEFINITIONS AND INTEPRETATION

1.1 Delete the definitions "Arbitrator", "Beneficiary", "BIM Protocol", "Funder", "Information Release Schedule", "Purchaser", "Tenant", and "Third Party Rights". Amend the definitions in clause 1.1 as follows:

Agreement	at the end of the definition insert "i as amended by the Schedule of Amendments"
Article	at the end of the definition insert 'i , as amended by the Schedule of Amendments'
Conditions	at the end of the definition insert as amended by the Schedule of Amendments
Consultant's Design Information	delete "BIM Protocol" and insert "BIM Documentation"
Contract	after "Conditions" insert 'l , the Schedule Of Amendments',
Contract Particulars	at the end of the definition insert '4 , as amended by the Schedule of Amendments
Design Information	After "other material" insert "and/or information".
Interest Rate	delete "5%" and insert "3%".
Recitals	at the end of the definition insert " , as amended by the Schedule of Amendments".

Services	at the end of the definition insert ", and all services, duties and obligations to be provided and performed by the Consultant as set out in the Contract".
Statutory Requirements	in line 4 after "regulation" insert "rule". In line 5t after "undertaker" insert "or equivalent or relevant public body". At the end of the definition 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".
Third Party Agreement	After "or the use of it" insert ", or any other third party agreement,".

1 . 1 Insert the following new definitions in clause 1.1'

BIM Co-ordinator	the person identified as the BIM Co-ordinator in Article 3B or such other person as may be notified to the Consultant from time to time.
BIM Documentation	the documents identified as such in the Contract Particulars (against reference to clause 1 1) along with any other documentation prepared after the date of this Contract to facilitate the delivery of the Model.
BIM Information Manager	the person identified as the BIM Information Manager in Article 3A or such other person as may be notified to the Consultant from time to time.
BIM Standards	the following standards: <ul style="list-style-type: none"> (a) BS 1 192-4:2014: Collaborative production of information: Fulfilling employer's information exchange requirements using COBie — code of practice; (b) PAS 1 192-3:2014: Specification for information management for the operational phase of assets using building information modelling; (c) PAS 1 1 92-52015: Specification for security-minded building information modelling, digital built environments and smart asset management; (d) PAS 1 1 92-612018: Specification for collaborative sharing and use of structured Health and Safety information using BIM; (e) BS EN ISO 19650-1: 2018: Organization and digitization of information about buildings and civil engineering works, including building information modelling (BIM) - Information management using building information modelling: Concepts and principles; (f) BS EN ISO 19650-2: 2018: Organization and digitization of information about buildings and civil engineering works, including building information modelling (BIM) - Information management using building information modelling: Delivery phase of the assets;

	<p>(g any other recognised BIM standards notified to the Contractor and/or) recognised by the industry from time to time,</p> <p>and any amendments to, re-publication of or replacement of any or all of these standards.</p>
Business Day	a day which is not a Saturday or Sunday or a bank or national holiday in England.
Change of Control	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010.
Client	the Client as identified in the Agreement, which expression shall include permitted assignees and successors in title.
Client's Confidential Information	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" it) or which ought reasonably be considered to be confidential
Commercially Sensitive Information	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;
Confidential Information	the Client's Confidential Information and/or the Consultant's Confidential Information;
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),
Contracting Body	any Contracting Body as defined in Regulation 5(2) of the Public Contracts (Services, Service and Supply) (Amendment) Regulations 2000 other than the Client,
Consultant's Confidential Information	any information, however it is conveyed, that relates to the business, 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,

Crown Body	any department, office or agency of the Crown
Data Protection Laws	<p>means, as applicable to either Party and/or to the rights, responsibilities and/or obligations of either Party in connection with this Contract:</p> <p>(a) the GDPRt</p> <p>(b) the Data Protection Act 2018;</p> <p>(c) the Directive 2002/58/EC (ePrivacy Directive) and/or the Privacy and Electronic Communications (EC Directive) Regulations 2003;</p> <p>(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];</p> <p>(e) any laws which implement any such laws; and</p> <p>(f) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing.</p>
DOTAS	<p>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</p> <p>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.</p>
Environmental Information Regulations	<p>the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in</p> <p>relation to such regulations</p>
Federated Model	a shared Model representing the completed Project consisting of connected but distinct individual Models and incorporating the Specified Models.
FOIA	the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;
GDPR	the General Data Protection Regulation, Regulation (EU) 2016/679.

General Anti-Abuse Rule	<p>. the legislation in Part 5 of the Finance Act 2013; and</p> <p>. any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements and to avoid national insurance contributions.</p>
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).
Halifax Abuse Principle	the principle explained in the CJEU Case C-255/02 Halifax and others.
Intellectual Property Rights or "IPRs"	<p>(p) 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;</p> <p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction;</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction; and</p> <p>(d) all or any goodwill relating or attached thereto.</p>
Law	<p>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;</p>

Material	<p>means:</p> <p>(a) 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 Consultant or the Client in relation to and/or connection with the Project 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 Project and/or the site; and</p> <p>(b) all information in any electronic medium in relation to the Project and/or the site and/or the completed Project comprised in the Specified Models</p>
Model	a digital representation of part of the physical and/or functional characteristics of the Project.
Moral Rights	moral rights under Chapter IV of Part 1 of the Copyright Designs and Patents Act 1988.
Non-Performance Deductions	see Annex A
Occasions of Tax Non-Compliance	<p>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:</p> <ul style="list-style-type: none"> - 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; - 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/or <p>– 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 date of this Contract or to a civil penalty for fraud or evasion.</p>
Personal Data	has the meaning given in applicable Data Protection Laws from time to time.
Prohibited Act	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 or 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.

Project Team
Members

the members identified in Annex E and their sub-consultants and/or sub-contractors or such other professionals as the Client or the Consultant may from time to time engage in connection with the Project,

1 +2+4 After "body corporate" insert "or any legal entity having legal capacity"

1 .2.6 Delete "a BIM Protocol or other protocol" and insert "any BIM Documentation" and delete "protocol" from the last line and insert "documentation".

1 .3 Insert a new final paragraph "All payments made by the Client to the Consultant pursuant to any such interim agreement, letter of intent and/or other arrangement shall be deemed to have been made as part of the Fee. For the avoidance of doubt, the Client shall have no further liabilities (including any liability to make any payments) under such interim agreement, letter of intent and/or other arrangement."

1.4 In clause 1 +4 delete "Notwithstanding any other provision of this Contract," and insert "Subject to the express rights of any person under any collateral warranty granted under the provisions of this Contract,"

1 .6 Delete and insert: "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."

clauses and not used

1.9 Insert new clauses 1.9 to 1.23 as follows

1.10 Insert new clause 1.10:

Request for Information	a request for information or an apparent request under the Code of Practice on Access to government Information, FOIA or the Environmental Information Regulations
Relevant Requirements	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
Relevant Tax Authority	HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Consultant is established.
Schedule of Amendments	this Schedule of Amendments.
Security Policy	the Client's security policy attached as Annex G (Security Provisions) as may be updated from time to time"
Specified Models	the Model or Models which the Consultant or any Project Team Member is to produce and deliver in accordance with the BIM Documentation.
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.
IR35 Assessments	the "Check Employment Status for Tax" tool provided by HMRC and available at gov.uk

" Freedom of information"

1.10.1 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, FOIA and the Environmental Information Regulations. The Consultant shall co-operate with and assist the Client so as to enable the Client to comply with its information disclosure obligations.

1.10.2 The Consultant shall:

1.10.2.1 transfer 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;

1.10.2.2 provide the Client with a copy of all Information in its possession, or power in the form that the Client shall require within five Working Days (or such other period as the Architect/Contract Administrator may specify) of the Client's request;

1.10.243 provide 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

1.10.24 procures that its sub-contractors do likewise.

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

1.104 The Consultant shall not respond directly to a Request for Information unless authorised to do so by the Client.

1.10 K The Consultant acknowledges that the Client may, acting in accordance with the Cabinet Office Freedom of Information 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.

1.10.6 The Consultant shall ensure that all Information is retained for disclosure for twelve years where this Contract is executed as a deed or six years where this Contract is executed under hand and shall permit the Client to inspect such records as and when reasonably requested from time to time."

1.11 Insert a new clause 1.11:

"GDPR

The Client and the Consultant shall comply with the provisions of Annex H

1.12 Insert a new clause 1.12:

"Tax Compliance

1.12.1 The Consultant represents and warrants that as at the date of this Contract, 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

1.12.2 If, at any point prior to the end Of the Rectification Period, an Occasion Of Tax NonCompliance occurs, the Consultant shall:

1.12.2.1 notify the Client in writing of such fact within 5 days of its occurrence; and 1

1.12.2.2 promptly provide to the Client:

1.12.2.2.1 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

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

1 . 13 Insert new clause 1.13

Prevention of Fraud and Bribery

1 .13.1 The Consultant represents and warrants that neither it, nor to the best of its knowledge any of its employees, have at any time prior to the date of this Contract:

1.13.1 .1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

1 1 3M 2 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.

1 .1 3.2 During the carrying out of the Services the Consultant shall not:

1 .1 3.2.1 commit a Prohibited Act; and/or

1 w 132.2 do or suffer anything to be done which would cause the Client or any of the Client's employees, consultants, Consultants, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements

1.133 During the carrying out of the Services the Consultant shall:

1 41 3€3.1 establish, maintain and enforce, and require that its sub-contractors 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;

1 .13.3.2 keep appropriate records of its compliance with this Contract and make such records available to the Client on request;

1.1 3.3.3 provide and maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Client on request) to prevent it and any Consultant's employees or any person acting on the Consultants behalf from committing a Prohibited Act.

1 .1 344 The Consultant shall notify the Client immediately in writing if it becomes aware of any

breach of clause 1.13.1, or has reason to believe that it has or any of the its employees or subcontractors have:

1 € 13.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

1 .13.4.2 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; and/or

1 .13.4.3 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.

1.13.5 If the Consultant shall make a notification to the Client pursuant to clause 1 +13.4, the Consultant shall respond promptly to the Client's enquiries, co-operate with any investigation. and

allow the Client to audit any books, records and/or any other relevant documentation in accordance with this Contract,

1.13.6 If the Consultant breaches Clause 1.13.3, the Client may by notice require the Consultant to remove from carrying out the Services any Consultant's Person whose acts or omissions have caused the Consultant's breach.

1 .14 Insert new clause 1.14

Security Requirements

The Consultant shall comply with, and procure the compliance of the Consultant's Persons, with:

1 .14.1 the Security Policy

1.142 Contract Schedule Annex G (Security Provisions).

1 .1 5 Insert new clause 1.15

Cyber Essentials

The Client and the Consultant shall comply with the provisions Clause 1.2 Cyber Essentials of Annex G (Security Provisions)

1 .1 6 Not used.

1 . 1 7 Insert a new clause 1.17:

"Publicity and Branding

1.17.1 The Consultant shall not:

- a. make any press announcements or publicise this contract in any way; or
- b. use the Client's name or brand in any promotion or marketing or announcement of the contract;

without the prior written approval of the Client.

I The Client is entitled to publicise the contract in accordance with any legal obligation upon the Client, including any examination of the contract by the National Audit Office pursuant to the National Audit Act 1983 or otherwise. "

1 .18 Insert a new clause 1.18:

"Change of Control

1.18.1 The Consultant shall notify the Client immediately in writing and as soon as the Consultant is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any Law, The Consultant shall ensure that any notification sets out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

1.18.2 The Client may terminate the Consultant's obligation to perform the Services (which shall take effect as termination under clause 1.14.5.1) within six months from:

- a. being notified in writing that a Change of Control is anticipated or is in contemplation or has occurred; or
- b. where no notification has been made, the date that the Client becomes aware that a Change of Control is anticipated or is in contemplation or has occurred, but shall not be permitted to terminate where an approval was granted prior to the Change of Control."

1.19 Insert a new clause 1.19:

Financial Standing

The Client may terminate the Consultant's obligation to perform the Service (which shall take effect as termination under clause 1.1.5.1) where in the reasonable opinion of the Client there is a material detrimental change in the financial standing and/or the credit rating of the Consultant which:

- a. adversely impacts on the Consultant's ability to perform its obligations under this Contract;
- or b. could reasonably be expected to have an adverse impact on the Consultant's ability to perform its obligations under this Contract."

1.20 Insert a new clause 1.20^m

"Records, audit access and open book data

1.20.1 The Consultant shall keep and maintain for twelve years full and accurate records and accounts of the operation of this contract including the service provided under it, any subcontracts and the amounts paid by the Client.

1.20.2 The Consultant shall:

- a, keep the records and accounts referred to in clause 1.20.1. in accordance with law;
- b. afford any auditor access to the records and accounts referred to in clause 1.20.1 at the Consultant's premises and/or provides records and accounts (including copies of the Consultant's published accounts) or copies of the same, as may be required by any auditor from time to time during the Consultant performing the Services and the liability period under the contract in order that the auditor may carry out an inspection to assess compliance by the Consultant and/or its Sub-contractors of any of the Consultant's obligations under this contract including in order to:
 - i. verify the accuracy of any amounts payable by the Client under this contract (and proposed or actual variations to them in accordance with this Contract); ii. verify the costs of the Consultant (including the costs of all Sub-contractors and any third party suppliers) in connection with performing the Services; iii. identify or investigate an actual or suspected

Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Client has no obligation to inform the Consultant of the purpose or objective Of its investigations; iv. obtain such information as is necessary to fulfil the Client's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; and

v. enable the National Audit Office to carry out an 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;

c. subject to the Consultant's rights in respect of confidential information, the Consultant provides the auditor on demand with all reasonable co-operation and assistance in respect of:

i. all reasonable information requested by the Client within the scope of the audit; ii- reasonable access to sites controlled by the Consultant and to any Consultant's equipment used to perform the Services; and iii. access to the Consultant's personnel.

1.20.3 The Parties bear their own respective costs and expenses incurred in respect Of compliance with their obligations under this clause 1.20, unless the audit reveals a default by the Consultant in which case the Consultant reimburses the Client for the Client's reasonable costs incurred in relation to the audit.

1.20.4 This clause does not constitute a requirement or agreement for the purposes of section 6(3)(d) of the National Audit Act 1983 for the examination, certification or inspection of the accounts of the Consultant and the carrying out of an examination under Section of the National Audit Act 1983 in relation to the Consultant is not a function exercisable under this contract.'

121 Insert a new clause 1.21'

#Equality and diversity

1.21 . 1 The Consultant shall perform its obligations under this contract in accordance with

a. all applicable equality law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and b, any other requirements and instructions which the Client reasonably imposes in connection with any equality obligations imposed on the Client at any time under applicable equality law;

1.21.2 The Consultant shall take all necessary steps, and inform the Client of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation)."

1 .22 Insert a new clause 1.22:

"Conflicts Of interest

1.22.1 The Consultant shall take appropriate steps to ensure that neither the Consultant nor any of its personnel are placed in a position where (in the reasonable opinion of the Client) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Consultant or its personnel and the duties owed to the Client under this contract,

122.2 The Consultant shall promptly notify and provide full particulars to the Client if such conflict referred to in the clause above arises or may reasonably be foreseen as arising.

122.3 The Client may terminate the Consultant's obligation to perform the Services immediately under clause 1.1.52 (as if insolvency applied) and/or to take such other steps the Client deems necessary where, in the reasonable opinion of the Client, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Consultant and the duties owed to the Client under this contract.'

1.23 Insert a new clause 1.23:

"Financial distress

The Consultant complies with the provisions of Annex F (Financial Distress) in relation to the assessment of the financial standing of the Consultant and the consequences of a change to that financial standing."

SECTION 2: CONSULTANTS GENERAL OBLIGATIONS

- 2.1 After "the Client's Brief insert "and the Contract". After "expected of a" insert "properly qualified", After "size, scope" insert ", nature, value, character, timescale". After "complies with" insert "the terms of this Contract and".

At the end of 2.1 insert the following new paragraphs:

"The Consultant 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.

In performing his obligations under this Contract, the Consultant shall and shall ensure that each of his sub-consultants shall comply with the Modern Slavery Act 2015.

The Consultant shall comply with the Client's standards of corporate governance and the Consultant warrants that in entering into this Contract it has not and shall not (and shall procure that anyone employed or acting on behalf of it or any of its agents shall not) commit any Prohibited Act. "

2.1A Insert a new clause 2.1A:

'Client's obligations

The Client shall comply with its obligations under the BIM Documentation."

2.1B Insert a new clause 2.1B'

'Admittance to the Site

2.1.B.1 The Consultant shall submit details of people who are to be employed by it and its subcontractors in connection with the Services to the Client. The details shall include a list of names and addresses, the capabilities in which they are employed, and other information required by the Client/Architect/Contract Administrator.

2.1.B.2 The Client may instruct the Consultant to take measures to prevent unauthorised persons being admitted to site. The instruction shall be valued as a variation under clause 3.6.1 if the measures are additional to those required by the Client's Requirements.

2.1.B.3 Consultant's Representative and Key Personnel 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 Client's Brief.

2.1.B.4 The Consultant shall submit to the Client for acceptance a list of the names of the people for whom passes are required. On acceptance, the Client or Architect/Contract Administrator will issue the passes to the Consultant. Each pass shall be returned to the Client when the employee no longer requires access to that part of the site or after the Client or Architect/Contract Administrator has given notice that the employee is not to be admitted to the site.

2.1 B5 The Consultant shall 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.

2.1 .B.6 The Consultant shall take the measures needed to prevent any Consultant's employee taking, publishing or otherwise circulating such photographs."

2.1C Insert a new clause 2.1C:

"Legislation and Official secrets

2.1 C.I The Consultant shall comply with the law in the carrying out of the Services.

2.1 0.2 The Official Secrets Acts 191 1 to 1989 and, where appropriate, the provisions of section 1 1 of the Atomic Energy Act 1946 apply to this Contract.

[2. I.C.3 The Consultant shall notify its employees and its sub-contractors Of their duties under these Acts , 'i

2.2 Delete "i subject only to clause 6.5"

24 Delete and insert: 'The Consultant 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 Project 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 Consultant's profession and/or the construction industry.

24.1 to be deleterious in the particular circumstances in which they are used or specified for use to the health or safety of any person;

24.2 to be deleterious in the particular circumstances in which they are used or specified for use to the healthi safety, stability, performance, physical integrity and/or durability of the Project or any part thereof and/or to other structures, finishes, plant and/or machinery;

24.3 to reduce or possibly reduce the normal life expectancy of works of a type comparable to the Project;

2.4.4 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 Project;

2.4.5 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

2.46 to be supplied or placed on the market in breach of the Construction Products Regulations.

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

- 2.7 After "prior consent" insert "and the Consultant shall ensure that it complies with the provisions of Article 8 in relation to any sub-contracting",]

Insert new subclauses, Sub-contracting 2.7A to 2.7C as follows:

"2.7A Each sub-contract shall include:

2.7A.1 period for payment of the amount due to the sub-contractor not greater than 5 days after the final date for payment in this Contract. The amount due shall, but shall not be limited to, payment for work which the sub-contractor has completed from the previous application date up to the current application date in this Contract;

2.7A.2 a provision requiring the sub-contractor to include in each subsubcontract the same requirement (including this requirement to flow down, except that the period for payment is to be not greater than 9 days after the final date for payment in this Contract;

2.7A.3 a provision requiring the sub-contractor to assess the amount due to a subsubconsultant without taking into account the amount paid by the Consultant, and.

2.7A.4 terms and conditions that are no less favourable than those of this Contract. The Client shall be entitled to reject sub-contract conditions proposed by the Consultant that are unduly disadvantageous to the sub-contractor.

2.7B.1 The Consultant shall take all reasonable steps to engage SMEs as sub-contractors and to seek to ensure that no less than the percentage of the sub-contractors stated in the Client's Requirements (the "SME Percentage") are SMEs or that a similar proportion of the Fee is undertaken by SMEs.

2.7B.2 The Consultant shall report to the Client on a monthly basis the numbers of SMEs engaged as sub-contractors and the value of the Fee that has been undertaken by SMEs.

2783 Where available, the Consultant shall tender its sub-contracts using the same online electronic portal as was provided by the Client for the purposes of tendering this Contract.

2.7C Apprenticeships

27C.1 The Consultant shall take all reasonable steps to employ apprentices, and report to the Client the numbers of apprentices employed and the wider skills training provided, during the carrying out of the Services.

27C.2 The Consultant shall take all reasonable steps to ensure that no less than the percentage of its employees stated in the Client's Requirements (the "Apprenticeship Percentage") are on formal apprenticeship programmes or that a similar proportion of hours worked in carrying out the Services, (which may include support staff and sub-Contractors) are provided by employees on formal apprenticeship programmes.

27C.3 The Consultant shall make available to its employees and sub-contractors working on the Contract, information about the Government's Apprenticeship programme and wider skills opportunities.

2N7C.4 The Consultant shall provide any further skills training opportunities that are appropriate for its employees engaged in carrying out the Services.

2.7C.5 The Consultant shall provide a written report detailing the following measures in its regular contract management monthly reporting cycle and be 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 sub-Contractors;

- the number of apprentices and number of new starts on apprenticeships directly initiated through this contract; . the percentage of all employees 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;

- other training/skills development being undertaken by employees 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;

2.9 After "subject to clause" insert " 2.1 and*".

2.9. 1 Delete this sub-clause.

2.92 Delete "sub-contractors" and insert "sub-consultants".

2.9.3 After "his control" insert "save where such event cause failure or delay arises by reason of any act, error, omission, negligence, breach or default by or on behalf of the Consultant or any subconsultant".

212 Insert a new clause 2.12:

"The Consultant shall provide all relevant information to and cooperate and coordinate with all duty holders under the CDM Regulations to enable all such duty holders to comply with their duties and obligations under the CDM Regulations.

The Consultant warrants that it shall comply with the duties and obligations of a designer as set out in the CDM Regulations. As and when requested by the Client, the Consultant shall provide to the Client such evidence as the Client may require which demonstrates the Consultant's competency to act as designer under the CDM Regulations.

Without prejudice to the generality of the foregoing the Consultant warrants that it shall comply with all of the duties and obligations as set out in the CDM Regulations which apply to the Consultant in the performance of the Services. "

2.13 Insert new clause 2.13

21 3.1 "The Consultant shall carry out an IR35 Assessment for any person to be involved in providing the Services in respect of any Project and provide to the DfE the results of such assessments within 10 working days of a request by email"

2.13 9 ""No person to whom the off-payroll working (IR35) rules are deemed to apply following an IR35 Assessment may be involved in provision of the Services in relation to any Project

2.13.3 "Without prejudice to the generality of any other provision of the Contract the Consultant shall indemnify the Client for all liabilities, costs, expenses, damages and losses suffered or incurred by the Client arising out of or in connection with the off-payroll working (IR35) rules applying to any person or persons involved in providing the Services'

SECTION 3: LEAD CONSULTANTS AND CONTRACT ADMINISTRATION

32.2 After "beyond his control" insert "provided that the Consultant shall remain responsible for failure to issue the Design Information and other information at the times required where such failure arises by reason of any act, error, omission, negligence, breach or default by or on behalf of the Consultant or any sub-consultant",

SECTION 4: CLIENT'S GENERAL OBLIGATIONS

4.1 Delete ", or likely to be useful, ". After "Statutory Requirements" insert ['provided that such information is not confidential or subject to obligations relating to confidentiality" Delete "promptly" and insert "as soon as reasonably practicable".

4.2 Delete.

4.4 At the end of the clause insert "provided that the Consultant has clearly requested such decisions approvals and instructions in writing and included details of any date or deadline by which the Consultant requires such decisions approvals and/or instructions."

4.5 In the final paragraph after "unless it is agreed" insert "at the Client's sole discretion".

SECTION 5: REPRESENTATIVES AND KEY PERSONNEL

No amendments.

SECTION 6: FURTHER SERVICES, CHANGES AND FEE ADJUSTMENTS

6.3 At the end of 6.3, insert a new final paragraph: ⁰ Notwithstanding the foregoing or any other provision of this Contract, the Consultant shall not be entitled to any adjustment of the Fee or any other additional payment or reimbursement where (a) a Change arises by reason of any act, error, omission, negligence, breach or default by or on behalf of the Consultant or any sub-consultant and/or (b) the Consultant has not complied with clause 6.4.

6.4 Delete resolution of any objection under clause 6.5%

6.5 Delete.

6.6 In the first paragraph after "within clause 6.3.4" insert "(and subject to the other provisions of clause In clause 6.695 line two after "Incentive Payment" insert "or Non-performance Deduction".

Insert a new final paragraph " Adjustment of the Fee or any other additional payment or reimbursement to the Consultant under this clause 6.6 shall be deemed to be full payment for the Consultant in respect of the matters for which the adjustment, payment or reimbursement is paid and the Client shall have no

further liability to the Consultant in respect of such matters arising under the Contract or generally at law."

- 6.7 Delete "a default by the Consultant" and insert " any act, error, omission, negligence, breach or default by or on behalf of the Consultant or any sub-consultant".

SECTION 7: PAYMENT

- 7.1 Delete "The" and insert " For the full and proper performance of the Services, the" .
After 7.1.4 insert new paragraph "less any Non-Performance Deductions".
- 7.4 Amend clause heading to "Incentive Payments and Non-performance Deductions"
In line one after "Incentive Payment" insert "or Non-Performance Deduction".
- 7.8 Delete the second sentence. At the end of the clause, insert "The Parties agree that this clause 7.8 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."
- 7.9. 1 After "intention to suspend the performance of" insert "any or all of".
- 7.9.3 Delete the words "or on request" and, at the end of the clause, insert "The Consultant shall, on request, submit such further details as are reasonably requested by the Client."
- 7.10 Insert a new clause 7.10: "Any right of the Client 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 Consultant".

SECTION 8: INSURANCE

- 8.1 In the first sentence after "Consultant shall" insert "effect and". At the end of the clause after "reasonable rates". insert a new final paragraph: "For the purposes of this clause 8.1 , "commercially reasonable rates" shall mean such level of premium rates at which other consultants of a similar size and financial standing as the Consultant 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 Consultant's own claims record or other act, error, omission, negligence, breach or default, matters or things particular to the Consultant shall be deemed to be within commercially reasonable rates."
- 8.1 .1 Delete and insert "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 a limit of indemnity of not less than E5t000,000 (five million pounds) for any one claim or series of claims arising from the same originating cause. The said terms and conditions shall not include any term or condition to the effect that the Consultant 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 reenactment thereof."
- 8.2.1 Delete "from the date of this Contract until the expiry of the period stated in the Contract Particulars" and insert at all relevant times during the Project and for a period of 12 (twelve) years from the date of practical completion of the Project".
- 8.3 Delete and insert "As and when reasonably required by the Client, the Consultant shall provide satisfactory documentary evidence of the terms of insurances referred to in clause and that the

insurances referred to in clause 8.1 are being properly maintained in accordance with the terms of this clause 8, and shall confirm that payment has been made in respect of the last preceding premium due under such insurances. "

SECTION 9: USE OF CONSULTANT'S DESIGN INFORMATION, CONFIDENTIALITY COPYRIGHT AND USE/ INTERLLECTUAL PROPERTY RIGHTS

Delete clause g, 1 and Insert the following:

"Document" means all designs, drawings, specificationst 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.

9.1.1 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 Site. 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.

9.1 .2 The Client may assign, novate or otherwise transfer its rights and obligations under the licence granted pursuant to 9.1.1 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.

9.1 .3 In the event that the Consultant does not own the copyright or any Intellectual Property Rights in any Document the Consultant shall use 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 shall procure that the third party grants a direct licence to the Client on industry acceptable terms,

9.1.4 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.

9.1-5 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,

9.1.6 The Consultant warrants to the Client that he 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.

9.1.7 The Consultant shall supply 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.

9.1.8 After the termination or conclusion of the Consultant's employment hereunder, the Consultant shall supply the Client with copies and/or computer discs of such of the Documents as the Client or Architect/Contract Administrator may from time to time request and the Client shall pay the Consultant's reasonable costs for producing such copies or discs.

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

Confidentiality and Information Sharing

Delete clause 9.2 and insert the following:

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

9.2.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and

9.2.1.2 not disclose the other party's Confidential Information to any other person without prior written consent.

9.2.1.3 immediately notify the other Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information

9.2.1.4 notify the Serious Fraud Office where the Recipient 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

9.2.2 The clause above shall not apply to the extent that:

9.2.2.1 such disclosure is a requirement of the law of the contract placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause 1.10 (Freedom of Information);

9.2.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

9.2.2.3 such information was obtained from a third party without obligation of confidentiality;

9.2.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or

9.2.2.5 it is independently developed without access to the other party's Confidential Information.

9.2.3 The Consultant may only disclose the Client's Confidential Information to Consultant's Persons who are directly involved in the provision of the service and who need to know the information, and shall ensure that such Consultant's Persons are aware of and shall comply with these obligations as to confidentiality,

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

9.2.5 The Consultant may only disclose the Client's Confidential Information to Consultant's Persons who need to know the information, and shall ensure that such Consultant's Persons 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 Persons 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 Personnel 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 Persons, and any minutes of meetings and any other records which provide an audit trail of any discussions or exchanges with Consultant's Persons in connection with obligations as to confidentiality.

99.6 At the written request of the Client, the Consultant shall procure that those members of the Consultant's Persons identified in the Client's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.

92.7 Nothing in this Contract shall prevent the Client from disclosing the Consultant's Confidential Information:

9.2.7.1 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;

9.2.7.2 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;

92.7.3 for the purpose of the examination and certification of the Client's accounts;

9.2.7.4 for any examination pursuant to Section) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources;

9.2.7.5 for the purpose of the exercise of its rights under this Contract; or

9.2.7.6 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 92.

9.2.8 The Client shall use all reasonable endeavours to ensure that any government department,

Contracting Body, employee, third party or sub-contractor to whom the Consultant's Confidential Information is disclosed pursuant to the above clause is made aware of the Client's obligations of confidentiality.

9.2.9 Nothing in this clause shall prevent either party from using any techniques, ideas or knowhow 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

9.2.10 The Client may disclose the Confidential Information of the Consultant:

9.2.10.1 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

9.2.10.2 to the extent that the Client (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

SECTION 10: ASSIGNMENT, NOVATION, THIRD PARTY RIGHTS AND COLLATERAL WARRANTIES

10.1 Delete and insert:

"10.1 Subject to clause 10.2, where it is stated to apply, the Consultant shall not assign transfer or charge any benefit arising under or out of this Contract without the prior written consent of the Client (at its absolute discretion).

Without prejudice to clause 10.2, where it is stated to apply, the Client may without the consent of the Consultant assign transfer and/or charge the benefit of all or any of the Consultant'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 Project 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."

10.3 Delete clause 10.3 in its entirety.

SECTION 11: SUSPENSION BY THE CLIENT AND TERMINATION

11.1.4 Before the comma insert "provided that the suspension was not as a result of or in connection with any act, error, omission, negligence, breach or default by or on behalf of the Consultant or any subconsultant",

11.2 Delete "2 months" and insert "12 months". At the end of the clause insert "provided that the suspension was not as a result of or in connection with any act, error, omission, negligence, breach or default by or on behalf of the Consultant or any sub-consultant".

11.4 After "do so, may" insert "if the Client still does not instruct the Consultant to recommence such Services",

11.2 Delete and insert "In the event of the Consultant's bankruptcy, insolvency, winding up, liquidation, administration, administrative receivership, LPA receivership and/or any analogous arrangement or event in this or any other jurisdiction, the Client may give notice to the Consultant terminating the Consultant's engagement with Immediate effect."

11.5.3 Delete and insert "If the Consultant commits a material breach of his obligations (including, without limitation, any act, error, omission, negligence, breach or default by or on behalf of the Consultant or any sub-consultant), the Client may give notice to the Consultant specifying the breach and requiring its remedy. If the Consultant fails to comply with the notice within 14 days, the Client may give notice to the Consultant terminating the Consultant's engagement with immediate effect, "

11.5.5 Delete.

11 R, 12 After "Design Information" insert "and the Materials". Delete from ", provided that in the case of" to "under clause 11.62" inclusive.

11.6.2 In the final paragraph after "insolvency or material breach" insert "or under clauses 11.5.2 or 11.5.3".

11 After "insolvency or material breach" insert "or under clauses 11.5.2 or 11.5.3".

11.6.2.4 Delete.

11.6.3 Insert a new second sentence "However, in the event of termination under clauses 11.5.2 or 11.5.3, instead of 2 months from the date of termination, the relevant date for invoice shall be 2 months after the date of practical completion of the Project" 11.6.4 Insert new clause *'If the Consultant, fails an IR35 Assessment, the Client can terminate the Contract in respect of specific projects or the Contract as a whole"

SECTION 12: SETTLEMENT OF DISPUTES

12.2 At the end of the clause insert the following final paragraphs:

"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.

At the same time as he gives any decision, the Adjudicator shall give reasons for the decision in writing."

Delete clauses 12.3 to 12.8.

SCHEDULES

Schedule 1 Third Party Rights

Delete.

Schedule 2 Supplemental Provisions

Paragraph 1 Delete

ANNEXURES

Annex A Fee and Other Payments

At paragraph 3 amend clause heading to "Incentive Payments and Non-Performance Deductions"

Annex B The Services

Annex C Consultant Deeds of Collateral Warranty — not used

Annex D Sub-consultant Deeds of Collateral Warranty — not used

Annex E Project Team Members

Annex F Financial Distress

Annex G Security Provisions

Annex AFee and Other Payments

1. The Fee is shall not exceed €95,000 (excluding VAT) (ninety-five thousand pounds)
2. The Fee shall be payable in accordance with section 7 in the following amounts or percentages:

Invoice Date or Milestone
Payments will be made based on the payment schedule and invoices provided at the end of every month until completion of the services
For example 31 st July 2025, 31 st August 2025

3. Incentive Payments are: Not applicable

4. THERE ARE NO OPTIONAL SERVICES

Optional Service	Amount I basis of calculation
██████████	██████████
██████████	██████████
██████████	██████████

5. The daily all-in rate for any necessary extension of the Services work (and for the purposes of any apportionment under clause 1 1.6.2.1) is based on the Consultant's Project Staff of:

Person I Grade	Rate per day
██████████	██████████
██████████	██████████
████████████████████	██████████
██████████████████	██████████

6. The rates specified above shall apply (so far as properly applicable) for the purposes of any Additional Services instructed or other Changes within Clause 6.3.

- 7 Subject to their being properly and necessarily incurred for the purposes of the Project, the following expenses / disbursements of the Consultant shall be reimbursable by the Client up to any maximum amount or rate specified below or as otherwise agreed in writing from time to time:

Type	Maximum amount I rate
██████████	██████████
██████████	██████████

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Save as otherwise agreed in writing, all other expenses and disbursements shall be deemed to be included in the Fee.

7 Each invoice that includes any of the following types of charge or expenditure should be accompanied by the following documents:

Charge f expenditure	Documentation

The accounting requirements and procedures referred to in clause 2.8 (if any) are.

9. D

10. The amounts and rates shown above are exclusive of VAT.

Annex B

The Services

The Consultant will provide the following services to support the Older Buildings Research Project:

- Undertaking of Principal Designer duties for the Older Buildings Research Project, under the Construction (Design and Management) Regulations 2015.

CDM 2015 — Principal Designer Scope

In order to fulfil the duties of a Principal Designer under the Construction (Design & Management) Regulations 2015, Arcadis will deliver the following scope of service where it corresponds with the duration of their appointment as Principal Designer:

Regulation	Client Requirement
8(5)	Report to the Client anything the Principal Designer is aware of in relation to the Project which is likely to endanger their own health or safety or that of others. Arcadis will form part of the project design team by attending design team meetings and leading design risk management discussions and design risk management workshops as required to fulfil our role. We will review, assess and provide updates of the project designers risk management schedule to communicate significant design risks relating to health & safety for the structure. Regular updates of the health & safety designers risk management schedule will be shared with the design teams for their input and provided to the Client on an agreed basis.
8(6)	Provide any information or instruction as soon as is practicable and in a comprehensive form The method of exchange of information will be agreed with the Client and communicated to the design team. Once available, we will confirm that the PCI has been provided to the design team, and the Principal Contractor (once appointed). Updated versions of the PCI will be issued as appropriate.

9(1)	<p>designer must not commence work in relation to a project unless satisfied that the Client is aware of the duties owed by the Client under these Regulations.</p> <p>Arcadis confirm that our proposed team has the relevant skills, knowledge & training required to deliver the Principal Designer role for this project. We will acknowledge our appointment as Principal Designer and advise the Client of their CDM duties. Principal Designer is a corporate appointment, and Arcadis will appoint a suitably competent individual (Principal Designer Representative) to oversee the discharge of our company's obligations as Principal Designer.</p>
11(1)	<p>The Principal Designer must plan, manage and monitor the pre-construction phase and coordinate matters relating to health and safety during the pre-construction phase to ensure that, so far as is reasonably practicable, the project is carried out without risks to health or safety.</p> <p>Arcadis will review the project team roles and responsibilities. Arcadis will form part of the project design team by attending design team meetings and leading design risk management discussions and design risk management workshops as required to fulfil our role. We will review and assess the design outputs from a health & safety perspective to confirm foreseeable and significant design risks are being identified, the principles of</p>
	<p>prevention are being applied, and risk mitigation measures are being developed.</p>
11(2)	<p>In fulfilling the duties in paragraph (1), and in particular when— (a) design, technical and organisational aspects are being decided in order to plan the various items or stages of work which are to take place simultaneously or in succession; and (b) estimating the period of time required to complete such work or work stages, the Principal Designer must take into account the general principles of prevention and, where relevant, the content of any construction phase plan and health and safety file.</p> <p>Arcadis will review the programme and sequence of works and provide feedback to the Client on whether further consideration is required for these elements.</p>
11(3)	<p>In fulfilling the duties in paragraph (1) the Principal Designer must identify and eliminate or control, so far as is reasonably practicable, foreseeable risks to the health or safety of any person— (a) carrying out or liable to be affected by construction work; (b) maintaining or cleaning a structure; or (c) using a structure designed as a workplace.</p> <p>Arcadis will participate in design meetings and workshops and confirm development of a project H&S Designers Risk Management Schedule (which the PD is responsible for, signs off and manages) to capture foreseeable and significant design risks and mitigation for the project lifecycle. Regular updates of the Designers Risk Management Schedule will be shared with the design teams for their input and provided to the Client on an agreed basis.</p>
11(4)	<p>In fulfilling the duties in paragraph (1), the Principal Designer must ensure all designers comply with their duties in regulation 9.</p> <p>Arcadis will review the project team roles and responsibilities. Arcadis will form part of the project design team by attending design team meetings and leading design risk management discussions and design risk management workshops as required to fulfil our role. Evidence of compliance with Reg 9 is provided through the</p>

	<p>population by the designers of the designer' risk management schedule and review and assessment by readis.</p>
1 1(5)	<p>In fulfilling the duty to coordinate health and safety matters in paragraph (1), the Principal Designer must ensure that all persons working in relation to the preconstruction phase cooperate with the Client, the Principal Designer and each other.</p> <p>readis will participate in design and project meetings and provide feedback to the Client if members of the project team are not cooperating with each other</p>
	<p>he Principal Designer must— (a) assist the Client in the provision of the pre-construction information required by regulation 4(4); and (b) so far as it is within the Principal Designer's control provide pre-construction information, promptly and in a convenient form, to every designer and contractor appointed, or being considered for appointment, to the project.</p> <p>readis will participate in design meetings / workshops and confirm development of a project health & safety designers risk management schedule which will be reviewed and assessed by Arcadis to capture foreseeable and significant design risks and mitigation for the project lifecycle. Regular updates of the designer's risk management schedule will be shared with the design teams for their input and provided to the Client on an as needed basis.</p>
1 1(7)	<p>he Principal Designer must liaise with the Principal Contractor for the duration of the Principal Designer's appointment and share with the Principal Contractor information relevant to the planning, management and monitoring of the construction phase and the coordination of health and safety matters during the construction phase.</p> <p>For the duration we are appointed as Principal Designer, Arcadis will provide the Principal/ Contractor with a copy of the latest pre-construction information and liaise with the Principal Contractor at regular intervals, particularly where significant design changes take place, through the construction phase. We advise the Principal/ Contractor on the requirements for provision of information for the H&S file,</p>
1 2(5)	<p>During the pre-construction phase* , the Principal Designer must prepare a health and safety file appropriate to the characteristics of the project which must contain information relating to the project which is likely to be needed during any subsequent project to ensure the health and safety of any person.</p> <p>readis will confirm the required format and begin the preparation of the contents of the health & safety file with the Client to meet the minimum requirements set out in COM 2015, Appendix 4.</p> <p>"Pre-construction phase means any period of time during which design or preparatory work is carried out for a project and may continue during the construction phase".</p>
12(6)	<p>Review the health and safety file from time to time, up to the date the Principal Designer's Appointment has ended to take account of the work and any changes that have occurred.</p> <p>readis will provide updates to the Client on the progress and status of the health & safety file, following regular review of its contents.</p>

12(8)	<p>f the Principal Designer's appointment concludes before the end of the project, pass he draft health and safety file to the Principal Contractor.</p> <p>rcadis will provide a copy of the health and safety file information collated to date to he PC, if our appointment finishes prior to completion of the construction stage.</p>
1 2(10)	<p>ssue the completed Health and Safety File at the end of the project to the Client.</p> <p>rcadis will notify and issue to the Client the health and safety file once</p> <ul style="list-style-type: none"> •t has been completed.

For the OBR projectl the Principal Designer role will be required for the scoping visits, design of the minor works site-specific specifications and development of the pre-construction information (PCI) and prelim documents to support compliant minor works fieldwork visits. They will:

- Plan, manage, monitor and coordinate health and safety in the pre-construction phase. Take account of relevant information that might affect design work carried out both before and after the construction phase
- Help and advise the client in bringing together pre-construction information and provide the information designers and contractors need to carry out their duties.
- Production of a "generic" programme wide Pre-Construction Information Pack for inclusion in the Tender documentation.
- Use of a standard PCI Proforma to be developed for this programme that would be attached to each Site-Specific Work Order to define for the MW Contractor any site-specific restrictions, Risk Register details, relevant available site-specific H&S information, etc.
- Work with any other designers on the project to eliminate foreseeable health and safety risks to anyone affected by the work and, where that is not possible, take steps to reduce or control those risks
- Ensure that everyone involved in the pre-construction phase communicates and cooperates, coordinating their work wherever required
- Liaise with the principal contractor, keeping them informed of any risks that need to be controlled during the construction phase (reference the Site-Specific PCI Proforma noted above)
- Collation of Project (site level) Specific H&S information as supplementary documentation to be added by the school to existing H&S File information i.e. R&D Surveys, Re-Occupancy Certification, etc, etc.
- Inclusion of a NEBOSH qualified Lead PD to provide oversight to the process, provide a review capability, and be available to advise on H&S matters and be a point of escalation.

Annex C

Consultant Deeds of Collateral Warranty- Does not apply

20[e]

Collateral Warranty from Consultant to
relating to

[°] and

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DATE

PARTIES

- (1) [o] [(No.[O] / trading together in partnership under the style [l] / a limited liability partnership] [whose registered office is [o] / whose principal place of business is (Consultant).
- (2) [0] [(No.[O] / trading together in partnership under the style [e] / a limited liability partnership] [whose registered office is [0] / whose principal place of business is [01] (Beneficiary).
- (3) [0] [(No.[O] / trading together in partnership under the style [e] / a limited liability partnership] [whose registered office is [0] | whose principal place of business is (Employer).

BACKGROUND

- (A) By the Appointment, the Employer has engaged the Consultant to act in the capacity of [l] in relation to the [design, specification, construction and completion of the Development at the Site] on the terms and subject to the conditions set out in the Appointment.
- (B) The Beneficiary has entered into an agreement [to purchase / for lease to take a lease of / to provide finance for] [the whole of / part of] the [Development / Site].
- (C) [The Employer [shall novate / has novated] all of its rights and obligations under the Appointment by a deed of novation [dated [to [●]]].
- (D) The Consultant has agreed to enter into this Deed for the benefit of the Beneficiary and its successors in title and assigns.

AGREED TERMS

In consideration of the payment of EI by the Beneficiary to the Consultant (receipt of which is hereby acknowledged) and which the parties hereby agree to be full and valuable consideration it is hereby agreed that:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed the words below have the meanings next to them unless the context requires otherwise:

Appointment	the JCT Consultancy Agreement 2016 (as amended) entered into between the Employer and the Consultant dated [0] for the carrying out of services, duties and obligations in relation to the Development including any documents or arrangements which are supplemental or ancillary to it by way of variation or otherwise.
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Business Day	a day which is not a Saturday or Sunday or a bank or national holiday in Englande
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Construction Products UK Construction Products Regulation 201 1 and the Construction Regulations Products Regulations 2013 (SI 2013/1387).

Development the development of [0] by the Employer at the Site. Group in relation to a company:

- (a) that company and any Subsidiary of that company;
- (b) the ultimate Holding Company of that company; and

(c) every other company which is a Subsidiary of the same ultimate Holding Company,

	in each case from time to time.
Group Company	in relation to a Group any member of that Group.
Holding Company	has the meaning given to that term in section 1 159 Companies Act 2006 and a company will be treated, for the purposes only of the membership requirement contained in sub-sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) a person (or its nominee) whether by way of security or in connection with the taking of security or (b) its nominee.
Material	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 all other documents or materials produced or prepared by or on behalf of the Consultant in relation to and/or connection with the Development and/or Site (including any 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 Development and/or Site) created before, on or after the date of this Deed.
Practical Completion	the date of practical completion of the Development as certified or otherwise evidenced as required under the terms of the relevant building contract.
Site	the land at [e] upon which the Development is to be constructed.
Subsidiary	has the meaning given to that term in section 1159 Companies Act 2006 and a company will be treated, for the purposes only of the membership requirement contained in sub-sections 1 159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) a person (or its nominee) whether by way of security or in connection with the taking of security or (b) its nominee.

UK Construction Products the UK version of Regulation (EU) No 305/2011 , as it forms part of Regulation 2011 English law under the European Union (Withdrawal) Act 2018.

1 .2 In this Deed unless the context requires otherwise:

12.1 references to a Clause or Schedule are to a clause of, or schedule to this Deed, references to this Deed include its schedules, and references in a Schedule to a paragraph are to a paragraph of that Schedule;

- 12.2 references to this Deed or any other document are to this Deed or that document as amended or novated from time to time;
- 1.2.3 words denoting the singular include the plural and vice versa;
- 1.2.4 references to a person include any corporate or unincorporated body;
- 1.25 the table of contents and headings in this Deed do not affect its interpretation;
- 1.26 writing or written does not include e-mail or any other form of electronic communication, other than fax where explicitly stated;
- 12.7 the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense or the words preceding those terms,
- 1.2.8 references to the parties include their respective successors in title, permitted assignees, estates and legal personal representatives;
- 1.29 unless otherwise specified, a reference to legislation or a legislative provision is a reference to it as amended, consolidated, extended or re-enacted from time to time (whether before or after the date of this Deed) and to any subordinate legislation made under it from time to time; and
- 1.2.10 if the Consultant is a partnership each partner shall be jointly and severally liable under this Deed, Where the context so requires and where the Consultant is a partnership, the term Consultant shall be deemed to include any additional partner(s) who may be admitted into the partnership of the Consultant during the currency of this Deed. This Deed shall not automatically terminate upon the death, retirement or resignation of one or more members of such partnership.

2. EXERCISE OF SKILL AND CARE

- 2.1 The Consultant warrants and undertakes to the Beneficiary that it has observed and performed and shall continue to observe and perform each and all of its services, duties and obligations contained in or implied by the Appointment. Save as expressly provided for in this Deed the duty of the Consultant is to be treated as being no greater than it would have been if the Beneficiary had been a party to the Appointment instead of this Deed but neither this provision nor any other provision in this Deed shall entitle the Consultant to raise any defence based on set-off or counterclaim and/or prevent the Beneficiary from recovering loss and/or damage from the Consultant as a result of the Consultant's breach of any provisions of this Deed on the basis that the Employer has not suffered any loss and/or damage and/or the same loss and/or damage and the Consultant hereby irrevocably agrees and undertakes not to raise any such arguments by way of defence and/or set-off and/or counterclaim to any claim made by the Beneficiary.
- 22 Without prejudice to the generality of Clause 2.1 the Consultant warrants and undertakes to the Beneficiary that it has exercised and shall continue to exercise in the performance of the services, duties and obligations contained in or implied by the Appointment all reasonable skill, care and diligence to be expected of a properly qualified and competent consultant experienced in performing similar services, duties and obligations in relation to developments of a similar nature, value, scope, character, complexity and timescale to the Development.

2.3 The Consultant further warrants and undertakes to the Beneficiary that, in observing and performing each and all of its services, duties and obligations contained in or implied by the Appointment, the Consultant shall comply with all applicable statutory and regulatory requirements.

24 The Consultant acknowledges that the Beneficiary has relied and shall rely on the warranties under this Clause 2 and the other terms of this Deed and may and/or shall suffer loss and/or damage in the event of a breach of these warranties and/or the other terms of this Deed.

2.5 The obligations of the Consultant under this Deed shall not be released or diminished by the appointment of any person by the Beneficiary to carry out any independent enquiry into any matter.

3. OBLIGATIONS PRIOR TO TERMINATION OF THE APPOINTMENT

[NOTE - Clauses 3 and 4 (step in rights) are usually only used where the Beneficiary is a purchaser or funder. If the Beneficiary is not a purchaser or funder, or if they are not to be given step in rights, delete Clause 3, 4 and 13; delete the Employer details in Clause 9; and delete the Employer from being a signatory to this collateral warranty on the coversheet, parties and execution clauses, and instead insert a new definition of Employer with their details in the table at Clause 1.11

3.1 The Consultant warrants and undertakes to the Beneficiary that it shall not exercise or seek to exercise any right of termination of the Appointment and/or to discontinue the performance of any of its services, duties and/or obligations thereunder for any reason whatsoever (including any services, duties and/or obligations in relation to the Development by reason of breach on the part of the Employer) without giving to the Beneficiary not less than 28 days' notice of its intention to do so and specifying the grounds for the proposed termination and/or discontinuance.

3.2 Any period stipulated in the Appointment for the exercise by the Consultant of a right of termination of the Appointment and/or to discontinue the performance of any of its services, duties and/or obligations in relation to the Development shall be extended as may be necessary to take account of the period of notice required under Clause 0.

3.3 Compliance by the Consultant with the provisions of Clause 0 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of termination of the Appointment and/or to discontinue the performance of any of the Consultant's services, duties and/or obligations in relation to the Development, nor otherwise prevent the Consultant from exercising its rights after the expiration of the notice unless the right of termination and/or right to discontinue shall have ceased under the provisions of Clause 4.

4. OBLIGATIONS OF THE CONSULTANT TO THE BENEFICIARY

[NOTE - Clauses 3 and 4 are usually only used where the Beneficiary is a purchaser or funder –see note under Clause 3 above.]

4.1 The right of the Consultant to terminate the Appointment and/or to discontinue the performance of any of its services, duties and/or obligations shall cease within the period of 28 days referred to in Clause 0 if the Beneficiary shall give written notice to the Consultant:

4.1 . 1 requiring the Consultant to continue performing its services, duties and obligations under the Appointment in relation to the Development;

4.12 acknowledging that the Beneficiary is assuming all the services, duties and obligations of the Employer under the Appointment;

4.1.3 undertaking unconditionally to the Consultant to discharge all payments which may subsequently become due to the Consultant under the terms of the Appointment;

and shall pay to the Consultant any sums which have become due and payable to it under the Appointment but which were then unpaid.

4.2 upon compliance by the Beneficiary with the requirements of Clause 0 the Appointment shall continue in full force and effect as if the right of termination and/or discontinuance on the part of the Consultant had not arisen and in all respects as if the Appointment had been made between the Consultant and the Beneficiary to the exclusion of the Employer.

4.3 Notwithstanding that as between the Employer and the Consultant the Consultant's rights of termination of the Appointment and/or discontinuance may not have arisen, the provisions of Clause shall nevertheless apply if the Beneficiary gives notice to the Consultant and the Employer to that effect and the Beneficiary complies with the requirements on its part under Clause 0.

44 The Consultant shall not be concerned or required to enquire whether, and shall be bound to assume that, as between the Employer and the Beneficiary the circumstances have occurred permitting the Beneficiary to give notice under Clause O.

4.5 The Consultant acting in accordance with the provisions of this Clause 4 shall not by so doing incur any liability to the Employer.

4.6 Where the Consultant has given rights similar to those contained in Clauses 3 and 4 of this Deed to any other person or persons, then if both the Beneficiary and such other person or persons shall serve notice under Clause O or its equivalent, the notice served by the Beneficiary [shall prevail over any notice served by any other person or persons I shall not prevail over any notice served by any other person or persons / shall not prevail over any notice served by [o] but shall prevail over any notice served by any other person or persons,] The Consultant acting in accordance with the provisions of this Clause 4.6 shall not be and shall not be deemed to be in breach of the provisions of this Deed by doing so, nor shall the Consultant in doing so incur any liability to the Beneficiaryw

5. INTELLECTUAL PROPERTY RIGHTS

5.1 The Consultant with full title guarantee grants to the Beneficiary, with immediate effect an irrevocable, perpetual, non-exclusive, non-terminable, royalty-free licence to use, reproduce and transmit any or all of the Materials produced or prepared by the Consultant or on the Consultant's behalf for any purpose whatsoever relating to the Development 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, reconstruction, modification, alteration, refurbishment, re-development, decommissioning, demolition and/or extension of the Development and/or the Site. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties without the Consultant's prior consent and shall subsist notwithstanding the termination (for any reason) of the Appointment.

5.2 The Consultant shall not be liable for the consequences of any use by the Beneficiary of the Materials for any purposes other than those for which the same are or were prepared.

5.3 The Consultant warrants to the Beneficiary that it is authorised to grant the licence set out in Clause in respect of any Materials whose intellectual property rights are vested in any third person and that the use of the Materials for any purpose relating to the Development and/or Site shall not infringe the rights of any third person. If the use of the Materials is found to infringe the rights of any third person, the Consultant shall indemnify the Beneficiary against all resulting claims, proceedings, damages, costs and expenses.

5.4 To the extent that the Consultant is (or at the time of their creation may be) the author of the Materials, the Consultant hereby absolutely waives and agrees not to assert any moral rights which it might otherwise be deemed to possess pursuant to the Copyright, Designs and Patents Act 1988 or any equivalent legislation in respect of the Materials; and to the extent that the Consultant is not the author, the Consultant warrants that the author has not asserted and has waived and agreed to waive any such moral rights which the author might otherwise be deemed to possess.

5.5 The Consultant agrees:

5.5.1 on request at any time to give the Beneficiary or any persons authorised by the Beneficiary full and sufficient access to the Materials andi at the Beneficiary's expense, to provide full and proper copies of the Materials (including copy negatives and electronic copies); and

5.5.2 at the Consultant's expense, to provide the Beneficiary with a set of all Materials on Practical Completion.

5.6 All royalties or other sums payable in respect of the supply and use of any patented articles, processes or inventions required in connection with the Appointment shall be paid by the

Consultant and the Consultant shall indemnify the Beneficiary from and against all claims, proceedings, damages, costs and expenses suffered or incurred by the Beneficiary by reason of the Consultant infringing or being held to infringe any intellectual property rights in the course of or in connection with the Appointment.

- 5.7 The Consultant shall (subject to the Beneficiary paying the Consultant's reasonable costs so to do) if reasonably requested by the Beneficiary at any time execute such documents and perform such acts as may be required fully and effectively to assure to the Beneficiary the rights referred to in this Clause 5.

6. INSURANCE

- 6.1 The Consultant warrants to the Beneficiary that it maintains, has at all relevant times maintained, and shall continue to maintain throughout the duration of the Development and for a period of 12 years following Practical Completion (irrespective of any termination of the Appointment or the Consultant's employment under the Appointment for any reason) professional indemnity insurance with reputable insurers lawfully carrying on such insurance business in the [United Kingdom with a limit of indemnity of not less than £] pounds) for any one occurrence or series of occurrences arising out of any one event to cover any claims made under this Deed against the Consultant in relation to the Development.
- 6.2 The Consultant shall maintain the professional indemnity insurance on terms and conditions that do not require the Consultant to discharge any liability before being entitled to recover from the insurers and would not adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 2010.
- 6.3 As and when reasonably required by the Beneficiary the Consultant shall provide satisfactory documentary evidence of the terms of insurance referred to in Clause 6.1 and that the insurance referred to in Clause 6.1 is being properly maintained, and shall confirm that payment has been made in respect of the last preceding premium due under such insurance.
- 6.4 The Consultant warrants that it has at all relevant times observed and shall continue to observe all of the conditions of the insurance policy referred to in Clause 6.1 and all of the insurance provisions contained or referred to in the Appointment.
- 6.5 The preceding parts of this Clause 6 shall not apply at times when and to the extent that the Insurance referred to in Clause 1 is not available in the United Kingdom insurance market at commercially reasonable rates, and the Consultant has notified the Beneficiary accordingly, Upon such notification the Consultant shall make itself available to the Beneficiary to discuss reasonable means of protecting the Beneficiary and the Consultant shall take any reasonable steps requested by the Beneficiary. For the purposes of this Clause 6.5, commercially reasonable rates shall mean such level of premium rates at which other consultants of a similar size and financial standing as the Consultant 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 Consultant's own claims record or other acts, errors, omissions, negligence, breaches defaults, matters or things particular to the Consultant shall be deemed to be within commercially reasonable rates.

7. HEALTH AND SAFETY

The Consultant warrants that it has complied and shall comply with all of its obligations in relation to the Development as set out in the Construction (Design and Management) Regulations 2015.

8. EXCLUDED MATERIALS

- 8.1 The Consultant 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 Development 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 Consultant's trade and/or the construction industry:

8.1M to be deleterious in the particular circumstances in which they are used or specified for use to the health or safety of any person;

8.12 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 Development or any part thereof and/or to other structures, finishes, plant and/or machinery;

8.1.3 to reduce or possibly reduce the normal life expectancy of developments of a type comparable to the Development;

8.1.4 to become deleterious without a level or cost of maintenance which is higher than that which would normally be expected in a development of a type comparable to the Development;

8.1.5 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

8.1.6 to be supplied or placed on the market in breach of the Construction Products Regulations.

9. COMMUNICATIONS

9.1 Except as otherwise provided for in this Deed, all notices or other communications under or in respect of this Deed to either party shall be deemed to be duly given or made when:

9.1.1 delivered (in the case of personal delivery or letter); or

9.1.2 despatched (in the case of facsimile)

to that party at the address or facsimile number appearing below (or at such other address or facsimile number as that party may hereafter specify for this purpose to the other):

in the case of the Consultant [0] [NOTE - name / address / facsimile to be inserted] in the case of the Beneficiary [1] [NOTE - name / address / facsimile to be inserted] in the case of the Employer: [NOTE • name / address / facsimile to be inserted]

92 A written notice includes a notice by facsimile. A notice or other communication which is not received on a Business Day or which is received after business hours in the place of receipt shall be deemed to be given or made on the next following Business Day in that place,

10. CONCURRENT LIABILITIES

The rights and benefits conferred upon the Beneficiary by this Deed are in addition to any other rights and remedies it may have against the Consultant including, without prejudice to the generality of the foregoing, any remedies in negligence.

11. ASSIGNMENT

- 11.1 The Beneficiary may without the consent of the Consultant assign transfer and/or charge the benefit of all or any of the Consultant's obligations under this Deed and/or any benefit arising under or out of this Deed.

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- 11.1.1 by way of security or by way of re-assignment on redemption; and
- 11.1.2 by absolute assignment to any Group Company of the Beneficiary; and
- 11.1.3 by absolute assignment on two other occasions only.
- 11.2 In this Deed references to the Beneficiary include where the context admits its permitted assignees.
- 11.3 The Consultant shall not be entitled to contend that any person to whom this Deed is assigned in accordance with Clause 11.1 is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening), by reason that such person is an assignee and not a named party under this Deed.
- 11.4 The Consultant shall not be entitled to assign, transfer and/or charge the benefit of any (if any) of the Beneficiary's obligations under this Deed and/or any benefit (if any) arising to the Consultant out of this Deed.

12. LIMITATION PERIOD

The liability of the Consultant under this Deed shall cease 12 years following Practical Completion save in relation to any claims made by the Beneficiary against the Consultant and/or notified by the Beneficiary to the Consultant in writing prior thereto. For the avoidance of doubt, the parties agree that any provisions of the Limitation Act 1980 to the contrary will not apply to this Deed.

13. EMPLOYER

[NOTE - delete if Clauses 3 and 4 are deleted]

The Employer agrees that it shall not take any steps which would prevent or hinder the Beneficiary from exercising its rights under this Deed and confirms that the rights of the Beneficiary in Clauses 3 and 4 override any obligations of the Consultant to the Employer under the Appointment.

14. GOVERNING LAW AND JURISDICTION

- 14.1 This Deed 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) is governed by and construed in accordance with the law of England and Wales.
- 14.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and decide any suit, action or proceedings and/or settle any dispute or claim arising out of or in connection with this Deed or its subject matter or formation (including noncontractual disputes or claims).

1 5. RIGHTS OF THIRD PARTIES

Unless the right of enforcement is expressly provided for, no third party (as defined in the Contracts (Rights of Third Parties) Act 1999) except for any permitted successor or assignee of any party to this Deed has any rights under that Act to enforce any term of this Deed.

This document 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 by [insert name of company] acting by [insert name of first director], a director and [insert name of second director or secretary] [a director/its secretary]

Director/
.....
[Director/Secretary]
.....

Executed as a deed by [insert name of company] acting by [insert name of director], a director, in the presence of [insert name of witness]:

Director
.....

Signature (Witness).....
Print Name
Address.....
Occupation.....

Annex D

Sub-consultant Deeds of Collateral Warranty — does not apply

20101

Collateral Warranty from Sub-Consultant to
relating to

[o] (²) and