

Appendix 1

CONTRACTOR'S COLLATERAL WARRANTY

Template Deed of Collateral Warranty to be provided by the Contractor in favour of a **Landlord**
/ Purchaser/ Tenant

To be provided within 1 week of signing the PCSA contract

Appendix 2

DESIGN CONSULTANT COLLATERAL WARRANTY

Template Deed of Collateral Warranty to be provided by the Design Consultants in
favour of the
Employer and Landlord/ Purchaser/ Tenant

To be provided within 28 days of signing the PCSA contract

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KEY SUB-CONTRACTOR COLLATERAL WARRANTY

Template Deed of Collateral Warranty to be provided by a Key Sub-Contractor in favour of the
Employer and Landlord/ Purchaser/ Tenant

To be provided in advance of the executed JCT Design and Build Contract

Appendix 4

PARENT COMPANY GUARANTEE Not

Used

Appendix 5

PERFORMANCE BOND Not

Used

Appendix 6

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THIRD PARTY AGREEMENTS

Extract from agreement for lease between the Secretary of State for Housing Communities and Local Government and Reuben Brothers (Newcastle) Limited in respect of Pilgrim's Quarter:

11. LANDLORD'S WORKS

11.9.7 The Landlord shall during the course of the Landlord's Works (but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works) until the Practical Completion Date permit the Tenant, the Tenant's Representative and the Clerk of Works and all others properly acting on behalf of the Tenant to have access to view the Landlord's Works at least once a week (as the minimum) but unfettered six (6) months prior to the Practical Completion Date, strictly subject to the following conditions:

11.9.7.1 the Tenant shall make prior arrangement with the Landlord (which the Landlord shall not unreasonably withhold or delay);

11.9.7.2 the Tenant and all persons accessing the CAT A Works on behalf of the Tenant shall do so entirely at their own risk;

11.9.7.3 the Tenant shall procure that all persons accessing the CAT A Works on behalf of the Tenant shall report to the Contractor on arrival and comply with all health and safety and security requirements;

11.9.7.4 the Tenant shall procure that all persons accessing the CAT A Works on behalf of the Tenant shall neither make any comment or representation to nor purport to instruct the Contractor on any matter relating to the CAT A Works and shall not interfere with or hinder the Contractor in the carrying out of the CAT A Works (but, for the avoidance of doubt, if a health and safety issue is noticed the Tenant or the Tenant's Representative may notify the Clerk of Works at the time);

11.9.7.5 if so required by the Landlord the persons accessing the CAT A Works on behalf of the Tenant shall be accompanied by the Landlord or his representative.

11.10 Without prejudice to the generality of clause 11.9.7, the Landlord shall at all reasonable times on request from the Tenant provide the Tenant with access to the construction facilities on the Property, including (without limitation) the provision of a meeting room of sufficient size to accommodate up to ten (10) people.

11.11 The Tenant shall procure that all persons accessing the Property on or behalf of the Tenant shall report to the Contractor on arrival and shall comply with all health and safety security requirements notified to them in writing.

11.12 Any comments which the Tenant or the Tenant's Representative desires to make concerning the Landlord's Works (but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the Cat B Works) shall be made to the Landlord or the Landlord's representative directly and not to the Contractor or any of the Professional Team. The Landlord shall give due regard and take appropriate action in respect of any comments made by or on behalf of the Tenant during any such visit and the Landlord shall

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maintain a formal record of all such representations made by or on behalf of the Tenant or the Tenant's Representative as well as a formal record of all actions that the Landlord is proposing to take in relation to those representations.

11.13 The Landlord shall deliver to the Tenant not later than eight (8) weeks before the Practical Completion Date a draft set of maintenance and operation manuals in respect of the Landlord's Works (but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the Cat B Works) (to allow the Tenant a four week review window) and as soon as reasonable possible and in any event within four (4) weeks after the Practical Completion Date (except where a different period is specifically referred to below):

11.13.1 one set of as-built drawings for the Landlord's Works (but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the Cat B Works) which shall include:

11.13.1.1 as-built architectural record drawings, including all plumbing, sanitary and mechanical and electrical installations;

11.13.1.2 as-built structural engineer/record drawings;

11.13.1.3 as-built mechanical and electrical services/record drawings;

11.13.1.4 a BIM Level 2 fully federated model in accordance with BIM EIR requirements including COBie Data;

in each case in CAD form, and the Landlord shall grant or procure the grant to the Tenant an irrevocable royalty-free non-exclusive copyright licence with an ability to grant sub-licences to copy and use the drawings and documents in this clause 11.13.1.

11.13.2 one set of maintenance and operation manuals and a copy of the health and safety file in respect of the CAT A Works;

11.13.3 all testing and commissioning certificates and data in respect of plant and machinery installed as part of the Landlord's Works (but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the Cat B Works);

11.13.4 a provisional copy of the Energy Performance Certificate and BREEAM 'Excellent' Certificate (with final certificates to be issued within five (5) Working Days of receipt and by no later than the Completion Date);

11.14 The Landlord will use all reasonable endeavours to procure that:

11.14.1 it holds monthly site meetings with the Contractor and the Tenant and/or the Tenant's Representative provided such meetings will be held fortnightly during the period one month prior to the Target Practical Completion Date;

11.14.2 a copy of the minutes of every site meeting are supplied to the Tenant as soon as reasonably practicable and in any event within 48 hours;

11.15 Without prejudice to clause 11.14, the Landlord will:

11.15.1 keep the Tenant and the Clerk of Works informed on a monthly basis (or sooner in the case of emergency) of material measures taken and stages reached by the Landlord in performing its obligations; and

11.15.2 advise the Tenant (and its professional advisers) and the Clerk of Works promptly after such issues are brought to its attention of any problems or delays affecting the Landlord's Works (but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the Cat B Works) ; and

11.15.3 provide to the Tenant and the Clerk of Works on a monthly basis:

- 11.15.3.1 evidence of senior management site health and safety tours;
- 11.15.3.2 copies of any reports published by the Landlord, including any health and safety issues, RIDDOR occurrences and any 'near miss' events;
- 11.15.3.3 evidence of client monitoring of appointees' duties as required by the Construction (Design and Management) Regulations 2015;
- 11.15.3.4 evidence of the Contractor's health and safety inspections;
- 11.15.3.5 evidence of the Contractor's occupational health monitoring measures as applicable and progress towards health, safety and wellbeing goals for the project; and
- 11.15.3.6 details of accidents, incidents and near misses and actions taken.

12 CAT B Works

12.1 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 to carry out the CAT B Works then the Landlord's obligations pursuant to this Agreement to achieve the Practical Completion Date by the Target Date shall not apply in respect of the CAT B Works and the Tenant shall proceed to carry out and complete the CAT B Works in accordance with the following provisions of this clause 12 of this Agreement; In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 to carry out the CAT B Works the Tenant shall:

12.1.1 obtain all Necessary Consents in respect of the CAT B Works and shall give all notices required by any Laws and shall supply the Landlord and the Landlord with all copies of such Necessary Consents and notices;

12.1.2 be bound by the same covenants contained in the Lease relating to planning permissions statutory approvals and alterations insofar as they relate to the CAT B Works;

12.1.3 use all reasonable endeavours to carry out any works so that a BREEAM 'Excellent' rating is achieved (subject to the Landlord complying with its obligation in clause 11.1.3).

12.2 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 to carry out the CAT B Works the Tenant shall as soon as practicable after the date of this Agreement and in any event no less than thirty (30) Working Days prior to the Access Date:

12.2.1 at its own expense submit to the Landlord the Tenant's Plans in triplicate together with such other information as the Landlord may reasonably require; and

12.2.2 make an application to the Landlord for approval of the Tenant's Plans which shall be dealt with in accordance with the provisions as to alterations in the Lease.

12.3 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 to carry out the CAT B Works after all approvals and consents required by this clause 12 have been obtained, the Tenant shall as from the Access Date proceed to carry out and complete the CAT B Works without delay and in any event by the CAT B Longstop Date.

12.4 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 to carry out the CAT B Works as between the Landlord and the Tenant the Landlord shall be released from all of its obligations under this Agreement that relate to CAT B Works (other than the payment of the CAT B Payment to the Tenant) on the date of the Landlord's notice under clause 11.16.

- 12.5 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 to carry out the CAT B Works the CAT B Works shall be carried out and completed in accordance with the Tenant's Plans (and any variations subsequently approved by the Landlord) and in compliance with the provisions of the Licence for Alterations (as if it were then in existence) and all applicable Laws.
- 12.6 If the Tenant's Plans have not been approved by the Completion Date, the Parties shall enter into the Licence for Alterations within ten (10) Working Days after approval of the Tenant's Plans.
- 12.7 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 the Tenant shall exercise all reasonable skill and care to ensure that no substances or materials are used in the CAT B Works which at the time of their specification are in the context of their intended use (whether by themselves or in a particular situation or in combination with other substances or materials) known to be deleterious or to pose a threat to health and safety or the durability of the CAT B Works of the Premises and not using Prohibited Materials.
- 12.8 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 for the purposes of the CDM Regulations;
- 12.8.1 The Tenant elects to be the sole "Client" pursuant to Regulation 8 of the CDM Regulations for the purposes of the CAT B Works and the Landlord agrees with such election and the Tenant shall comply with its obligations under the CDM Regulations;
- 12.8.2 The Tenant will supply the Landlord with a copy of its health and safety file relating to the CAT B Works no later than two calendar months after practical completion of such works;
- 12.8.3 The Tenant shall use all reasonable endeavours to ensure that the Tenant's appointed principal designer co-operates and liaises with the Principal Designer.
- 12.9 In the event the Landlord gives notice to the Tenant in accordance with clause 11.16 the Tenant shall permit the Landlord and all persons authorised by the Landlord to have access to the CAT B Works at all reasonable times for the purpose of inspecting the CAT B Works but strictly subject to the following conditions:
- 12.9.1 the Landlord shall make prior arrangement with the Tenant (which the Tenant shall not unreasonably withhold or delay);
- 12.9.2 the Landlord and all persons accessing the CAT B Works on behalf of the Tenant shall do so entirely at their own risk;
- 12.9.3 the Landlord shall and shall procure that all persons accessing the CAT B Works on behalf of the Landlord shall report to the CAT B Contractor on arrival and comply with all health and safety and security requirements;
- 12.9.4 the Landlord shall procure that all persons accessing the CAT B Works on behalf of the Landlord shall neither make any comment or representation to nor purport to instruct the CAT B Contractor on any matter relating to the CAT B Works and shall not interfere with or hinder the CAT B Contractor in the carrying out of the CAT B Works (but, for the avoidance of doubt, if a health and safety issue is noticed the Landlord may notify the Clerk of Works at the time);
- 12.9.5 if so required by the Tenant the persons accessing the CAT B Works on behalf of the Landlord shall be accompanied by the Tenant or his representative.
- 12.10 The Landlord and the Tenant shall procure that the Contractor, the CAT B Contractor and the Clerk of Works liaise with each other with a view to settling a detailed programme setting

out the timing and programme of each part of the CAT B Works and the Landlord and the Tenant shall use reasonable endeavours to procure that such contractors comply with such programme and generally co-operate with each other to reduce, so far as reasonably practicable, any delay caused to the balance of the CAT A Works.

12.11 The Tenant shall pay to and fully indemnify the Landlord for all losses claims expenses demands proceedings or damage caused or incurred by or brought against the Landlord which arise either directly or indirectly from the carrying out of (or failure to carry out either properly or at all) the CAT B Works or from the breach of any of the Tenant's obligations under this Agreement provided always that the Landlord shall:

12.11.1 use its reasonable endeavours to mitigate its losses; and

12.11.2 use its reasonable endeavours to recover any part of such losses from any third party responsible (in whole or part) for such losses being incurred and in the event of monies being so recovered to pay those monies (to the extent the Tenant has previously paid such monies to the Landlord pursuant to this clause 12.11) to the Tenant in cleared funds within ten (10) Working Days of receipt.

12.12 In the event that the Landlord gives notice to the Tenant in accordance with clause 11.16 following receipt of a reasonable request from the Tenant and at the Tenant's cost the Landlord shall co-operate with the Tenant by providing technical information and input so as to enable the implementation of the Government Soft Landings Plan (provided that the Approved Documents and the provisions of this Agreement shall take precedence over the Government Soft Landings Plan where there is a conflict).

12.13 The Tenant shall allow the Landlord, the Contractor and the Professional Team and any SubContractors access to the Building to undertake any snagging works and any defects rectification works immediately upon request subject to compliance with the Defects Protocol.

13 MEETINGS AND INFORMATION

13.1 The Landlord shall permit the Tenant and its advisers and all others properly acting on behalf of the Tenant at such intervals as may from time to time be reasonable (which may include daily visits during snagging and commissioning periods) on reasonable prior written notice and subject to the proper safety requirements imposed by the Landlord or the Contractor or any other responsible person (accompanied by a representative of the Landlord if the Landlord shall so require in which event the Landlord shall use reasonable endeavours to procure a representative is made available) to enter the Building to view the progress and state of the Landlord's Works and the materials used or intended to be used.

13.2 The persons so entering shall not interfere with the Landlord's Works or the progress of the Landlord's Works or give any instruction to the Contractor or to any member of the Professional Team.

13.3 The Landlord shall give not less than ten (10) Working Days' prior written notice to the Tenant and the Clerk of Works of the time, date and place of progress meetings relating to the Landlord Works arranged for that purpose with the Contractor and the Tenant and its advisers shall be entitled to attend as observers at all such progress meetings.

13.4 The Landlord shall give not less than ten (10) Working Days' prior written notice to the Tenant of the time, date and place of any meetings of the Landlord's design team, and the Tenant and its advisers shall be entitled to attend as observers at all such progress meetings.

13.5 The Tenant and the Clerk of Works may make representations to the Landlord in connection with the CAT A Works and it is agreed as follows:

- 13.5.1 the Landlord shall take proper account of such representations;
- 13.5.2 any representations made by on behalf of the Tenant shall be made in writing direct to the Landlord or the Landlord's Representative and as soon as reasonably practicable after any relevant progress meeting;
- 13.5.3 no representation shall be made to the Contractor or any member of the Professional Team or to any other party involved in the designing or carrying out of the CAT A Works; and
- 13.5.4 Nothing in this Agreement shall interfere in any way with the obligations of the 'employer' under the Building Contract or the Appointments.
- 13.6 The Landlord and the Tenant will fortnightly after the date of this Agreement progress the Design Process and attend design team meetings with a view to reviewing and settling the relevant designs, plans, specifications and programmes for the carrying out of the CAT A Works, both parties acting reasonably and on a collaborative basis to settle such documentation and information. The Landlord shall share the CAT A BIM model with the Tenant and provide updated versions at design team meetings as soon as such versions become available.
- 13.7 The Landlord will keep the Tenant informed on a monthly basis (or sooner in the case of emergency) of any measures taken and stages reach by the Landlord in performing its obligations and will notify the Tenant promptly in writing of any material changes to the programme for carrying out of the CAT A Works and of any problems which may become apparent to the Landlord which would have a material effect on the completion of the CAT A Works.
- 13.8 The Landlord and the Tenant will comply with their obligations set out in paragraph 3 of Schedule 3 regarding the convening and attendance at BIM progress meetings.
- 13.9 The Landlord and the Tenant shall no later than the date which is three (3) calendar months following the date of this Agreement and from time to time thereafter acting reasonably and in good faith agree any required variations to the Works Programme and use reasonable endeavours to agree accelerated dates if progress against the Works Programme justifies them as being reasonable and practical and/or changes to the Works Programme to facilitate occupation pursuant to the Works Programme (including any such accelerate dates as have been agreed) as soon as far as reasonably possible.
- 13.10 The Landlord in relation to the CAT A Works and the Tenant in relation to the CAT B Works will each use reasonable endeavours in cooperation with the other to procure that:
- 13.10.1 the terms of the Works Programme are observed and performed;
- 13.10.2 the CAT A Works are progressed so as to achieve the Practical Completion Date by the Target Practical Completion Date;
- 13.10.3 the CAT B Works are progressed so as to achieve the CAT B Practical Completion Date by the CAT B Longstop Date; and
- 13.10.4 measurement of the Property can take place in accordance with clause 22 of this Agreement by the Practical Completion Date.

14 CLERK OF WORKS

- 14.1 The Landlord and the Tenant shall jointly appoint the Clerk of Works by an Appointment to monitor the quality of the workmanship in respect of the CAT A Works and the CAT B Works and ensure the compatibility between the Landlord's Works and the CAT B Works. The Landlord and the Tenant shall procure that the Clerk of Works has due regard to any

representations made by the Tenant in relation to the quality of the workmanship in respect of the CAT A Works and the CAT B Works and shall report on any matters which would have an adverse effect on the completion of the Landlord's Works and/or the CAT B Works.

14.2 The Landlord and the Tenant shall permit the Clerk of Works to have access to the CAT A Works and the CAT B Works at all reasonable times for the purpose of:

(i) monitoring the quality of the workmanship in respect of the CAT A Works and the CAT B Works and materials used and installed as part of the CAT A Works and the CAT B Works; and

(ii) monitoring progress towards the achievement of the objectives set out above in clause 14 and making recommendations as to how best to achieve them.

14.3 Any rights granted to the Landlord or to the Tenant and its advisors to attend meetings, receive minutes or reports and make representations shall extend to the Clerk of Works.

14.4 The Landlord shall bear the costs and all fees associated with the appointment of the Clerk of Works and the Commissioning Manager.

15 COMMISSIONING MANAGER

15.1 The Landlord and Tenant shall appoint a Commissioning Manager to oversee and report on the commissioning of the public health systems and mechanical and electrical systems and installation so as to ensure that these are available for the beneficial use by the Tenant on the Practical Completion Date or if earlier, the date on which the Tenant is allowed in to occupation of the Property to commence the CAT B Works.

15.2 The Landlord and Tenant shall bear the costs and fees of the Commissioning Manager equally.

17. ACCESS PENDING COMPLETION

17.1 The Tenant will be allowed access to the Premises from and including the Access Date by way of licence for period of eighteen (18) months in accordance with the following provisions of this clause 17. No licence fee will be payable by the Tenant.

17.2 The Tenant will be entitled to access the Premises only for the purpose of carrying out the Tenant's Works in accordance with the terms of this Agreement.

17.3 This Agreement does not operate to demise the Premises to the Tenant and no relationship of landlord and tenant will exist between the Landlord and the Tenant until the grant of the Lease.

17.4 The access by the Tenant is at the sole risk of the Tenant.

17.5 Save as varied by this clause 17, the licence incorporates all of the covenants and other obligations of the Tenant in the Lease as if granted on the Access Date and the Tenant agrees to observe and perform them.

17.6 The Landlord shall be entitled to all remedies by action or otherwise (including taking control of goods) for recovering any monies or for breach of obligation on the part of the Tenant as if the Lease had then been granted.

17.7 The licence is personal to the Tenant and the Tenant may not assign it or allow anyone else to access the Premises.

17.8 The Tenant shall quit the Premises immediately the licence ends and deliver them with vacant possession to the Landlord.

17.9 The licence will end immediately on the earliest of the following:

17.9.1 the grant of the Lease;

17.9.2 rescission or termination of this Agreement;

17.9.3 written notice by the Landlord to the Tenant:

17.9.3.1 on the occurrence of any event which would allow the Landlord to re-enter the Premises under the Lease had it already been granted; or

17.9.3.2 of a Tenant's Default which the Tenant has failed to remedy within five (5) working days after receipt of a written notice from the Landlord requiring the same to be remedied.

17.10 If the Tenant does not quit the Premises after the licence ends, in addition to any other remedies of the Landlord, the Tenant shall pay to the Landlord compensation consisting of an amount equal to the licence fee which would have been payable under this clause had the licence not ended.

20. PRACTICAL COMPLETION

20.1 Not less than three (3) months prior to the anticipated Practical Completion Date the Landlord and the Tenant shall engage in relation to handover of the Property and the Landlord shall provide to the Tenant full details of the Contractors aftercare procedures a summary of any necessary service level agreements and shall procure such workshops, meetings, inspections, and briefings as the Tenant shall reasonably require in order to be informed about the Property and the embedded systems. The Landlord shall procure that the Professional Team and the Building Contractor make suitable personnel available at no cost to the Tenant in relation to such handover.

20.2 The Landlord will give the Tenant not less than six (6) weeks' written notice of the anticipated Practical Completion Date together with a reportable countdown requirement, with which the Landlord will comply.

20.3 Not less than eight (8) weeks prior to the anticipated Practical Completion Date, the Landlord shall upload to the Tenant's common data environment platform specified in paragraph 2 of Schedule 3 the up to date drafts of all operation and health and safety manuals.

20.4 The Landlord shall give not less than ten (10) Working Days' notice to the Tenant of the date of inspection after which it is the Landlord's Representative's intention to issue the Practical Completion Certificate so that the Tenant and its professional advisers may inspect the Landlord's Works and consider whether the Landlord's Works have been practically completed.

20.5 The Tenant may make representations to the Landlord's Representative as to whether the Practical Completion Certificate should be issued at a particular time or what qualification should be made to it and the Landlord shall procure that the Landlord's Representative has due regard to (but shall not be bound by) any representations made by the Tenant prior to the issue of the Practical Completion Certificate.

20.6 If the Landlord's Representative decides that the Practical Completion Certificate should not be issued then the Landlord shall give not less than five (5) Working Days' notice to the Tenant

of the next date upon which the Landlord's Representative intends to inspect the Landlord's Works with a view to issuing the Practical Completion Certificate and such procedure will be repeated as often as may be necessary.

20.7 The Landlord shall procure that a copy of the Practical Completion Certificate together with any inspection reports issued to the Landlord are delivered to the Tenant within ten (10) Working Days of their issue.

20.8 For the avoidance of doubt the Landlord's Representative shall not be prevented from issuing the Practical Completion Certificate as a result of either:

20.8.1 Minor Snagging Items; or

20.8.2 matters which either cannot be carried out until a later planting season or which need not be carried out until a later date in accordance with a timetable approved by a relevant statutory authority.

21 DEFECTS LIABILITY

21.1 The Landlord shall during the Rectification Period take reasonable steps to enforce the defects liability provisions in the Building Contract in relation to the CAT A Works. The Tenant shall not in any way interfere with or fetter the Landlord's obligations contained in this clause 21.

21.2 In complying with its obligations in clause 21.1 the Landlord shall:

21.2.1 inspect the Premises and prepare a schedule (the "Schedule of Defects") itemising defects, shrinkages and other faults due to materials or workmanship not in accordance with the Building Contract;

21.2.2 deliver a draft of the Schedule of Defects as soon as reasonably practicable to the Tenant, who may make representations on it, and to which the Landlord shall have regard and take into account and incorporate in the Schedule of Defects such additions as have been notified by the Tenant to the Landlord;

21.2.3 deliver to the Contractor the Schedule of Defects within the appropriate time limits for doing so under the Building Contract;

21.2.4 comply with the Defects Protocol.

21.3 The Tenant shall provide all assistance that the Landlord reasonably requires to enable the Schedule of Defects to be prepared.

21.4 If the Landlord complies with the provisions of clause 21.2 the Tenant will not be entitled to complain that any item omitted from the Schedule of Defects has not been dealt with under the defects liability provisions in the Building.

21.5 In the event that the Landlord fails to rectify defects in accordance with the Defects Protocol the Tenant shall following service of ten (10) Working Days' notice on the Landlord specifying the steps to be taken to rectify such defect failing which the Tenant may itself complete such defect and claim the costs of doing so from the Landlord as a debt payable on demand.

22 SECURITY AND OBJECTIONABLE USES

22.1 From the Access Date the Landlord will have due regard to any reasonable representation made by the Tenant as to the security measures affecting the Building.

22.2 From the Access Date the Landlord must, when seeking to enter the Property for the purpose of inspecting the CAT B Works under this Agreement:

23.1.1 provide such details as the Tenant may require as to the identity of the persons requiring entry to the Premises (and have regard to any requirements of the Tenant).

23.1.2 if the Tenant so requires, be accompanied by the Tenant's representative (subject to the Tenant making a representative available);

23.1.3 observe the Tenant's reasonably security requirements;

23.1.4 observe any specific conditions to the Landlord's entry set out in the Lease.

DEFINITIONS

Access Date

the date on which the Landlord's Representative notifies the Tenant that the Landlord's Works have been sufficiently completed so that the Tenant may have access to the Premises for the purpose of carrying out the CAT B Works provided that no notification will be given -

(i) until the Access Conditions have been satisfied;

(ii) prior to the date six (6) weeks prior to the Practical Completion Date;

Building

the building to be constructed on the Property by the Landlord and forming part of the Landlord's Works;

Building Contract

the building contract for the carrying out of the Landlord's Works but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works to be entered into between the Landlord (1) and the Contractor (2) in relation to the Landlord's Works excluding the CAT B Works in the event the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works substantially in the form of the JCT Design & Build 2016 Edition with such amendments as are set out in Annexure 8 (and incorporating a term that the Practical Completion Certificate will not be issued until the Practical Completion Criteria have been met) and such further amendments as may be approved by the Tenant (such approval not to be unreasonably withheld or delayed);

CAT A Works	<p>those parts of the Landlord's Works comprising 'Category A Works' and including:</p> <ul style="list-style-type: none">(i) lighting heating ventilation and cooling controls;(ii) chilled water, LTHW heating, fresh air ventilation commissioning;(iii) lighting (including emergency lighting);(iv) fire alarm system;(v) on floor sprinklers, fire alarms and basic safety signs;(vi) raised floors;(vii) suspending ceilings;(viii) finishes to the internal face of external core walls;(ix) blind boxes;(x) finishes to cores and columns;(xi) glazing; and(xii) domestic water and drainage <p>as shown in the Approved Documents and including any CAT A Additions but excluding any CAT A Deletions;</p>
CAT B Contractor	such contractor appointed by the Tenant to design and construct the CAT B Works and notified to the Landlord;
CAT B Longstop Date	(if applicable) the date being eighteen (18) calendar months from and including the Practical Completion Date extended (if applicable) under clause 11.7
CAT B Practical Completion Date	the date specified in the CAT B Practical Completion Certificate as the practical completion date of the CAT B Works where the Landlord has served a notice pursuant to clause 11.16 of this Agreement;
CAT B Works	all of the Tenant's fitting out works as shown in the Approved Documents or as set out in such specification as may be approved pursuant to clause 12.3.1 including the plans and drawings referred to therein and any addendum document annexed thereto as developed and as may be amended or varied in accordance with the provision of this Agreement;
CDM Regulations	the Construction (Design and Management) Regulations 2015;

Clerk of Works

such suitable qualified, independent, experienced and competent firm of surveyors jointly appointed by the Landlord and the Tenant from time to time (but at the cost of the Landlord) to act as a clerk of works for the purposes of:

- (i) monitoring the quality of the workmanship in respect of the CAT A Works and the CAT B Works and materials used and installed as part of the CAT A Works and the CAT B Works; and
- (ii) monitoring progress towards the achievement of the objectives set out in clauses 8 and 9 and making recommendations as to how to best achieve them;
- (iii) providing a report to the Landlord and the Tenant in accordance with a resource schedule to be agreed between the parties as to the progress of the CAT A Works and providing recommendations regarding the streamlining of the CAT A Works and the CAT B Works to minimise wasted time and costs;

Commissioning Manager

such commissioning manager as shall be jointly appointed by the Landlord and Tenant;

Completion Date

where the Landlord has not served notice under clause 11.16 requiring the Tenant to carry out the CAT B Works the date twenty (20) Working Days from and including the latest of the following:

- (i) the Practical Completion Date;
- (ii) the delivery of an engrossment of the counterpart of the Lease to the Tenant's Conveyancer; and
- (iii) the agreement or determination of the Net Internal Areas pursuant to clause 22;

and where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works the earlier of the CAT B Practical Completion Date and the CAT B Longstop Date;

Contractor

Bowmer & Kirkland Ltd of High Edge Court, Church St, Heage, Belper DE56 2BW or such other reputable and experienced building contractor or contractors as the Landlord may employ to act as the building contractor to carry out the Landlord's Works (but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the Cat B Works) whose appointment the Tenant has approved in accordance with the terms of this Agreement (such approval not to be unreasonably withheld or delayed) and who, in each case has entered into a Building Contract;

Landlord's Representative

Avison Young of 3 Brindley Place, Birmingham, B1 2JB or such other project manager and employer's agent as shall be appointed from time to time in that person's place and which has entered into an Appointment;

Landlord's Works

the works to be carried out and completed by the Landlord at the Property including (without limitation) the construction of the Building and the Premises by way of shell and core works and the CAT A Works and the CAT B Works (unless the Landlord has served a notice under clause 11.16) together with such other works as are shown in the Landlord's Plans from time to time in so far as they relate to the Building;

Laws

statutes, statutory instruments, EC directives, codes of practice, regulations, orders, notices, directions or requirements of any Competent Authority or under common law;

Minor Snagging Items

means any outstanding items of the Landlord's Works which:

- (i) can be completed or remedied without unduly interfering with, prejudicing or delaying the commencement, carrying out and completion of the CAT B Works or the contract period;
- (ii) do not increase the cost of the CAT B Works; and
- (iii) may be carried out within fifteen (15) Working Days;

Necessary Consents

all permissions, consents, approvals, licences and authorisations whether of a public or private nature as may be necessary from time to time to enable either the Landlord's Works or in the event the Landlord has not served notice on the Tenant in accordance with clause 11.6 the CAT B Works (as the case may be) to be carried out and completed;

Permitted Delay

extensions of time:

- (a) allowed under the terms of the Building Contract (excluding delays caused due to any failure, act or omission by the Landlord in relation to any aspect of the Landlord's Works); and/ or
- (b) caused by any local or central government mandate prohibiting or limiting work at the Building due to a pandemic or health crisis including COVID-19;
- (c) that are fair and reasonable having regard to the delay in question, where completion of the Landlord's Works is delayed due to an event or cause that is caused by Force Majeure; and/ or
- (d) caused by any Tenant's Variations or other variations requested by the Tenant and agreed to by the Landlord (whether or not such variations can be requested under this Agreement) unless such variations result in a net reduction of time necessary to undertake the Landlord's Works;
- (e) caused by the carrying out of the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works;

Practical Completion	practical completion of the Landlord's Works (but not including the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works) in accordance with the Building Contract and the expression practically completed shall be construed accordingly and for the avoidance of doubt securing a completion certificate under the Building Regulations 2010 in connection with the Landlord's Works shall not of itself constitute practical completion;
Practical Completion Certificate	the certificate or notice or statement of the practical completion of the Landlord's Works (but not including the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works) to be issued to the Contractor under the terms of the Building Contract in accordance with the Practical Completion Criteria;
Practical Completion Date	the date specified in the Practical Completion Certificate;
Premises	the property forming part of the Building and more particularly defined in the Lease as the 'Premises';
Prohibited Materials	any materials or substances which are not at the date of specification in accordance with the guidelines contained in the publication "Good Practice in the Selection of Construction Materials" (2011: British Council for Offices) or which are otherwise generally known to be deleterious or hazardous to health and safety;
Property	the freehold property shown edged green on the attached plan bounded by Pilgrim Street to the West, Worswick Street to the North and Carliol Square to the East and being registered at the Land Registry with absolute title under title number ND12323 and described as land and buildings on the South West side of Carliol Street and the South East side of New Bridge Street Newcastle upon Tyne;
Rectification Period	<p>shall be a period of</p> <p>(a) 24 months calculated from the Practical Completion Date in respect of the Landlord's Works comprising the Building;</p> <p>(b) 12 months from the Practical Completion Date in respect of the Landlord's Works to external areas including landscaping;</p>
Target Practical Completion Date	<div style="background-color: black; width: 60px; height: 1.2em; display: inline-block;"></div> as extended by any period as shall be certified by the Landlord's Representative as being due to any Permitted Delay and/or pursuant to paragraph 8 of Schedule 2;

Tenant's Variation

any variations to the Landlord's Works which are approved by the Landlord in accordance with Schedule 2 and/ or any CAT A Deletions and /or any Cat A Additions which are approved by the Landlord in accordance with this Agreement;

Tenant's Works

(if the Landlord elects under clause 11.16 for the Tenant to carry out the CAT B Works) the CAT B Works and such other fitting out or other initial works as the Tenant is intending to carry out at the Premises and such other works as may be approved in accordance with this Agreement;

Working Days

any day except Saturday, Sunday and bank or public holidays in England;

Works Programme

the programme for carrying out of the Landlord's Works but not the CAT B Works where the Landlord serves notice under clause 11.16 requiring the Tenant to carry out the CAT B Works which is attached to this agreement at Annexure 14; and

1.8 Reference to a statute or statutory instrument includes all subordinate legislation made under it and any re-enactment, amendment or consolidation of it which is for the time being in force (unless expressly provided otherwise).

1.9 Any references to includes, include or including are deemed to be followed by the words "without limitation".

SCHEDULE 5

Practical Completion Criteria

1. The Contractor has obtained a completion certificate under the Building Regulations 2010 in respect of the Landlord's Works.
2. The Landlord's Works are weather tight.
3. The Warranties to be provided by the Contractor and the Professional Team have been provided to the Tenant.
4. All drainage is available and fully functional and is connected ultimately to public services either directly or through a private system with rights to use such system granted in the Lease.
5. All electricity, gas (if appropriate) telephone and water services are supplied and are fully connected, commissioned and are, so far as practicable, capable of being fully functional.
6. All building materials cabins temporary structures and rubbish have been removed from the Building.
7. Any works which are required under any planning permission or statutory agreement before the completed Landlord's Works can (subject to the CAT B Works) lawfully be occupied and used have been carried out.
8. Any public health systems and MEP in the Landlord's Works has been (to the extent reasonably practicable having regard to the fact that the CAT B Works have not been carried

out and the impact of the CAT A Deletions) balanced, tested, commissioned, certified, explained and demonstrated to the Landlord's personnel and to the Tenant's personnel.

9. The keys for all locks have been individually labelled to indicate their location and have been stored in a lockable cabinet on the site.

10. A CCTV survey of all below ground drainage up to the point of discharge into the main sewer has been completed and all defects remedied.

11. The Contractor has delivered to the Landlord all draft operation and maintenance manuals and current draft as built drawings.

12. The Crown Fire Inspector has inspected and there are no outstanding requirements which are required to be delivered prior to the Tenant taking up occupation of the Building.

APPENDIX 13

DEFECTS PROTOCOL

Defects shall be classified according to the following 'Priority Classification' which relates to the response times for responding to and remedying defects and the Landlord will enforce the obligations of the Contractor in the Building Contract in these respects: -

1 Category 1 Defects are health and safety issues, which are to be made safe as soon as reasonably practicable (and in any event within 8 hours of notification) and thereafter to be made good within a reasonable time (and in any event within 10 Working Days as such period

may be extended to take into account any restrictions on access to carry out the works or other impediment);

2 Category 2 Defects are emergency defects, which are to be made safe within 24 hours (for example where the roof is leaking and affecting fit-out or trade), and thereafter to be made good within a reasonable time (and in any event within 10 Working Days as such period may be extended to take into account any restrictions on access to carry out the works or other impediment);

3 Category 3 Defects are defects requiring attention within 7 Working Days and thereafter to be made good within such time as may be instructed by the Employer (acting reasonably) in its notification of the Priority Classification of such defect. Delay caused to the Cat B Works are included in this category;

4 Category 4 Defects are defects requiring attention within 20 Working Days and thereafter to be made good such time as may be instructed by the Employer (acting reasonably) in its notification of the Priority Classification ; and

5 Category 5 Defects are defects that may be left to the end of the Rectification Period.

Appendix 7

ADDITIONAL REQUIREMENTS

AUTHORITY'S MANDATORY TERMS

(A) For the avoidance of doubt, references to 'the Agreement' mean the attached Contract between the Supplier and the Authority. References to 'the Authority' mean the Commissioners for His Majesty's Revenue and Customs and references to the Supplier mean the Contractor.

(B) The Agreement incorporates the Authority's mandatory terms set out in this Appendix 7.

(C) In case of any ambiguity or conflict, the Authority's mandatory terms in this Appendix 7 will supersede any other terms in the Agreement.

(D) For the avoidance of doubt, the relevant definitions for the purposes of the defined terms set out in the Authority's mandatory terms in this Appendix 7 are the definitions set out at Clause 1 of this Appendix 7.

1. DEFINITIONS

"Affiliate"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
"Authority Data"	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to the Supplier by or on behalf of the Authority; and/or</p> <p>(ii) which the supplier is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>(b) any Personal Data for which the Authority is the Controller, or any data derived from such Personal Data which has had any designatory data identifiers removed so that an individual cannot be identified;</p>
"Charges"	the charges for the Services as specified in the Agreement;
"Connected Company"	means, in relation to a company, entity or other person, the Affiliates of that company, entity or other person or any other person associated with such company, entity or other person;

“Control”	the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “Controls” and “Controlled” shall be interpreted accordingly;
“Controller”, “Processor”, “Data Subject”	take the meaning given in the UK GDPR;

“Data Protection Legislation”	<p>(a) the data protection legislation" as defined in section 3(9) of the Data Protection Act 2018; and;</p> <p>(b) all applicable Law about the processing of personal data and privacy;</p>
“Key Subcontractor”	<p>any Subcontractor:</p> <p>(a) which, in the opinion of the Authority, performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or</p> <p>(b) with a Subcontract with a contract value which at the time of appointment exceeds (or would exceed if appointed) ten per cent (10%) of the aggregate Charges forecast to be payable under this Call-Off Contract;</p>
“Law”	any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1)– of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“Personal Data”	has the meaning given in the UK GDPR;
“Purchase Order Number”	the Authority’s unique number relating to the supply of the Services;
“Services”	the services to be supplied by the Supplier to the Authority under the Agreement;

“Subcontract”	any contract or agreement (or proposed contract or agreement) between the Supplier (or a Subcontractor) and any third party whereby that third party agrees to provide to the Supplier (or the Subcontractor) all or any part of the Services, or facilities or services which are material for the provision of the Services, or any part thereof or necessary for the management, direction or control of the Services or any part thereof;
“Subcontractor”	any third party with whom: <div style="margin-left: 40px;"> (a) the Supplier enters into a Subcontract; or (b) a third party under (a) above enters into a Subcontract, </div> or the servants or agents of that third party;
“Supplier Personnel”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier's obligations under the Agreement;
“Supporting Documentation”	sufficient information in writing to enable the Authority to reasonably verify the accuracy of any invoice;
“Tax”	<div style="margin-left: 40px;"> (a) all forms of tax whether direct or indirect; (b) national insurance contributions in the United Kingdom and similar contributions or obligations in any other jurisdiction; (c) all statutory, governmental, state, federal, provincial, local government or municipal charges, duties, imports, contributions, levies or liabilities (other than in return for goods or services supplied or performed or to be performed) and withholdings; and (d) any penalty, fine, surcharge, interest, charges or costs relating to any of the above, </div> in each case wherever chargeable and whether of the United Kingdom and any other jurisdiction;

<p>“Tax Non-Compliance”</p>	<p>where an entity or person under consideration meets all 3 conditions contained in the relevant excerpt from HMRC’s “Test for Tax Non-Compliance”, as set out in Annex 1, where:</p> <p>(a) the “Economic Operator” means the Supplier or any agent, supplier or Subcontractor of the Supplier requested to be replaced pursuant to Clause 4.3; and</p> <p>(b) any “Essential Subcontractor” means any Key Subcontractor;</p>
<p>“UK GDPR”</p>	<p>the UK General Data Protection Regulation, the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679);</p>
<p>“VAT”</p>	<p>value added tax as provided for in the Value Added Tax Act 1994.</p>

2. PAYMENT AND RECOVERY OF SUMS DUE "

2.1 The Supplier shall invoice the Authority as specified in Section 4 of the Agreement. Without prejudice to the generality of the invoicing procedure specified in the Agreement, the Supplier shall procure a Purchase Order Number from the Authority prior to the commencement of any Services and the Supplier acknowledges and agrees that should it commence Services without a Purchase Order Number:

2.1.1 the Supplier does so at its own risk; and

2.1.2 the Authority shall not be obliged to pay any invoice without a valid Purchase Order Number having been provided to the Supplier.

2.2 Each invoice and any Supporting Documentation required to be submitted in accordance with the invoicing procedure specified in the Agreement shall be submitted by the Supplier, as directed by the Authority from time to time via the Authority’s electronic transaction system.

2.3 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Authority from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Authority. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any such amount in whole or in part.

3. WARRANTIES

3.1 The Supplier represents and warrants that:

3.1.1 in the three years prior to the date of the Agreement, it has been in full compliance with all applicable securities and Laws related to Tax in the United Kingdom and in the jurisdiction in which it is established;

3.1.2 it has notified the Authority in writing of any Tax Non-Compliance it is involved in; and

3.1.3 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue and the Supplier has notified the Authority of any profit warnings issued in respect of the Supplier in the three years prior to the date of the Agreement.

3.2 If at any time the Supplier becomes aware that a representation or warranty given by it under Clause 3.1.1, 3.1.2 and/or 3.1.3 has been breached, is untrue, or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.

3.3 In the event that the warranty given by the Supplier pursuant to Clause 3.1.2 is materially untrue, the Authority shall be entitled to terminate the Agreement pursuant to Section 8 of the Agreement.

4. PROMOTING TAX COMPLIANCE

4.1 All amounts stated are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice.

4.2 To the extent applicable to the Supplier, the Supplier shall at all times comply with all Laws relating to Tax and with the equivalent legal provisions of the country in which the Supplier is established.

4.3 The Supplier shall provide to the Authority the name and, as applicable, the Value Added Tax registration number, PAYE collection number and either the Corporation Tax or self-assessment reference of any agent, supplier or Subcontractor of the Supplier prior to the provision of any material Services under the Agreement by that agent, supplier or Subcontractor. Upon a request by the Authority, the Supplier shall not contract, or will cease to contract, with any agent, supplier or Subcontractor supplying Services under the Agreement.

4.4 If, at any point during the term of the Agreement, there is Tax Non-Compliance, the Supplier shall:

4.4.1 notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and

4.4.2 promptly provide to the Authority:

(a) details of the steps which the Supplier is taking to resolve the Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

(b) such other information in relation to the Tax Non-Compliance as the Authority may reasonably require.

4.5 The Supplier shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, that is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any Tax relating to payments made to the Supplier under this Agreement. Any amounts due under this Clause 4.5 shall be paid in cleared funds by the Supplier

to the Authority not less than five (5) Working Days before the date upon which the Tax or other liability is payable by the Authority.

4.6 Upon the Authority's request, the Supplier shall provide (promptly or within such other period notified by the Authority) information which demonstrates how the Supplier complies with its Tax obligations.

4.7 If the Supplier:

4.7.1 fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with Clauses 4.2, 4.4.1 and/or 4.6 this shall be a material breach of the Agreement;

4.7.2 fails to comply (or if the Authority receives information which demonstrates to it that the Supplier has failed to comply) with a reasonable request by the Authority that it must not contract, or must cease to contract, with any agent, supplier or Subcontractor of the Supplier as required by Clause 4.3 on the grounds that the agent, supplier or Subcontractor of the Supplier is involved in Tax Non-Compliance this shall be a material breach of the Agreement; and/or

4.7.3 fails to provide details of steps being taken and mitigating factors pursuant to Clause 4.4.2 which in the reasonable opinion of the Authority are acceptable this shall be a material breach of the Agreement;

and any such material breach shall allow the Authority to terminate the Agreement pursuant to Section 11 of the Agreement for Supplier fault (termination for Supplier cause or equivalent clause).

4.8 The Authority may internally share any information which it receives under Clauses 4.3 to 4.4 (inclusive) and 4.6, for the purpose of the collection and management of revenue for which the Authority is responsible.

5. USE OF OFF-SHORE TAX STRUCTURES

5.1 Subject to the principles of non-discrimination against undertakings based either in member countries of the European Union or in signatory countries of the World Trade Organisation Agreement on Government Procurement, the Supplier shall not, and shall ensure that its Connected Companies, Key Subcontractors (and their respective Connected Companies) shall not, have or put in place (unless otherwise agreed with the Authority) any arrangements involving the use of off-shore companies or other off-shore entities the main purpose, or one of the main purposes, of which is to achieve a reduction in United Kingdom Tax of any description which would otherwise be payable by it or them on or in connection with the payments made by or on behalf of the Authority under or pursuant to this Agreement or (in the case of any Key Subcontractor and its Connected Companies) United Kingdom Tax which would be payable by it or them on or in connection with payments made by or on behalf of the Supplier under or pursuant to the applicable Key Subcontract ("**Prohibited Transactions**"). Prohibited Transactions shall not include transactions made between

the Supplier and its Connected Companies or a Key Subcontractor and its Connected Companies on terms which are at arms-length and are entered into in the ordinary course of the transacting parties' business.

5.2 The Supplier shall notify the Authority in writing (with reasonable supporting detail) of any proposal for the Supplier or any of its Connected Companies, or for a Key Subcontractor (or any of its Connected Companies), to enter into any Prohibited

Transaction. The Supplier shall notify the Authority within a reasonable time to allow the Authority to consider the proposed Prohibited Transaction before it is due to be put in place.

5.3 In the event of a Prohibited Transaction being entered into in breach of Clause 5.1 above, or in the event that circumstances arise which may result in such a breach, the Supplier and/or the Key Subcontractor (as applicable) shall discuss the situation with the Authority and, in order to ensure future compliance with the requirements of Clauses 5.1 and 5.2, the Parties (and the Supplier shall procure that the Key Subcontractor, where applicable) shall agree (at no cost to the Authority) timely and appropriate changes to any such arrangements by the undertakings concerned, resolving the matter (if required) through the escalation process in the Agreement.

5.4 Failure by the Supplier (or a Key Subcontractor) to comply with the obligations set out in Clauses 5.2 and 5.3 shall allow the Authority to terminate the Agreement pursuant to Section 8 of the Agreement.

6. DATA PROTECTION AND OFF-SHORING

6.1 The parties agree that the Supplier shall, whether it is the Controller or Processor, in relation to any Personal Data processed in connection with its obligations under the Agreement:

6.1.1 not process or permit to be processed Personal Data outside of the United Kingdom unless the prior explicit written consent of the Authority has been obtained and the following conditions are fulfilled:

(a) the Supplier or any applicable Processor has provided appropriate safeguards in relation to any transfer of the Personal Data (whether in accordance with UK GDPR Article 46 or, where relevant, section 75 of the Data Protection Act 2018) as determined by either the Authority or the Supplier when it is the Controller;

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

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

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

6.2 Failure by the Supplier to comply with the obligations set out in Clause 6.1 shall allow the Authority to terminate the Agreement pursuant to Section 8 of the Agreement.

7. COMMISSIONERS FOR REVENUE AND CUSTOMS ACT 2005 AND RELATED LEGISLATION

7.1 The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 18 of the Commissioners for Revenue and Customs Act 2005 ('CRCA') to maintain the confidentiality of Authority Data. Further, the Supplier acknowledges

that (without prejudice to any other rights and remedies of the Authority) a breach of the aforesaid obligations may lead to a prosecution under Section 19 of CRCA.

7.2 The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in Section 123 of the Social Security Administration Act 1992, which may apply to the fulfilment of some or all of the Services. The Supplier acknowledges that (without prejudice to any other rights and remedies of the Authority) a breach of the Supplier's obligations under Section 123 of the Social Security Administration Act 1992 may lead to a prosecution under that Act.

7.3 The Supplier shall comply with and shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data comply with the obligations set out in the Official Secrets Acts 1911 to 1989 and the obligations set out in Section 182 of the Finance Act 1989.

7.4 The Supplier shall regularly (not less than once every six (6) months) remind all Supplier Personnel who will have access to, or are provided with, Authority Data in writing of the obligations upon Supplier Personnel set out in Clause 7.1 above. The Supplier shall monitor the compliance by Supplier Personnel with such obligations.

7.5 The Supplier shall ensure that all Supplier Personnel who will have access to, or are provided with, Authority Data sign (or have previously signed) a Confidentiality Declaration, in the form provided at Annex 2. The Supplier shall provide a copy of each such signed declaration to the Authority upon demand.

7.6 In the event that the Supplier or the Supplier Personnel fail to comply with this Clause 7, the Authority reserves the right to terminate the Agreement with immediate effect pursuant to Section 8 of the Agreement.

8. CONFIDENTIALITY, TRANSPARENCY AND PUBLICITY

8.1 The Supplier shall not, and shall take reasonable steps to ensure that the Supplier Personnel shall not:

8.1.1 make any press announcement or publicise the Agreement or any part of the Agreement in any way; or

8.1.2 use the Authority's name or brand in any promotion or marketing or announcement of orders, except with the prior written consent of the Authority.

8.2 Each Party acknowledges to the other that nothing in this Agreement either expressly or by implication constitutes an endorsement of any products or services of the other Party and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

8.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 ("FOIA"), the content of this Agreement is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Agreement, the Supplier hereby gives its consent for the Authority to publish the Agreement in its entirety, (*but any information which is exempt from disclosure in accordance with the provisions of the FOIA may be redacted by the Authority*) including from time-to-time agreed changes to the Agreement, to the general public. The Authority may

consult with the Supplier to inform its decision regarding any redactions, but the Authority shall have the final decision at its absolute discretion.

- 8.4 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Agreement.

9. SECURITY REQUIREMENTS

9.1 The Supplier shall comply with the security management plan set out at Annex 3 of this Agreement ("Security Management Plan") and the security policy identified as such within the Security Management Plan ("Security Policy").

9.2 The Authority shall notify the Supplier of any changes or proposed changes to the Security Policy.

Annex 1 Excerpt from HMRC's "Test for Tax Non-Compliance"

Condition one (An in-scope entity or person)

1. There is a person or entity ("X") which is either:
 - (a) The Economic Operator or Essential Subcontractor ("EOS");
 - (b) Part of the same group of companies as EOS. An entity will be treated as within the same group of EOS where that entities' financial statements would be required to be consolidated with those of EOS if prepared in accordance with *IFRS 10 Consolidated Financial Accounts*¹;
 - (c) Any director, shareholder or other person ("P") which exercises control over EOS. 'Control' means P can secure, through holding of shares or powers under articles of association or other document that EOS's affairs are conducted in accordance with P's wishes.

Condition two (Arrangements involving evasion, abuse or tax avoidance)

2. X has been engaged in one or more of the following:
 - (a) Fraudulent evasion²;
 - (b) Conduct caught by the General Anti-Abuse Rule³;
 - (c) Conduct caught by the Halifax Abuse principle⁴;
 - (d) Entered into arrangements caught by a DOTAS or VADR scheme⁵;
 - (e) Conduct caught by a recognised 'anti-avoidance rule'⁶ being a statutory provision which targets arrangements where either a main purpose, or an expected benefit, is to obtain a tax advantage or where the arrangement is not effected for commercial

¹ <https://www.iasplus.com/en/standards/ifrs/ifrs10>

² 'Fraudulent evasion' means any 'UK tax evasion offence' or 'UK tax evasion facilitation offence' as defined by section 52 of the Criminal Finances Act 2017 or a failure to prevent facilitation of tax evasion under section 45 of the same Act.

³ "General Anti-Abuse Rule" means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into Parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions

⁴ "Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others

⁵ A Disclosure of Tax Avoidance Scheme (DOTAS) or VAT Disclosure Regime (VADR) scheme caught by rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Section 19 and Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Section 19 and Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

⁶ The full definition of 'Anti-avoidance rule' can be found at Paragraph 25(1) of Schedule 18 to the Finance Act 2016 and Condition 2 (a) above shall be construed accordingly.

purposes. 'Targeted Anti-Avoidance Rules' (TAARs). It may be useful to confirm that the Diverted Profits Tax is a TAAR for these purposes;

- (f) Entered into an avoidance scheme identified by HMRC's published Spotlights list⁷;
- (g) Engaged in conduct which falls under rules in other jurisdictions which are equivalent or similar to (a) to (f) above.

Condition three (Arrangements are admitted, or subject to litigation/prosecution or identified in a published list (Spotlights))

3. X's activity in *Condition 2* is, where applicable, subject to dispute and/or litigation as follows:

(a) In respect of 2(a), either X:

(i) Has accepted the terms of an offer made under a Contractual Disclosure Facility ("CDF") pursuant to the Code of Practice 9 (COP9) procedure⁸; or, (ii)

Has been charged with an offence of fraudulent evasion.

(b) In respect of 2(b) to (e), once X has commenced the statutory appeal process by filing a Notice of Appeal and the appeal process is ongoing including where the appeal is stayed or listed behind a lead case (either formally or informally). NB: Judicial reviews are not part of the statutory appeal process and no supplier would be excluded merely because they are applying for judicial review of an HMRC or HMT decision relating to tax or national insurance.

(c) In respect of 2(b) to (e), during an HMRC enquiry, if it has been agreed between HMRC and X that there is a pause with the enquiry in order to await the outcome of related litigation.

(d) In respect of 2(f) this condition is satisfied without any further steps being taken.

(e) In respect of 2(g) the foreign equivalent to each of the corresponding steps set out above in 3(a) to (c).

For the avoidance of doubt, any reference in this Annex 1 to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time including any implementing or successor legislation.

Annex 2 Form

CONFIDENTIALITY DECLARATION

CONTRACT REFERENCE: [for Supplier to insert Contract reference number and contract date] ('the Agreement')

DECLARATION:

I solemnly declare that:

⁷ Targeted list of tax avoidance schemes that HMRC believes are being used to avoid paying tax due and which are listed on the Spotlight website: <https://www.gov.uk/government/collections/tax-avoidance-schemes-currentlyin-the-spotlight>

⁸ The Code of Practice 9 (COP9) is an investigation of fraud procedure, where X agrees to make a complete and accurate disclosure of all their deliberate and non-deliberate conduct that has led to irregularities in their tax affairs following which HMRC will not pursue a criminal investigation into the conduct disclosed.

1. I am aware that the duty of confidentiality imposed by section 18 of the Commissioners for Revenue and Customs Act 2005 applies to Authority Data (as defined in the Agreement) that has been or will be provided to me in accordance with the Agreement.
2. I understand and acknowledge that under Section 19 of the Commissioners for Revenue and Customs Act 2005 it may be a criminal offence to disclose any Authority Data provided to me.

SIGNED:	
FULL NAME:	
POSITION:	
COMPANY:	Bowmer & Kirkland Ltd
DATE OF SIGNATURE:	

Annex [3]

SECURITY MANAGEMENT PLAN



Security Plan Questionnaire

[REDACTED]

APPENDIX 8

Carbon Reduction

Introductory Guidance Note

The UK has a proud record of global leadership in tackling climate change and supporting clean growth. The UK government amended the Climate Change Act 2008 in 2019 by introducing a target of at least a 100% reduction in the net UK territorial carbon account by 2050. This is otherwise known as the “**Government Net Zero Target**”.

The UK’s 2050 Government Net Zero Target is one of the most ambitious in the world and was recommended by the Committee on Climate Change, the UK’s independent climate advisory body. The Government Net Zero Target requires a reduction in greenhouse gas emissions (“**GHG Emissions**”) (as defined by the [GHG Protocol](#)) and (as a last resort if carbon reduction is unachievable) that any GHG Emissions generated are balanced by a ‘good quality’ scheme to offset an equivalent amount of greenhouse gases from the atmosphere⁹ (as updated from time to time).

The Government Net Zero Target is used to align with the requirements of [PPN 06/21](#), which requires Suppliers bidding for major government contracts to commit to achieving Net Zero by 2050 and publish a Carbon Reduction Plan.

As environmental factors and GHG Emissions feature in the delivery of most public contracts, there is an opportunity for Authorities to take steps to support the Government Net Zero Target and reduce GHG Emissions through public procurement.

This Carbon Reduction Schedule should be considered alongside broader sustainability obligations, such as the ‘Environmental requirements’ section contained within Annex 1 (Sustainability) of [the UK government’s Model Services Contract Standards](#) schedule and the environmental sections called out within the UK government’s [Mid-Tier](#) and [Short-Form Contracts](#). Its primary purpose is to reduce contract-level GHG Emissions to support the UK government’s commitment to achieve the Government Net Zero Target by 2050.

This Schedule also contains terms and conditions (“**T&Cs**”) that support contract-specific decarbonisation objectives, contract-specific GHG Emissions reporting, setting Supplier GHG Emissions reduction targets, or requiring the Supplier to produce a GHG Emissions reduction plan to monitor and reduce GHG Emissions throughout the life of the contract.

When applying this Schedule, it should be both relevant to the subject matter of the contract and proportionate to its value and objectives. It is highly recommended that you use these T&Cs to focus on GHG Emissions hotspots associated with the contract (i.e., areas that produce disproportionately high amounts of GHG Emissions relative to the overall estimated GHG Emissions linked to a particular contract) so that you can reduce GHG Emissions through defined activities and set targets.

For the avoidance of doubt, “Supplier” in this Appendix 8 means the Contractor and “Authority” means the Employer.

Appropriate use of these T&Cs

These T&Cs should be used where they are relevant to the subject matter of the contract and proportionate to the delivery of the contract. To determine relevance and proportionality, you should consider:

⁹ as outlined in the Environmental Reporting Guidelines (p115)

A. Category

Some categories of spend will generate higher GHG Emissions than others or will represent a greater opportunity for reducing direct or indirect GHG Emissions. Fleet, Construction, Industrial Goods and Services, Pharmaceuticals, Facilities Management, ICT and Professional Services for instance will often result in high GHG Emissions, and so are best suited to targeted GHG Emissions reduction requirements in the contract. Please note this list is not exhaustive.

It is important to understand the risk associated with the contract and use market intelligence and early market engagement to ensure successful implementation and adoption of these T&Cs.

B. Supply chain size, complexity and readiness

Categories and supply chains can have a range of maturity when it comes to GHG Emissions reporting and GHG Emissions reduction initiatives. Authorities should consider the maturity of the category and supply chain when applying these T&Cs and assess how burdensome any optional requirements to cascade obligations down the supply chain might be. Where cascade is being considered, this should be included in pre-tender engagement, discussions/considerations with Suppliers to ensure they are aware of any potential additional requirements at the earliest opportunity. While there is an opportunity to increase GHG Emissions reduction by cascading requirements down the supply chain, there may also be a burden to SME and VCSE Suppliers. Therefore, a proportionate application should be considered. Please see optional Paragraphs 25 to 27.

C. Value

High-value/high-criticality contracts are likely to demand additional resources, time and assets in contract delivery which could be associated with higher GHG Emissions. It may not be proportionate to apply these T&Cs to lower-value contracts. Lower-value/ low-criticality contracts are often delivered by SME and VCSE Suppliers, who may be less able to provide contract-specific GHG Emissions data.

D. Governance processes

The UK has a statutory Government Net Zero Target; therefore, Authorities should strive to include proportionate T&Cs to drive improved environmental performance in public contracts.

Authorities may wish to seek legal advice from their internal advisers prior to including this, or other optional schedules.

It may be useful to consider the following questions to aid in your decision making:

1. How much impact can be made through the procurement alongside broader departmental or strategic initiatives which are being led with Suppliers? (e.g., category strategies, Supplier relationship management initiatives, Supplier forums, industry groups, etc.)
2. To what extent does the implementation of decarbonisation intervention options rely on the main Supplier(s) and what is the likelihood of supply chain adoption?
3. Are the drivers for GHG Emissions intensity (“**GHG Hotspots**”) understood in detail, for instance are they linked to the type of activities which will be supplied?
4. Can the Authority support the main Supplier(s) to influence the supply chain through the T&Cs and encourage the adoption of incentivisation mechanisms linked to environmental sustainability? (e.g., through cascade responsibilities, supply chain transparency and effective oversight)
5. Is the supply chain length, complexity, readiness and/or Supplier size likely to be a barrier in terms of implementing decarbonisation interventions?

To ensure transparency, it is recommended you set out your Supplier expectations and test acceptability with the market as soon as possible through pre-market engagement. This will ensure Suppliers understand your requirements and are aware of the inclusion of relevant Paragraphs from this Schedule.

Further Resources

[UK Footprint Results \(1990 - 2020\)](#)

[Glossary of T&Cs: Carbon Net Zero and Smart Solutions](#)

[GHG Conversion Factors](#)

[Promoting Net Zero Carbon and Sustainability in Construction Guidance Note](#)

Definitions

Authority Net Zero Target: 2050, being the date by which the Authority commits to achieve Net Zero.

Carbon Footprint: the sum of GHG Emissions from an individual, product, organisation or country, measured in tonnes of carbon dioxide-equivalent (t CO₂e).

Contract Carbon Footprint: The GHG Emissions resulting from the execution of the Contract as described by the GHG Protocol Corporate Standard.

Carbon Reduction Plan (CRP): A [Carbon Reduction Plan](#) in response to [PPN 06/21](#).

Emissions Reduction: The reduction of GHG Emissions from a product, service, contract, organisation or country.

Emissions Reduction Target (ERT): The target for Emissions Reduction for each year of the Contract, expressed as a percentage.

Emissions Report: a report, substantially in the form set out in Table 1, containing, as a minimum, details of the GHG Emissions for this Contract against the Reporting Scopes for each Contract Year, details of any newly identified GHG Hotspots and details of any decarbonisation opportunities.

GHG Emissions Reduction Plan (ERP): A plan, substantially in the form set out in Table 2, containing the key activities and interventions that will lead to Emissions Reduction.

Greenhouse Gas Emissions (GHG Emissions): The release of greenhouse gases as defined in the GHG Protocol, typically measured in tonnes of carbon dioxide-equivalent (t CO₂e).

GHG Hotspots: Processes, operations, and activities that have a proportionately large contribution to the total GHG Emissions for the Contract.

Government Net Zero Target: The 2050 target date by which the UK government has committed to achieve Net Zero, pursuant to the Climate Change Act 2008 (2050 Target Amendment) Order 2019.

Net Zero: Net Zero is a state in which the amount of GHG Emissions released into the atmosphere are balanced by the amount of GHG Emissions removed.

Reporting Scopes: the following categories of GHG Emissions:

- [Scope 1 Emissions:](#) GHG Emissions that come from the Supplier directly, e.g. from burning fuel in vehicles or boilers that the Supplier owns.
- [Scope 2 Emissions:](#) GHG Emissions from the Supplier's use of electricity.
- [Scope 3 Emissions:](#) Scope 3 is broken down into 15 sub-categories, including emissions associated with the goods and services you buy, financial services such as investments, and others such as waste or transportation. There are five Scope 3 categories included in the reporting for a Supplier's CRP: upstream transportation and distribution; waste generated in operations; business travel; employee commuting; and downstream transportation and distribution.

Supplier Net Zero Target: The date by which the Supplier commits to achieve Net Zero.

Call Off Special Schedule 1 - Carbon Reduction

For the avoidance of doubt, references to 'the Authority' mean the Commissioners for His Majesty's Revenue and Customs and references to the Supplier mean the Contractor.

Net Zero Obligation

- 1 The Supplier shall, through best endeavours, ensure that their environmental impact is minimised through the delivery of the contract. The Supplier acknowledges that the Authority has its own operational Authority Net Zero Target of 2050, and Emissions Reduction achieved in the delivery of this contract will contribute to achieving this aim.

Net Zero Commitment

The Government Net Zero Target is used to align to the requirements of [PPN 06/21](#), which requires Suppliers bidding for major Government contracts to commit to achieving Net Zero by 2050 and publish a Carbon Reduction Plan.

A CRP confirms the Supplier's commitment to achieving Net Zero by 2050, contains GHG Emissions reported for all required Reporting Scopes and indicates the environmental management measures that the Supplier will be able to apply when performing the contract. For more guidance and a CRP template, please see [PPN 06/21](#).

- 2 The Supplier acknowledges and understands the Government Net Zero Target. Accordingly, the Supplier shall;

- 2.1 Set a Supplier Net Zero Target with a target achievement date the same as, or earlier than the Government Net Zero Target;

- 2.2 Provide details of any steps it is taking as an organisation to reduce its Carbon Footprint in the form of Emissions Reductions initiatives; and

- 2.3 Create a Carbon Reduction Plan, in line PPN 06/21, within the first 12 months of contract;

- 2.4 Where required to do so, undertake and keep up to date full and complete records of GHG Emissions reporting activity undertaken by the Supplier with supporting data and provide the same to the Authority each year; and

- 2.5 Attend, on reasonable notice, meetings with the Authority Representative or other nominated representative to present the Suppliers CRP to achieve, and current progress towards, the Supplier Net Zero Target and the Supplier shall refresh its CRP accordingly.

- 3 If the Authority, having reviewed the Emissions Report and discussed with the Supplier its progress to achieve the Supplier Net Zero Target, determines (acting reasonably) that the Supplier is making insufficient progress towards achieving the Supplier Net Zero Date, the Authority may work with the Supplier to determine and implement a suitable rectification plan, in accordance with the Rectification Plan Process.

Net Zero Contractual Commitments

- 4 The Supplier commits to delivering this contract in line with its Contract Reduction Plan and to support the achievement of the Supplier Net Zero Target and the Government Net Zero Target.

- 5 The Supplier shall create a Contract Carbon Footprint by undertaking an assessment of the CHG Emissions for this contract with **12 months** of the date of this Contract. The assessment shall aim to quantify the GHG Emissions associated with resources, time and assets deployed in the delivery of the contract and, in particular, identify GHG Hotspots.

- 6 The GHG Emissions assessment outlined in Paragraph 5 should adhere to the [Greenhouse Gas Protocol's Product Standard](#) and should be conducted to a mutually agreed level of

assurance. The GHG Emissions to be included in the assessment shall be mutually agreed between the Supplier and the Authority.

7 The Supplier undertakes to, within **12 months** of the date of this Contract, develop and implement a GHG Reduction Plan, in the form set out in Table 2, for the contract, with the objective of reducing the Contract Carbon Footprint of this contract by **10%** per annum throughout the duration of the Contract (the “**Emissions Reduction Target (ERT)**”), initially focussing on GHG Hotspots and shall update and provide a copy of the GHG Emissions Reduction Plan to the Authority annually.

8 The Supplier warrants to the Authority that:

8.1 It has sufficient resources, infrastructure and materials to achieve the ERT by the date of the expiry of the contract;

8.2 None of the Goods and Services supplied under this contract will be of lower quality as a result of working towards the ERT; and

8.3 It will not offer preferential terms and conditions to those other customers who do not require and ERT or similar obligations in their contracts.

9 At the Authority’s request, the Supplier shall arrange for an independent assessment and verification of the Contract Carbon Footprint. The Supplier shall make a copy of the results available to the Authority as soon as reasonably practicable. The Authority may request this independent assessment no more than once in any period of **two** Contract Years.

Reporting

10 The Supplier shall:

10.1 Re-assess the GHG Emissions every Contract Year; and

10.2 Provide the Authority with a written report of the results of each assessment within 1 month of completion under Paragraph 7 of this Schedule 1 using Table 1: Emissions Report below and every following 12 months. The Authority, acting reasonably, may make adjustments to the content or frequency of the Emissions Reports as required.

Net Zero Modification

11 The parties agree to, wherever possible, perform their obligations under this contract in a way that minimises the Contract Carbon Footprint associated with the activities under this Contract.

12 In accordance with the Change Control Procedure, either party may request or propose a Net Zero modification in the performance of either Party’s obligations under the Contract in order to reduce the Contract Carbon Footprint resulting from this contract.

Remediation Plan

13 The Supplier shall notify the Authority as soon as it becomes aware of any reason why it might fail to achieve any of the obligations in Paragraph 7. The Authority shall work with the Supplier to agree a remediation plan for the Supplier in accordance with the Rectification Plan process.

Fuel Emissions

4 The Supplier shall avoid fuel omissions wherever possible by:

- 14.1 Arranging meetings using e-Conferencing services where face-to-face meetings are not required by the Authority;
- 14.2 Using logistics to rationalise and minimise miles travelled in the transportation of goods to Authority's journeys Premises;
- 14.3 Providing online and webinar-based training for Supplier Staff, minimising the need for travel to attend courses; and
- 14.4 Encouraging Supplier Staff to use electric/hybrid vehicles or the rail service rather than petrol, diesel powered vehicles or short haul flights.

Net Zero Supply Chain Cascade

15 The Suppliers shall engage their supply chain partners to improve their sustainability and encourage them to set their own targets.

16 The Supplier shall ensure that teams equivalent to those set out in Paragraph 2 of this Schedule are included in all Sub-Contractors that relate to the Supplier's obligations.

17 The Supplier shall, in line with the Government Net Zero Target, and Authority Net Zero Target and Emissions Reduction contract targets:

17.1 Agree responsibilities with for Emissions Reduction with key Sub-Contractors, and

17.2 Map the supply chain and identify critical supply chain partners.

CHG EMISSIONS REPORTING

The Emissions Report should outline emerging GHG Hotspots and key decarbonisation opportunities for consideration and providing supporting narrative to explain how interventions have affected the results.

TABLE 1: EMISSIONS REPORT

CONTRACT YEAR	CONTRACT EMISSIONS SCOPE 1	SCOPE 2	SCOPE 3	Emerging GHG Hotspots (Including narrative to explain interventions have affected the results) how	Decarbonation Opportunities (Including narrative to explain how interventions have affected the results)
Year 1					
Year 2					
Year 3					
Year 4					
Year 5					

OFFICIAL-SENSITIVE

TABLE 2: GHG EMISSIONS REDUCTION PLAN

GHG Hotspot	Contract Year	Estimated Emissions	Actual Emissions	Emissions Reduction Target (ERT) (%)	Actual Reduction (%)

ANNEX A: PART A General Provisions

- 1 The Supplier shall work proactively with its Sub-Contractors to help quantify and reduce the environmental impacts of the Deliverables. When requested by the Authority, the Supplier shall communicate annually on progress and reductions made on the environmental impact of the Deliverables the Supplier has undertaken, in accordance with the terms of the Contract.
- 2 The supplier shall deliver the obligations in respect of GHG Emissions reporting requirements, on travel undertaken as part of the delivery of the works and services. GHG Emissions shall be calculated in accordance with the DEFRA guidelines for measuring environmental impacts. The Supplier shall ensure that the version used for calculation is current at the time figures are produced. The current version may be accessed using the link below;

Environmental reporting guidelines: including Streamlined Energy and Carbon Reporting requirements - GOV.UK (www.gov.uk)

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OFFICIAL

APPENDIX 9

GDPR

The following definitions shall apply to this Appendix 9

Agreement : means the attached Contract between the Employer and the Contractor;

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

GDPR CLAUSE DEFINITIONS:

Data Protection Legislation: means

- (a) the UK GDPR;
- (b) the DPA 2018 to the extent that it relates to processing of personal data and privacy;
- (c) all applicable Law about the processing of personal data and privacy; and (d) (to the extent that it applies) the EU GDPR;

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

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

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

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

DPA 2018 : Data Protection Act 2018

EU GDPR: means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;

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

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

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

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

UK GDPR: has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018.

1.1 DATA PROTECTION

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Employer is the Controller and the Contractor is the Processor unless otherwise specified in the Sub-Schedule of Annex 1 to this Appendix. The only processing that the Processor is authorised to do is listed in the Sub-Schedule by the Controller and may not be determined by the Processor .

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

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

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

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

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

- (b) ensure that it has in place Protective Measures, are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular the SubSchedule in Annex 1 of this Appendix);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to

any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and

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

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

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

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

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

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

- (a) the Controller with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;

- (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Controller following any Data Loss Event;
- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

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

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

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

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

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

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

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

1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable

controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

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

1.15 Where the Parties include two or more Joint Controllers as identified in the Sub-Schedule of Annex 1 of this Appendix in accordance with UK GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Annex 2 of this Appendix in replacement of Clauses 1.1-1.14 for the Personal Data under Joint Control.

Annex 1: Sub-Schedule of Processing, Personal Data and Data Subjects

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

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

Description	Details
Identity of the Controller and Processor	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]

Subject matter of the processing	[REDACTED]
Duration of the processing	[REDACTED]
Nature and purposes of the processing	[REDACTED]
Type of Personal Data being Processed	[REDACTED]
Categories of Data Subject	[REDACTED]
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	[REDACTED] [REDACTED] [REDACTED]

Annex 2: Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (**Joint Controller Agreement**) in replacement of Clause 1.1-1.15 of the Appendix. Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.

1.2 The Parties agree that the [Contractor/Employer]:

1.2.1 is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;

- 1.2.2 shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
 - 1.2.3 is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
 - 1.2.4 is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and
 - 1.2.5 shall make available to Data Subjects the essence of this Joint Controller Agreement (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the [Contractor's/Employer's] privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).
- 1.3 Notwithstanding the terms of Paragraph The Parties agree that the [Contractor/Employer]: , the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Data Controller.

2. Undertakings of Both Parties

- 2.1 The Contractor and the Employer each undertake that they shall:

- 2.1.1 report to the other Party every [x] months on:

- (a) the volume of Data Subject Access Requests (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- (b) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- (c) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- (d) any communications from the Information Commissioner or any other regulatory Employer in connection with Personal Data; and

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

(iii) that it has received in relation to the subject matter of the Agreement during that period;

2.1.2 notify each other immediately if it receives any request, complaint or communication made as referred to in Paragraphs report to the other Party every [x] months on:the volume of Data Subject Access Requests (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf); to any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;; and

2.1.3 provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Paragraphs **Error! Reference source not found.** and report to the other Party every [x] months on:any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation; to any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation.

2.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under this Agreement or is required by Law) that disclosure or transfer of Personal Data is otherwise considered to be lawful processing of that Personal Data in accordance with Article 6 of the UK GDPR or EU GDPR (as the context requires). For the avoidance of doubt to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex.

2.1.5 request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information.

2.1.6 ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data

2.1.7 take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:

- (a) are aware of and comply with their duties under this Annex 2 (**Joint Controller Agreement**) and those in respect of Confidential Information
- (b) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where that Party would not be permitted to do so;
- (c) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;

2.1.8 ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:

- (a) nature of the data to be protected;
- (b) harm that might result from a Data Loss Event;
- (c) state of technological development; and
- (d) cost of implementing any measures.

2.1.9 ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Contractor holds;

2.1.10 ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event;

2.1.11 not transfer such Personal Data outside of the UK and/or the EEA unless the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:

- (a) the destination country has been recognised as adequate by the UK government is in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
- (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where

applicable) as agreed with the non-transferring Party which could include the International Data Transfer Agreement or International Data Transfer Agreement Addendum to the European

Commission's SCCs as published by the Information Commissioner's Office, as well as any additional measures;

(A) where the transfer is subject to UK GDPR:

(f) the UK International Data Transfer Agreement (the "IDTA") as published by the Information Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time ; or

(g) the European Commission's Standard Contractual Clauses per decision 2021/914/EU [or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time] (the "EU SCCs"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "Addendum") or such updated version of such Addendum as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; and/or

(B) where the transfer is subject to EU GDPR, the EU SCCs,

(as well as any additional measures determined by the Controller being implemented by the importing party;

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

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

(e) the transferring Party complies with any reasonable instructions notified to it in advance by the nontransferring Party with respect to the processing of the Personal Data; and

2.2 Each Joint Controller shall use its best endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its' obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

3. Data Protection Breach

3.1 Without prejudice to Paragraph Each Party shall take all steps to restore, reconstitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Data Loss Event which is the fault of that Party, as if it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Data Loss Event, including providing the other Party, as soon as possible and within 48 hours of the Data Loss Event relating to the Data Loss Event, in particular:, each Party shall notify the other Party promptly and without undue delay, and in any event within 48

hours, upon becoming aware of any Data Loss Event or circumstances that are likely to give rise to a Data Loss Event, providing the other Party and its advisors with:

3.1.1 sufficient information and in a timescale which allows the other Party to meet any obligations to report a Data Loss Event under the Data Protection Legislation;

3.1.2 all reasonable assistance, including:

(a) co-operation with the other Party and the Information Commissioner investigating the Data Loss Event and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;

(b) co-operation with the other Party including taking such reasonable steps as are directed by the Employer to assist in the investigation, mitigation and remediation of a Data Loss Event;

(c) co-ordination with the other Party regarding the management of public relations and public statements relating to the Data Loss Event;

(d) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Data Loss Event, with complete information relating to the Data Loss Event, including, without limitation, the information set out in Paragraph Each Party shall take all steps to restore, reconstitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Data Loss Event which is the fault of that Party, as if it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Data Loss Event, including providing the other Party, as soon as

possible and within 48 hours of the Data Loss Event relating to the Data Loss Event, in particular:.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Data Loss Event which is the fault of that Party, as if it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Data Loss Event, including providing the other Party, as soon as possible and within 48 hours of the Data Loss Event relating to the Data Loss Event, in particular:

- 3.2.1 the nature of the Data Loss Event;
- 3.2.2 the nature of Personal Data affected;
- 3.2.3 the categories and number of Data Subjects concerned;
- 3.2.4 the name and contact details of the Contractor's Data Protection Officer or other relevant contact from whom more information may be obtained;
- 3.2.5 measures taken or proposed to be taken to address the Data Loss Event; and
- 3.2.6 describe the likely consequences of the Data Loss Event.

4. Audit

4.1 The Contractor shall permit:

4.1.1 the Employer, or a third-party auditor acting under the Employer's direction, to conduct, at the Employer's cost, data privacy and security audits, assessments and inspections concerning the Contractor's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation.

4.1.2 the Employer, or a third-party auditor acting under the Employer's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 of the UK GDPR by the Contractor so far as relevant to the Agreement, and procedures, including premises under the control of any third party appointed by the Contractor to assist in the provision of the Services.

4.2 The Employer may, in its sole discretion, require the Contractor to provide evidence of the Contractor's compliance with Paragraph The Contractor shall permit: in lieu of conducting such an audit, assessment or inspection. 5.

Impact Assessments

5.1 The Parties shall:

5.1.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to processing operations, risks and measures);

5.1.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with this Agreement, in accordance with the terms of Article 30 of the UK GDPR.

6. ICO Guidance

(d) The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner, and/or any relevant Central Government Body and/or any other regulatory authority. The Employer may on not less than thirty (30) Working Days' notice to the Contractor amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner or any other regulatory authority.

7. Liabilities for Data Protection Breach

7.1 If financial penalties are imposed by the Information Commissioner on either the Employer or the Contractor for a Data Loss Event ("**Financial Penalties**") then the following shall occur:

7.1.1 If in the view of the Information Commissioner, the Employer is responsible for the Data Loss Event, in that it is caused as a result of the actions or inaction of the Employer, its employees, agents, contractors (other than the Contractor) or systems and procedures controlled by the Employer, then the Employer shall be responsible for the payment of such Financial Penalties. In this case, the Employer will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such data incident. The Contractor shall provide to the Employer and its third party investigators and auditors, on request and at the Contractor's reasonable cost, full cooperation and access to conduct a thorough audit of such data incident;

7.1.2 If in the view of the Information Commissioner, the Contractor is responsible for the Data Loss Event, in that it is not a breach that the Employer is responsible for, then the Contractor shall be responsible for the payment of these Financial Penalties. The Contractor will provide to the Employer and its auditors, on request and at the Contractor's sole cost, full cooperation and access to conduct a thorough audit of such data incident; or

7.1.3 If no view as to responsibility is expressed by the Information Commissioner, then the Employer and the Contractor shall work together to investigate the relevant data incident and allocate responsibility for any Financial Penalties as outlined above, or by

agreement to split any Financial Penalties equally if no responsibility for the Data Loss Event can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the dispute resolution procedure set out in Section 9 of the Agreement.

7.2 If either the Employer or the Contractor is the defendant in a legal claim brought before a court of competent jurisdiction ("**Court**") by a third party in respect of a Data Loss Event, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Data Loss Event shall be liable for the losses arising from such breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.

7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Data Loss Event (the "**Claim Losses**"):

7.3.1 if the Employer is responsible for the relevant breach, then the Employer shall be responsible for the Claim Losses;

7.3.2 if the Contractor is responsible for the relevant breach, then the Contractor shall be responsible for the Claim Losses; and

7.3.3 if responsibility is unclear, then the Employer and the Contractor shall be responsible for the Claim Losses equally.

7.4 Nothing in Paragraphs If either the Employer or the Contractor is the defendant in a legal claim brought before a court of competent jurisdiction ("**Court**") by a third party in respect of a Data Loss Event, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Data Loss Event shall be liable for the losses arising from such breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.-In respect of any losses, cost claims or expenses incurred by either Party as a result of a Data Loss Event (the "**Claim Losses**"): shall preclude the Employer and the Contractor reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Data Loss Event, having regard to all the circumstances of the breach and the legal and financial obligations of the Employer.

8. Termination

8.1 If the Contractor is in material Default under any of its obligations under this Annex 2 (**Joint Controller Agreement**), the Employer shall be entitled to terminate this Agreement pursuant to and as if written into the terms of default determination under Section 8 of the Agreement.

9. Sub-Processing

9.1 In respect of any Processing of Personal performed by a third party on behalf of a Party, that Party shall:

9.1.1 carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by this Agreement, and provide evidence of such due diligence to the other Party where reasonably requested; and

9.1.2 ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. Data Retention

10.1 The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by a Party for statutory compliance purposes or as otherwise required by this Agreement), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

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Employer's Requirements

[REDACTED]

Schedule 6

Not used

Schedule 7

Not used

Schedule 8

PROGRAMME

[REDACTED]

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Schedule 9

1. GENERAL

1.1 The Schedule sets out the PCSA KPIs by which the Contractor's overall performance under this PCSA shall be monitored and managed.

1.2 The Employer may, at its discretion, introduce new, or remove PCSA KPIs throughout the Pre-Construction Period, however any significant changes shall be agreed between the Employer and the Contractor.

1.3 The Contractor shall comply with all its obligations related to the PCSA KPIs set out in the Schedule.

1.4 The PCSA KPIs from which performance by the Contractor will be reported against are set out below:

See Newcastle Government Hub KPIs below. Also issued in the ITT Package, Volume 3 - Contract, KPI.

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[REDACTED]

B&K Social Value Commitments

[Redacted Content]

1.5 The Contractor shall establish processes to monitor its performance against the agreed PCSA KPIs. The Contractor shall at all times ensure compliance with the standards set out by the PCSA KPIs.

1.6 The Employer shall review progress against these PCSA KPIs to evaluate the effectiveness and efficiency with which the Contractor performs its obligations to fulfil this agreement.

1.7 The Employer may, at its absolute discretion:

1.7.1 use and publish the performance of the Contractor against the PCSA KPIs without restriction; and

1.7.2 initiate performance escalation in respect of any failure by the Contractor to comply with PCSA KPIs in accordance with this agreement.

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