

**DATED**

**202[ ]**

**(1) WEST LONDON WASTE AUTHORITY**

**AND**

**(2) [CONTRACTOR]**

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**FORM OF CONTRACT**

**relating to the contract for the design and build of the ReActon Circular Economy Hub  
(the “Project”)**

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**©This amended contract is based on the NEC4 Engineering and Construction Short Contract, the  
copyright in which standard form belongs to the Institution of Civil Engineers.**

## Form of Contract

**THIS DEED** is made on the                      day of

202[ 1

**BETWEEN:**

- (1) **WEST LONDON WASTE AUTHORITY** whose address is Unit 6, Britannia Court, The Green, West Drayton, UB7 7PN (the “**Client**”); and
- (2) **[CONTRACTOR]** incorporated and registered in England and Wales with company number **[NUMBER]** whose registered office is at **[ADDRESS]** (the “**Contractor**”)
- (together the “**Parties**”).

## BACKGROUND

- (A) The *Client* wishes to appoint the *Contractor* to design and build a circular economy hub as more particularly described in this Contract.
- (B) The *Contractor* has submitted a tender dated [DATE] (the “Tender”) which has been accepted by the *Client* and the terms of their agreement are recorded below.

It is hereby agreed as follows:

- 1.1 In consideration of the payments to be made by the *Client* to the Contractor as hereinafter mentioned, the Contractor agrees to provide the *works* in accordance with the Contract. The “Contract” (or, as applicable in the *conditions of contract*, the “contract”) means this Deed and the following documents:
  - 1.1.1 the *Client’s* Contract Data and the *Contractor’s* Contract Data at Schedule 2;
  - 1.1.2 the Conditions of Contract for the NEC4 Engineering and Construction Short Contract June 2017 (with amendments January 2019, October 2020, and January 2023 (the “*conditions of contract*”));
  - 1.1.3 the amendments to the *conditions of contract* at Schedule 1;
  - 1.1.4 the Scope at Schedule 2 and
  - 1.1.5 the Tender at Schedule 3.
- 1.2 The documents forming the Contract are taken and read together but in the event of any conflict between them, the following order of precedence for the documents shall apply (in descending order of priority):
  - 1.2.1 this Form of Contract;
  - 1.2.2 the amendments to the *conditions of contract* at Schedule 1;
  - 1.2.3 the *Client’s* Contract Data at Schedule 2;
  - 1.2.4 the *Contractor’s* Contract Data at Schedule 2;
  - 1.2.5 the Scope at Schedule 3; and
  - 1.2.6 the Tender at Schedule 4.
- 1.3 Italicised and capitalised terms used in this Deed have the same meaning as those given to such terms in the *conditions of contract*, unless otherwise expressly defined in this Deed.

- 1.4 This contract may be executed in any number of counterparts, each of which when executed and delivered, shall be an original, and all counterparts together shall constitute one and the same instrument. Counterparts may be exchanged in person, via post, via electronic mail attachment, or by fax.

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

**SIGNED AS  
A DEED ON  
BEHALF OF  
WEST  
LONDON  
WASTE  
AUTHORITY  
BY**

.....  
**Peter Tilston, Projects Director**

Executed as a deed by )  
**[CONTRACTOR] LIMITED** )  
acting by: )  
two directors, a director and its secretary )  
or a director in the presence of a witness )  
)

If signed by a director in the presence of a  
witness, please ensure the witness  
completes the following:

.....  
Witness address (ALL CAPITALS)

.....  
Witness occupation (ALL CAPITALS)

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Print name (ALL CAPITALS)

\_\_\_\_\_  
Signature of director/secretary/witness

\_\_\_\_\_  
Print name (ALL CAPITALS)

## SCHEDULE 1 – AMENDMENTS TO CONDITIONS

The *conditions of contract* shall be amended as follows:

### CORE CLAUSES

- Clause 11.1                      Insert the following at the end of the clause: “where terms are defined in the Form of Contract such definitions will apply in these *conditions of contract*.”
- Clause 11.2(1)                  Delete all the words after “has” and insert bullet points as follows:
- completed the *works* in accordance with the *Scope*, including the condition stated therein for Phase 3,
  - corrected notified Defects,
  - provided all records and documents required by the contract and
  - provided all health and safety files.
- Clause 11.2(3)                  Insert two new bullet points as follows:
- “
- the collusion with any other party in the tendering or award of a contract or
  - the demonstrated black-listing of workers.”
- Clause 11.2(4)                  Delete and substitute with the following:
- “A Defect is:
- a part of the *works* which is not in accordance with the *Scope* or any other provision of the contract to be complied with by the *Contractor*,
  - a part of the *works* which is not in accordance with Applicable Law,
  - a part of the *works* the design of which is the responsibility of the *Contractor*, if that design has not been prepared with the level of skill, care and diligence warranted by the *Contractor* in accordance with clause 23.2 or
  - a part of the *works* which is not in accordance with the *Contractor’s* design.”
- Clause 11.2(14)                In line 2, after each occurrence of the word “contract”, insert the words “and Applicable Law”.
- Clause 11.2(17)                Insert the following new definitions:
- “Applicable Law” means all relevant and applicable UK and EU statutes, subordinate legislation, directives, regulations, statutory guidance, applicable codes of practice and bye laws in force as enacted, amended or interpreted from time to time and any references to ‘applicable law’ in the *conditions of contract* are deemed to be references to the defined term for ‘Applicable Law’.
- “Confidential Information” is information that ought to be considered confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, intellectual property rights and know-how of either party and all Personal Data, including

special categories of personal data and personal data relating to criminal convictions and offences within the meaning of the General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018.

“Contract Date” means the date set out at the beginning of the Form of Contract.

“Consents” are:

- the right under applicable law (or any decision of a relevant authority under such applicable law) to Provide the Works (including any building or other regulations, any planning or listed building permissions, and any applicable approvals, consents or conditions to be obtained pursuant to a statutory provision or decision of a relevant authority),
- the agreement of any person which is required under applicable law,
- permissions, agreements and approvals required for securing access to assets owned or operated by Others (including Statutory Undertakers) and
- permits and licences.

“Data Protection Legislation” means:

- (a) the UK GDPR as defined by section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018,
- (b) the Data Protection Act 2018,
- (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the General Data Protection Regulation on Privacy and Electronic Communications), and
- (d) any other legislation in force from time to time in the United Kingdom relating to privacy and/or the processing of Personal Data.

“Controller” and “Personal Data” take the meaning given in the Data Protection Legislation.

“EIR” is the Environmental Information Regulations 2004 together with any guidance and/or code of practice issued by the Information Commissioner or relative Government department in relation to such regulations.

“FOIA” is the Freedom of Information Act 2000 and any subordinate legislation made under that Act together with any guidance and/or codes of practice issued by the Information Commissioners or relevant Government department in relation to that Act.

“FOIA Code” is the Department of Constitutional Affairs Code of Practice on the Discharge of functions of Public Authorities under Part I FOIA or any replacement or revision of that Code.

“Form of Contract” is the document so named and set out at the beginning of this Contract.

“Group Company” is any subsidiary or holding company of the *Contractor* or another subsidiary or holding company of such company, as ‘subsidiary’ and ‘holding company’ are defined in s1159 of the Companies Act 2006.

“Information” is information as defined in Section 84 of the FOIA and which relates to the contract (or any preceding tender process leading up to it), the *Contractor*, or any sub-contractor.

A “Key Date” is the date by which work is to meet the Condition stated. The Key Date is the *key date* stated in the Contract Data and the Condition is the *condition* stated in the Contract Data unless later changed in accordance with this contract.

“Others” are people or organisations who are not the *Client*, the *Adjudicator*, the *Contractor* or any employee, subcontractor or supplier of the *Contractor*.

The “Project” is the Stirling Road Circular Economy Hub project.

“Request for Information” (or “Request”) is a request for Information within the meaning given in Section 1 of the FOIA or any request for Information under the EIR.

A “Statutory Undertaker” is a person or organisation who is not a Subcontractor and acts solely under a statutory right or a right pursuant to a licence granted under any statute to place, operate or maintain any apparatus (including any pipe, conduit, sewer, drain, equipment or tunnel) on, under, over or immediately adjacent to the *site* or to inspect, adjust, repair, alter, renew, reposition or remove such apparatus.

“Working Day” has the meaning given in Section 10 of the FOIA.

Clause 12.1	Delete existing clause 12.1 and insert: "In this contract, except where the context shows otherwise: <ul style="list-style-type: none"><li>• words in the singular also mean in the plural and the other way round,</li><li>• references to a document include any revision made to it in accordance with this contract,</li><li>• references to a statute or statutory instrument include any amendment or re-enactment of it from time to time and any subordinate legislation or code of practice made under it and</li><li>• references to a standard include any current relevant standard that replaces it."</li></ul>
Clause 12.4	At the end of the clause, insert the words “but this does not affect the remedies available to the parties at common law for breach of contract.”
Clause 14.5	Delete the words “, after notifying the Contractor,”. Insert after “delegation” in line 2 “, the Client will notify the Contractor of any such delegation”.
Clause 15.1	After the words “delay Completion” insert: “or a Key Date”.
Clause 20.1	Delete this clause and replace with: “The Contractor Provides the Works in a timely, proper and workmanlike manner and in accordance with the contract and the Applicable Law.”
Clause 20.3	Insert a new clause as follows: “All workmanship used in the <i>works</i> shall be of good quality and reasonably suitable for its purposes”.
Clause 20.4	Insert a new clause as follows: “The <i>Contractor</i> shall not use or permit to be used any materials which contravene the recommendations contained in the publication “Good Practice in Selection of Construction Materials” (2011: British Council for Offices).”
Clause 20.5	Insert a new clause as follows: “The <i>Contractor</i> acts in accordance with the health and safety requirements stated in the Scope and all relevant health and safety legislation including but not limited to the Health and Safety at

Work Act 1974 and the Construction and Design (Management) Regulations 2015.”

Clause 20.6	Insert a new clause as follows: " The <i>Contractor</i> obtains approval from third parties where necessary and, without limitation, identifies, obtains, complies with, and discharges any and all Consents required in connection with the <i>works</i> , or which are necessary for the <i>Contractor</i> (or any of its subcontractors) to Provide the Works.
Clause 23 "Clause 23.1	Insert a new clause 23 as follows: The <i>Contractor</i> designs the whole of the <i>works</i> .
Clause 23.2	The <i>Contractor</i> warrants that in designing the <i>works</i> it has exercised and will continue to exercise the reasonable skill, care and diligence to be expected of an appropriately qualified designer (or other professional consultant as relevant) who is experienced in designing works similar in size, nature, scope and complexity to the <i>works</i> and who is seeking to comply with its contractual obligations and all Applicable Law.
Clause 23.2	The <i>Contractor</i> submits the particulars of its design as the Scope requires to the Client for acceptance. A reason for not accepting the <i>Contractor's</i> design is that it does not comply with either the Scope or the Applicable Law."
Clause 24 "Clause 24.1	Insert a new clause 24 as follows: The <i>Client</i> may without the consent of the <i>Contractor</i> , assign, charge or transfer the benefit of all or any of his rights arising under or out of this contract. The <i>Contractor</i> shall not, without the prior written consent of the <i>Client</i> , assign, charge or transfer the benefit of all or any of his rights under this contract to any person."
Clause 25 Clause 25.1	Insert a new clause 25 as follows: "25.1 The <i>Contractor</i> keeps (and ensures that its employees and subcontractors keep) confidential and does not disclose to any person any Confidential Information provided to or acquired by the <i>Contractor</i> in the course of this contract except that the <i>Contractor</i> may disclose Confidential Information to the following parties in the following circumstances: <ul style="list-style-type: none"><li>• to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of Providing the Works,</li><li>• where required to do so by law or by any professional or regulatory obligation or by order of any court or governmental agency,</li><li>• which is in the public domain at the time of disclosure other than due to the fault of the Contractor or</li><li>• with the consent of the <i>Client</i>.</li></ul> 25.2 The Contractor does not (and ensures that its employees and subcontractors do not) use any Confidential Information provided to or acquired by it for any purpose other than to Provide the Works.  25.3 The Contractor may publicise the works only with the Client's agreement."
Clause 26 "Clause 26.1	Insert a new clause 26 as follows: The <i>Contractor</i> co-operates with Others, including in obtaining and providing information which they need in connection with the Project. The <i>Contractor</i> cooperates with Others in sharing the <i>site</i> and informs the <i>Client</i> of any third parties it intends to grant access to, or any third parties accessing, the <i>site</i> . The <i>Contractor</i> consults and co-operates with the <i>Contractor</i> and Others in the planning and programming of the <i>works</i> .

Clause 30.5	The <i>Contractor</i> does the work so that the Condition stated for each Key Date is met by the Key Date.
Clause 31.1	After the word “in”, insert the words “Section 5 (Requirements for the Programme) of”.
Clause 41.3	Insert a new clause as follows: “Until the <i>defects date</i> the <i>Contractor</i> notifies the <i>Client</i> as soon as the Contractor becomes aware of a Defect.”
Clause 42.2	Delete the existing clause and insert: “NOT USED.”
Clause 42.3	Delete the existing clause and insert: “The Contractor corrects a Defect before the end of the <i>defect correction period</i> . “The <i>defect correction period</i> begins when the Defect is notified.”
Clause 44.1	Delete all of the words after “ <i>defect correction period</i> ” in line 1 and insert: “,the <i>Client</i> assesses the cost of having the Defect corrected (or, if applicable, omission made good) by other people or itself and, without prejudice to any other right or remedy of the <i>Client</i> , the <i>Contractor</i> pays this amount.”
Clause 45	Insert a new clause as follows: “The Defects Certificate is not evidence that the <i>Contractor</i> has complied with Core Clause 2 or Core Clause 4.”
Clause 50.3	After the word “retained” in the third bullet point, insert the words: “or deducted or withheld”.
Clause 50.6	Delete the word “The” in line 1 and insert the words: “Subject to clause 50.6B, the”.
Clause 50.6	Delete the word “Completion” in line 2 and insert the words: “the earlier of: <ul style="list-style-type: none"> <li>• Completion and</li> <li>• the date on which this contract is terminated.”</li> </ul>
Clause 50.6A	Insert a new clause as follows: <p>“Subject to clause 50.6B, if the <i>Client</i> decides that the work does not meet the Condition stated for a Key Date by the Key Date stated and the Contract Data states delay damages for that Key Date, the <i>Contractor</i> pays delay damages at the rate stated in the Contract Data for each day from the Key Date until the earlier of</p> <ul style="list-style-type: none"> <li>• the date on which the Condition is met and</li> <li>• the date on which the <i>Client</i> issues a termination certificate,</li> </ul> <p>(“<b>Key Date Delay Damages</b>”).</p>
Clause 50.6B	Insert a new clause as follows:



“The *Contractor*’s aggregate liability for *delay damages* and Key Date Delay Damages pursuant to this contract is limited to 10% of the total of the Prices (as adjusted in accordance with clause 63.1).”

- Clause 51.1 Delete the first sentence and insert: “A payment is made in accordance with the Additional Conditions.”
- Clause 51.1A Insert a new clause as follows:  
“The *Contractor* provides to the *Client* an invoice for the amount due no later than 7 days after the date of the *Contractor*’s application for payment under clause 50.1.”
- Clause 60.1(1) At the end of the clause insert: “or the change does not have an impact on the *Contractor*’s ability to Provide the Works”.
- Clause 60.1(2) Delete the words after “to the *Contractor*” and insert: “by the date for access shown on the *Contractor*’s latest programme submitted to the *Client* in accordance with clause 31.1.”
- Clause 60.1(5) At the end of the clause insert “and this has an impact on the *Contractor*’s ability to Provide the Works”.
- Clause 60.1(8) In the third bullet point after the words “an experienced contractor” insert the words: “engaged in activities of a similar nature, scope and complexity to the *works* and under the same or similar circumstances, and who is seeking to comply with his contractual obligations and all Applicable Law”.
- Clause 60.1(8) In the third bullet point delete the word “Offer” and insert: “Tender”.
- Clause 60.1(11) In the fourth bullet point delete the word “Offer” and insert: “Tender”.
- Clause 60.1(11) In the fourth bullet point after the words “an experienced contractor” insert the words: “engaged in activities of a similar nature, scope and complexity to the *works* and under the same or similar circumstances, and who is seeking to comply with his contractual obligations and all Applicable Law”.
- Clause 60.1(13) Insert a new clause 60.1(13) as follows: “An event which is a *Client*’s liability as stated in these *conditions of contract*.”
- Clause 61.3 Delete the words from and including “unless the event arises from...” until the end of the clause.
- Clause 61.3 Delete the words “Prices and Completion Date” and insert “Prices, Key Dates, and Completion Date”.
- Clause 62.1 Delete the words “Prices and Completion Date” and insert “Prices, Key Dates, and Completion Date”.
- Clause 62.2 Delete the words “Prices and Completion Date” and insert “Prices, Key Dates, and Completion Date”.
- Clause 62.2 Insert at the end of the first bullet point the words: “and/or any act, breach of contract, negligence, omission or default of any of the *Contractor*’s subcontractors”.

Clause 62.3	Delete this clause and insert: "If the <i>Client</i> does not reply to a quotation within 2 weeks of receiving such quotation, the <i>Contractor</i> notifies the <i>Client</i> in writing of its failure to respond. If the <i>Client</i> does not reply to the quotation within 2 weeks of receiving the <i>Contractor's</i> notice issued in accordance with this clause 62.3, it is treated as acceptance by the <i>Client</i> of the quotation."
Clause 63.2	Insert the following after "the resulting Fee" at the end of the clause: " , save that in respect of clause 60.1(4), the Completion Date but not the Prices are changed as a result of such compensation event".
Clause 63.6A	A delay to a Key Date is assessed as the length of time that, due to the compensation event, the date when the Condition stated for a Key Date will be met is forecast to be delayed.
Clause 63.8	Delete the words "Prices and the Completion Date" and insert "Prices, Key Dates, and Completion Date".
Clause 70.2	Delete this clause and insert: "NOT USED".
Clause 70.3	Insert a new clause as follows: "The Contractor removes Equipment from the site: <ul style="list-style-type: none"> <li>• when it is no longer needed or</li> <li>• when the <i>Client</i> so instructs.</li> </ul>
Clause 80.1	Insert at the end of the third bullet point: "(unless, the <i>Contractor</i> has accepted responsibility for such design)."
Clause 82.1	At the end of the sentence, add: "as a deduction from the amount due to the <i>Contractor</i> , in accordance with Clause 50.3."
Clause 82.2	At the end of the sentence, delete the words "is paid by the <i>Client</i> " and replace with: "is treated as a compensation event, pursuant to Clause 60.1(13)."
Clause 83.2	Insert new sentence at the end of the clause as follows: "All insurances taken out by the <i>Contractor</i> contain an industry standard 'indemnity to principals' clause".
Clause 83.4	At the end of the sentence, delete the words "the skill and care normally used by professionals designing works similar to the works" and replace with: "the standard of reasonable skill, care, and diligence required under clause 23.2."
Clause 84.2	Insert new clause 84.2 as follows: The Parties comply with the terms and conditions of the insurance policies to which they are a party. Neither Party by any act or neglect causes any insurance policy to be void or voidable or entitles the insurer to refuse any claim (in whole or in part) in respect of any risk or amount for which such policy is expressed to provide indemnity."
Clause 90.5	In the fourth bullet point delete the word "Offer" and insert: "Tender".
Clause 90.5	In the fourth bullet point after the words "an experienced contractor" insert the words: "engaged in activities of a similar nature, scope and complexity to the <i>works</i> and under the same or similar circumstances, and who is seeking to comply with his contractual obligations and all Applicable Law".

- Clause 91.1                      Insert the following after the words “the *Contractor* leaves the *site*”: “in a safe and secure condition”.
- Clause 92.3                      Delete this clause and insert: “NOT USED.”.
- Clause 92.5                      Insert new clause 92.5 as follows: “For the avoidance of doubt, upon termination of this contract for reasons of insolvency as insolvency is defined in sections 111 to 113 of the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009, any payments which have become due will cease to be due to the *Contractor*, whether or not a pay less notice has been served”.
- Clause 93.4                      Insert new clause as follows: “Where this contract is terminated or the *Contractor*’s employment is terminated, the *Contractor* promptly provides the *Client* with all relevant receipts and documents that the *Client* reasonably requires in order for the *Client* to prepare an account.”

**HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996 AS AMENDED BY THE  
LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009 (THE ACT)**  
**ADDITIONAL CONDITIONS**

Title	At the end of title insert the words “ <b>(THE ADDITIONAL CONDITIONS)</b> ”.
Clause 1.1(2)	Delete the first sentence and insert “The date on which a payment becomes due is thirty days after the <i>assessment day</i> .”
Clause 1.4	Delete “seven days” and insert: “the day”.
Clause 1.4	In the third line, insert: “on the day such notice is served” before the words: “is calculated”.
Clause 1.4	Add to the end of the clause: “A reason (but not the only reason) for paying less than the notified sum is the failure of the <i>Contractor</i> to provide an invoice in accordance with clause 51.1A.”

## **ADDITIONAL CLAUSES ("Z CLAUSES")**

Clause Z1	The Z Clauses are part of the Contract.
Clause Z2	<b>Disclosure of Information</b>
Clause Z2.1	The <i>Contractor</i> acknowledges that, in order to be compliant with the EIR (and the FOIA to the extent that in the future it applies to <i>Client</i> ), the <i>Client</i> may be obliged, on request, to provide or consider the provisions of Information to third parties where that Information constitutes or may constitute Confidential Information. Subject to the provisions of this Clause Z2, the <i>Contractor</i> assists and co-operates with the <i>Client</i> (at the <i>Contractor's</i> expense) to facilitate the <i>Client's</i> compliance with the EIR (and the FOIA, if applicable) in that regard.
Clause Z2.2	<p>The <i>Contractor</i>:</p> <ul style="list-style-type: none"><li>(a) transfers any Request for Information that it or its subcontractor receives, to the <i>Client</i> as soon as practicable after receipt and in any event within 2 Working Days of receiving that Request for Information; and</li><li>(b) provides the <i>Client</i> with a copy of all Information in its or its subcontractors' possession or power that the <i>Client</i> reasonably considers is relevant to the Request in the form that the <i>Client</i> requires as soon as practicable and in any event within 5 Working Days of the <i>Client</i> requesting that Information and any follow up Information required by the <i>Client</i> thereafter within 2 Working Days of the <i>Client's</i> follow up request.</li></ul>
Clause Z2.3	<p>The <i>Contractor</i> acknowledges that the <i>Client</i> may be obliged under the EIR (or the FOIA, if applicable) to disclose Information that is or may be Confidential Information:</p> <ul style="list-style-type: none"><li>(a) in certain circumstances without consulting the <i>Contractor</i>, or</li><li>(b) following consultation with the <i>Contractor</i> and having taken the <i>Contractor's</i> views into account,</li></ul> <p>provided always that where clause Z2.3(a) applies, the <i>Client</i>, in accordance with the recommendations of the FOIA Code, draws this to the attention of the <i>Contractor</i> prior to any disclosure.</p>
Clause Z2.4	Subject to the <i>Client</i> complying with its obligations under this clause Z2, it is not liable for any loss, damage, harm or other detriment suffered by the <i>Contractor</i> or any subcontractor arising from the disclosure of any Information whether or not such Information is Confidential Information falling within the scope of the EIR (or the FOIA, if applicable).
Clause Z2.5	The <i>Contractor</i> indemnifies the <i>Client</i> against all claims, demands, actions, costs proceedings and liabilities that the <i>Client</i> incurs due to the <i>Contractor's</i> or any subcontractor's breach of this clause Z2.
Clause Z3	<b>CDM Regulations</b>
Clause Z3.1	The Project that comprises or includes the <i>works</i> will use more than one contractor for the purposes of the Construction (Design and Management) Regulations 2015 (the "CDM Regulations"). Unless and until the Client notifies the <i>Contractor</i> that a replacement has been appointed, the <i>Contractor</i> is the principal contractor and the principal designer under the CDM Regulations in respect of the <i>works</i> , and performs all the functions and obligations required to be performed by the principal contractor and principal designer under the CDM Regulations.
Clause Z4	<b>Data Protection</b>
Clause Z4.1	Each Party shall disclose to the other Party names, email addresses and contact details of the other Party's employees, contractors, and officers for the purposes of administering, managing and delivering this Contract.

Clause Z4.2	The Parties acknowledge that they are each independent and separate Controllers when they process the Personal Data referred to in clause Z4.1 and each Party shall comply with the Data Protection Legislation accordingly.
Clause Z5 Clause Z5.1	<p><b>Complaints</b></p> <p>The <i>Contractor</i> deals with any complaints received from whatever source in a prompt, courteous and efficient manner. The <i>Contractor</i> keeps a written record of all complaints received and of the action taken in relation to such complaints. Such records shall be kept available for inspection by the <i>Client</i> at all reasonable times. The <i>Contractor</i> notifies the <i>Client</i> forthwith in writing of all complaints received and of all steps taken in response thereto.</p>
Clause Z6 Clause Z6.1	<p><b>Non-Reliance</b></p> <p>The <i>Contractor</i> shall not and shall not be entitled to rely upon any survey, report or other document prepared by or on behalf of the <i>Client</i> regarding any such matter as is referred to in this clause and the <i>Client</i> makes no representation or warranty as to the accuracy or completeness of any such survey, report or document. The <i>Client</i> shall have no liability arising out of or in relation to any such survey, report or document or from any representation or statement whether negligent or otherwise, therein contained.</p>
Clause Z7 Clause Z7.1	<p><b>Testing</b></p> <p>No inspection, testing, approval or review and no omission to inspect, test, approve or review on the part of the <i>Client</i> shall diminish any duty or liability hereunder of the <i>Contractor</i>.</p>
Clause Z8 Clause Z8.1	<p><b>Recovery of Sums Due from the Contractor</b></p> <p>Whenever under the contract any sum of money is to be recovered from or payable by the <i>Contractor</i> to the <i>Client</i> such sum may be deducted from or reduced by the amount of any sum or sums then due or which at any time thereafter may become due to the <i>Contractor</i> under the contract or any other contract with the <i>Client</i>.</p>
Clause Z9 Clause Z9.1	<p><b>Notice of Accidents</b></p> <p>The <i>Contractor</i> provides the <i>Client</i> with full details of any casualty or accident occurring on the <i>site</i> during the <i>works</i> within 24 hours of the occurrence.</p>
Clause Z10	<b>NOT USED</b>
Clause Z11 Clause Z11.1	<p><b>[Parent Company Guarantee</b></p> <p>The <i>Contractor</i> provides to the <i>Client</i> within 21 days of execution of this Contract, a parent company guarantee in favour of the <i>Client</i> duly executed by the <i>Contractor's</i> parent company in the form attached in Schedule 5 and the <i>Client</i> is entitled to withhold 20% of any payment due until the Contractor has complied with this clause Z11.1.] <b>[Drafting Note: Use of this clause to be confirmed by the Client prior to contract award – see para 6.12 of the ITT.]</b></p>
Z12 Clause Z12.1	<p><b>Rights of Third Parties Act</b></p> <p>Nothing in this contract confers or purports to confer on any third party any benefit or any right to enforce any term of this contract.</p>
Z13 Clause Z13.1	<p><b>Discrimination</b></p> <p>The <i>Contractor</i> does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Acts 1995 and 2005 or the Equality Act 2010 (the “Discrimination Acts”).</p>

Clause Z13.2	Where possible in Providing the Works, the <i>Contractor</i> co-operates with and assists the <i>Client</i> to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.
Clause Z13.3	Where an employee or subcontractor employed by the <i>Contractor</i> is required to carry out any activity alongside the <i>Client</i> 's employees in any premises, the <i>Contractor</i> ensures that each such employee or subcontractor complies with the <i>Client</i> 's employment policies and codes of practice relating to discrimination and equal opportunities.
Clause Z13.4	The <i>Contractor</i> notifies the <i>Client</i> in writing as soon as it becomes aware of any investigation or proceedings brought against the <i>Contractor</i> under the Discrimination Acts in connection with this contract and provides any information requested by the investigating body, court or tribunal in the timescale allotted, attends (and permits a representative from the <i>Client</i> to attend) any associated meetings, promptly allows access to any relevant documents and information and co-operates fully and promptly with the investigatory body, court or tribunal.
Clause Z13.5	The <i>Contractor</i> indemnifies the <i>Client</i> against all costs, charges, expenses (including legal and administrative expenses) and payments made by the <i>Client</i> arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the <i>Contractor</i> and any costs, charges, expenses (including legal and administrative expenses) and payments which the <i>Client</i> has paid or will pay as a result of an event for which the <i>Contractor</i> is liable is paid by the <i>Contractor</i> .
Clause Z13.6	The <i>Contractor</i> includes in the conditions of contract for each of its subcontractors obligations substantially similar to those set out in this Clause Z13.
Clause Z14 Clause Z14.1	<p><b>Limit of Liability</b></p> <p>The <i>Contractor</i>'s total liability to the <i>Client</i> for all matters arising under or in connection with this contract, other than the excluded matters, is limited to 150% of the total of the Prices (as adjusted in accordance with clause 63.1) and applies in contract, tort, or delict and otherwise to the extent allowed under the Applicable Law.</p>
Clause Z14.2	<p>The excluded matters are amounts payable by the <i>Contractor</i> for:</p> <ul style="list-style-type: none"> <li>• loss of or damage to the <i>Client</i>'s property,</li> <li>• subject to clause 50.6A, delay damages,</li> <li>• death or personal injury (including sickness or disease) suffered by any person, as a result of negligence, breach of statutory duty, omission, cases of fraud, wilful misconduct, illegal or unlawful acts or default by the <i>Contractor</i> or any person employed by or contracted to it (except the <i>Client</i>), nuisance or trespass,</li> <li>• any liability of the <i>Contractor</i> under clauses Z2 and Z4,</li> <li>• liability arising from fraud, fraudulent misrepresentation or wilful default,</li> <li>• the applicable deductible amount under any insurance policy which this contract requires the <i>Contractor</i> to effect, and</li> <li>• liability which is not one of the other excluded matters but is covered by an insurance policy which the <i>Contractor</i> is to take out or maintain under this contract, to the extent the <i>Contractor</i> is able to recover amounts under such insurance policy, or would have been able to recover those amounts but for any act or omission on the part of the <i>Contractor</i> or the operation of the aggregate liability cap as set out in clause Z14.1.</li> </ul>

**SCHEDULE 2 – CONTRACT DATA**

***[INSERT CONTRACTOR'S AND CLIENT'S CONTRACT DATA]***



### **SCHEDULE 3 – SCOPE**

***[INSERT SCOPE]***

**SCHEDULE 4 – CONTRACTOR’S TENDER**

***[INSERT CONTRACTOR’S TENDER]***

## SCHEDULE 5 – PARENT COMPANY GUARANTEE

THIS GUARANTEE is made the [ ] day of [ ] 202[ ]

### BETWEEN:

- (1) [ ] whose registered office is at [ ] (the "Guarantor"); and
- (2) **WEST LONDON WASTE AUTHORITY** whose address is Unit 6, Britannia Court, The Green, West Drayton, UB7 7PN (the "Client" which expression includes its permitted successors and assigns).

### WHEREAS:

- A. This guarantee (the "Guarantee") is given in connection with a contract [dated] (the "Contract") made between the Client of the one part and [ ] (the "Contractor") of the other part for [ Insert details of the works] (the "Works").
- B. The Guarantor has agreed to guarantee the due performance of the Contractor's obligations to the Client under the Contract in the manner set out below.

In consideration of the Client entering into the Contract **It Is AGREED:**

1. The Guarantor hereby guarantees to the Client the full and due performance of all the obligations of the Contractor contained within the Contract. If the Contractor fails to observe or perform any of its duties or obligations under or in connection with the Contract or if the employment of the Contractor under the Contract shall determine by operation of or notice given under clause 9 of the Contract, the Guarantor shall (subject to the remaining clauses of this Guarantee) be responsible for and hereby indemnifies the Client against all losses, damages, costs and expenses which the Client may incur by reason of such failure to observe or perform or such termination. The Guarantor shall itself pay to the Client without any deduction or set-off the amount of such debt, damages, interest or costs as the case shall require.
2. The Contract may be modified, amended or supplemented in any manner whatsoever without the consent of the Guarantor, and no such modification, amendment or supplement shall release or impair the liability of the Guarantor under this Guarantee, which shall extend to the duties, obligations and liabilities of the Contractor under the Contract as so modified, amended or supplemented. No invalidity in the Contract or its avoidance or termination shall affect or impair the liability of the Guarantor under this Guarantee. No waiver, concession, allowance of time, compromise or forbearance given to or made with the Contractor shall release, affect or impair the liability of the Guarantor under this Guarantee, and the terms of this Guarantee shall apply to the terms of such compromise as they apply to the Contract.
3. This guarantee shall not be affected and the Guarantor shall not be exonerated in any way by:
  - 3.1. the insolvency, bankruptcy, winding-up, dissolution, administration, incapacity, amalgamation, reconstruction, re-organisation or any analogous proceeding relating to the Contractor;
  - 3.2. any time, indulgence or concession being granted to the Contractor;
  - 3.3. the Client compounding or entering into any compromise, settlement or arrangement with the Contractor or any other person;
  - 3.4. any other matter or thing which would but for this provision affect or exonerate the Guarantor's liability hereunder.
4. The Client shall not be required to pursue any remedy against the Contractor before proceeding against the Guarantor under this Guarantee.
5. So long as the obligations of the Guarantor under this Guarantee and those of the Contractor under the Contract remain outstanding and unperformed the Guarantor will not claim any set-off or counterclaim against the Contractor, prove in competition with the Client or have the benefit of any security which the Client holds or may hold for any money or liabilities due from or incurred by the Contractor.
6. The Client shall be entitled to recover no more under this Guarantee in respect of any matter than the Client would be entitled to recover from the Contractor in respect of that matter and the

Client shall not be entitled to commence proceedings against the Guarantor under this Guarantee in respect of any claim once any proceedings against the Contractor in respect of such claim would be statute-barred.

7. The Client is entitled to assign the benefit of and its rights under this Guarantee to any party without the Guarantor's consent.
8. The parties to this Guarantee do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
9. Any notice or other document to be given by a party under this Guarantee shall be in writing and shall be considered to have been given if hand delivered to the other party or sent by registered post to the other party at the address above (or such other address as one party may from time to time designate by written notice to the other), or sent by email to [EMAIL ADDRESS] for the Contractor and to [EMAIL ADDRESS] for the Client. Any notice or other document shall be considered to have been received by the addressee 2 business days following the date of despatch of the notice or other document by registered post or on the next business day where delivery is by hand and two (2) hours after transmission where sent by email.
10. Each provision of this Guarantee is severable and distinct from the others. If a provision of this Guarantee is or becomes to any extent illegal, invalid or unenforceable in any jurisdiction, it shall not affect the legality, validity or enforceability of any other term of this Guarantee.
11. This Guarantee is subject to English law and the English courts shall have jurisdiction with regard to all matters arising out of or in connection with it.

**In witness** whereof this Guarantee has been executed as a Deed by the parties on the date first above written.

SIGNED AS A DEED  
ON BEHALF OF  
WEST LONDON  
WASTE AUTHORITY  
BY

.....

Peter Tilston, Projects Director

Executed as a deed by	)	
[GUARANTOR]	)	
acting by:	)	
two directors, a director and its secretary	)	
or a director in the presence of a witness	)	
	)	
		<div>Signature of director</div>
If signed by a director in the presence of a witness, please ensure the witness completes the following:		
.....		<div>Print name (ALL CAPITALS)</div>
.....		
Witness address (ALL CAPITALS)		<div>Signature of director/secretary/witness</div>
.....		
Witness occupation (ALL CAPITALS)		<div>Print name (ALL CAPITALS)</div>