

MAYOR OF LONDON

Agreement Reference Number: GLA 80594

Date:

**Framework Agreement
for the Provision of Services**

between

The GREATER LONDON AUTHORITY

and

Osborne Energy Ltd

CLAUSES

1	DEFINITIONS AND INTERPRETATIONS	4
2	FRAMEWORK AGREEMENT	14
3	CALL-OFF PROCEDURE	15
4	TERM OF AGREEMENT AND CALL-OFF CONTRACTS	16
5	THE SERVICES.....	16
6	CHARGE AND REBATE.....	17
7	WARRANTIES AND OBLIGATIONS	20
8	CONTRACTUAL MANAGEMENT	21
9	CONTRACTOR'S PERSONNEL	26
10	SUB-CONTRACTING, CHANGE OF OWNERSHIP AND ASSIGNMENT	27
11	CONFLICT OF INTEREST	28
12	ACCESS TO PREMISES	29
13	COMPLIANCE WITH POLICIES AND LAW	30
14	CORRUPT GIFTS AND PAYMENT OF COMMISSION	32
15	RESPONSIBLE PROCUREMENT	33
16	QUALITY AND BEST VALUE.....	34
17	RECORDS, AUDIT AND INSPECTION	34
18	SET-OFF	34
19	INDEMNITY	34
20	INSURANCE.....	35
21	EMPLOYER'S DATA	37
22	INTELLECTUAL PROPERTY RIGHTS	37
23	PROTECTION OF PERSONAL DATA	38
24	CONFIDENTIALITY, ANNOUNCEMENTS AND TRANSPARENCY	39
25	FREEDOM OF INFORMATION	41
26	DISPUTE RESOLUTION	42
27	BREACH AND TERMINATION OF AGREEMENT	44
28	FORCE MAJEURE	45
29	CONSEQUENCES OF TERMINATION OR EXPIRY	45
30	EMPLOYEE INFORMATION ON EXPIRY OR TERMINATION.....	46
31	TRANSFER OF EMPLOYEES ON EXPIRY OR TERMINATION.....	49
32	SURVIVAL	52
33	CONTRACTS (RIGHTS OF THIRD PARTIES) ACT	52
34	CONTRACT VARIATION.....	53
35	NOVATION	53
36	WAIVER	53
37	SEVERABILITY	53
38	NOTICES.....	54
39	ENTIRE AGREEMENT	54
40	RELATIONSHIP OF THE PARTIES	55
41	FURTHER ASSURANCE.....	55
42	MEET THE BUYER OBLIGATION	55
43	WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT REGULATIONS 2013	55
44	GOVERNING LAW	57
	SCHEDULE 1 - KEY AGREEMENT INFORMATION	58

SCHEDULE 2 – FRAMEWORK SCOPE	59
SCHEDULE 4 – Call-Off Contract Model Terms	81
SCHEDULE 5A - Call-Off Procedure	82
SCHEDULE 5B - Request Form (Mini-Competition)	86
ATTACHMENT 1	88
ATTACHMENT 2.....	89
ATTACHMENT 3.....	90
SCHEDULE 6 – COLLATERAL WARRANTIES, PARENT COMPANY GUARANTEE, LEGAL OPINION AND PERFORMANCE BOND TEMPLATES.....	91
SCHEDULE 7 – RESPONSIBLE PROCUREMENT	146
SCHEDULE 8 – MINIMUM STANDARDS	160

THIS AGREEMENT is made the day of 2015

BETWEEN:

- (1) **THE GREATER LONDON AUTHORITY** whose principal offices are at City Hall, The Queen's Walk, London SE1 2AA ("**the Contracting Authority**"); and
- (2) **Osborne Energy Ltd**, a company registered in Company Registration Number 3169565 whose registered office is at Hanover House, Marine Court, St Leonards-on-Sea, East Sussex, TN38 0DX ("**the Contractor**").

RECITALS:

- (A) The Framework Parties wish to enter into a framework agreement which enables any Employer, from time to time, to enter into a Call-Off Contract or a series of Call-Off Contracts with the Contractor for some or all of the Services of the type described in the Framework Scope.
- (B) This Agreement can be utilised by the Contracting Authority and any other Employer. The terms and conditions of this Agreement provide that in addition to the Contracting Authority, an Employer (who is not the Contracting Authority) may contract with the Contractor on the terms set out in this Agreement.

THE PARTIES AGREE THAT:

In consideration of the payment by the Contracting Authority to the Contractor of £5.00 (five pounds) (the receipt and sufficiency of which is acknowledged by the Contractor) and the mutual promises and covenants set out in this Agreement, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATIONS

In the Agreement (including the Recitals):

- 1.1 unless the context indicates otherwise the following expressions shall have the following meanings:

"Agreement"	this framework agreement, including the Schedules and all other documents referred to in this Agreement;
--------------------	--

"Access Agreement"	means an agreement between the Contracting Authority and an Employer (other than the Contracting Authority) permitting them to call off from this Agreement;
---------------------------	--

“Agreement Date”	Commencement	the date for commencement of this Agreement specified in Schedule 1 ;
“Agreement Number”	Reference	the reference number for this Agreement as set out in Schedule 1 ;
“Base Internal Labour Rates”		the hourly and/or daily labour rates specified as such in Schedule 3 ;
“Business Day”		any day excluding Saturdays, Sundays or public or bank holidays in England and Wales;
“Call-Off Contract”		a call-off contract, in the relevant form set out in Schedule 4 (as amended and/or supplemented during the Call-Off Procedure), that has been executed by the Contractor and an Employer, and includes any schedules, attachments and any documents expressly referred to in that Call-Off Contract;
“Call-Off Contract Number”		the reference number for a Call-Off Contract, as specified in the relevant Call-Off Contract;
“Call-Off Co-ordinator”		the person named as such in a Call-Off Contract or such other person as notified to the Contractor by the relevant Employer from time to time;
“Call-Off Procedure”		means the award procedure for a Call-Off Contract as specified in clause 3 and Schedule 5A ;
“Call-Off Term”		the duration of a Call-Off Contract, as set out in the relevant Call-Off Contract;
“Charges”		the charges/amounts payable by the relevant Employer, in consideration of the due performance of the Services, as specified in or calculated in accordance with a Call-Off

	Contract;
“CO₂e”	carbon dioxide equivalent;
“Confidential Information”	all information (whether written or oral) that by its nature may reasonably be regarded as confidential to an Employer (whether commercial, financial, technical or otherwise) including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of each Employer;
“Contract Information”	<ul style="list-style-type: none"> (i) the Agreement and any Call-Off Contract in their entirety (including from time to time agreed amendments to the Agreement or to any Call-Off Contract); and (ii) data extracted from the invoices submitted pursuant to each Call-Off Contract which shall consist of the Contractor’s name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the invoice amount;
“Contractor’s Manager”	the person named as such in Schedule 1 or such replacement person agreed with the Contracting Authority from time to time;
“Contractor’s Personnel”	all such employees, officers, suppliers, sub-contractors and agents of the Contractor as are engaged in the performance of any of the Services and including the Key Personnel;
“Employer”	the Contracting Authority and/or any other bodies listed in paragraph VI.3 of the OJEU Notice and/or any other bodies

	that have entered into an Access Agreement and are utilising this Agreement;
“Facilitating Organisation”	means any organisation identified by the Contracting Authority which will assist with the use of this Agreement and receive a rebate in line with clause 6.5 ;
“Framework Parties”	means the Contracting Authority (including its successors in title and permitted assigns) and the Contractor and “Framework Party” shall mean either of them as the case may be;
“Framework Scope”	the document at Schedule 2 ;
“Force Majeure Event”	any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, or other natural catastrophe or strikes, lock-outs or other industrial disputes to the extent that such event has materially affected the ability of the Framework Party relying on the Force Majeure Event (“ Affected Party ”) to perform its obligations in accordance with the terms of this Agreement but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;
“Funding Supported”	funding leveraged in connection with a Call-Off Contract, including Energy Company Obligation (ECO), Green Deal funding, other central Government funding and other sources of third party funding;

“Holding Company”

any company which from time to time directly or indirectly controls the Contractor as set out by section 1159 of the Companies Act 2006;

“Insolvency Event”

any of the following:

- (a) the Contractor and/or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order;
- (b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the business of the Contractor and/or the Holding Company;
- (c) being a company, the Contractor and/or the Holding Company having passed a resolution for its winding-up or being subject to a petition for its winding-up (except for the purposes of a voluntary amalgamation, reconstruction or other re-organisation without insolvency);
- (d) the Contractor and/or the Holding Company ceasing or threatening to cease to carry on its business for any reason and/or being unable to pay its debts within the meaning of the Insolvency Act 1986;
- (e) being an individual or firm, the Contractor becoming bankrupt or dying;
- (f) any similar event to those in (a) to (e) above occurring in relation to the Contractor

and/or the Holding Company under the law of any applicable jurisdiction for those purposes;

“Intellectual Property Rights”

any patent, know-how, trade mark or name, service mark, design right (in each case whether registered or unregistered), copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world;

“Key Personnel”

the Contractor's key personnel named as such in **Schedule 1** or each Call-Off Contract;

“Losses”

all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, loss of opportunity, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;

“Maximum Allowances for Overheads and Profit”

the maximum allowances for overheads and profit in respect of the Services as set out in **Schedule 3**;

“Meet The Buyer Events”

events held by the Contracting Authority in order to open contract opportunities in relation to the

	RE:NEW project to small and/or medium sized companies;
“Mini-Competition”	the competitive process which an Employer will utilise to select a contractor to carry out Services from time to time as set out in Schedule 5A ;
“Minimum Standards”	the standards set out or referred to in Schedule 8 ;
“OJEU Notice”	the contract notice 348385-2014 dispatched on 10 October 2014 in the Official Journal of the European Union;
“Parent Company”	is as stated in Schedule 1 ;
“Parent Company Guarantee”	a guarantee by the Parent Company in the form at Schedule 6 of the Contractor’s obligations pursuant to this Agreement;
“Parties”	an Employer (including successors and permitted assigns) and the Contractor and “Party” shall mean either of them as the case may be;
“Premises”	any land or premises (including temporary buildings) owned, let or occupied by or on behalf of any Employer or land or buildings (including domestic and private properties) to which the Works and/or Services are being carried out;
“Project”	a scheme proposed by an Employer, within the Framework Scope, to allow the implementation of energy reduction and/or energy generation measures and/or changes in water consumption;
“Project Brief”	a document prepared by an Employer prior to the running of a Mini-Competition which shall

		outline the Project, the relevant Employer's financial, technical and operational requirements in respect of the Project, data on buildings/properties covered by the Project, contract model options, call-off contract terms and any additional terms and conditions and financial requirements that are relevant to the Project, amongst other things;
"Proposal"		the Contractor's offer to provide Services in response to a Request Form, including any information and other documentation required in accordance with the Request Form;
"Quality Proposal"		the Contractor's quality response proposal as set out at Schedule 9 ;
"Records"		shall have the meaning given to it in clause 17.1 of this Agreement;
"RE:NEW Manager"	Programme	the person named as such in Schedule 1 or such other person as notified to the Contractor by the Contracting Authority from time to time;
"Request Form"		a document produced by an Employer pursuant to clause 3 , setting out its request for a Proposal and the instruction to tender, which document shall be substantially in the form set out in Schedule 5B or in such other form as may be notified to the Contractor by an Employer from time to time;
"Services"		(a) all or any part of the services to be provided to, or activities or Works to be undertaken and completed for an Employer by the Contractor under a Call-

	Off Contract as detailed in such Call-Off Contract including any variations to such services and/or activities pursuant to the terms of the Call-Off Contract; and
	(b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Call-Off Contract;
“Specification”	the Project specifications and other requirements set out or referred to in the Call-Off Contract;
“tCO2e”	tonnes of carbon dioxide equivalent;
“Term”	the period during which this Agreement continues in force as set out in Schedule 1 ;
“Transparency Commitment”	means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which an Employer is committed to publishing its contracts, tender documents and data from invoices received;
“VAT”	means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature;
“Works”	means any works that are to be carried out as part of the Services.

- 1.2 A reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders.
- 1.3 A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of this Agreement.
- 1.4 A reference to any document other than as specified in **clause 1.3** and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of this Agreement.
- 1.5 Headings are included in this Agreement for ease of reference only and do not affect the interpretation or construction of this Agreement.
- 1.6 References to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Agreement and any reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule.
- 1.7 Subject to **clause 1.8**, in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, except where the conflicting part of the Schedule is explicitly expressed to take precedence.
- 1.8 Except as otherwise expressly provided in any Call-Off Contract, if there is any inconsistency between any of these Clauses, the Schedules, any Call-Off Contract or any other document referred to in or incorporated into this Agreement or any Call-Off Contract, the order of priority for the purposes of construction is:
- 1.8.1 the relevant Call-Off Contract;
 - 1.8.2 these Clauses in this Agreement;
 - 1.8.3 the Schedules;
 - 1.8.4 any other document referred to in or incorporated by reference into this Agreement or any Call-Off Contract.
- 1.9 The Schedules form part of this Agreement and will have the same force and effect as if expressly set out in the body of this Agreement.
- 1.10 The expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture.
- 1.11 The words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

2. **FRAMEWORK AGREEMENT**

2.1 The purpose of this Agreement is to:

2.1.1 provide a mechanism whereby the Parties may enter into Call-Off Contracts;

2.1.2 provide the framework to administer each Call-Off Contract.

2.2 If any Employer wishes to procure any services and/or works within the Framework Scope under this Agreement, it shall enter into a Call-Off Contract with the Contractor in accordance with the Call-Off Procedure. Such Employer (other than the Contracting Authority) must enter into an Access Agreement with the Contracting Authority prior to entering into a Call-Off Contract with the Contractor pursuant to this Agreement unless the Contracting Authority confirms that an Access Agreement will not be required.

2.3 This Agreement does not oblige any Employer to enter into any Call-Off Contract with the Contractor for the provision of the services and/or works within the Framework Scope or services and/or works which are of similar type and nature to those described in the Framework Scope.

2.4 Prior to entering into any Call-Off Contract with any Employer (other than the Contracting Authority), the Contractor must confirm with the Contracting Authority that such Employer has entered into an Access Agreement with the Contracting Authority to enable it to enter into Call-Off Contracts with the Contractor pursuant to the terms of this Agreement, unless the Contracting Authority has confirmed that an Access Agreement will not be required.

2.5 Each Call-Off Contract, once executed by the relevant Employer and the Contractor, shall be a binding agreement on the relevant Parties to it and shall form a separate agreement between those Parties. The Contracting Authority is not obliged to approve or sign any Call-Off Contract.

2.6 The services and/or works that may be requested by an Employer and provided by the Contractor are of the type described in the Framework Scope and as more particularly described in each Call-Off Contract. Each Employer's requirements may vary and this Agreement shall not place an Employer under any obligation to procure the Services or any minimum volume of the Services from the Contractor at a particular time or at all. This Agreement is not an exclusive arrangement and nothing in this Agreement shall operate to prevent each Employer from engaging any other organisations or persons to provide services similar to or the same as the Services or the services and works described in the Framework Scope.

2.7 **Clause 3** sets out the procedure by which the Parties may enter into a Call-Off Contract.

2.8 The Contractor shall commence provision of the relevant Services in accordance with the Call-Off Contract. The Contractor shall not commence any Services without an agreed Call-Off Contract.

2.9 All Charges in respect of a Call-Off Contract shall be set out in the relevant Call-Off Contract.

3. **CALL-OFF PROCEDURE**

3.1 At any time during the Term of this Agreement, an Employer may identify services and/or works within the Framework Scope which at its sole discretion it wishes to procure under the terms of this Agreement.

3.2 The Contractor acknowledges and agrees that:

3.2.1 each Call-Off Contract is specifically between the Contractor and the relevant Employer. The Contracting Authority shall have no liability to the Contractor arising out of or in connection with any such Call-Off Contract, save where the Contracting Authority is the party to such Call-Off Contract;

3.2.2 a Call-Off Contract is personal to the parties to it and no Employer that is not a party to the Call-Off Contract shall have any liability to the Contractor arising out of or in connection with any such Call-Off Contract;

3.2.3 each Employer is independently responsible for the conduct of their awards of Call-Off Contracts pursuant to this Agreement and that the Contracting Authority is not responsible or accountable for the conduct of any other Employer in relation to this Agreement or in relation to any Call-Off Contract, save where the Contracting Authority is the party to such Call-Off Contract.

Nothing in this Clause is intended to limit the liability of the relevant Employer to the Contractor under the Call-Off Contract.

3.3 Where an Employer wishes to procure services and/or works under this Agreement, that Employer must undertake a Mini-Competition by following the Call-Off Procedure set out in **Schedule 5A**.

3.4 Each Call-Off Contract shall be a binding agreement on the Parties and shall incorporate the terms and conditions set out in the completed Call-Off Contract and such documentation shall together form a separate agreement between the parties.

3.5 A Request Form and anything prepared or discussed by the relevant Employer shall constitute an invitation to treat and shall not constitute an offer capable of acceptance by the Contractor. The relevant Employer shall not be obliged to consider or accept any Proposal submitted by the Contractor.

- 3.6 A draft call-off contract shall only become a Call-Off Contract upon execution of the draft call-off contract by the Contractor and the relevant Employer.
- 3.7 The relevant Employer is not obliged to approve or sign any call-off contract.
- 3.8 Unless otherwise expressly agreed in writing with the relevant Employer or permitted under the Agreement, the Contractor shall not be entitled to charge under this Agreement for:
- 3.8.1 any work involved in any receipt and/or confirmation of any Request Form; and/or
 - 3.8.2 any response to any Request Form as contemplated in this **clause 3**; and/or
 - 3.8.3 any work done in connection with the Call-Off Procedure described in **Schedule 5A**, including receiving or responding to any request for information or invitation from an Employer or in preparing any Proposal.
- 3.9 Where reasonably requested to do so by any Employer that is not the Contracting Authority, and provided the Contractor is willing to so contract, the Contractor shall contract with such Employer on the terms of this Agreement mutatis mutandis.

4. TERM OF AGREEMENT AND CALL-OFF CONTRACTS

- 4.1 This Agreement (but not a Call-Off Contract) commences on the Agreement Commencement Date and continues in force for the Term unless terminated earlier, either in whole or in part, in accordance with this Agreement.
- 4.2 Each Call-Off Term shall be set out in the relevant Call-Off Contract. Unless stated otherwise in a Call-Off Contract, the Call-Off Term and the Services provided pursuant to a Call-Off Contract may extend beyond the termination or expiry of this Agreement, in which case the provisions of this Agreement shall survive such expiry or termination to the extent that such provisions are relevant to any such Call-Off Contract.
- 4.3 A Call-Off Contract may expire or be terminated in accordance with its terms but such expiry or termination shall not, in and of itself, give rise to an expiry or termination of any other Call-Off Contract or this Agreement.

5. THE SERVICES

- 5.1 The Contractor:
- 5.1.1 shall provide the Services specified in a Call-Off Contract to the relevant Employer in accordance with the terms of the relevant Call-Off Contract; and

- 5.1.2 acknowledges that it has sufficient information about each Employer, the Specification and the Project Brief and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the relevant Call-Off Contract.
- 5.2 The Contractor acknowledges that the Contracting Authority has identified Minimum Standards to be met by the Contractor when providing the Services. Save as otherwise set out in each Call-Off Contract, the Contractor warrants to each relevant Employer that the Services will meet the Minimum Standards.
- 5.3 Subject to the terms of each Call-Off Contract, the Contractor shall comply with the Quality Proposal when providing the Services.
- 5.4 Notwithstanding anything to the contrary in this Agreement, each Employer's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of this Agreement or relevant Call-Off Contract.
6. **CHARGE AND REBATE**
- 6.1 During the Call-Off Term, the Contractor may apply to the relevant Employer to vary the Base Internal Labour Rates as set out in **Schedule 3** on each anniversary of the commencement date of the Call-Off Contract. In the event that the Parties to the Call-Off Contract agree to amend the Base Internal Labour Rates, the Parties shall use reasonable endeavours to agree the changes to the Base Internal Labour Rates within 20 Business Days of the proposal to amend being agreed or within any other period as may be agreed by the Parties. If the Parties have agreed to amend the Base Internal Labour Rates but the Parties cannot then agree the changes to the Base Internal Labour Rates within the relevant period either Party may seek determination of such changes in accordance with the dispute resolution procedure under **clause 26**.
- 6.2 The Contracting Authority has engaged a Facilitating Organisation to provide support to Employers who wish to utilise this Agreement for the delivery of Projects within London. If an Employer indicates in its Project Brief or Request Form that a rebate will be payable then the Contractor shall pay to the Facilitating Organisation a rebate in the amount specified in the relevant Call-Off Contract under this Agreement.
- 6.3 Where the Contractor enters into a Call Off Contract with an Employer, where such Employer is not the Contracting Authority, and the relevant Employer has not entered into an Access Agreement with the Contracting Authority then the Contractor will pay a rebate equal to 2% of the Charges to the Contracting Authority, or Facilitating Organisation nominated by the Contracting Authority, unless the Contracting Authority has confirmed that an Access Agreement will not be required. For the avoidance of doubt, it is the Contractor's responsibility to confirm that the

relevant Employer ordering the Services has entered into an Access Agreement or that an Access Agreement is not required.

- 6.4 Notwithstanding **clause 6.2**, for Employer's who wish to utilise this Agreement in connection with Projects outside of London, the Contracting Authority may nominate Facilitating Organisations which can provide assistance and the Contractor shall pay to whichever Facilitating Organisation the relevant Employer uses a rebate in the amount specified in each relevant Call-Off Contract under this Agreement.
- 6.5 All rebates payable under **clauses 6.2, 6.3 and 6.4** shall be paid within 30 days of receipt of Charges, or instalments of Charges by the Contractor from the relevant Employer or within any other period specified in the Call-Off Contract.
- 6.6 The Contractor agrees that if at any time during the Term it sells any Services to a comparable customer for less than the Charges then in force for those Services, it shall reduce the relevant Charges to match the lower price charged to comparable customers for so long as the lower price is available (but for no longer) and shall refund each relevant Employer the difference between the Charges and the lower price in respect of its purchases of the Services after the Contractor began charging the lower price. For the purposes of this clause, "comparable" means a customer that purchases Services in substantially similar type and quantity as the relevant Employer on broadly similar terms and conditions.
- 6.7 Where the Contractor receives any rebate, discount or commission in the acquisition of any goods or services for an Employer in connection with a Call-Off Contract from any of its suppliers, the Contractor shall ensure that it passes on the benefit of that rebate, discount or commission to the relevant Employer as follows:
- 6.7.1 the Contractor shall deduct such rebate, discount or commission received from the amount payable by the relevant Employer to the Contractor under the relevant Call-Off Contract and shall adjust its invoice(s) produced pursuant to the relevant Call-Off Contract accordingly to reflect such deduction; or
- 6.7.2 if the relevant Employer has settled all Charges payable under the Call-Off Contract, the Contractor shall refund such amount to the relevant Employer within 30 days of receiving such rebate, discount or commission.

The Contractor shall provide to each relevant Employer within 14 days any Records reasonably requested by the relevant Employer connected with any rebate, discount or commission, for the relevant Employer to be able to confirm that any rebate, discount or commission has been passed on to the relevant Employer.

- 6.8 In respect of each Call-Off Contract the Contractor shall provide each relevant Employer with open book pricing and shall, whenever requested by each relevant Employer, provide to the relevant Employer details and supporting evidence of all the Contractor's costs in meeting its obligations under the relevant Call-Off Contract, including all management, materials, labour and equipment costs.
- 6.9 Whenever requested by the Contracting Authority the Contractor shall provide the Contracting Authority with details and supporting evidence of all of the Contractor's costs in meeting its obligations under this Agreement, including all management, materials, labour and equipment costs.
- 6.10 Without prejudice to the general requirements of **clause 6.8**, in respect of each Call-Off Contract the Contractor shall maintain, in accordance with good accountancy practice, and provide each relevant Employer with access to accounting books and records that set out:
- 6.10.1 the actual and forecast operating expenditure of the Contractor in providing the relevant Services;
 - 6.10.2 the actual and forecast capital expenditure of the Contractor in providing the relevant Services, broken down by volume, unit cost and margin;
 - 6.10.3 the actual and forecast cost of all resources provided, or to be provided, by the Contractor in meeting its obligations under the relevant Call-Off Contract (which shall include grade, number of days and day rates);
 - 6.10.4 all actual and forecast third party costs incurred by the Contractor in providing the relevant Services (including all sub-contractor costs) and any mark-up charged on any such third party costs;
 - 6.10.5 the profit, before interest and tax, that the Contractor has achieved, and has forecast to achieve, under the relevant Call-Off Contract;
 - 6.10.6 any other information and documentation which relates to the reasonableness of the Charges and/or which is necessary to satisfy each relevant Employer's requirement to demonstrate value for money;
 - 6.10.7 any such other cost items as the relevant Employer may reasonably require in order to audit the costs of the Contractor for the purpose of verifying the Charges, any estimates of the Charges and/or any charging information being provided by the Contractor.
- 6.11 The Contractor shall, following a written request by each relevant Employer who has entered into a Call-Off Contract and without prejudice

to any other audit and inspection rights that the relevant Employer has under this Agreement or the relevant Call-Off Contract, promptly provide the relevant Employer with copies of any or all accounting books and records referred to in **clause 6.10**.

- 6.12 The Contractor shall not be entitled to reimbursement by the Contracting Authority or any other Employer for any costs or expenses incurred as a result of the Contractor complying with the requirements of this Agreement (including the requirements of **clauses 6.8, 6.9, 6.10 and 6.11**). If an Employer enters into a Call-Off Contract with the Contractor this **clause 6.12** does not affect the Contractor's right to payment for the Services provided under such Call-Off Contract.

7. WARRANTIES AND OBLIGATIONS

- 7.1 Without prejudice to any other warranties expressed elsewhere in this Agreement or implied by law, the Contractor warrants, represents and undertakes that:

7.1.1 the Contractor:

7.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the consent of its Holding Company) to enter into and to perform the Agreement and each Call-Off Contract; and

7.1.1.2 is aware of the purposes for which the Services are required and acknowledges that each relevant Employer is reliant upon the Contractor's expertise and knowledge in the provision of the Services; and

7.1.1.3 is entering into this Agreement and each Call-Off Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under each Call-Off Contract and this Agreement;

7.1.2 the Agreement and each Call-Off Contract is executed by a duly authorised representative of the Contractor.

- 7.2 Each warranty and obligation in this **clause 7** shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of this Agreement.

- 7.3 The Contractor shall deliver to the Contracting Authority within 20 Business Days of the date of this Agreement a duly executed Parent Company Guarantee from the Parent Company (or such other person as the Contracting Authority approves in writing) and, if requested by the

Contracting Authority, a legal opinion (in the form set out in **Schedule 6**) as to its enforceability.

8. CONTRACTUAL MANAGEMENT

- 8.1 The Contracting Authority authorises the RE:NEW Programme Manager to act as the Contracting Authority's representative for all purposes of this Agreement and the Contractor shall deal with the RE:NEW Programme Manager (or his or her nominated representative) in respect of all matters arising under this Agreement, unless notified otherwise. Each Employer may nominate a Call-Off Co-ordinator in respect of each Call-Off Contract in relation to matters arising under a Call-Off Contract.
- 8.2 The Contractor's Manager shall act as the Contractor's representative for all purposes of this Agreement. The Contractor shall procure that the Contractor's Manager shall attend all contract meetings with the Contracting Authority (the location, frequency and time of which shall be specified by the RE:NEW Programme Manager from time to time) and shall be available to the Contracting Authority to resolve any issues arising in connection with this Agreement.
- 8.3 The Contractor may only replace the Contractor Manager (except in the event of sickness, incapacity or resignation) with the prior consent of the Contracting Authority (which shall not be unreasonably withheld).
- 8.4 In respect of each Call-Off Contract, the Contractor shall provide the Key Personnel. The Contractor shall procure that the Key Personnel:
- 8.4.1 diligently supervise the performance of the Services;
 - 8.4.2 attend all contract meetings with each relevant Employer (the location, frequency and time of which shall be specified by the relevant Employer or relevant Call-Off Co-ordinator from time to time); and
 - 8.4.3 be available to each relevant Employer to resolve any issues arising in connection with each relevant Call-Off Contract at such time periods as are specified in the relevant Call-Off Contract (or in the absence of specified time periods at all reasonable times).
- 8.5 The Contractor may only make any changes to the Key Personnel (except in the event of sickness, incapacity or resignation) with the prior consent of each relevant Employer (which shall not be unreasonably withheld).
- 8.6 No act of or omission by or approval from either any Employer, the RE:NEW Programme Manager, or any Call-Off Co-ordinator in performing any of their respective duties under or in connection with this Agreement or relevant Call-Off Contract shall in any way operate to relieve the Contractor of any its duties, responsibilities, obligations or liabilities under this Agreement and relevant Call-Off Contract.

8.7 Unless advised otherwise by the Contracting Authority, the Contractor will provide management information reports (“**Management Information Reports**”) to the Contracting Authority, at no additional cost, on a quarterly basis during the Term of the Agreement and during each Call-Off Term. For the avoidance of doubt this obligation extends beyond and shall survive the termination (whatever the cause) or expiry of this Agreement. The Contractor shall submit the Management Information Reports within 30 Business Days of the end of each quarter. The Management Information Reports will cover the period since the date of the previous report or, in the case of the first Management Information Report, since the Agreement Commencement Date. Each Management Information Report shall, unless otherwise agreed in writing by the Contracting Authority, include the following:

8.7.1 the number of Mini-Competitions that the Contractor has bid on and the number of Mini-Competitions that the Contractor has won, including details of the Project;

8.7.2 for each Call-Off Contract entered into by the Contractor, the following information must be included:

8.7.2.1 details of the Call-Off Contract including the name of the Employer, the Call-Off Co-ordinator’s contact details and a summary of the Project requirements;

8.7.2.2 for Call-Off Contracts which do not involve physical works:

(a) the number of domestic properties and other Premises (broken down by tenure and type of property) to which the Services apply; and

(b) the total contract value, broken down to show each component as described in **clause 8.8**. If at the point of reporting the value is not certain the Contractor should provide its best estimate;

8.7.2.3 for Call-Off Contracts which involve physical works, but where works have not yet been commenced:

(a) the estimated number of domestic properties and other Premises (broken down by tenure and type of property) on which works will be undertaken;

(b) the number and type of measures which are proposed to be installed;

(c) an estimate of the tonnes of CO₂ which will be saved per year as a result of the works to be undertaken;

- (d) an estimate of the annual utility bill savings which will result from the works to be undertaken;
- (e) an estimate of the annual energy which will be saved in KWh/m² per year and MWh per year as a result of the works to be undertaken;
- (f) an estimate of the Funding Supported (shown in pounds sterling (£)) broken down by funding source;
- (g) the total contract value, broken down to show each component as described in **clause 8.8**. If at the point of reporting the value is not certain the Contractor should provide its best estimate;

8.7.2.4 for Call-Off Contracts which involve physical works, where works have commenced:

- (a) the number of domestic properties and other Premises (broken down by tenure and type of property) on which works have been undertaken and the number of domestic properties and other Premises (broken down by tenure and type of property) on which works will be undertaken;
- (b) the number and type of measures which have been installed and which are proposed to be installed;
- (c) an estimate of the tonnes of CO₂ which will be saved per year as a result of the works undertaken and to be undertaken;
- (d) an estimate of the annual utility bill savings which will result from the works undertaken and to be undertaken;
- (e) an estimate of the annual energy which will be saved in KWh/m² per year and MWh per year as a result of the works undertaken and to be undertaken;
- (f) details of the Funding Supported (shown in pounds sterling (£)) in connection with works which have been completed and an estimate of the Funding Supported in connection with works not yet completed broken down by funding source;

- (g) the total contract value, broken down to show each component as described in **clause 8.8**. If at the point of reporting the value is not certain the Contractor should provide its best estimate;
- 8.7.2.5 for Call-Off Contracts which involve physical works, where works have been completed:
 - (a) the number of domestic properties and other Premises (broken down by tenure and type of property) on which works have been undertaken;
 - (b) the number and type of measures which have been installed;
 - (c) an estimate of the tonnes of CO2 saved per year as a result of the works undertaken;
 - (d) an estimate of the annual utility bill savings which result from the works undertaken;
 - (e) an estimate of the annual energy saved in KWh/m² per year and MWh per year as a result of the works undertaken;
 - (f) details of the Funding Supported (shown in pounds sterling (£)) broken down by funding source;
 - (g) the total contract value, broken down to show each component as described in **clause 8.8**;
- 8.7.2.6 the amount of any rebate paid and details of the recipient of such rebate;
- 8.7.2.7 a record of any failures to provide the Services;
- 8.7.3 details of the number and nature of any complaints received from any Employer or occupiers of any Premises which are the subject of a Call-Off Contract;
- 8.7.4 an estimate of people (total number and full-time equivalent number) that are:
 - 8.7.4.1 directly employed by the Contractor and the Contractor's sub-contractors to carry out work relating to the Agreement and each Call-Off Contract;

- 8.7.4.2 newly employed by the Contractor and the Contractor's sub-contractors who are due to start work in connection with the Agreement and each Call-Off Contract; and
- 8.7.5 any other information reasonably requested by the Contracting Authority relating to the Contractor's performance under this Agreement and any Call-Off Contract.
- 8.8 For the purpose of clause 8.7, 'total contract value' means:
 - 8.8.1 the amount paid or to be paid to the Contractor by the relevant Employer (if any) under the relevant Call-Off Contract, including any subsidies and other funding obtained or to be obtained by the relevant Employer; and
 - 8.8.2 the amount of any subsidies the Contractor has obtained and reasonably expects to obtain in connection with the relevant Call-Off Contract; and
 - 8.8.3 the amount of any third party funding (including from occupiers of Premises) the Contractor has obtained and reasonably expects to obtain in connection with the relevant Call-Off Contract; and
 - 8.8.4 the value of works, goods and services provided or to be provided in connection with the relevant Call-Off Contract; and
 - 8.8.5 any other revenue generated by the Contractor under the Call-Off Contract.
- 8.9 The submission, receipt and acceptance of the Management Information Reports shall not prejudice the rights or remedies of any party under this Agreement or any Call-Off Contract, and the Contracting Authority may seek to validate any of the information provided pursuant to **clause 8.7**.
- 8.10 If the Contractor fails to provide the Management Information Report within 60 days of the date that the Management Information Report is due to be submitted to the Contracting Authority as prescribed in **clause 8.7**, the Contracting Authority shall, be entitled:
 - 8.10.1 upon 5 Business Days' written notice to inspect the Contractor's books, records and data containing all information relating to every Call-Off Contract and every response prepared in relation to a Project Brief;
 - 8.10.2 to automatically suspend the Contractor from the framework, including disregarding any documents submitted by the Contractor in response to any Mini-Competition held by an Employer and/or not inviting the Contractor to bid on any Project tendered as part of the Mini-Competition until the relevant

Management information Report is submitted to the Contracting Authority; and/or

8.10.3 to terminate this Agreement on one (1) month's written notice.

8.11 The Contractor shall provide to the Contracting Authority a complete signed copy of each Call-Off Contract it enters into under this Agreement. Each such copy shall be provided within 20 Business Days of execution and completion of the relevant Call-Off Contract.

8.12 During the Term the Contracting Authority shall have the right to assess and monitor the overall satisfaction level of each Employer in the performance of the Agreement and any Call-Off Contract entered into pursuant to the Agreement and the Contractor shall use reasonable endeavours to assist the Contracting Authority in carrying out such monitoring activity, including by providing the Contracting Authority with the relevant information regarding the Agreement, each Call-Off Contract and/or any other documentation referred to therein as and when requested to do so by the Contracting Authority.

8.13 In the absence of any specific reporting standard or calculation methodology in the Project Brief, the Contractor shall ensure that calculation of emissions of GHGs, and savings in emissions, in tCO₂e, should be calculated using the emissions factors provided by Defra¹ in accordance with Defra's Environmental reporting guidelines². If, after the date of this Agreement, the Contracting Authority issues a reporting standard or calculation methodology for CO₂e ("**Substitute Standard**"), this Clause shall be read and construed as if the calculation of CO₂e savings delivered shall be prepared in accordance with the Substitute Standard.

9. **CONTRACTOR'S PERSONNEL**

9.1 Nothing in this Agreement or any Call-Off Contract will render the Contractor's Personnel, an employee, agent or partner of any Employer or of any member of any Employer by virtue of the provision of Services by the Contractor under a Call-Off Contract and the Contractor shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Contractor's Personnel.

9.2 The Contractor shall:

9.2.1 provide the Contractor's Personnel as necessary for the proper and timely performance and management of the relevant Services in accordance with the relevant Call-Off Contract; and

¹ <http://www.ukconversionfactorscarbonsmart.co.uk/>

² <https://www.gov.uk/measuring-and-reporting-environmental-impacts-guidance-for-businesses>

- 9.2.2 ensure that the Contractor's Personnel are in possession of valid work permits if they are non-European Community nationals.
- 9.3 Without prejudice to any of the relevant Employer's other rights, powers or remedies, each relevant Employer may (without liability to the Contractor) deny access to such Contractor's Personnel to any Premises if such Contractor's Personnel in the relevant Employer's view have not been properly trained in any way required by a relevant Call-Off Contract and/or are otherwise incompetent, negligent, and/or guilty of misconduct and/or who could be a danger to any person and shall notify the Contractor of such denial in writing; the Contractor shall immediately remove such Contractor's Personnel from performing the relevant Services and provide a suitable replacement (with the relevant Employer's prior consent in the case of Key Personnel).
- 9.4 The Contractor shall ensure that all Contractor's Personnel who will be involved in carrying out the obligations under this Agreement and each Call-Off Contract at Premises have had a Disclosure and Barring Service ("DBS") check within the last 3 years and shall forward documentary evidence of the DBS checks to the Contracting Authority and each relevant Employer within 5 Business Days of a request to do so.
- 9.5 The Contractor shall indemnify, keep indemnified and hold harmless each relevant Employer from and against all liabilities, costs, expenses, injuries, direct or indirect or consequential loss, damages, claims, demands, proceedings and legal costs (on a full indemnity basis) which the relevant Employer incurs or suffer whenever arising or brought by the Contractor's Personnel or any person who may allege to be the same.
- 9.6 The Contractor shall pay to the Contractor's Personnel not less than the amounts declared to the relevant Employer (if any) as part of the tender process for this Agreement and the relevant Call-Off Contract and not less than the amounts to which the Contractor's Personnel are contractually entitled.
10. **SUB-CONTRACTING, CHANGE OF OWNERSHIP AND ASSIGNMENT**
- 10.1 The Contractor shall not sub-contract all or any part its obligations under this Agreement or any Call-Off Contract without the prior written consent of the relevant Employer, identifying the relevant sub-contractor which may be refused or granted subject to such conditions as the relevant Employer sees fit.
- 10.2 Where the Contractor sub-contracts all or any part of the Services to any person, the Contractor shall:
- 10.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Contractor under the relevant Call-Off Contract insofar as they relate to the Services or part of

them (as the case may be) which that sub-contractor is required to provide;

- 10.2.2 be responsible for payments to that person;
 - 10.2.3 remain solely responsible and liable to the relevant Employer for any breach of the relevant Call-Off Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Contractor; and
 - 10.2.4 ensure that certain sub-contracts, as determined by the relevant Employer during the approval process described in **clause 10.1**, are capable of being assigned or novated to the relevant Employer in the event that the relevant Call-Off Contract and/or the Agreement is terminated early (for whatever reason).
- 10.3 The Contractor shall provide to the relevant Employer copies of each sub-contract entered into within 10 Business Days of the same.
- 10.4 The Contractor shall:
- 10.4.1 not without the prior written consent of the Contracting Authority undergo any change in the ownership of the Contractor where such change relates to 50% or more of the issued share capital of the Contractor; and
 - 10.4.2 give notice to the Contracting Authority in the event that there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company, such notice to be given within 10 Business Days of the date on which such change takes effect.
- 10.5 The Contractor shall not assign, transfer, charge, hold on trust for any person or otherwise deal in any other manner with any of its rights under this Agreement or any Call-Off Contract nor any benefit, interest, right or cause of action arising under this Agreement or any Call-Off Contract without the prior written consent of the relevant Employer.

11. CONFLICT OF INTEREST

- 11.1 The Contractor warrants that it does not and will not have any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or an Employer, save to the extent fully disclosed to and approved by the relevant Employer.
- 11.2 The Contractor shall check for any conflict of interest at regular intervals throughout the duration of this Agreement and in any event not less than once in every six months and shall notify the Contracting Authority and any other relevant Employer in writing immediately upon becoming aware

of any actual or potential conflict of interest with the Services or an Employer and shall work with the Contracting Authority and any other relevant Employer to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Contracting Authority's and the relevant Employer's satisfaction, provided that, where the Contracting Authority is not so satisfied, it may terminate this Agreement in accordance with **clause 27.1.4**.

12. ACCESS TO PREMISES

12.1 Subject to any additional requirements concerning access to Premises set out in each Call-Off Contract (as applicable), any access to any Premises made available to the Contractor in connection with the proper performance of each Call-Off Contract or this Agreement shall be free of charge and shall be used by the Contractor solely for the purpose of performing the Services during the relevant Call-Off Contract Term or complying with its obligations under or in connection with this Agreement during the Term, provided, for the avoidance of doubt, that the Contractor shall be responsible for its own costs or travel including either or both of any congestion charging or low emission zone charging. The Contractor shall:

- 12.1.1 have the use of such Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession or to possession of any particular part of such Premises;
- 12.1.2 vacate such Premises upon the termination or expiry of the relevant Call-Off Contract or at such earlier date as each relevant Employer may determine at its discretion;
- 12.1.3 not exercise or purport to exercise any rights in respect of any Premises in excess of those granted under this **clause 12.1**;
- 12.1.4 ensure that the Contractor's Personnel carry a corporate identity card and any identity passes issued to them by each relevant Employer at all relevant times and comply with each relevant Employer's security procedures as may be notified by each relevant Employer from time to time;
- 12.1.5 not damage the Premises or any assets on the Premises, including any infrastructure, fixtures or fittings or assets, chattels, equipment or materials on the Premises;
- 12.1.6 make good any damage caused to the Premises by the Contractor's Personnel in delivering the relevant Services or complying with its obligations under or in connection with this Agreement; and

12.1.7 access Premises and undertake Services in Premises in strict compliance with each relevant Employer's specifications including but not limited to:

- maintaining high levels of customer care;
- respecting diversity;
- working to scheduled appointments agreed with the occupier of the Premises;
- hours and times of work;
- maintaining Premises in habitable and safe conditions at all times and agreeing the decanting of occupants from the Premises with the relevant Employer where it is not possible to maintain a habitable and safe condition.

12.2 Nothing in this **clause 12** shall create or be deemed to create the relationship of landlord and tenant in respect of any Premises between the Contractor and any Employer.

12.3 No Employer shall be under an obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Contractor except as may be specified in a Call-Off Contract.

12.4 Each Employer reserves the right to refuse to admit any of the Contractor's Personnel to the Premises, whose admission would be, in the reasonable opinion of the relevant Employer, undesirable.

13. **COMPLIANCE WITH POLICIES AND LAW**

13.1 The Contractor, at no additional cost to each Employer:

13.1.1 undertakes to comply and to procure that all the Contractor's Personnel and sub-contractors comply with all of each relevant Employer's policies and standards that are relevant to the performance of the Services, including those relating to safety, security, business ethics, drugs and alcohol and any other on site regulations specified by each relevant Employer for personnel working at the Premises or accessing the relevant Employer's computer systems. Each relevant Employer shall provide the Contractor with copies of such policies and standards on request;

13.1.2 shall provide the Services and procure that its sub-contractors provide the Services in compliance with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar

as legally binding), bye-laws, treaties and other regulatory requirements relevant to the Contractor's business and/or each relevant Employer's business, from time to time in force which are or may become applicable to the Services. The Contractor shall promptly notify each relevant Employer if the Contractor is required to make any change to the Services for the purposes of complying with its obligations under this **clause 13.1.2**;

13.1.3 without limiting the generality of **clause 13.1.2**, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;

13.1.4 shall assist and co-operate with each Employer in relation to each Employer's compliance with their duties under section 1 and section 149 of the Equality Act 2010 and any guidance, enactment, order, regulation or instrument made pursuant to these sections, including the duty to have due regard to the need to:

13.1.4.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

13.1.4.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

13.1.4.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it,

and in providing the Services, the Contractor shall assist and co-operate with each Employer where possible to enable each Employer to satisfy its duty. For the avoidance of doubt, where the provisions of section 149 of the Equality Act 2010 apply to the Contractor, the Contractor shall comply with such provisions;

13.1.5 acknowledges that the Contracting Authority is under a duty by virtue of a direction under section 155 of the Greater London Authority Act 1999 in respect of section 404(2) of that Act to have due regard to the need to:

13.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;

13.1.5.2 eliminate unlawful discrimination; and

13.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation,

and in providing the Services, the Contractor shall assist and co-operate with the Contracting Authority where possible to enable the Contracting Authority to satisfy its duty;

- 13.1.6 shall promptly notify the Contractor's Personnel and each relevant Employer of any health and safety hazards that exist or may arise in connection with the performance of the Services.

In all cases, the costs of compliance with this **clause 13.1** shall be borne by the Contractor.

- 13.2 In providing the Services, the Contractor shall (taking into account best available techniques not entailing excessive cost and the best practicable means of preventing, or counteracting the effects of any noise or vibration) have appropriate regard (insofar as the Contractor's activities may impact on the environment) to the need to:

- 13.2.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;
- 13.2.2 enhance the environment and have regard to the desirability of achieving sustainable development;
- 13.2.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and
- 13.2.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

14. **CORRUPT GIFTS AND PAYMENT OF COMMISSION**

- 14.1 The Contractor shall not, and shall ensure that its employees, agents and sub-contractors do not, pay any commission, fees or grant any rebates (other than as permitted in **clause 6**) to any employee, officer or agent of any Employer nor favour any employee, officer or agent of any Employer with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of any Employer other than as a representative of an Employer, without the relevant Employer's prior written approval.
- 14.2 The Contractor shall, and shall procure that the Contractor's Personnel and any other persons who perform services for or on behalf of it in connection with this Agreement and any Call-Off Contract shall:
 - 14.2.1 not commit any act or omission which causes or could cause it or any Employer to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption, including the Bribery Act 2010;
 - 14.2.2 comply with the Contracting Authority's anti-bribery and corruption policy as notified to the Contractor from time to time

and in connection with each Call-Off Contract comply with the relevant Employer's anti-bribery and corruption policy as notified to the Contractor from time to time;

14.2.3 keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with this Agreement and each Call-Off Contract and the steps it takes to comply with this **clause 14**, and permit each relevant Employer to inspect those records as reasonably required;

14.2.4 promptly notify the Contracting Authority and each relevant Employer of:

14.2.4.1 any request or demand for any financial or other advantage received by it; and

14.2.4.2 any financial or other advantage it gives or intends to give,

whether directly or indirectly in connection with this Agreement or a Call-Off Contract; and

14.2.5 promptly notify the Contracting Authority and each relevant Employer in writing of any breach or suspected breach of this **clause 14**.

14.3 The Contractor shall indemnify, keep indemnified and hold harmless each relevant Employer in full and on demand from and against all Losses which that Employer incurs or suffers directly or indirectly in any way whatsoever as a result of any breach of **clause 14**, including:

14.3.1 as a result of any investigations into or proceedings being brought against the relevant Employer; and

14.3.2 the costs of procuring the Services from a person other than the Contractor,

but this indemnity shall not apply to any Losses to the extent incurred or suffered as a result of the relevant Employer's criminal liability.

15. **RESPONSIBLE PROCUREMENT**

The Contractor shall comply with the requirements of **Schedule 7** (Responsible Procurement) in the performance of its obligations under this Agreement and each Call-Off Contract. No Employer is liable to the Contractor for any costs, charges or expenses arising out of or associated with compliance with **Schedule 7** (Responsible Procurement).

16. **QUALITY AND BEST VALUE**

Where applicable, the Contractor acknowledges that an Employer may be a best value authority for the purposes of the Local Government Act 1999 and as such an Employer may be required to make arrangements to secure continuous improvement in the way it exercises its functions, having regard to a combination of economy, efficiency and effectiveness, as such, the Contractor shall, where reasonably requested by each Employer (where applicable), participate in any relevant best value review.

17. **RECORDS, AUDIT AND INSPECTION**

17.1 The Contractor shall, and shall procure that its sub-contractors shall:

17.1.1 maintain a complete and correct set of records pertaining to all activities relating to the performance of the Services and the Contractor's obligations under this Agreement and each Call-Off Contract and all transactions entered into by the Contractor for the purposes of this Agreement (including time-sheets for the Contractor's Personnel where such records are material to the calculation of the Charges) ("**Records**");

17.1.2 retain all Records during the Term and Call-Off Term and for a period of not less than 6 years (or such longer period as may be required by law) following termination or expiry of this Agreement and each Call-Off Contract ("**Retention Period**").

17.2 Each relevant Employer and any person nominated by an Employer has the right to audit any and all Records at any time during the Retention Period on giving to the Contractor what the relevant Employer considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Contractor's performance of the Services and the Contractor shall give all reasonable assistance to the relevant Employer or its nominee in conducting such inspection, including making available documents and staff for interview.

18. **SET-OFF**

Each Employer will be entitled but not obliged at any time or times to set off any liability of the Contractor to the relevant Employer against any liability of the relevant Employer to the Contractor.

19. **INDEMNITY**

19.1 Subject to **clause 19.2** and any limitations of liability imposed by a Call-Off Contract, the Contractor is responsible for and shall indemnify, keep indemnified and hold harmless each relevant Employer (including their respective employees, sub-contractors and agents) ("**the Indemnified Party**") against all Losses which the Indemnified Party incurs or suffers as a consequence of any direct or indirect breach or any negligent performance of this Agreement or any relevant Call-Off Contract by the

Contractor (or any of its employees, agents or sub-contractors) (including in each case any non-performance or delay in performance of this Agreement) or of any breach of statutory duty, misrepresentation or misstatement by the Contractor (or any of its employees or sub-contractors).

- 19.2 The Contractor is not responsible for and shall not indemnify an Employer for any Losses to the extent that such Losses are caused by any breach or negligent performance of any of its obligations under this Agreement or a Call-Off Contract by that Employer including by any of their respective employees or agents.

20. **INSURANCE**

- 20.1 Subject to the terms of each Call-Off Contract, the Contractor will at its own cost, effect and maintain the insurance set out below in respect of each and every Call-Off Contract and to cover its obligations and liabilities under this Agreement:

20.1.1 public liability insurance for the sum of not less than £10,000,000 (ten million pounds sterling) per claim or such other amount as may be required by each Call-Off Contract to cover the legal liability of the Contractor or as the case may be of the Contractor's Personnel including in respect of property damage and death and bodily injury other than as provided for under **Clause 20.1.3** of this Agreement;

20.1.2 insurance covering liability to third parties arising out of the use of motor vehicles used in connection with the Services and the performance of any obligations under this Agreement. The Contractor shall ensure (and procure that its sub-contractors shall ensure) that the motor insurance cover contains an indemnity to principals clause. The minimum amount of cover/indemnity provided by such insurance shall be the amount required by law or such other amounts as may be required by each Call-Off Contract (whichever is the higher);

20.1.3 insurance against liability for death and/or bodily injury or illness sustained by employees of the Contractor (and/or their sub-contractors) arising out of or in the course of their employment in connection with this Agreement and each Call-Off Contract, with the amount of cover being as required by law or such other amount as may be required by each Call-Off Contract (whichever is the higher) and the Contractor will cause any sub-contractor to effect and maintain such insurance;

20.1.4 product liability insurance for the sum of not less than £10,000,000 (ten million pounds sterling) per claim or such other amount as may be required by each Call-Off Contract; and

- 20.1.5 professional indemnity insurance with a limit of indemnity of not less than £10,000,000 (ten million pounds sterling) per claim or such other amount as may be required by each Call-Off Contract, provided always that:
- 20.1.5.1 such insurance is in place from the Agreement Commencement Date until no less than the later of 12 years after the completion of all of the Services or, where there is one or more claims in place at the expiry of such 12 year period then for such time until the claim is settled or damages have been awarded (whether by a Court or an adjudicator or otherwise); and
 - 20.1.5.2 if such insurance ceases to be available to the Contractor (and to other contractors engaged in services of a similar size, nature and complexity as the Contractor) at commercially reasonable rates and terms (such non-availability to be confirmed by an independent insurance agent operating in the UK market), excluding any increase in premiums attributable to the actions, omissions, claims record, error or defaults of the Contractor, the Contractor shall immediately notify the Contracting Authority and each other Employer who has entered into a Call-Off Contract and the Contractor and the relevant Employers shall then meet and the Contractor shall outline the steps the Contractor intends to take to manage such risks.
- 20.2 The insurance premiums in respect of the insurances referred to at **clause 20.1** are at all times the responsibility of the Contractor.
- 20.3 The Contractor shall effect and maintain any insurances which it is required to provide under this Agreement promptly with a reputable insurer or insurers accepted by the Contracting Authority (or where additional insurances are required under a Call-Off Contract, accepted by the relevant Employer) and authorised to underwrite such risks in the United Kingdom.
- 20.4 Each Employer shall be entitled at any time to review the Contractor's insurances required pursuant to this **clause 20** and, if such insurances do not comply with the requirements of this Agreement or each relevant Call-Off Contract, the relevant Employer may require the Contractor to promptly (and at the Contractor's own cost) take such steps as are necessary to ensure that the Contractor has taken out and is maintaining the requisite insurances under this **clause 20** or the relevant Call-Off Contract.
- 20.5 Prior to the Agreement Commencement Date and whenever so required by each Employer, the Contractor will produce to each Employer who has

made a request evidence of the insurance policies required under this Agreement and each Call-Off Contract and payment of all premiums due on each policy. A letter addressed to each relevant Employer signed by an insurer or insurance broker of the Contractor which is directly regulated by the UK Financial Conduct Authority confirming that the Contractor has in place insurance coverage as required under this Agreement and/or the relevant Call-Off Contract and setting out the principal terms and exclusions under such cover, all due premiums under such insurance have been paid and that such insurance is in full force and effect will be deemed sufficient evidence.

- 20.6 The Contractor will procure that its sub-contractors maintain insurance cover sufficient and appropriate to the Services sub-contracted to them. The Contractor will also be responsible for ensuring that all sub-contractors employed by it for the purposes of each Call-Off Contract are fully insured against all claims in respect of personal injury or death in respect of their employees.
- 20.7 The Contractor warrants that nothing has or will be done or be omitted to be done which may result in the insurance policies set out in **clause 20.1** being or becoming void, voidable or unenforceable.
- 20.8 In the event that any of the insurance policies set out in **clause 20.1** are cancelled or not renewed, the Contractor shall immediately notify the Contracting Authority and shall at its own cost arrange alternative insurances with an insurer or insurers acceptable to the Contracting Authority.
- 20.9 The Contractor shall bear the cost of any and all excesses in relation to the insurances required pursuant to this **clause 20**.

21. EMPLOYER'S DATA

- 21.1 The Contractor acknowledges each Employer's ownership of Intellectual Property Rights which may subsist in each Employer's data. The Contractor shall not delete or remove any copyright notices contained within or relating to each Employer's data.
- 21.2 The Contractor and each Employer shall each take reasonable precautions (having regard to the nature of their other respective obligations under this Agreement) to preserve the integrity of each Employer's data and to prevent any corruption or loss of each Employer's data.

22. INTELLECTUAL PROPERTY RIGHTS

- 22.1 Subject to the terms of each Call-Off Contract, each relevant Employer hereby grants the Contractor a non-exclusive, non-transferable licence to use all the Intellectual Property Rights owned or capable of being so licensed by the relevant Employer which are required by the Contractor for the purposes of performing the Services. Any such licence is granted

for the relevant Call-Off Term solely to enable the Contractor to comply with its obligations under the Agreement and the relevant Call-Off Contract and is conditional upon the Contractor using such Intellectual Property Rights in accordance with each relevant Employer's policies and standards and such other quality standards as each relevant Employer may from time to time notify. No Intellectual Property Rights owned or capable of being so licensed by each relevant Employer may be used in conjunction with any other trademarks without the prior written consent of each relevant Employer.

- 22.2 The Contractor grants (or, if such a grant cannot legally take place until a later date, agrees to grant) to the Contracting Authority, with effect from the date of this Agreement or in the case of any Intellectual Property Rights not yet in existence with effect from the creation of such Intellectual Property Rights, an irrevocable, royalty-free, non-exclusive licence (such licence to remain in full force and effect notwithstanding the completion of the Contractor's obligations or the termination of this Agreement or any dispute under this Agreement) to use the Intellectual Property Rights and to reproduce all drawings, designs, charts, specifications, plans and any other documents or materials (including any computer software developed by the Contractor used to generate them and any designs contained in them) produced by or on behalf of the Contractor in connection with this Agreement ("the Documents") for any purpose whatsoever. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties.
- 22.3 Without limiting **clause 22.2**, the Contractor acknowledges that the Contracting Authority has entered into an agreement with the European Investment Bank ("the EIB") in connection with this Agreement and the Contractor hereby agrees that the EIB may make free use of the Documents as the EIB deems fit.
- 22.4 The Contractor shall not be liable for any use the Contracting Authority may make of the Documents for any purpose other than that for which they were prepared.
- 22.5 The Contractor warrants that the Documents (save to the extent that duly authorised sub-contractors or sub-consultants have been used to prepare the same) are the Contractor's own original work and that in any event their use shall not infringe the rights of any third party. The Contractor further warrants that where duly authorised sub-contractors or sub-consultants are used their work shall be original and that the Contractor shall be covered by the licence granted to the Contracting Authority under **clause 22**.

23. **PROTECTION OF PERSONAL DATA**

- 23.1 For the purposes of this **clause 23**, the term "DPA" shall refer to the Data Protection Act 1998.

- 23.2 In relation to all Personal Data (as such term is defined in the DPA), the Contractor shall at all times comply with the DPA as a data controller, if necessary, maintaining a valid and up to date registration or notification under the DPA covering the data processing to be performed pursuant to this Agreement and each Call-Off Contract.
- 23.3 The Contractor shall only undertake processing of Personal Data reasonably required in connection with this Agreement and each Call-Off Contract and shall not transfer any Personal Data to any country or territory outside the European Economic Area.
- 23.4 The Contractor shall not disclose Personal Data to any third party other than:
- 23.4.1 to employees to whom such disclosure is reasonably necessary in order for the Contractor to comply with its obligations under this Agreement and each Call-Off Contract (as appropriate); or
- 23.4.2 to the extent required under a court order,
- provided that disclosure under **clause 23.4.1** is made subject to written terms substantially the same as, and no less stringent than, the terms contained in this **clause 23**, and that the Contractor shall give notice in writing to the Contracting Authority or relevant Employer of any disclosure of Personal Data which the Contractor is required to make under **clause 23.4.2** immediately upon becoming aware of such a requirement.
- 23.5 The Contractor shall bring into effect and maintain all technical and organisational measures to prevent unauthorised or unlawful processing of Personal Data and accidental loss or destruction of, or damage to, Personal Data including to take reasonable steps to ensure the reliability of staff having access to Personal Data.
- 23.6 The Contracting Authority and each other Employer may, at reasonable intervals, request a written description of the technical and organisational measures employed by the Contractor referred to in **clause 23.5** above. Within 20 Business Days of each such a request, the Contractor shall supply written particulars of all such measures detailed to a reasonable level such that the Contracting Authority or other relevant Employer can determine whether or not, in connection with the Personal Data, it is compliant with the DPA.
- 23.7 The Contractor shall indemnify and keep indemnified the Contracting Authority and each Employer against all losses, claims, damages, liabilities, costs and expenses (including reasonable legal costs) incurred by the Contracting Authority and/or other Employer (as applicable) in respect of a breach of this **clause 23** by the Contractor.
24. **CONFIDENTIALITY, ANNOUNCEMENTS AND TRANSPARENCY**
- 24.1 Subject to **clause 21** and **clause 23**, the Contractor will keep confidential:

- 24.1.1 the terms of this Agreement and all Call-Off Contracts; and
- 24.1.2 any and all Confidential Information that it may acquire in relation to each Employer.
- 24.2 The Contractor will not use any Employer's Confidential Information for any purpose other than to perform its obligations under this Agreement and each Call-Off Contract. The Contractor may disclose an Employer's Confidential Information to those of its employees, agents, sub-contractors and advisors who have a need for such information for the purposes of this Agreement or each Call-Off Contract, but shall ensure that any such person complies with the provisions of **clause 24.1**.
- 24.3 The obligations of the Contractor set out in **clause 24.1** will not apply to any Confidential Information which:
 - 24.3.1 the Contractor can demonstrate is in the public domain (other than as a result of a breach of this **clause 24**); or
 - 24.3.2 the Contractor is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure; or
 - 24.3.3 to the extent that such disclosure is to any person or body who has statutory responsibilities in relation to the Services and their employees, agents and subcontractors.
- 24.4 The Contractor shall keep secure all materials containing any information in relation to this Agreement or any Call-Off Contract and its performance.
- 24.5 The Contractor shall not by itself, its employees or agents, and shall procure that its sub-contractors shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Agreement or any Call-Off Contract or that it is providing the Services to any Employer or in relation to any matter under or arising from the Agreement or any Call-Off Contract unless specifically granted permission to do so in writing by the Contracting Authority in respect of the Agreement and each relevant Employer in respect of each Call-Off Contract. Each relevant Employer shall have the right to approve any announcement before it is made.
- 24.6 No facilities to photograph or film in or upon any property used in relation to this Agreement or any Call-Off Contract shall be given or permitted by the Contractor unless the Contracting Authority or relevant Employer (as appropriate) has given its prior written approval.
- 24.7 The Contractor acknowledges that each Employer may be subject to the Transparency Commitment. Accordingly, notwithstanding **clause 24.1** and **clause 25**, the Contractor hereby gives its consent for each Employer to publish the Contract Information to the general public.

24.8 Each relevant Employer may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the relevant Employer may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation (as defined in **clause 25.1** below). The relevant Employer may in its absolute discretion consult with the Contractor regarding any redactions to the Contract Information to be published pursuant to **clause 24.6**. The relevant Employer shall make the final decision regarding publication and/or redaction of the Contract Information.

24.9 The provisions of this **clause 24** will survive any termination of this Agreement and any Call-Off Contract for a period of 6 years from termination.

25. **FREEDOM OF INFORMATION**

25.1 For the purposes of this **clause 25**:

25.1.1 **“FOI Legislation”** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Ministry of Justice, or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

25.1.2 **“Information”** means information recorded in any form held by an Employer or by the Contractor on behalf of an Employer; and

25.1.3 **“Information Request”** means a request for any Information under the FOI Legislation.

25.2 The Contractor acknowledges that each Employer:

25.2.1 may be subject to the FOI Legislation and agrees to assist and co-operate with each Employer to enable each Employer to comply with its obligations under the FOI Legislation; and

25.2.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Contractor.

25.3 Without prejudice to the generality of **clause 25.2**, the Contractor shall and shall procure that its sub-contractors (if any) shall:

25.3.1 transfer to the RE:NEW Programme Manager (or such other person as may be notified by each relevant Employer to the Contractor) each Information Request relevant to this Agreement or a Call-Off Contract, the Services that it or they (as the case may be) receive as soon as practicable and in any

event within 2 Business Days of receiving such Information Request; and

25.3.2 in relation to Information held by the Contractor on behalf of each Employer, provide each relevant Employer with details about and/or copies of all such Information that each relevant Employer requests and such details and/or copies shall be provided within 5 Business Days of a request from each relevant Employer (or such other period as the relevant Employer may reasonably specify), and in such forms as each relevant Employer may reasonably specify.

25.4 Each relevant Employer shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Contractor shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the relevant Employer.

26. **DISPUTE RESOLUTION**

26.1 In connection with each Call-Off Contract this **clause 26** shall apply subject to the terms of each Call-Off Contract.

26.2 In order to overcome differences and avoid disputes and where this cannot be achieved to facilitate their clear definition and early resolution (whether by agreement or otherwise) each Employer and the Contractor will first follow the procedure set out in **clauses 26.3 to 26.8** in respect of all disputes in relation to this Agreement and any Call-Off Contract (save that the relevant Employer or the Contractor will have the right to refer a dispute to adjudication at any time in accordance with **clause 26.10**).

26.3 Each Employer and the Contractor shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to this Agreement or any relevant Call-Off Contract ("**Dispute**") before resorting to litigation.

26.4 If the Dispute is not settled through discussion between an appropriate representative of the relevant Employer and a representative of the Contractor within a period of 7 Business Days of the date on which the Dispute arose, the relevant Employer or the Contractor may refer the Dispute in writing to a director or chief executive (or equivalent) ("**Senior Personnel**") of the relevant Employer and the Contractor for resolution.

26.5 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, the relevant Employer and the Contractor shall attempt in good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either the relevant Employer or the Contractor may give notice to the other

(“**Notice**”) to commence such process and the notice shall identify one or more proposed mediators.

- 26.6 If the relevant Employer and the Contractor are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either the relevant Employer or the Contractor may apply to the Centre for Effective Dispute Resolution (“**CEDR**”) in London to appoint a mediator. The costs of that mediator shall be divided equally between the relevant Employer and the Contractor or as the relevant Employer and the Contractor may otherwise agree in writing.
- 26.7 Where a Dispute is referred to mediation under **clause 26.5**, the relevant Employer and the Contractor will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 26.8 If the relevant Employer and the Contractor reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the authorised representatives of the relevant Employer and the Contractor, shall be final and binding on the relevant Employer and the Contractor.
- 26.9 If either the relevant Employer or the Contractor refuses at any time to participate in the mediation procedure and in any event if the relevant Employer and the Contractor fail to reach agreement on the Dispute within 40 Business Days of the service of the Notice either the relevant Employer or the Contractor may commence proceedings in accordance with **clause 44**.
- 26.10 To the extent that Part II of the Housing Grants, Construction and Regeneration Act 1996 (or any subsequent re-enactment including but not limited to the Local Democracy, Economic Development and Construction Act 2009) applies, the relevant Employer or the Contractor may refer the Dispute to adjudication at any time. The adjudication procedures and the agreement for the appointment of an adjudicator shall be as set out in the Scheme for Construction Contracts (England and Wales) Regulations 1998 as amended by the Scheme for Construction Contracts (England and Wales) Regulations 1998 (Amendment) (England) Regulations 2011. The nominating body shall be the Chartered Institute of Arbitrators or any successor organisation.
- 26.11 For the avoidance of doubt, the Contractor shall continue to provide the Services in accordance with each Call-Off Contract and without delay or disruption while the Dispute is being resolved pursuant to this **clause 26**.
- 26.12 Neither any Employer nor the Contractor shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this **clause 26** and **clause 26** shall not apply in respect of any circumstances where such remedies are sought.

27. BREACH AND TERMINATION OF AGREEMENT

27.1 Without prejudice to the Contracting Authority's right to terminate at common law, the Contracting Authority may terminate this Agreement in whole or in part immediately upon giving notice to the Contractor if:

27.1.1 except as provided in and without prejudice to **clauses 27.1.3**, the Contractor has committed any material or persistent breach of this Agreement or any Call-Off Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Contracting Authority) from the date of written notice to the Contractor giving details of the breach and requiring it to be remedied; or

27.1.2 the Contractor is subject to an Insolvency Event; or

27.1.3 the Contractor is in breach of **clause 10.4**; or

27.1.4 the Contracting Authority is not satisfied on the issue of any conflict of interest in accordance with **clause 11**; or

27.1.5 the Contractor commits any of the money laundering related offences listed in the Public Contracts Regulations 2006.

27.2 Without prejudice to any of the Contracting Authority's and/or any other Employer's other rights, powers or remedies (whether under this Agreement, a Call-Off Contract or otherwise) if the Contractor is in breach of any of its warranties and/or obligations under **clause 7** and/or any of its other obligations in respect of the Services under this Agreement or a Call-Off Contract, the Contractor shall, if required to do so by the Contracting Authority and/or the relevant Employer (in the case of a Call-Off Contract), promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and/or obligations. Nothing in this **clause 27.2** shall prevent the Contracting Authority and/or the relevant Employer (in the case of a Call-Off Contract) from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Contracting Authority and/or the relevant Employer (as applicable) so procures any Services or any remedial action, the Contracting Authority and/or the relevant Employer shall be entitled to recover from the Contractor all additional cost, loss and expense incurred by the Contracting Authority and/or the relevant Employer and attributable to the Contracting Authority and/or the relevant Employer procuring such Services or remedial action from such alternative contractor.

27.3 Without prejudice to the Contracting Authority's right to terminate this Agreement under **clause 27.1** or to terminate at common law, the Contracting Authority may terminate this Agreement in whole or in part at any time without cause subject to giving the Contractor no less than three

(3) months' prior written notice, provided that termination under this **clause 27.4** shall not affect any Call-Off Contract.

- 27.4 To the extent that the Contracting Authority has a right to terminate this Agreement under this **clause 27** then, as an alternative to termination, the Contracting Authority may by giving notice to the Contractor require the Contractor to provide part only of the Framework Scope with effect from the date specified in the Contracting Authority's notice whereupon the Framework Scope shall be construed accordingly.

28. **FORCE MAJEURE**

- 28.1 Subject to **clause 28.2** neither Framework Party shall be deemed to be in breach of this Agreement, or otherwise liable to the other, by reason of any delay in performance or non-performance of any of its obligations under this Agreement to the extent that such delay or non-performance is due to a Force Majeure Event.
- 28.2 The Affected Party shall immediately give the other Framework Party ("**Unaffected Party**") written notification of the nature and extent of the Force Majeure Event, take all reasonable steps to alleviate its effects, shall resume performance as soon as practicable and shall within 7 days notify the other party that the Force Majeure Event has ended.
- 28.3 If the written notice in relation to a Force Majeure Event has not been withdrawn within 6 months, the Unaffected Party may terminate this Agreement with immediate effect by serving a written notice on the Affected Party. The service of such notice shall be without prejudice to any rights or obligations which have accrued prior to termination.
- 28.4 The Framework Parties shall bear their own costs arising as a result of a Force Majeure Event.

29. **CONSEQUENCES OF TERMINATION OR EXPIRY**

- 29.1 Notwithstanding the provisions of **clause 24**, wherever the Contracting Authority chooses to put out to tender for a replacement contractor some or all of the services or works within the Framework Scope and/or wherever any other Employer chooses to put out to tender for a replacement contractor some or all of the Services, the Contractor shall disclose to tenderers such information concerning the Framework Scope or relevant Services as the Contracting Authority or the relevant other Employer (as the case may be) may require for the purposes of such tender. The Contractor may impose upon any recipient of such information such obligations of confidentiality as it may reasonably require.
- 29.2 The termination or expiry of this Agreement shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Framework Party prior to or after such termination or expiry.

- 29.3 Upon any suspension or termination under this Agreement the Contractor shall not be entitled to any sums in respect of loss of anticipated profit, loss of contracts or any other losses and expenses arising by reason of or in connection with such suspension or termination.
- 29.4 Upon expiry or termination of this Agreement or each relevant Call-Off Contract (howsoever caused) the Contractor shall, at no further cost to the relevant Employer, on receipt of the relevant Employer's written instructions to do so (but not otherwise), arrange to remove all electronically held information by a mutually agreed date, including the purging of all disk-based information and the reformatting of all disks.
- 29.5 On termination of this Agreement under **clause 27.1** or following an alteration of the Framework Scope under **clause 27.4** (but in the case of the latter only insofar as the right to alter the Framework Scope arises as a result of a right for the Contracting Authority to terminate under **clause 27.1**), the Contracting Authority may enter into any agreement with any third party or parties as the Contracting Authority thinks fit to provide any or all of the Framework Scope and the Contractor shall be liable for all additional expenditure reasonably incurred by the Contracting Authority in having such services and/or works carried out and all other costs and damages reasonably incurred by the Contracting Authority in consequence of such termination. The Contracting Authority may deduct such costs from sums due to the Contractor or otherwise recover such costs from the Contractor as a debt.

30. **EMPLOYEE INFORMATION ON EXPIRY OR TERMINATION**

- 30.1 **Clauses 30** and **31** shall apply to each Call-Off Contract only if the relevant Call-Off Contract states that such clauses apply.
- 30.2 For the purposes of **clauses 30** and **31**, unless the context indicates otherwise, the following expressions shall have the following meanings:
- 30.2.1 **"Employment Costs"** means all salaries, wages, commissions, bonuses, statutory contributions, tax, National Insurance contributions, holiday pay, employment benefit, pensions contributions, redundancy costs and all other emoluments in respect of Transferring Personnel;
- 30.2.2 **"Transfer Date"** means the date of the transfer of employment of the Transferring Personnel from the Contractor to the relevant Employer or any Replacement Contractor;
- 30.2.3 **"Regulations"** means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended;
- 30.2.4 **"Replacement Contractor"** means any replacement supplier or provider to the relevant Employer of the Services (or any part of them);

- 30.2.5 **“Transferring Personnel”** means any Contractor’s Personnel who:
- 30.2.5.1 will transfer to the employment of either the relevant Employer or the Replacement Contractor pursuant to the Regulations; or
 - 30.2.5.2 accepts an offer of employment from the relevant Employer or a Replacement Provider (as appropriate),
- upon the expiration or termination (in whole or in part) of a Call-Off Contract;
- 30.3 The Contractor will promptly when requested by each relevant Employer (but not more than twice for each Employer in any year) and not more than 7 days after the date of any notice to terminate a Call-Off Contract for any reason whatsoever provide, and use its best endeavours to procure that any relevant sub-contractor provides, the following information to each relevant Employer:
- 30.3.1 an anonymised list of the Contractor’s Personnel and sub-contractors working on the relevant Services (each identified as such in the list) (the **“Staff List”**);
 - 30.3.2 all material terms and conditions relating to the employment or engagement of the persons listed on the Staff List;
 - 30.3.3 written job descriptions of the persons listed on the Staff List;
 - 30.3.4 all other information which the Contractor or sub-contractors knows or ought to know about its or their rights, powers, duties and liabilities under or in connection with the contracts of employment of the persons listed on the Staff List including without limitation their job titles, grades or seniority, dates of commencement of continuous employment, remuneration (salary and benefits) and pension rights; and
 - 30.3.5 in the situation where notice to terminate the relevant Call-Off Contract has been given, a list of all persons who are engaged or have been engaged during the preceding six months in the provision of the relevant Services, whom the Contractor considers will not transfer under the Regulations for any reason whatsoever together with details of their role and a full explanation of why the Contractor thinks such persons will not transfer,
- such information together being the **“Staffing Information”**.
- 30.4 The Contractor will notify each relevant Employer in as much detail as possible of any additional or new Staffing Information and/or any changes to any Staffing Information already provided, as soon as practicable and

in any event within 5 days of the Contractor becoming aware of such changes or new information.

30.5 The Contractor warrants to each relevant Employer that any Staffing Information which it supplies (including any copies of it) is complete and accurate in all respects and will be kept complete and accurate.

30.6 Subject to **clause 30.7**, the Contractor will provide each relevant Employer with a final Staff List (the “**Final Staff List**”) not less than 14 days before the date of expiry or earlier termination of each Call-Off Contract.

30.7 If a Call-Off Contract is terminated immediately by an Employer in accordance with its terms then the Final Staff List will be provided by the Contractor to the relevant Employer within 14 days of the date of termination of the Call-Off Contract.

30.8 The Contractor warrants that as at the date of expiry or earlier termination of each Call-Off Contract:

30.8.1 the Final Staff List and the Staffing Information relating to persons on that list will be complete and accurate;

30.8.2 the Final Staff List will identify all actual and potential Transferring Personnel; and

30.8.3 it will have disclosed all terms and conditions of employment or engagement and other Staffing Information relating to the Transferring Personnel to the relevant Employer.

30.9 From the earlier of:

30.9.1 the date falling 6 calendar months before the date of expiry of each Call-Off Contract; or

30.9.2 if a Call-Off Contract is terminated early, the date of the relevant termination notice;

the Contractor will not and will procure that its sub-contractors do not without the prior written consent of the relevant Employer (such consent not to be unreasonably withheld or delayed):

30.9.2.1 terminate or give notice to terminate the employment or engagement, or replace, the persons listed on the most recent Staff List and/or any Transferring Personnel;

30.9.2.2 deploy or assign any other person to perform the Services who is not included on the most recent Staff List;

- 30.9.2.3 make, propose or permit any changes to the terms and conditions of employment or engagement of any persons listed on the most recent Staff List and/or any Transferring Personnel;
 - 30.9.2.4 increase to any significant degree the proportion of working time spent on the Services by any of the Contractor's Personnel; or
 - 30.9.2.5 introduce any new contractual or customary practice (including for the avoidance of doubt any payments on termination of employment) applicable to any person listed on the most recent Staff List.
- 30.10 The Contractor will promptly notify each relevant Employer of any notice of resignation received from any person listed on the most recent Staff List or the Final Staff List (if any) during the period referred to in **clause 30.9** regardless of when such notice takes effect.
- 30.11 For the avoidance of doubt, the Contractor confirms that each relevant Employer will be permitted to disclose any information provided to it under this **clause 30** in summary form to any person who has been invited to tender for the provision of the Services (or similar services) and to any Replacement Contractor.
- 31. TRANSFER OF EMPLOYEES ON EXPIRY OR TERMINATION**
- 31.1 If the Regulations apply on the expiration or termination of a Call-Off Contract and/or the appointment of a Replacement Contractor, the following will apply:
- 31.1.1 During the period commencing on the earlier of:
 - 31.1.1.1 the date falling 6 calendar months before the Transfer Date; or
 - 31.1.1.2 if a Call-Off Contract is early terminated early, the date of the relevant termination notice,
 and ending on the Transfer Date the Contractor will:
 - (a) provide the relevant Employer with access to such employment records as the relevant Employer may require to put in place the administrative arrangements for the transfer of the contracts of employment of the Transferring Personnel to the relevant Employer or Replacement Contractor (as appropriate);
 - (b) allow the relevant Employer to have copies of any of the documents referred to in **clauses 30** and **31**; and

- (c) provide all original employment records relating to the Transferring Personnel to the relevant Employer or Replacement Contractor (as appropriate).

If the Transferring Personnel are employed or engaged by sub-contractors, the Contractor will procure such sub-contractors provide the relevant Employer or Replacement Contractor (as appropriate) with the same level of access and information.

- 31.1.2 The Contractor warrants to each of the relevant Employer and the Replacement Contractor (as applicable) that as at the Transfer Date no Transferring Personnel (except where the Contractor has notified the relevant Employer and the Replacement Contractor (if appointed) in writing to the contrary) to the Contractor's knowledge:

- 31.1.2.1 is under notice of termination;
- 31.1.2.2 is on long-term sick leave;
- 31.1.2.3 is on maternity, adoption, parental or shared parental leave;
- 31.1.2.4 has committed any serious security breach or engaged in any serious fraudulent activity or misconduct amounting to a breach of any regulations;
- 31.1.2.5 is or has been within the previous two years the subject of formal disciplinary proceedings;
- 31.1.2.6 has received a written warning (other than a warning that has lapsed);
- 31.1.2.7 has taken or been the subject of a grievance procedure within the previous two years; or
- 31.1.2.8 has objected, or has indicated an intention to object, in accordance with the Regulations to his or her employment transferring to the relevant Employer or Replacement Contractor (as appropriate) under the Regulations.

- 31.1.3 In respect of the Transferring Personnel the Parties agree that all Employment Costs will be apportioned on a time basis (regardless of when such sums fall to be paid) as follows:

- 31.1.3.1 up to and including the Transfer Date the Contractor will be responsible for the Employment Costs;

31.1.3.2 after the Transfer Date the relevant Employer and/or Replacement Contractor (as appropriate) will be responsible for the Employment Costs

except that there will be no apportionment in respect of the Transferring Personnel's holiday entitlements.

31.1.4 The Contractor will indemnify, keep indemnified and hold harmless each of the relevant Employer and any Replacement Contractor from and against all claims, proceedings, awards, damages, losses, costs (including the costs of enforcement), expenses, liabilities (including any tax liability) and legal costs (on a full indemnity basis) which the relevant Employer and/or the Replacement Contractor (as appropriate) incurs or suffers arising directly or indirectly out of or in connection with:

31.1.4.1 any failure by the Contractor to comply with its obligations under this **clause 31**;

31.1.4.2 any act or omission by or on behalf of the Contractor or any subcontractor in respect of any person who is or was employed or engaged by the Contractor or its subcontractor, except in the case of the Transferring Personnel where the Contractor's indemnity will only apply in respect of such employees insofar as and to the extent that any such act or omission occurred on or before the Transfer Date or was undertaken by, on behalf or at the instruction of the Contractor or its subcontractor (if any);

31.1.4.3 any failure by the Contractor (or any sub-contractor) to comply with Regulation 13 of the Regulations (except to the extent such failure arises from a failure by the relevant Employer or any Replacement Contractor to comply with Regulation 13(4) of the Regulations); and/or

31.1.4.4 any claim or demand or other action taken against the relevant Employer and/or Replacement Contractor by any person employed or engaged by the Contractor (other than Transferring Personnel) who claims (whether correctly or not) that the relevant Employer or Replacement Contractor has inherited any liability from the Contractor in respect of them by virtue of the Regulations.

31.2 The Contractor will procure that whenever each relevant Employer so requires on reasonable notice at any time during the Term and each Call-Off Term and for 6 years following the date of expiry or earlier termination of the Agreement and each Call-Off Contract, each relevant Employer will

be given access to and be allowed to consult with any person, consultant or employee who, at that time:

- 31.2.1 is still an employee or sub-contractor of the Contractor or any of the Contractor's associated companies; and
- 31.2.2 was at any time employed or engaged by the Contractor in order to provide the Services to the relevant Employer under a Call-Off Contract,

and such access and consultation will be provided free of charge. The Contractor will further procure that all such persons co-operate with each relevant Employer's requests.

32. **SURVIVAL**

The provisions of **clauses 1, 4.2, 5, 6, 7.1, 7.2, 8.4, 8.5, 8.6, 8.7, 9, 10.1, 10.2, 10.3, 10.5, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 29.1, 29.4, 30, 31, 32, 33, 38, 41, 43, 44** and any other clauses or Schedules that are necessary to give effect to those clauses shall survive termination or expiry of this Agreement. In addition, any other provision of this Agreement which by its nature or implication is required to survive the termination or expiry of this Agreement or relevant Call-Off Contract shall do so.

33. **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

- 33.1 Subject to **clause 33.2**, the Framework Parties do not intend that any of the terms of this Agreement or any relevant Call-Off Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 ("Third Party Act") by any person not a party to it.
- 33.2 Any Employer (other than the Contracting Authority) which has entered into a Call-Off Contract and/or an Access Agreement pursuant to this Agreement has the right to enforce the terms of **clauses 2 (Framework Agreement), 3 (Call-Off Procedure), 5 (The Services), 6 (Charges and Rebate), 7.1-7.2 (Warranties and Obligations), 8.4-8.6 (Contractual Management), 9 (Contractor's Personnel), 10.1-10.3 (Sub-Contracting, Change of Ownership, Assignment and Novation), 10.5, 11 (Conflict of Interest), 12 (Access to Premises), 13 (Compliance with Policies and Law), 14 (Corrupt Gifts and Payment of Commission), 15 (Responsible Procurement), 16 (Quality and Best Value), 17 (Records, Audit and Inspection), 18 (Set-Off), 19 (Indemnity), 20 (Insurance), 21 (Employer's Data), 22.1 (Intellectual Property Rights), 23 (Protection of Personal Data), 24 (Confidentiality, Announcements and Transparency), 25 (Freedom of Information), 26 (Dispute Resolution), 27.2 (Breach and Termination of Agreement), 29.1 (Consequences of Termination of Expiry), 29.4, 30 (Employee Information on Expiry or Termination), 31 (Transfer of Employees on Expiry or Termination), 32 (Survival), 33 (Contracts (Rights of Third Parties) Act), 38 (Notices), 41 (Further Assurance),**

43 (Waste Electrical and Electronic Equipment Regulations 2013) and 44 (Governing Law) of this Agreement in accordance with the Third Party Act subject to the terms of this Framework Agreement.

- 33.3 Notwithstanding **clause 33.2**, the Framework Parties are entitled to vary or rescind this Agreement without the consent of any Employer (other than the Contracting Authority) which has entered into a Call-Off Contract pursuant to the terms of this Agreement.

34. **CONTRACT VARIATION**

This Agreement may only be varied or amended by a written variation signed by the Framework Parties specifically referring to this clause and stating that this Agreement is varied in the manner specified.

35. **NOVATION**

- 35.1 The Contracting Authority may novate or otherwise transfer this Agreement (in whole or in part).
- 35.2 Within 10 Business Days of a written request from the Contracting Authority, the Contractor shall at its expense execute such agreement as the Contracting Authority may reasonably require to give effect to any such transfer of all or part of its rights and obligations under this Agreement to one or more persons nominated by the Contracting Authority.
- 35.3 Subject to **clause 10**, this Agreement is personal to the Contractor who shall not assign the benefit or delegate the burden of this Agreement or otherwise transfer any right or obligation under this Agreement without the prior written consent of the Contracting Authority.

36. **WAIVER**

A delay in exercising or failure to exercise a right or remedy under or in connection with this Agreement shall not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor shall the single or partial exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default shall only be valid if it is in writing and given in accordance with the provisions of **clause 38** and only in the circumstances and for the purpose for which it was given and shall not constitute a waiver of any other right, remedy, breach or default.

37. **SEVERABILITY**

- 37.1 If any clause or part of this Agreement is found by any court of competent jurisdiction to be invalid, illegal or unenforceable then that provision will, to the extent required, be severed from this Agreement and will be ineffective without, as far as is possible, modifying any other clause or part of this Agreement and this will not affect any other provisions of this Agreement which will remain in full force and effect.

- 37.2 In the event that in the Contracting Authority's reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of this Agreement, the Contracting Authority and the Contractor shall immediately commence good faith negotiations to remedy such invalidity and to agree any appropriate alternative provisions.

38. **NOTICES**

- 38.1 Subject to **clauses 38.2** and **38.3**, any notice, demand or communication in connection with this Agreement shall be in writing and may be delivered by hand, post or e-mail addressed to the recipient at its registered office, the address stated in **Schedule 1**, or any other address (including email address) notified to the other Framework Party in writing in accordance with this clause as an address to which notices, invoices and other documents may be sent).

- 38.2 The notice, demand or communication shall be deemed to have been duly served:

38.2.1 If delivered by hand, at the time of delivery;

38.2.2 If delivered by e-mail, at the time recorded on the electronic mail (provided that an electronic mail shall not be deemed to be served where the sender receives a notice of non delivery or failed delivery);

38.2.3 If sent by post, at the expiration of 48 hours after the time of posting.

Provided that if the deemed date of service is not a Business Day, or is after 4.45pm on a Business Day, the notice, demand or communication shall be deemed to have been duly served on the next Business Day.

- 38.3 The following notices or communications shall be sent by hard copy by hand or by post (together with a copy by e-mail):

38.3.1 notices or other communications concerning the termination of the Agreement; and

38.3.2 any notices or other communications concerning disputes or differences under this Agreement.

39. **ENTIRE AGREEMENT**

- 39.1 This Agreement (and the documents referred to in it) contains the entire agreement between the Framework Parties in respect of its subject matter, and supersedes and replaces any prior written or oral arrangements, representations or understandings between them relating to such subject matter. The Framework Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement (or the documents referred to in it).

39.2 Without prejudice to the Contractor's obligations under this Agreement, the Contractor is responsible for and shall make no claim against any Employer in respect of any misunderstanding affecting the basis of the Contractor's tender in respect of this Agreement or any incorrect or incomplete information howsoever obtained.

39.3 Nothing in this clause will exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.

40. **RELATIONSHIP OF THE PARTIES**

Nothing in this Agreement or any Call-Off Contract constitutes, or shall be deemed to constitute, a partnership between the Framework Parties. Except as expressly provided in this Agreement and any Call-Off Contract, neither Framework Party shall be deemed to be the agent of the other, nor shall either Framework Party hold itself out as the agent of the other.

41. **FURTHER ASSURANCE**

The Contractor will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the Contracting Authority reasonably considers necessary to give full effect to the provisions of this Agreement and any relevant Call-Off Contract.

42. **MEET THE BUYER OBLIGATION**

Where requested to do so by the Contracting Authority, the Contractor agrees to provide the Contracting Authority with support and assistance in Meet The Buyer Events, including by ensuring that one of the Contractor's representatives, who is responsible for buying or supply chain management associated with the RE:NEW projects, is available to meet with potential suppliers during such events. The Contracting Authority shall provide the Contractor with at least 20 Business Days notice prior to the day of the event if it requires the Contractor's assistance. No more than four of such events shall be held during the Term of the Agreement and no more than two of such events shall be held each year during the Term.

43. **WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT REGULATIONS 2013**

43.1 For the purposes of this **clause 43**, unless the context indicates otherwise, the following expressions shall have the following meanings:

"EEE" means any electrical and electronic equipment as defined in the WEEE Regulations; and

"WEEE from private households" means WEEE which comes from private households and WEEE which comes from commercial, industrial, institutional and other

sources which, because of its nature and quantity is similar to that from private households. Waste from EEE likely to be used by both private households and users other than private households shall in any event be considered to be WEEE from private households;

“WEEE Regulations” means Waste Electrical and Electronic Equipment Regulations 2013 (as amended).

- 43.2 When procuring EEE (which is of a type intended for use by users other than private households) for use in accordance with the Services whether by direct purchase by the Contractor, purchase on behalf of an Employer, lease or otherwise, the Contractor will ensure that in accordance with the WEEE Regulations that the producer of the EEE (whether that be the Contractor or a third party) shall assume responsibility for financing the costs of the collection, treatment, recovery and environmentally sound disposal of:
- 43.2.1 all waste electrical and electronic equipment arising from the EEE; and
 - 43.2.2 all waste electrical and electronic equipment arising from equipment placed on the market prior to 13 August 2005 where such equipment is to be replaced by the EEE and the EEE is of an equivalent type or is fulfilling the same function as the original equipment.
- 43.3 When procuring EEE (which is of a type intended for use by private households, or by both private households and users other than private households) for use in accordance with the Services whether by direct purchase by the Contractor, purchase on behalf of an Employer, lease or otherwise, the Contractor will ensure that in accordance with the WEEE Regulations that the producer of the EEE (whether the Contractor or a third party) shall comply with its obligations regarding the financing of the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households.
- 43.4 When procuring EEE the Contractor will obtain the WEEE registration number of the relevant producer and will provide this on request to the relevant Employer.
- 43.5 The Contractor shall indemnify and keep indemnified each relevant Employer as a result of any Losses which it incurs as a result of any failure on the part of the Contractor or the relevant producer to comply with the terms of this **clause 43**.

44. **GOVERNING LAW**

The Agreement shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to **clause 26**, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement provided that each Employer has the right in its absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which the Contractor is incorporated or in which any assets of the Contractor may be situated. The Parties agree irrevocably to submit to that jurisdiction.

THE AGREEMENT has been executed as a Deed and delivered by the Framework Parties the day and year written above.

EXECUTED as a **DEED** by)
[**CONTRACTOR**])
acting by a Director and its)
Company Secretary or two)
Directors)

Director

Director/Secretary

The Common Seal/Corporate Seal of
THE GREATER LONDON AUTHORITY was
affixed to this **DEED** in the presence of:

.....
Name and description of authorised signatory

SCHEDULE 1 - KEY AGREEMENT INFORMATION

1. **Agreement Reference Number:** GLA 80594
2. **Name of Contractor:** Osborne Energy Ltd
3. **Agreement Commencement Date:**
4. **Term:** 4 years
5. **Details of the RE:NEW Programme Manager**
REDACTED
6. **Details of the Contractor's Manager**
REDACTED
7. **Contractor's Key Personnel:**
REDACTED
8. **Details of the Parent Company**
REDACTED
9. **Address for service of notices and other documents in accordance with clause 38:**

For the Contracting Authority:
REDACTED

For the Contractor:
REDACTED

SCHEDULE 2 – FRAMEWORK SCOPE

1. Scope of the RE:NEW Framework

The focus of the framework is on energy efficiency retrofit and the scope includes a wide range of energy reduction and energy generation measures. It also includes the potential for wider property improvement as long as there is an energy efficiency element to the programme.

The framework scope will cover four key areas:

- 1. Project design;
- 2. Engagement and marketing;
- 3. Implementation;
- 4. Post-implementation (savings delivery and monitoring).

Below is an indication of the type of elements that could be included (but not limited to these), within each area of the framework as part of an energy efficiency project.

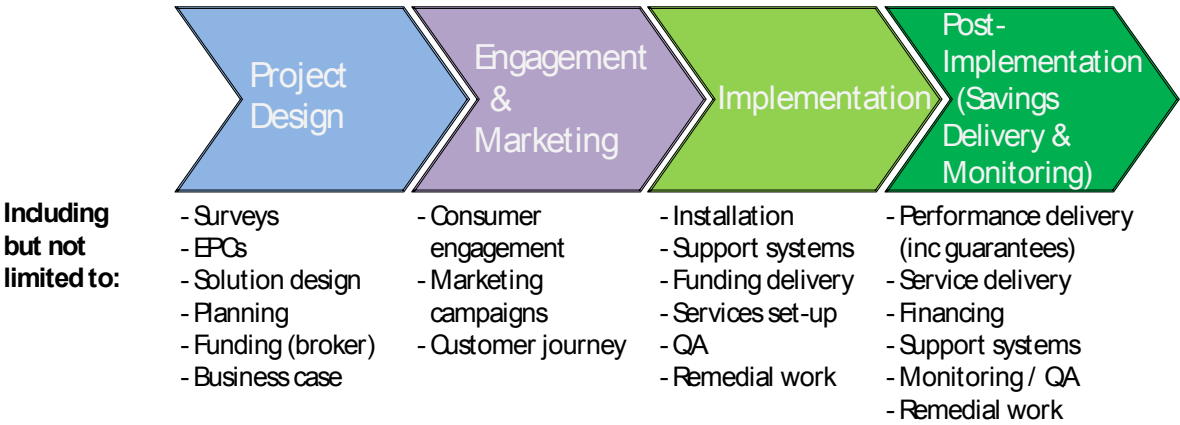


Figure 1 – Outline of RE:NEW Framework Scope

The framework will enable organisations to run mini-competitions for the delivery of services (including associated works), that are within scope. It will be possible for organisations to run a mini-competition for a wide range of services across one or more of the four key areas above. These mini-competitions may, for example, range from requirements for a single element within one of the four key areas to a programme that covers a wide range of requirements across all four key areas under the framework.

The framework will be available for use for a maximum of four years, but contracts let under the framework may have much longer contract durations (for

example, 20 years in relation to solar concessions), if this is appropriate for the particular project delivery and/or investment.

The four main types of projects anticipated to be delivered through using the framework are:

1. Area based "service concession" style retrofit programmes:

These will typically be let by a local authority for private sector area based solutions. Requirements could include (but not be limited to):

- A range of activities including marketing and engagement, surveying, accessing funding, planning, implementation, remedial work, and monitoring and reporting.
- Delivering Green Deal programmes (or other pay-as-you-save programmes) on a local and regional basis.
- A range of measures from loft and wall insulation, boilers, to PV installation and potentially larger projects including communal heating and other energy generation.
- Programme and delivery management, including customer service and customer management.

2. Social housing measures based programmes across one or more properties:

Requirements for these programmes could include (but not be limited to):

- One or more measures including loft and cavity insulation, internal and external solid wall insulation, fuel switching, bundles of smaller measures, communal heating, boiler replacement, energy generation, renewables, and small scale heat networks.
- Optimising the interaction between measures.
- Customer management.
- Provision of access to funding (such as ECO), through the contract.
- In depth stock surveys and analysis, EPCs, technical planning, design and implementation. There may also be requirements to support the decanting of residents.
- Monitoring, quality assurance, remedial activities and reporting requirements.

3. Social housing measures programmes including asset management/development: These contracts could involve requirements (as set out in 2 above), with the potential for also including wider asset

management requirements including maintenance. This approach could help boost economies of scale through having both energy efficiency measures and whole asset management through the same contract.

4. Social housing led mixed tenure programmes (some tenants, some owners e.g. tower block):

This is a hybrid or combination of 1 and 2 above and could be suitable for mixed tenure tower blocks as well as area based programmes.

The focus is on domestic properties, but the scope includes the potential to add related requirements to cover non-domestic properties within the requirements so long as it forms part of a domestic energy efficiency project. This could be beneficial to projects and help in a number of circumstances including (but not limited to), mixed use schemes (e.g. retail and accommodation), enabling wider expansion of district heating or energy centre projects to beyond just homes and the inclusion of property such as primary schools, offices, or retail units as part of an overall programme.

For all types of projects, the framework scope includes the ability to incorporate enabling works and associated goods and services required (including remedial work). There is also the potential for specific requirements to be incorporated into projects to cover wider strategic goals, including (but not limited to), achievement of: economic goals and benefits (including job creation); environmental goals and benefits; social goals and benefits.

1.1 Measures Permitted through the Framework

The framework does not aim to place constraints on what measures can or cannot be specified in projects provided they fall within the overall scope of the framework. Buying organisations may also state in their mini-competition documentation any project specific considerations that bidders need to incorporate in projects, such as energy generation or replacing failing boiler equipment, as part of the energy efficiency measures required.

Potential measures cover any relevant technology, service, application or methodology. These include, but may not be limited to, those covered under the following category descriptions (including any sub-categories and the associated works required for the measure), as long as they are in connection with an energy efficiency project:

- Electricity, heating, solar and nuclear energy;
- Electricity;
- District heating;
- Solar energy;

Solar panels;
 Solar installation;
 Lighting systems;
 Electricity supplies;
 Water heaters and heating for buildings; plumbing equipment;
 Air-conditioning appliances;
 Pumps;
 Boiler installations;
 Cooling and ventilation equipment;
 Thermal insulating material;
 Heating materials;
 Works for complete or part construction and civil engineering work;
 Building construction work;
 Construction works for plants, mining and manufacturing and for buildings;
 relating to the oil and gas industry;
 Roof repair and maintenance work;
 Electrical installation work of heating and other electrical building-
 equipment;
 Insulation work;
 Thermal insulation work;
 Heating, ventilation and air-conditioning installation work;
 Installation of doors and windows;
 Repair and maintenance services of electrical and mechanical building
 installations;
 Repair and maintenance services of central heating;
 Commissioning of heating installations;
 Installation services of electrical and mechanical equipment;
 Other sources of energy supplies and distribution;
 Financial and insurance services;
 Environmental engineering consultancy services;
 Energy and related services;
 Energy-management services;
 Energy-efficiency consultancy services;
 Heating engineering services for buildings;
 Building services;
 Engineering design services;
 Heating-system design services;
 Marketing services.

For clarity the measures permitted include:

- Any associated services or works required to enable the measure to be delivered, including training;

- Wider asset management, including property improvement projects and maintenance;
- Water saving measures (reducing water usage through fixtures and systems, including waste water);
- Financing associated with any off the above (as covered in Financing Options Enabled section below).

1.2 Geographical Scope

We expect that there will be interest from a number of organisations in using the RE:NEW Framework for locations outside of London. This could come from organisations with property both inside and outside the Capital wanting a common programme, or from organisations outside London keen to gain the benefits from using the framework. The framework will therefore be accessible by any Employer including public sector organisations throughout the UK as covered in Annex 1 - Schedule of Potential Users of the RE:NEW Framework, as well as – potentially – private sector landlords (see paragraph 1.3).

It is challenging to estimate the total value of contracts that might be let outside of London given the potential scale and number of projects. The upper threshold stated in the OJEU for total purchases through the framework is £1.65bn. As this is a framework contract there is no guarantee of contract volumes or turnover.

The applicability and ability to use the framework by organisations will be a decision for that relevant organisation and the Contracting Authority will accept no liability in this matter.

1.3 Private Sector Use

Private sector landlords are not subject to the same procurement regulations as public sector organisations. However, there may be interest from the private sector in using the framework. Where this does occur and the Contracting Authority deems the use appropriate, the Contracting Authority will be keen to incorporate such projects under the RE:NEW Framework.

2. RE:NEW Tender Approach

Buyers using the framework (referred to as the Employer in this Agreement and call-off contracts), will run a mini-competition to select their preferred contractor. The detailed approach to tendering, including the nature and detail of bid responses required, will be determined by the project specific requirements of the buyer and the type of project they are undertaking. These requirements will be stated in the mini-competition tender documentation.

The tendering approach used is flexible and a buyer can adjust the questions, evaluation scoring and evaluation weighting as required for a particular project provided this remains within the scope of the framework. Projects may not cover all of the four key areas as set out at paragraph 1 above and therefore not all of these areas will be relevant in the mini-competition process. Further details on the adjustments of the questions and evaluation approach are set out at in paragraphs 2.1 – 2.6 below.

A key aim of the RE:NEW Framework is to help reduce both buyer and bidder process costs to help optimise the money that is directed on improving properties.

The RE:NEW support team will support London buyers to use the framework through tender specification review, provision of standard mini-competition templates and support through tender evaluation and moderations. The support team will also help buyers to develop, where appropriate, bespoke and or complex project specific requirements (such as listed building work or innovative energy/heat generation projects where proposals may need lengthy approvals both internally and externally e.g. planning permission) and also to help buyers make smaller value opportunities more viable.

The mini-competition documentation will also cover a number of areas including, but not limited to:

- The buyer's key performance requirements for the project including, but not limited to, the energy and carbon savings, number of retrofitted homes and capital investment;
- The size and scope of the programme, including initial and any future phases covered by the mini-competition;
- Whether ongoing repair and maintenance services are required;
- The form of contract to be used, including works terms (if appropriate) together with any project specific adjustments or supplemental terms including insurance levels, warranties and any parent company or performance bond requirements;
- The technical and commercial proposals required within the tender;
- The organisations that are able to utilise the mini-competition outcome. This may be required for collaborative projects covering a number of different organisations;
- Bidder instructions, including the questions and evaluation approach.

Once a preferred contractor is identified for a particular project, services may commence immediately or require certain steps to be undertaken first - this will be

set out in the mini-competition documentation. An example may be that a proposal based on a percentage of the properties to be addressed needs to undergo a detailed project design phase. This final solution is likely to need review and approval by the buyer before the implementation phase is agreed and commenced.

The framework has been designed to allow a buyer to contract for asset management services alongside retrofit services from framework contractors. Any contracts for asset management services will be tendered using the same mini-competition process set out in this Agreement.

2.1 Defining Technical Requirements (including Minimum Standards and enhanced standards)

The RE:NEW Framework includes a wide range of Minimum Standards (see Schedule 8) to enable more optimal tendering using a pre-agreed baseline. It is recognised that users of the framework may want additional or enhanced standards as part of their project specific requirements. If additional or enhanced standards are required by buyers these will be stated in the mini-competition documentation.

2.2 Multi-Stage Tendering

The framework allows for a multi-stage mini-competition process, as some projects may require proposals to be developed through a number of stages and/or the buyer may want to reduce the number of shortlisted bidders who are required to develop detailed proposals.

The method for shortlisting (including the number of stages) will be defined by the buyer organisation where appropriate for a particular project and set out in the mini-competition documentation, including the evaluation criteria and scoring for the particular project which will be applied across each stage of the mini-competition. This method may include an outline proposal in relation to the requirement. The approach could require responses in written and/or presentation format.

All contractors on the framework panel capable of performing the particular contract will be invited for the initial tendering stage.

2.3 Multi-Phase Programmes

Buying organisations may want to have projects, or project stages, delivered in different phases. This may be for a range of reasons including, but not limited to,

undertaking subsequent phases when extra funding becomes available or when timing for delivery of works or services is more appropriate.

To support this type of requirement there is the possibility of a phased contract being called off i.e. an overall requirement is mini-competed but instructed in phases. If this approach is required then it will be stated in the mini-competition documents and the call-off contract documents (including the contract terms and conditions), will be drafted to incorporate any necessary phasing requirements.

2.4 Mini-Competition Evaluation Criteria and Weighting

The buying organisation will identify a preferred contractor on the most economically advantageous basis as defined by the evaluation criteria and weightings to be used for a particular project. The evaluation criteria and weightings will be set out in the mini-competition documents.

There is flexibility to adjust the evaluation criteria at mini-competition stage, as set out below, provided that this stays within the overall principles of the evaluation criteria used to appoint contractors to the framework. Criteria can include some or all of the criteria used in creating the RE:NEW Framework and the aim is for buyers to have maximum flexibility to refine the criteria and weightings used at the framework stage to help ensure they best reflect what the most economically advantageous basis means for their particular project. Additional sub-criteria may also be used to further drill down and test the proposals submitted as part of a mini-competition for a particular project.

Equally there is flexibility to adjust the weighting between the framework evaluation criteria and the mini-competition evaluation criteria for a particular project as set out below. Not all criteria stated below may be applicable to every project (e.g. where not all of the four key areas set out at paragraph 1 are required for a project). The evaluation criteria (including all sub-criteria) and weightings for a particular project must be set out in the mini-competition documentation together with the applicable scoring methodology.

Table 1 - Weighting Range for Criteria

	Overall Range ¹		Sub-Criteria Range	
	Lowest	Highest	Lowest	Highest
Criteria (or drill down of this criteria)				
Quality Criteria (Overall)¹	20%	80%		
Project Management			0%	50%
Project Design Phase			0%	50%
Engagement and Marketing Phase			0%	75%
Implementation Phase			0%	75%
Post-Implementation Phase			0%	50%

Financing			0%	50%
Achieving Wider Strategic Goals and Wider Benefits			0%	50%
Legal - Acceptance of Contract Terms	Pass or Fail only			
Pricing Criteria¹	20%	80%	20%	80%

¹ For a service concession programme, there is the potential that there will be no pricing requirement (e.g. the buyer is creating an area based service concession rather than buying directly) and therefore in this instance the pricing criteria could be weighted to 0% and the quality criteria to 100%. For all other requirements, where pricing requirement is included, the lowest total quality weighting for a particular project across all these sub-criteria is 20% and the highest total quality weighting is 80%.

There is also the potential for project specific minimum requirements against criteria or sub-criteria to be incorporated into mini-competitions. If these are included for a particular project they will be stated in the mini-competition documents.

The following provides an outline of the top level criteria that can be used along with potential sub-criteria that may be included (note that this is an example of the areas and is not an exhaustive list). The buyer will need to identify the sub-criteria which are appropriate in order to evaluate the requirements for its particular project (remaining within the principles of the overall framework evaluation criteria) and specify both these sub-criteria, respective weightings and scoring methodology in the mini-competition documentation:

- Project Management – example sub-criteria include, but are not limited to, the proposed:
 - Project governance approach;
 - Programme plan;
 - Risk and issue management plan;
 - Sub-contractor procurement and management approach;
 - Service continuity and/or interruption minimisation approach;
 - Performance level measurement and verification approach;
 - Reporting approach;
 - Key performance indicator achievement approach (including, but not limited to, CO₂ savings targets, homes retrofitted targets, or capital expenditure);
 - Approach to meeting strategic goals (such as environmental credibility, resources or delivery goals).
- Project Design - example sub-criteria include, but are not limited to, the proposed:
 - Data analysis approach (stock and measures);
 - Technical solution design;
 - Service solution design;

- Performance levels versus buyer requirements;
 - Financial savings (including any guaranteed savings and wider savings proposed);
 - CO₂ emissions reduction target (such as absolute reductions or reduction per £);
 - Technical risk and mitigation approach;
 - Approach to meeting specific buyer requirements (including prioritised service/technical areas).
- Engagement and Marketing - example sub-criteria include, but are not limited to, the proposed:
 - Engagement and marketing approach (including, but not limited to, campaign touch points, customer journey, tracking, reporting, and complaint handling);
 - Performance commitments in relation to successful engagement and marketing.
- Implementation - example sub-criteria include, but are not limited to, the proposed:
 - Implementation approach (including appropriateness to building type and use);
 - Works implementation schedule;
 - Technical and/or service solutions (including performance levels and meeting specific equipment and/or service requirements);
 - Scheme specific training approach;
 - Example method statements;
 - Approach to meeting specific buyer requirements/policies during implementation phase;
 - Customer satisfaction approach;
 - Commissioning and handover approach (including training).
- Post-Implementation (savings delivery and monitoring) - example sub-criteria include, but are not limited to, the proposed:
 - Monitoring of energy savings and internal environmental conditions of the property;
 - Financial savings and/or achievement of business case;
 - Reduction in costs and/or reduction in backlog maintenance;
 - Improvements in the energy efficiency rating of individual, or a portfolio of, property;
 - Emissions reduction (such as absolute reductions or reduction per £);
 - Risk management and risk reduction approach;
 - Approach to the measurement and verification of savings/performance levels;

- Approach for achieving longer term asset management benefits and services;
- Approach to provision of repair and maintenance services;
- Approach to achieving customer satisfaction post-implementation.
- Financing - example sub-criteria include, but are not limited to:
 - Appropriateness of the financing solution to buyer requirements (including cost profile);
 - Ability to access/leverage funding for project;
 - Value for money of the financing solution (including risk);
 - Quality of proposed overall business case including financial savings both through the energy savings and wider savings proposed.
- Achieving Strategic Goals and Wider Benefits - example sub-criteria include, but are not limited to, the proposed approach to:
 - Achievement of economic goals and benefits, including job creation;
 - Achievement of environmental goals and benefits;
 - Achievement of social goals and benefits.
- Legal - agreement to contract terms
- Pricing - example sub-criteria include, but are not limited to:
 - Value for money;
 - Cost and cost profile of overall solution, and potentially of key individual components of solution;
 - Payment approach (potentially covering payment based on results e.g. for a private sector scheme or for achieving certain performance levels / milestones);
 - Total cost of solution (potentially including the ability to maximise areas such as VAT recovery, capital allowances and income opportunities).

The scoring approach used will be based upon the scoring approach used to create the framework.

2.5 Pricing Approach

The pricing approach used, and response required in the mini-competition, will depend upon the buyer requirements for a particular project and must be stated in the mini-competition documents.

The buyer will want the ability to clearly understand actual or maximum costs for a project. Given the nature of projects and the total property portfolio covered, it may not be possible, feasible, or required, to fully cost all requirements/proposals at the mini-competition stage. All costs and/or individual property costs and

proposed solutions may not be known until after the project design phase is completed and therefore outline/maximum pricing, and/or pricing for example properties, may be used to identify the most economically advantageous tender for a particular project.

Bidders may be required to state the maximum % additions, labour rates and % amendments to project cost in their responses. In mini-competition responses these values may be lower than the value stated in their Framework Agreement to create a better position for the buyer (e.g. % additions and labour rates can be lowered but should not be increased, whilst any applicable discount may be increased).

Open book pricing is expected as standard for contracts unless specifically excluded in the mini-competition documentation.

It is recognised that many housing providers have access to individual or collaborative deals for certain goods and services that may provide better value for money than the Contractor proposes. If there is a like-for-like substitution for what is proposed by the Contractor that the Contractor can access (potentially through support from the buyer) and the buyer requests such use, this should be incorporated into the contract.

2.6 Financing Options Enabled

It is recognised that different buying organisations using the framework may require different approaches to financing projects. The framework is therefore intended to be flexible with regards to the approaches that can be included in projects.

Buying organisations will state their financing approach and/or requirements (including requirements or terms that may be associated with the financing approach), in the mini-competition documents. This may include the framework contractors directly proposing financing solutions or working with third parties (nominated by the buyer or otherwise), to propose a financing solution as part of the mini-competition response. This may include financing being put in place after award of a call-off contract has been made in accordance with the terms of that call off contract.

In terms of the source of funding, these could include, but are not limited to:

- Buyers' own funding;
- ECO funding;
- Grants or other Government funding (such as the Home Improvement Fund);

- Subsidies (such as the Feed-in-Tariff, Renewable Heat Incentive or other subsidies);
- Contractor funding;
- Third party funding;
- Income sources (such as income from power or energy sales to customers or suppliers);
- Structural funding (such as domestic or European loans or investor funding).

To help enable the optimal finance solution, buying organisations may allow a range of options to be considered. If more than one option is allowed, the buyer must set-out in the mini-competition which options are allowed and how they will be evaluated. These could also include more detailed opportunities such as debt financing (including a range of different debt financing approaches), equity based financing, credit financing and lease financing (including sale and leaseback). Inside these various routes there may be further possibilities to create optimum solutions such as the use of refinancing after certain stages of the contract or cession of contracting rates to provide additional collateral. The use of special purpose vehicles, creation of service concession style arrangements or use of pay-as-you-save schemes (as created through the Green Deal or otherwise), can be considered as part of the overall solution. Any arrangement would need to be in adherence to the relevant public procurement regulations including the duty to treat all bidders equally and in a non-discriminatory way and to act in a transparent, proportionate manner.

It is recognised that there may be a range of considerations for the buying organisation to be covered by the financing offer. These may include areas such as the following:

- Additional funding leveraged in (e.g. grant/subsidised funding);
- Direct financing cost (e.g. interest rates, fees);
- Legal aspects (e.g. financing conditions, asset title and risk, cancellation);
- Accounting treatment (including on or off balance sheet);
- Taxation implications (VAT and other taxes);
- Securities required by financing institution;
- Overall cashflow;
- Financial returns of the project.

The overall financing solution may include a mix of different approaches to cover different elements of the project. For example, elements funded through a mix of buyer, third party finance, grants and Contractor finance. The aim will be to

provide the financing solution that best meets the needs of the buying organisation.

The payment and pricing mechanisms contained in the template call-off contract model documents attached to this Agreement may be amended by a buyer to reflect its financing approach and requirements for each project. Each buyer will set out its particular requirements at mini-competition stage, including amendments to the relevant template call-off contract model document as well as the relevant evaluation criteria/sub-criteria and respective weightings to ensure that proposals can be evaluated on an equal basis.

3. The Contract Model

Each contractor appointed to the framework will enter into a framework agreement with the Contracting Authority.

This Agreement contains overarching terms and conditions which govern the relationship between the Contracting Authority and the Contractor. The Agreement also provides the mechanism to allow buyers (referred to as the Employer in this Agreement), to call-off services and/or works and contains terms and conditions which apply to the delivery of such services and/or works.

In addition to its core terms and conditions the Agreement contains a number of schedules which are relevant to the framework and its operation. These schedules include:

- Schedule 1 – Key Agreement Information - commercial information relevant to the framework terms and conditions;
- Schedule 2 – Framework Scope – a description of the overarching scope of the Framework;
- Schedule 3 – Pricing and Rates – the commercial pricing information provided by the Contractor at bid stage for the Framework, including maximum overheads and profit percentages and maximum base internal labour rates;
- Schedule 4 – Call-Off Contract Model Terms – template call-off contract documents, which may be more precisely formulated and/or supplemented by buyers during a mini-competition process;
- Schedule 5 – Call-Off Procedure – the mini-competition process and procedure for placement of call-off contracts;
- Schedule 6 – Ancillary Documents – template forms of collateral warranty, parent company guarantees and performance bond (which may be more

precisely formulated, supplemented or substituted for one in substantially the same form by buyers during a mini-competition process);

- Schedule 7 – Responsible Procurement – additional terms and conditions, procedures and requirements which may be applicable to call-off contracts;
- Schedule 8 – Minimum Standards – minimum technical standards and requirements; and
- Schedule 9 – Quality Proposal – the Contractor’s quality response proposal.

The terms of the Agreement allow any Employer including any public sector organisation identified in the OJEU Notice (as referred to in Annex 1 - Schedule of Potential Users of the RE:NEW Framework) to utilise the framework to call-off services and/or works within the scope of the framework (as described in this Schedule 2). There is no guarantee of any quantity nor value of services/works which may be called-off through the Agreement.

Should a buyer wish to call-off services and/or works through the framework then it will undertake a mini-competition, as described in paragraph 2 above. The mini-competition process and procedure by which a buyer may enter into a call-off contract for services and/or works is set out in the Agreement.

As part of the mini-competition process a buyer will provide project specific information and identify (without limitation):

- the terms and conditions which will apply to the proposed call-off contract (which shall be based on the template call-off contract documents together with more precisely formulated terms and/or other supplemental terms as are appropriate for the particular project);
- the services and/or works it requires;
- the standards referred to in the Framework Scope which will apply, together with any enhancement to such standards and any additional standards which apply for the particular project; and
- the output requirements for the project.

Schedule 4 of this Agreement contains template call-off contract model documents, which provide base line terms and conditions. The model call-off contract terms may be more precisely formulated and/or supplemented by buyers during the mini-competition process.

The Agreement incorporates the following template call-off contract model documents:

- Services contract – this template may be used for a wide range of services, including (without limitation) marketing activities, design services, survey work and development of proposals for two stage tendering. The template includes an option to instruct a phase 2 implementation works contract on completion of the relevant phase 1 preliminary services (if required);
- Concession contract – this template may be used for a wide range of services in circumstances where the buyer will not pay the Contractor for delivery of the services and the Contractor will generate a commercial return through delivering the concession services. Without limitation, this template may be used for ‘area based’ programmes, including engagement with a specified market to deliver a programme of energy efficiency measures financed through a combination of end user contributions and/or Green Deal, ECO or similar/replacement schemes;
- Installation works contracts - based on the JCT Minor Works Building Contract 2011, JCT Minor Works Building Contract with contractor’s design 2011 and NEC3 Engineering and Construction Short Contract (April 2013). Without limitation, these templates may be used for projects involving relatively straightforward installation and construction works, for example cavity wall insulation, simple boiler installation, guttering and other asset management;
- Engineering, procurement and construction (EPC) contract – including a testing and commissioning regime, output requirements and post completion monitoring. Without limitation, this contract may be used for more complex installations, for example solar photovoltaic panels and district/communal heating systems;
- Operation and maintenance contract – this template may be used to procure ongoing operation and maintenance services for installed kit. Without limitation, it may be used in conjunction with the EPC and installation works contracts;
- Solar concession agreement – this template may be used for installation of solar photovoltaic panels on a long term concession basis. The Contractor will be responsible for the cost of installation and maintenance of the panels and will receive income through the feed in tariff scheme.

Any call-off contract entered into between the Contractor and a buyer will be a separate and binding agreement between those parties. The Contracting Authority will not be a party to and will have no liability under call-off contracts entered into between the Contractor and buyers (unless the buyer is the Contracting Authority).

4. Access Agreements

For a buying organisation to utilise RE:NEW, they should first either enter into an access agreement with the Contracting Authority or the Contracting Authority should confirm that no access agreement is required for that organisation.

The access agreement is designed to help ensure that buying organisations understand and follow guidance on using the standard process (including template documents where applicable). Potential providers on the framework should confirm with the Contracting Authority (and/or RE:NEW support team if instructed by the Contracting Authority), that an access agreement has been entered into. Where a buying organisation uses the framework without first entering into an access agreement with the Contracting Authority, or where the Contracting Authority has not confirmed that no access agreement is required, then a charge of 2% of the contract value will be due from the Contractor to the Contracting Authority (or another organisation nominated by the Contracting Authority).

5. Rebate Model

It is expected that many organisations will require support in developing and delivering projects under the framework. To help reduce the funding of this support being a barrier to using RE:NEW, the framework includes an optional rebate model (the mini-competition documents will state whether such an option will be used).

The main idea of the rebate is that, where used, the selected contractor for a project will pay an amount to the support organisation. The amount payable, the terms and identification of the support organisation are to be defined in the mini-competition documentation. These conditions would be applied to all bidders in the relevant mini-competition and would create an additional cost to be included in the selected contractor's total project cost.

This flexible approach can help ensure that the right level of support is provided and that costs payable are appropriate. It can also account for any regional or sector based schemes that may be able to part, or fully, subsidise the support.

For example, the support provided by the RE:NEW support team is already funded through the Contracting Authority, principally from the European Commission under the ELENA (European Local ENergy Assistance) Programme. This means that organisations in London using the RE:NEW support team will not be expected to add a rebate for standard support whilst the team is fully funded (funding is currently expected to continue until mid-2017). However, a buyer located outside of London using the RE:NEW Framework may require similar support which would not be provided to them under the Contracting

Authority/ELENA funded RE:NEW support team. In this case the buying organisation may potentially add a rebate to pay for the support organisation. Likewise, London-based buyers may potentially add a rebate to pay for RE:NEW support team services e.g. if support requirements are not fully covered by the Contracting Authority/ELENA funding.

Where an organisation has a mix of properties within and outside London, the RE:NEW support team will help develop the approach for London-based properties and the buying organisation can then choose whether to include other properties within the scope of the tender. If other properties are included, then the buyer may wish to add a rebate for additional support to be provided by the RE:NEW support team (or another support organisation).

SCHEDULE 2 - ANNEX 1

Schedule of Potential Users of the RE:NEW Framework

The Contracting Authority is seeking to establish a Pan Government Framework Agreement for use by UK public sector bodies including, but not limited to:

Organisation	Web link
Central Government Departments, Local Government and Public Corporations that can be accessed at the Public Sector Classification Guide January 2014	http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcn%3A77-336664
Local Authorities	http://openlylocal.com/councils/all www.ubico.co.uk Agent acting on behalf of Cheltenham Borough Council.
NDPBs	https://www.gov.uk/government/organisations
National Parks Authorities	http://www.nationalparks.gov.uk/
Educational Establishments in England and Wales, maintained by the Department for Children, Schools and Families including Schools, Universities and Colleges but not Independent Schools	http://www.education.gov.uk/edubase/home.xhtml
Police Forces in the United Kingdom	http://www.police.uk/?view=force_sites http://apccs.police.uk/about-the-apcc/
Fire and Rescue Services in the United Kingdom	http://www.fireservice.co.uk/information/ukfrs http://www.nifrs.org/areas-districts/ http://www.firescotland.gov.uk/your-area.aspx
NHS Bodies England	http://www.nhs.uk/ServiceDirectories/Pages/AcuteTrustListing.aspx http://www.nhs.uk/ServiceDirectories/Pages/MentalHealthTrustListing.aspx http://www.nhs.uk/ServiceDirectories/Pages/CareTrustListing.aspx http://www.nhs.uk/ServiceDirectories/Pages/AmbulanceTrustListing.aspx http://www.nhs.uk/ServiceDirectories/Pages/SpecialHealthAuthorityListing.aspx http://www.nhs.uk/ServiceDirectories/Pages/OtherListing.aspx

Hospices in the UK	http://www.helpthehospices.org.uk/
Registered Social Landlords (Housing Associations)	
Third Sector and Charities in the United Kingdom	http://www.charitycommission.gov.uk/find-charities/ http://www.oscr.org.uk/search-charity-register/ https://www.charitycommissionni.org.uk/ShowCharity/RegisterOfCharities/RegisterHomePage.aspx
Citizens Advice in the United Kingdom	http://www.citizensadvice.org.uk/index/getadvice.htm www.cas.org.uk http://www.citizensadvice.co.uk/
ALMOS	http://www.almos.org.uk/member_list
Almshouses	http://www.almshouses.org/
Department for Health Arms Length Bodies	https://www.gov.uk/government/publications/how-to-contact-department-of-health-arms-length-bodies
Extra-care Providers	http://www.housingcare.org/elderly-uk-assisted-living-extra-care-housing.aspx
Further and Higher Education in Northern Ireland.	http://www.unixl.com/info/northern-ireland.htm
GLA Group	https://www.london.gov.uk/priorities/business-economy/vision-and-strategy/focus-areas/responsible-procurement/business-opportunities
Health and Social care in NI: Agencies, boards, councils and hospitals	http://www.hscni.net/
Hospices in UK including SCOTLAND Wales and Northern Ireland.	http://www.hauraki.co.uk/hospice_uk/
Local Enterprise Partnerships	http://www.communities.gov.uk/localgovernment/local/localenterprisepartnerships/summaries/
Local Development Agencies	http://www.bis.gov.uk/partners/by/themes
Local Health Boards	http://www.nhs.uk/servicedirectories/Pages/ServiceSearch.aspx
London Boroughs & City of London	http://www.londoncouncils.gov.uk/londonfacts/londonlocalgovernment/londonboroughs.htm
NDA Properties Ltd	No website – go through NDA website.

General Practitioners	http://www.general-practitioners-uk.co.uk/
NHS Scotland	http://www.show.scot.nhs.uk
NHS Wales GP Practices	http://www.nhsdirect.wales.nhs.uk/localservices/searchlocalservices.aspx?s=GPSurgeries
NHS Wales	http://www.nhsdirect.wales.nhs.uk/
NI Public Bodies, NI Government Departments	http://www.northernireland.gov.uk/gov.htm
Northern Ireland Public Sector Bodies and Local Authorities	http://www.northernireland.gov.uk/az2.htm
Public Corporations	http://www.shareholderexecutive.gov.uk/portfolio/index.asp
Registered Providers/Housing Associations/Registered Social Landlords	http://www.housingnet.co.uk/
Royal Mail	http://www.royalmail.com/
Schools in Northern Ireland	http://www.deni.gov.uk
Scottish Further and Higher Education Institutions.	http://www.universities-scotland.ac.uk/index.php?page=members http://www.scotlandscolleges.ac.uk/Welcome.html
Scottish Local Government.	http://www.scotland.gov.uk/Topics/Statistics/Browse/Labour-Market/EconomicProfilesLA
Scottish public sector bodies.	http://www.scotland.gov.uk/Topics/Government
Scottish Schools.	http://www.ltscotland.org.uk/scottishschoolsonline/index.asp?
Tenant Services Authority	http://www.tenantservicesauthority.org/server/show/nav.14538
Welsh Public Bodies National Assembly for Wales, Welsh Assembly Government and Welsh Local Authorities.	http://www.assemblywales.org/

Private Sector Organisations:

Private sector landlords are not subject to the same procurement regulations as public sector organisations; however, there may be interest from the private sector in using the framework. Where this does occur and the use seems appropriate, the Contracting Authority will be keen to incorporate such projects under the RE:NEW Framework.

SCHEDULE 3 – PRICING/RATES

REDACTED

SCHEDULE 4 – CALL-OFF CONTRACT MODEL TERMS

[Drafting Note: the documents contained in this Schedule are templates and the model call-off contract terms may be more precisely formulated and/or supplemented by Employers during the mini-competition process]

THE CALL-OFF CONTRACT MODEL TERMS HAVE BEEN PROVIDED SEPARATELY:

RENEW Solar Concession Agreement Call-Off Contract

RENEW Services Call-Off Contract

RENEW Operation and Maintenance Contract for Complex Work

RENEW NEC3 ECSC Call-Off Contract

RENEW JCT MWD Call-Off Contract

RENEW JCT MW Call-Off Contract

RENEW EPC Contract for Complex Work

RENEW Concession Call-Off Contract

SCHEDULE 5A - CALL-OFF PROCEDURE

Each Employer undertaking a Mini-Competition shall follow the approach described in **paragraph 2** (RE:NEW Tender Approach) and **paragraph 3** (The Contract Model) of **Schedule 2** (Framework Scope) and the process set out in this **Schedule 5A**.

1. Evaluation Criteria

- 1.1 The evaluation criteria for a Mini-Competition will be stated in or provided with the Request Form or Project Brief. Evaluation criteria shall be on the basis of the most economically advantageous tender in response to the relevant Request Form and in accordance with **paragraph 2** of **Schedule 2** and this **Schedule 5A**.

2. Invitation to Tender

- 2.1 As part of the Mini-Competition, the relevant Employer will:
 - 2.1.1 issue a Request Form in the form set out in **Schedule 5B**, together with the Project Brief to the Contractor;
 - 2.1.2 invite those contractors on the framework that the relevant Employer assesses in its sole discretion are capable of performing the proposed call-off contract in accordance with the Project Brief and Request Form and to the relevant Employer's satisfaction; and
 - 2.1.3 invite Proposals in response to the Project Brief by conducting a Mini-Competition in accordance with this **Schedule 5A** and the requirements of Public Contracts Regulations 2006 within a specified timeframe. The deadline for the receipt of Proposals shall be specified in the Request Form and if no such date is specified, within 30 Business Days of receiving the Request Form, or by such other date as may be notified by the relevant Employer taking into account all the circumstances of the Project Brief.
- 2.2 Following receipt of the Request Form and Project Brief, the Contractor shall immediately confirm receipt of such Request Form and either:
 - 2.2.1 notify the relevant Employer in writing that it does intend to submit a Proposal; or
 - 2.2.2 notify the relevant Employer in writing that it does not intend to submit a Proposal.
- 2.3 Where the Contractor has notified the relevant Employer in accordance with paragraph 2.2.1, the Contractor shall respond to the relevant Employer by the date specified in the Request Form. A Proposal must be

an offer capable of acceptance and remain valid for at least 90 Business Days from the date it is submitted to the relevant Employer. The format, style and content of the response (including the Proposal) to be submitted by the Contractor will be defined in the Project Brief or Request Form.

- 2.4 The relevant Employer will set out its requirements in the Project Brief and Request Form.
- 2.5 The Contractor shall submit with each Proposal full details of the basis on which its prices for the relevant services and/or works identified in the Project Brief have been calculated, including all costs and any mark-up that it will apply to its costs. In calculating its prices for the relevant services and/or works for the purposes of its Proposal the Contractor may use allowances for overheads and profit which are less than the Maximum Allowances for Overheads and Profit but the Contractor shall not use any allowances for overheads and profit which exceed the Maximum Allowances for Overheads and Profit. Each relevant Employer shall identify the method by which the Contractor should show any applicable reduction in its allowances for overheads and profit against the Maximum Allowances for Overheads and Profit. The Contractor's pricing information shall be provided to the relevant Employer on an open book basis.
- 2.6 The Contractor shall submit with each Proposal full details of its technical proposals for the delivery of the services and/or works described in the Project Brief. Such technical proposals shall comply with the Contractor's Quality Proposal as adjusted for the relevant Project.
- 2.7 The Contractor acknowledges that each Employer may have established a framework agreement or other arrangement which may be utilised by the Contractor to procure services, goods and materials relevant to the delivery of the services and/or works described in the Project Brief. If the relevant Employer has established such a framework agreement or other arrangement details shall be provided in the Project Brief or Request Form. If the Project Brief or Request Form identifies that the relevant Employer has established a framework agreement or other arrangement then when providing a Proposal the Contractor shall show:
 - 2.7.1 prices for delivery of the relevant services and/or works utilising such framework agreement or other arrangement; and
 - 2.7.2 prices for delivery of the relevant services and/or works utilising the Contractor's own supply chain and/or supplying the relevant services, goods and materials itself.

The relevant Employer will set out in its Request Form how it will choose between the two pricing options once it has evaluated the Proposal. If the relevant Employer decides to accept the Contractor's Proposal and enter into a call-off contract, the relevant Employer shall confirm which pricing option it is accepting. If the relevant Employer accepts the pricing option for supply utilising the Employer's framework agreement or other

arrangement then in providing the relevant services and/or works the Contractor shall secure the provision of the relevant services, goods and materials through such framework agreement or other arrangement. If the Contractor procures services, goods and materials other than through the Employer's framework agreement or other arrangement the Contractor shall provide such evidence as the relevant Employer may reasonably require to demonstrate the cost savings made when compared to the relevant Employer's own framework agreement or other arrangement.

- 2.8 For the avoidance of doubt the Contractor's costs in putting together its Proposal shall be for the Contractor's own account.
- 2.9 Each Employer reserves the right to discontinue a Mini-Competition at any stage without any liability.
- 2.10 The relevant Employer will evaluate any responses to the Project Brief and Request Form received from the contractors (including the Proposal) in accordance with paragraph 1 above.
- 2.11 The relevant Employer will decide whether or not to conclude a Call-Off Contract to provide the services and/or works as set out in the Project Brief. If the relevant Employer decides not to select a contractor it will notify all contractors invited to submit a response of that fact and the Mini-Competition shall be discontinued.
- 2.12 If the relevant Employer decides to select a contractor, it will follow the steps set out in paragraph 3 and notify all other potential contractors invited to submit a response in writing of their failure to be selected.
- 2.13 If the Contractor is successful in a Mini-Competition it shall enter into the call-off contract provided with the Project Brief or Request Form (subject to any amendments made to such call-off contract during the Mini-Competition process) with the relevant Employer and comply with the provisions of this Agreement. The Contractor shall execute and deliver the relevant call-off contract within 10 Business Days of receipt or such other period as may be specified by the relevant Employer.

3. Ordering Placements

- 3.1 The relevant Employer will issue any relevant purchase order number and send out a call-off contract by post or, where the parties expressly agree, by electronic mail or by the Internet.
- 3.2 An Employer's selection of the Contractor to perform Services in relation to a Project shall be dependent on the Contractor entering into a call-off contract with that Employer.

4. Call-Off Contract Terms

- 4.1 If a Contractor is selected to perform services and/or works subject to a specific Project Brief, such Services shall be governed by the relevant Call-Off Contract.

5. Multi-Stage Tendering

- 5.1 The selection process for a Mini-Competition may comprise of one or more stages as determined by the relevant Employer (“Multi-Stage Tendering”).
- 5.2 If an Employer decides to run a Multi-Stage Tendering in a Mini-Competition, the relevant Employer shall invite to the initial stage, all suppliers on the framework that the relevant Employer assesses in its sole discretion are capable of performing the call-off contract in accordance with the Project Brief and Request Form and to the relevant Employer’s satisfaction.
- 5.3 The relevant Employer shall determine the number of stages (which may include an outline proposals stage and a detailed proposals stage) and the method for shortlisting bidders in a Multi-Stage Tendering which shall be set out in the Request Form. Shortlisting for subsequent stages shall be carried out by applying the evaluation criteria.
- 5.4 The Mini-Competition process set out at paragraph 2.1-2.7 shall be adjusted and repeated as appropriate at each stage. If the relevant Employer decides not to invite one or more contractors through to the next stage of the Mini-Competition, the Employer shall notify such contractors in writing of their failure to be invited to the next stage.
- 5.5 The relevant Employer shall ensure that the process (and each stage) is compliant with the relevant procurement regulations and is carried out within the EU principles of equal treatment, transparency, proportionality and non discrimination.

SCHEDULE 5B - REQUEST FORM (MINI-COMPETITION)

Framework Number:

Request Form Number:

To:

Address:

From: [] (“the Employer”)

Date:

This is a Request Form for the provision of Services in accordance with the Agreement referenced above. This is an enquiry document only, constituting an invitation to tender and it does not constitute an offer capable of acceptance. Your Proposal must be submitted as an offer capable of acceptance by the Employer; however such acceptance will not occur unless and until the Employer posts notice of acceptance to you.

Attached to this Request Form at Attachment 1 is a Project Brief, draft call-off contract and associated documents. The Project Brief, draft call-off contract and associated documents set out the Services required by the Employer, the commercial model to be used and other relevant information. The Employer is under no obligation to award any call-off contract as a result of this Request Form. The Employer shall not be liable for any costs, charges or expenses borne by you or on your behalf whether or not you are awarded a call-off contract, which for the avoidance of doubt includes any costs, charges and expenses arising from or associated with an abortive or cancelled procurement process.

In your Proposal, you must respond to the information requested in Attachment 1 by completing Attachment 2.

Your Proposal will be assessed against the evaluation criteria set out in Attachment 3 as part of a Mini-Competition process. Subject to the Employer not having any obligation to award a call-off contract, the Employer will evaluate the tendered Proposals to determine which is the most economically advantageous with reference to the evaluation criteria set out in Attachment 3.

You must complete and return your Proposal by [].

Any queries regarding this Request Form should be directed to the above. Any queries regarding this Agreement should be directed to the RE:NEW Programme Manager named in this Agreement.

Signed:

_____ for and on behalf of the Employer

Attachments: Attachment 1: Project Brief, draft call-off contract and associated documents

Attachment 2: Format for the Contractor's Proposal

Attachment 3: Evaluation Criteria

ATTACHMENT 1

[Drafting Note: to be completed by the Employer. Attach the Project Brief and draft call-off contract at Attachment 1 of this Request Form]

ATTACHMENT 2

Proposal

[Drafting Note: to be completed by the Contractor in line with the requirements specified in the Project Brief and the Request Form. The Proposal should include the following details as a minimum.]

1. Proposed Solution

The Contractor should detail how it proposes to deliver the requirements and Services set out in Attachment 1, including details of any equipment and materials required and service levels, as well as providing the Employer with any additional information on the Contractor's solution.

2. Charges

The Contractor should set out the charges for the Services required, their provision and the contract model as set out in Attachment 1.

3. Service Team and Personnel

Details of the Contractor's Manager, and Key Personnel, including grades and areas of responsibility. Please attach copies of CVs.

4. Experience

An outline of relevant past work or projects including references if requested in the Project Brief.

5. Proposed sub-contractors (if any)

Name and contact details of proposed sub-contractor(s) and details of any proposed sub-contracted work.

6. Proposed completion date

[Complete only if different from duration/expiry date stated in Attachment 1].

7. Insurance

The Contractor should confirm that additional insurance cover has/will be arranged according to the requirements (if any) set out in Attachment 1.

8. Call-Off Contract Terms

Confirmation that the Contractor agrees to the draft call-off contract terms and will sign the call-off contract upon receipt.

9. Other Information

ATTACHMENT 3

Assessment Criteria

[Drafting Note: to be completed by the Employer in accordance with Schedule 5A]

**SCHEDULE 6 – COLLATERAL WARRANTIES, PARENT COMPANY
GUARANTEE, LEGAL OPINION AND PERFORMANCE BOND TEMPLATES**

SCHEDULE 6 PART 1 – CONTRACTOR COLLATERAL WARRANTY

Dated

2015

(1) [CONTRACTOR]

(2) [BENEFICIARY]

(3) [EMPLOYER]

Contractor Collateral Warranty

relating to
[SPECIFY]

THE PARTICULARS

Date of this Deed	:	
The Contractor	:	[NAME] [(registered number [number])] [whose registered office is at] [of] [Address]
The Beneficiary	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Employer	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Framework Agreement	:	the framework agreement dated [DATED] made between the Contractor and The Greater London Authority
The Call-Off Contract	:	the call-off contract entered into in accordance with the Framework Agreement, dated [DATED] and made between the Contractor and the Employer
[The Works]/[The Services]	:	[the [design and] construction of the works to be provided by the Contractor in accordance with the provisions of the Call-Off Contract as more particularly set out in the Call-Off Contract]/[the services to be provided by the Contractor in accordance with the provisions of the Call-Off Contract as more particularly set out in the Call-Off Contract] <i>[Drafting Note: complete as appropriate for the Call-Off Contract]</i>
The Project	:	[DETAILS]
The Site	:	[DETAILS]
[The Funding Agreement]	:	the agreement dated [DATED] made between the Beneficiary and the Employer under which the Beneficiary has agreed to provide finance in connection with the Project]

Liability Period	: the period from the date of the Call-Off Contract until no less than [12] years after [practical completion of the Works][completion of the Services]
Professional Indemnity Insurance	: professional indemnity insurance with a minimum limit of indemnity of not less than £[figures] ([words] million pounds) for any one occurrence or series of occurrences arising out of any one event
Intellectual Property Rights	: any patent, know-how, trade mark or name, service mark, design right (in each case whether registered or unregistered), copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world
Documents	: all drawings, designs, charts, specifications, plans and any other documents or materials (including any computer software developed by the Contractor used to generate them and any designs contained in them) but excluding internal memoranda and documents, working papers and templates, which have been created and/or developed by or for the Contractor in the course of performing its obligations under the Call-Off Contract

THIS DEED is made on the date set out in the Particulars

BETWEEN:

- (1) the Contractor;[and]
- (2) the Beneficiary; [and
- (3) the Employer].

[Drafting Note: the Employer only needs to be a party to this deed if Step-In Rights are granted]

BACKGROUND:

- (A) In accordance with the Framework Agreement, the Employer and the Contractor entered into the Call-Off Contract, under which the Employer has appointed the Contractor to provide [the Works][and][the Services] in relation to the Project.
- (B) The Beneficiary has an interest in the Project as it is [providing finance in connection with the Project pursuant to the Funding Agreement] OR [the/a] [landlord][freehold owner][purchaser][tenant][provider of finance in connection with the [purchase][lease] of [the Site][*description of part of the Site*] ***[Drafting Note: describe beneficiary's interest]***.
- (C) The Contractor is obliged under the Call-Off Contract to give a warranty in this form in favour of the Beneficiary.

OPERATIVE PROVISIONS

10. DEFINITIONS

The words defined in the Particulars shall have the same meaning throughout this Deed. References to the Particulars, background section, and clauses are to the Particulars, background section and clauses of this Deed.

11. CONSIDERATION

This Deed is made in consideration of the payment of £1.00 (one pound) by the Beneficiary to the Contractor receipt of which the Contractor acknowledges.

12. CONTRACTOR'S DUTIES UNDER THE CALL-OFF CONTRACT

The Contractor warrants to the Beneficiary that:

- 12.1 it has performed and shall continue to perform its duties and obligations under the Call-Off Contract in accordance with the Call-Off Contract[; and
- 12.2 it has exercised and shall continue to exercise the reasonable skill, care and diligence to be expected of a properly qualified [member of the Contractor's profession][designer of the appropriate discipline(s)] experienced in carrying out duties such as duties under the Call-Off Contract in relation to works and services of similar scope, nature, timescale and complexity, and on a similar site or at a similar location to the Project (except where the Call-Off Contract imposes a higher standard of care in which case such higher standard shall apply) in relation to the following (so far as the Contractor is responsible for them):
 - 12.2.1 the design of the [Works] [Services];
 - 12.2.2 the selection of goods, materials, equipment or plant for the [Works] [Services]; [and]
 - 12.2.3 [the satisfaction of any performance requirement or specification of or for the [Works] [Services]].

13. **INTELLECTUAL PROPERTY RIGHTS**

- 13.1 Subject to the following provisions of this Deed, all Intellectual Property Rights in the Documents shall remain vested in the Contractor.
- 13.2 The Contractor grants (or, if such a grant cannot legally take place until a later date, agrees to grant) to the Beneficiary with effect from the date of this Deed or in the case of any of the Intellectual Property Rights not yet in existence with effect from the creation of such Intellectual Property Rights, an irrevocable, royalty-free, non-exclusive licence (such licence to remain in full force and effect notwithstanding the completion of the Contractor's obligations or the termination of the Call-Off Contract or this Deed or the determination of the Contractor's engagement under the Call-Off Contract or any dispute under the Call-Off Contract or this Deed) to use the Intellectual Property Rights and to reproduce all Documents for any purpose whatsoever connected with the Project including, but without limitation, the execution, completion, maintenance, letting, advertisement, modification, extension, reinstatement and repair of the Project. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties. Such licence shall enable the Beneficiary to use and reproduce the Documents for any

extension of the Project, but shall not include a licence to reproduce the Intellectual Property Rights in the Documents for any extension of the Project.

- 13.3 The Contractor shall not grant to any third party the right to use any of the Documents save under any warranty it is obliged to give under the Call-Off Contract, as required by the Framework Agreement or as otherwise required to enable it to fulfil its obligations under the Call-Off Contract.
- 13.4 The Contractor shall not be liable for any use the Beneficiary may make of the Documents for any purpose other than the purposes set out in **clause 4.2**.
- 13.5 The Contractor warrants that the Documents (save to the extent that duly authorised sub-consultants have been used to prepare the same) are the Contractor's own original work and that in any event their use in connection with the Project shall not infringe the rights of any third party. The Contractor further warrants that where duly authorised sub-contractors are used their work shall be original and that the Contractor shall obtain the necessary consents in relation to **clause 4.2**.
- 13.6 The Contractor agrees on reasonable request at any time and following reasonable prior notice to give to the Beneficiary, or those authorised by the Beneficiary, access to the Documents and to provide copies (including electronic copies in a readable form) of the Documents at the Beneficiary's expense.

14. **PROFESSIONAL INDEMNITY INSURANCE**

- 14.1 The Contractor by this Deed covenants with the Beneficiary that it has taken out and shall maintain Professional Indemnity Insurance, for the duration of the Liability Period in relation to the [Works] [Services], provided always that:
 - 14.1.1 if such insurance is not available to the Contractor at commercially reasonable rates and terms (excluding any increase in premiums attributable to the actions, omissions, errors or defaults of the Contractor), the Contractor and the Beneficiary shall meet, the Contractor shall outline the steps it intends to take to manage such risks and the Contractor and the Beneficiary shall use reasonable endeavours to agree a method of managing such a risk;

14.1.2 the Contractor shall provide the Beneficiary with reasonable evidence that the policies referred to in this **clause 5** are in full force and effect together with a summary of the policy terms and conditions.

15. **NO APPROVAL**

The Contractor's liabilities under this Deed shall not in any way be reduced or extinguished by reason of any inspection or approval of the Documents or attendance at site meetings or other enquiry or inspection which the Beneficiary may make or procure to be made for the Beneficiary's benefit or on its behalf.

16. **ASSIGNMENT**

The Beneficiary may, without the consent of the Contractor [and without prejudice to the provisions of **clause 13**], assign the benefit of and its benefits and rights under this Deed to any person by way of absolute legal assignment, on not more than two occasions only. The Beneficiary shall give the Contractor notice following any such assignment specifying the name and address of the assignee and the date of the assignment. The Contractor shall not contend that any such assignee is precluded from recovering any loss resulting from any breach of this Deed (whatever the date of such breach) by reason only that that person is an assignee and not the original beneficiary under this Deed or by reason that the original beneficiary or any intermediate beneficiary escaped any loss resulting from such breach by reason of the disposal of any interest in the Site or that the original beneficiary or any intermediate beneficiary has not suffered any or as much loss.

17. **NOTICES**

Any notice, approval, request or other communication to be given by either party under this Deed shall be in writing and shall be sufficiently served if sent by hand, by fax or by post to the registered office or if there is none the last known address of the party to be served. Any notice, approval, request or other communication sent by hand shall be deemed to be served on the date of delivery and if sent by fax shall be deemed to be served in full at the time recorded on the fax sheet, provided that if sent by hand or fax is sent after 4.45p.m. on any day it shall be deemed to be served on the next working day. Any notice, approval, request or other communication sent by

post shall be deemed to have been duly served at the expiration of 48 hours after the time of posting if the end of that period falls before 4.45p.m. on a working day and otherwise on the next working day.

18. OTHER RIGHTS AND REMEDIES

The rights and benefits conferred upon the Beneficiary by this Deed are in addition to any other rights and remedies it may have against the Contractor including, without limitation, any remedies in negligence.

19. LIMITATION

19.1 The Contractor has no liability under this Deed which is greater or of longer duration than it would have had if, in lieu of this Deed, the Beneficiary had been a party to the Call-Off Contract as joint employer, provided that the Contractor shall not be entitled to set-off or deduct from any sums payable to the Beneficiary under this Deed any sums due or claimed as due by the Contractor from the Employer.

19.2 The Contractor shall be entitled in any action or proceedings brought by the Beneficiary under this Deed to rely on any limitation in the Call-Off Contract and to raise equivalent rights in defence of liability (but excluding set-offs and counterclaims) as it would have against the Beneficiary if, in lieu of this Deed, the Beneficiary had been a party to the Call-Off Contract as joint employer.

19.3 The parties agree that no action or proceedings may be brought or commenced under this Deed at any time after the Liability Period has come to an end.

20. THIRD PARTY RIGHTS

The parties do not intend that any term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties.

21. GOVERNING LAW AND JURISDICTION

21.1 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England.

- 21.2 The parties agree that the courts of England and Wales shall have exclusive jurisdiction to determine any dispute arising out of or in connection with this Deed (including (without limitation) in relation to any non-contractual obligations). The parties irrevocably submit to the jurisdiction of those courts.

22. **[STEP-IN RIGHTS]**

[Drafting Note: the relevant Employer will confirm whether or not step-in rights will be required for each beneficiary]

- 22.1 Subject to **clause 13.7**, the Contractor shall not exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated or repudiated the Call-Off Contract or its engagement under it or discontinue or suspend the performance of any duties or obligations under the Call-Off Contract, without first giving to the Beneficiary not less than twenty-eight days' prior notice specifying the Contractor's grounds for terminating or treating as terminated or repudiated the Call-Off Contract or its engagement under it or discontinuing or suspending its performance of the Call-Off Contract and stating the amount (if any) of monies outstanding under the Call-Off Contract. Within such period of notice:

22.1.1 the Beneficiary may give notice to the Contractor expressly confirming its intention to comply with **clause 13.1.3** and that the Beneficiary shall become the employer under the Call-Off Contract to the exclusion of the Employer and, upon giving such notice, that shall be the case and the Call-Off Contract shall be and remain in full force and effect notwithstanding any of the grounds in the Contractor's notice under **clause 13.1**; and

22.1.2 if the Beneficiary has given notice under **clause 13.1.1** or under **clause 13.3**, the Beneficiary shall then as soon as practicable remedy any outstanding breach by the Employer; and

22.1.3 if:

22.1.3.1 the Beneficiary has given notice under **clause 13.1.1** then from the date of the Contractor's notice; or

22.1.3.2 the Beneficiary has given notice under **clause 13.3** then from the date of the Beneficiary's notice

the Beneficiary shall, by **clause 13.1.1**, become responsible for all sums properly payable to the Contractor under the Call-Off Contract and for the observance and performance of all of the other duties and obligations on the part of the Employer to be observed and performed under the Call-Off Contract accruing due after the service of such Contractor's notice or Beneficiary's notice (as applicable) but the Beneficiary shall in paying such sums be entitled to the same rights of set-off and deduction as would have applied to the Employer under the Call-Off Contract.

- 22.2 Notwithstanding anything contained in this Deed and notwithstanding any payments which may be made by the Beneficiary to the Contractor the Beneficiary shall not be under any obligation to the Contractor nor shall the Contractor have any claim or cause of action against the Beneficiary unless and until the Beneficiary has given notice to the Contractor under either **clause 13.1.1** or **clause 13.3**.
- 22.3 The Contractor further covenants with the Beneficiary that if requested by the Beneficiary by notice expressly confirming the Beneficiary's intention to comply with **clause 13.1.3** and subject to **clause 13.1.2** and **clause 13.1.3**, it shall accept the instructions of the Beneficiary to the exclusion of the Employer in respect of the Project upon the terms and conditions of the Call-Off Contract. The Beneficiary shall then become the employer under the Call-Off Contract to the exclusion of the Employer and the Contractor shall, if so requested, enter into a novation agreement in order to substitute the Beneficiary for the Employer under the Call-Off Contract.
- 22.4 [Where the Contractor has given rights in relation to the Call-Off Contract similar to those contained in this **clause 13** to any other person then if both the Beneficiary and any such other person serve notice under **clause 13.1** or **clause 13.3** or its equivalent the notice served by the Beneficiary shall [prevail] [not prevail] [not prevail over any notice served by [Name] but prevail over any notice served by any other person]].
- 22.5 The Employer acknowledges that the Contractor shall be entitled to rely on a notice given to the Contractor by the Beneficiary under **clause 13.3** as conclusive evidence that the Beneficiary is entitled to serve such notice.
- 22.6 The Beneficiary may by notice to the Contractor appoint another person to exercise its rights under this **clause 13** subject to the Beneficiary remaining

liable to the Contractor as guarantor for its appointee in respect of its obligations under this Deed.

22.7 Where the Contractor is seeking to exercise a right to suspend the performance of any duties or obligations under the Call-Off Contract as a result of non-payment or in accordance with s112 of the Housing Grants, Construction and Regeneration Act 1996, the Contractor shall give to the Beneficiary notice of its intention so to do at the same time as it serves notice on the Employer.

22.8 Notwithstanding the other provisions of this **clause 13**, if the Call-Off Contract has for any reason been terminated prior to receipt by the Contractor of a notice from the Beneficiary served under **clause 13.1.1** or **clause 13.1.3**, the Contractor shall on receipt of any such notice from the Beneficiary enter into a new Call-Off Contract with the Beneficiary on the same terms as the Call-Off Contract to continue the services in all respects as if the Call-Off Contract had been transferred to the Beneficiary in accordance with the provisions of this **clause 13**.]

THIS DOCUMENT is executed as a deed and delivered on the date stated at the beginning of this Deed.

EXECUTED as a deed by)
[CONTRACTOR])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

EXECUTED as a deed by)
[BENEFICIARY])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

EXECUTED as a deed by)
[EMPLOYER])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

SCHEDULE 6 PART 2 – SUB-CONTRACTOR COLLATERAL WARRANTY

Dated

2015

(1) [SUB-CONTRACTOR]

(2) [BENEFICIARY]

(3) [CONTRACTOR]

Sub-Contractor Collateral Warranty

relating to
[SPECIFY]

THE PARTICULARS

Date of this Deed	:	
The Sub-Contractor	:	[NAME] [(registered number [number])] [whose registered office is at] [of] [Address]
The Beneficiary	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Contractor	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Employer	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Framework Agreement	:	the framework agreement dated [DATED] made between the Contractor and The Greater London Authority
The Call-Off Contract	:	the call-off contract entered into in accordance with the Framework Agreement, dated [DATED] and made between the Contractor and the Employer
The Main [Works][and][Services]	:	[the [design and] construction of the works][and][the services] to be provided by the Contractor in accordance with the provisions of the Call-Off Contract as more particularly set out in the Call-Off Contract <i>[Drafting Note: complete as appropriate for the Call-Off Contract]</i>
The Sub-Contract		the contract dated [DATED] made between the Contractor and the Sub- Contractor
The Sub-Contract Works	:	the part of the Main [Works] [and] [Services] specified in the Sub-Contract
The Project	:	[DETAILS]
The Site	:	[DETAILS]

[The Funding Agreement	: the agreement dated [DATED] made between the Beneficiary and the Employer under which the Beneficiary has agreed to provide finance in connection with the Project]
Documents	: all drawings, designs, charts, specifications, plans and any other documents or materials (including any computer software developed by the Sub-Contractor used to generate them and any designs contained in them) but excluding internal memoranda and documents, working papers and templates, which have been created and/or developed by the Sub-Contractor in the course of performing its obligations under the Sub-Contract
Intellectual Property Rights	: any patent, know-how, trade mark or name, service mark, design right (in each case whether registered or unregistered), copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world
Liability Period	: the period from the date of the Sub-Contract until no less than 12 years after practical completion of the Main [Works][and][Services]
[Professional Indemnity Insurance][Product Liability Insurance]	: [professional indemnity insurance][product liability insurance] with a minimum limit of indemnity of not less than £[figures] ([words] million pounds) for any one occurrence or series of occurrences arising out of any one event

THIS DEED is made on the date set out in the Particulars

BETWEEN:

- (1) the Sub-Contractor;[and]
- (2) the Beneficiary; [and
- (3) the Contractor].

[Drafting Note: the Contractor only needs to be a party to this deed if Step-In Rights are granted]

BACKGROUND:

- (A) In accordance with the Framework Agreement, the Employer and the Contractor entered into the Call-Off Contract, under which the Employer has appointed the Contractor to provide the Main [Works][and][Services] in relation to the Project.
- (B) In accordance with the Sub-Contract the Contractor has appointed the Sub-Contractor to carry out and complete the Sub-Contract Works in connection with the Project.
- (C) The Beneficiary has an interest in the Project as it is [providing finance in connection with the Project pursuant to the Funding Agreement] OR [the/a] [landlord][freehold owner][purchaser][tenant][provider of finance in connection with the [purchase][lease] of [the Site][description of part of the Site]. ***[Drafting Note: describe beneficiary's interest]***
- (D) The Sub-Contractor is obliged under the Sub-Contract to give a warranty in this form in favour of the Beneficiary.

OPERATIVE PROVISIONS

1. DEFINITIONS

The words and expressions defined in the Particulars shall have the same meaning throughout this Deed and references to the Particulars and clauses are to the Particulars, and clauses of this Deed.

2. CONSIDERATION

This Deed is made in consideration of the payment of £1.00 (one pound) by the Beneficiary to the Sub-Contractor receipt of which the Sub-Contractor acknowledges.

3. SUB-CONTRACTOR'S DUTIES UNDER THE SUB-CONTRACT

The Sub-Contractor warrants to the Beneficiary that:

- 3.1 it has performed and shall continue to perform its duties and obligations under the Sub-Contract in accordance with the Sub-Contract; and
- 3.2 it has exercised and shall continue to exercise the reasonable skill, care and diligence to be expected of a properly qualified member of the appropriate profession experienced in carrying out duties such as duties under the Sub-Contract in relation to works and services of similar scope, nature, timescale and complexity, and on a similar site or at a similar location to the Project (except where the Sub-Contract imposes a higher standard of care in which case such higher standard shall apply) in relation to the following (so far as the Sub-Contractor is responsible for them):
 - 3.2.1 the design of the Sub-Contract Works;
 - 3.2.2 the selection of goods, materials, equipment or plant for the Sub-Contract Works; [and]
 - 3.2.3 [the satisfaction of any performance requirement or specification of or for the Sub-Contract Works].

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 Subject to the following provisions of this Deed, all Intellectual Property Rights in the Documents shall remain vested in the Sub-Contractor.
- 4.2 The Sub-Contractor grants (or, if such a grant cannot legally take place until a later date, agrees to grant) to the Beneficiary with effect from the date of this Deed or in the case of any of the Intellectual Property Rights not yet in existence with effect from the creation of such Intellectual Property Rights, an irrevocable, royalty-free, non-exclusive licence (such licence to remain in full force and effect notwithstanding the completion of the Sub-Contractor's obligations or the termination of the Sub-Contract or this Deed or the determination of the Sub-Contractor's engagement under the Sub-Contract or any dispute under the Sub-Contract or this Deed) to use the Intellectual

Property Rights and to reproduce all Documents for any purpose whatsoever connected with the Project including, but without limitation, the execution, completion, maintenance, letting, advertisement, modification, extension, reinstatement and repair of the Project. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties. Such licence shall enable the Beneficiary to use and reproduce the Documents for any extension of the Project, but shall not include a licence to reproduce the Intellectual Property Rights in the Documents for any extension of the Project.

- 4.3 The Sub-Contractor shall not grant to any third party the right to use any of the Documents save under any warranty it is obliged to give under the Sub-Contract or as otherwise required to enable it to fulfil its obligations under the Sub-Contract.
- 4.4 The Sub-Contractor shall not be liable for any use the Beneficiary may make of the Documents for any purpose other than the purposes set out in **clause 4.2**.
- 4.5 The Sub-Contractor warrants that the Documents (save to the extent that duly authorised sub-contractors have been used to prepare the same) are the Sub-Contractor's own original work and that in any event their use in connection with the Project shall not infringe the rights of any third party. The Sub-Contractor further warrants that where duly authorised sub-contractors are used their work shall be original and that the Sub-Contractor shall obtain the necessary consents in relation to **clause 4.2**.
- 4.6 The Sub-Contractor agrees on reasonable request at any time and following reasonable prior notice to give to the Beneficiary, or those authorised by the Beneficiary, access to the Documents and to provide copies (including electronic copies in a readable form) of the Documents at the Beneficiary's expense.

5. **[PROFESSIONAL INDEMNITY][PRODUCT LIABILITY] INSURANCE**

- 5.1 The Sub-Contractor by this Deed covenants with the Beneficiary that it has taken out and shall maintain [Professional Indemnity Insurance][Product Liability Insurance], for the duration of the Liability Period in relation to the Sub Contract Works, provided always that:

- 5.1.1 if such insurance is not available to the Sub-Contractor at commercially reasonable rates and terms (excluding any increase in premiums attributable to the actions, omissions, errors or defaults of the Sub-Contractor), the Sub-Contractor and the Beneficiary shall meet, and the Sub-Contractor shall outline the steps it intends to take to manage such risks and the Sub-Contractor and the Beneficiary shall use reasonable endeavours to agree a method of managing such risks;
- 5.1.2 the Sub-Contractor shall provide the Beneficiary with reasonable evidence that the policies referred to in this **clause 5** are in full force and effect together with a summary of the policy terms and conditions.

6. NO APPROVAL

The Sub-Contractor's liabilities under this Deed shall not in any way be reduced or extinguished by reason of any inspection or approval of the Documents or attendance at site meetings or other enquiry or inspection which the Beneficiary may make or procure to be made for the Beneficiary's benefit or on its behalf.

7. ASSIGNMENT

The Beneficiary may, without the consent of the Sub-Contractor [and without prejudice to the provisions of **clause 13**], assign the benefit of and its benefits and rights under this Deed to any person by way of absolute legal assignment, on not more than two occasions only. The Beneficiary shall give the Sub-Contractor notice following any such assignment specifying the name and address of the assignee and the date of the assignment. The Sub-Contractor shall not contend that any such assignee is precluded from recovering any loss resulting from any breach of this Deed (whatever the date of such breach) by reason only that that person is an assignee and not the original beneficiary under this Deed or by reason that the original beneficiary or any intermediate beneficiary escaped any loss resulting from such breach by reason of the disposal of any interest in the Site or that the original beneficiary or any intermediate beneficiary has not suffered any or as much loss.

8. NOTICES

Any notice, approval, request or other communication to be given by either party under this Deed shall be in writing and shall be sufficiently served if sent by hand, by fax or by post to the registered office or if there is none the last known address of the party to be served. Any notice, approval, request or other communication sent by hand shall be deemed to be served on the date of delivery and if sent by fax shall be deemed to be served in full at the time recorded on the fax sheet, provided that if sent by hand or fax is sent after 4.45p.m. on any day it shall be deemed to be served on the next working day. Any notice, approval, request or other communication sent by post shall be deemed to have been duly served at the expiration of 48 hours after the time of posting if the end of that period falls before 4.45p.m. on a working day and otherwise on the next working day.

9. OTHER RIGHTS AND REMEDIES

The rights and benefits conferred upon the Beneficiary by this Deed are in addition to any other rights and remedies it may have against the Sub-Contractor including, without limitation, any remedies in negligence.

10. LIMITATION

- 10.1 The Sub-Contractor has no liability under this Deed which is greater or of longer duration than it would have had if, in lieu of this Deed, the Beneficiary had been a party to the Sub-Contract as joint employer, provided that the Sub-Contractor shall not be entitled to set-off or deduct from any sums payable to the Beneficiary under this Deed any sums due or claimed as due by the Sub-Contractor from the Contractor.
- 10.2 The Sub-Contractor shall be entitled in any action or proceedings brought by the Beneficiary under this Deed to rely on any limitation in the Sub-Contract and to raise equivalent rights in defence of liability (but excluding set-offs and counterclaims) as it would have against the Beneficiary if, in lieu of this Deed, the Beneficiary had been a party to the Sub-Contract as joint employer.
- 10.3 The parties agree that no action or proceedings may be brought or commenced under this Deed at any time after the Liability Period has come to an end.

- 10.4 The Sub-Contractor shall not by reason of this Deed have any liability to the Beneficiary for delay in completion of the Sub-Contract Works or any part of them.

11. **THIRD PARTY RIGHTS**

The parties do not intend that any term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties.

12. **GOVERNING LAW AND JURISDICTION**

- 12.1 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England.

- 12.2 The parties agree that the courts of England and Wales shall have exclusive jurisdiction to determine any dispute arising out of or in connection with this Deed (including (without limitation) in relation to any non-contractual obligations). The parties irrevocably submit to the jurisdiction of those courts.

13. **[STEP-IN RIGHTS]**

[Drafting Note: step-in rights will be required if the beneficiary is the Employer, otherwise the relevant Employer will confirm whether or not step-in rights will be required for each beneficiary]

- 13.1 Subject to **clause 13.7**, the Sub-Contractor shall not exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated or repudiated the Sub-Contract or its engagement under it or discontinue or suspend the performance of any duties or obligations under the Sub-Contract, without first giving to the Beneficiary not less than twenty-eight days' prior written notice specifying the Sub-Contractor's grounds for terminating or treating as terminated or repudiated the Sub-Contract or its engagement under it or discontinuing or suspending its performance of the Sub-Contract and stating the amount (if any) of monies outstanding under the Sub-Contract. Within such period of notice:

- 13.1.1 the Beneficiary may give notice to the Sub-Contractor expressly confirming its intention to comply with **clause 13.1.3** and that the Beneficiary shall become the employer under the Sub-Contract to the exclusion of the Contractor and, upon giving such notice, that

shall be the case and the Sub-Contract shall be and remain in full force and effect notwithstanding any of the grounds in the Sub-Contractor's notice under **clause 13.1**; and

13.1.2 if the Beneficiary has given notice under **clause 13.1.1** or under **clause 13.3**, the Beneficiary shall then as soon as practicable remedy any outstanding breach by the Contractor; and

13.1.3 if:

13.1.3.1 the Beneficiary has given notice under **clause 13.1.1** then from the date of the Sub-Contractor's notice; or

13.1.3.2 the Beneficiary has given notice under **clause 13.3** then from the date of the Beneficiary's notice

the Beneficiary shall, by **clause 13.1.1**, become responsible for all sums properly payable to the Sub-Contractor under the Sub-Contract and for the observance and performance of all of the other duties and obligations on the part of the Contractor to be observed and performed under the Sub-Contract accruing due after the service of such Contractor's notice or Beneficiary's notice (as applicable) but the Beneficiary shall in paying such sums be entitled to the same rights of set-off and deduction as would have applied to the Contractor under the Sub-Contract.

13.2 Notwithstanding anything contained in this Deed and notwithstanding any payments which may be made by the Beneficiary to the Sub-Contractor the Beneficiary shall not be under any obligation to the Sub-Contractor nor shall the Sub-Contractor have any claim or cause of action against the Beneficiary unless and until the Beneficiary has given notice to the Sub-Contractor under either **clause 13.1.1** or **clause 13.3**.

13.3 The Sub-Contractor further covenants with the Beneficiary that if requested by the Beneficiary by notice expressly confirming the Beneficiary's intention to comply with **clause 13.1.3** and subject to **clause 13.1.2** and **clause 13.1.3**, it shall accept the instructions of the Beneficiary to the exclusion of the Contractor in respect of the Sub-Contract Works upon the terms and conditions of the Sub-Contract. The Beneficiary shall then become the employer under the Sub-Contract to the exclusion of the Contractor and the Sub-Contractor shall, if so requested, enter into a

novation agreement in order to substitute the Beneficiary for the Contractor under the Sub-Contract.

- 13.4 [Where the Sub-Contractor has given rights in relation to the Sub-Contract similar to those contained in this **clause 13** to any other person then if both the Beneficiary and any such other person serve notice under **clause 13.1** or **clause 13.3** or its equivalent the notice served by the Beneficiary shall [prevail] [not prevail] [not prevail over any notice served by [Name] but prevail over any notice served by any other person]].
- 13.5 The Contractor acknowledges that the Sub-Contractor shall be entitled to rely on a notice given to the Sub-Contractor by the Beneficiary under **clause 13.3** as conclusive evidence that the Beneficiary is entitled to serve such notice.
- 13.6 The Beneficiary may by notice to the Sub-Contractor appoint another person to exercise its rights under this **clause 13** subject to the Beneficiary remaining liable to the Sub-Contractor as guarantor for its appointee in respect of its obligations under this Deed.
- 13.7 Where the Sub-Contractor is seeking to exercise a right to suspend the performance of any duties or obligations under the Sub-Contract as a result of non-payment or in accordance with s112 of the Housing Grants, Construction and Regeneration Act 1996, the Sub-Contractor shall give to the Beneficiary notice of its intention so to do at the same time as it serves notice on the Contractor.
- 13.8 Notwithstanding the other provisions of this **clause 13**, if the Sub-Contract has for any reason been terminated prior to receipt by the Sub-Contractor of a notice from the Beneficiary served under **clause 13.1.1** or **clause 13.1.3**, the Sub-Contractor shall on receipt of any such notice from the Beneficiary enter into a new sub-contract with the Beneficiary on the same terms as the Sub-Contract to continue the Sub-Contract Works in all respects as if the Sub-Contract had been transferred to the Beneficiary in accordance with the provisions of this **clause 13**.]

THIS DOCUMENT is executed as a deed and delivered on the date stated at the beginning of this Deed.

EXECUTED as a deed by)
[SUB-CONTRACTOR])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

EXECUTED as a deed by)
[BENEFICIARY])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

EXECUTED as a deed by)
[CONTRACTOR])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

SCHEDULE 6 PART 3 – SUB-CONSULTANT COLLATERAL WARRANTY

Dated

2015

(1) [SUB-CONSULTANT]

(2) [BENEFICIARY]

(3) [CONTRACTOR]

Sub-Consultant Collateral Warranty

relating to
[SPECIFY]

THE PARTICULARS

Date of this Deed	:	
The Sub-Consultant	:	[NAME] [(registered number [number])] [whose registered office is at] [of] [Address]
The Beneficiary	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Contractor	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Employer	:	[NAME] [(registered number [number])][whose registered office is at] [of] [Address]
The Framework Agreement	:	the framework agreement dated [DATED] made between the Contractor and The Greater London Authority
The Call-Off Contract	:	the call-off contract entered into in accordance with the Framework Agreement, dated [DATED] and made between the Contractor and the Employer
The Main [Works][and][Services]	:	the [works][and][services] to be provided by the Contractor in accordance with the provisions of the Call-Off Contract as more particularly set out in the Call-Off Contract <i>[Drafting Note: complete as appropriate for the Call-Off Contract]</i>
The Appointment	:	the appointment dated [DATED] made between the Sub-Consultant and the Contractor
The Services	:	the services to be provided by the Sub- Consultant in accordance with the provisions of the Appointment as more particularly set out in the Appointment
The Project	:	[DETAILS]
The Site	:	[DETAILS]

[The Funding Agreement	: the agreement dated [DATED] made between the Beneficiary and the Employer under which the Beneficiary has agreed to provide finance in connection with the Project]
Documents	: all drawings, designs, charts, specifications, plans and any other documents or materials (including any computer software developed by the Sub-Consultant used to generate them and any designs contained in them) but excluding internal memoranda and documents, working papers and templates, which have been created and/or developed by the Sub-Consultant in the course of performing its obligations under the Appointment
Intellectual Property Rights	: any patent, know-how, trade mark or name, service mark, design right (in each case whether registered or unregistered), copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world
Liability Period	: the period from the date of the Appointment until no less than [12] years after completion of the Services
Professional Indemnity Insurance	: professional indemnity insurance with a minimum limit of indemnity of not less than £[figures] ([words] million pounds) for any one occurrence or series of occurrences arising out of any one event

THIS DEED is made on the date set out in the Particulars

BETWEEN:

- (1) the Sub-Consultant;[and]
- (2) the Beneficiary; [and
- (3) the Contractor].

[Drafting Note: the Contractor only needs to be a party to this deed if Step-In Rights are granted]

BACKGROUND:

- (A) In accordance with the Framework Agreement, the Employer and the Contractor entered into the Call-Off Contract, under which the Employer has appointed the Contractor to provide the Main [Works][and][Services] in relation to the Project.
- (B) In accordance with the Appointment, the Contractor has appointed the Sub-Consultant to provide the Services in connection with the Project.
- (C) The Beneficiary has an interest in the Project as it is [providing finance in connection with the Project pursuant to the Funding Agreement] OR [the/a] [landlord][freehold owner][purchaser][tenant][provider of finance in connection with the [purchase][lease] of [the Site][*description of part of the Site*]. ***[Drafting Note: describe beneficiary's interest]***
- (D) The Sub-Consultant is obliged under the Appointment to give a warranty in this form in favour of the Beneficiary.

OPERATIVE PROVISIONS

1. DEFINITIONS

The words and expressions defined in the Particulars shall have the same meaning throughout this Deed and references to the Particulars and clauses are to the Particulars and clauses of this Deed.

2. CONSIDERATION

This Deed is made in consideration of the payment of £1.00 (one pound) by the Beneficiary to the Sub-Consultant receipt of which the Sub-Consultant acknowledges.

3. SUB-CONSULTANT'S DUTIES UNDER THE APPOINTMENT

The Sub-Consultant warrants to the Beneficiary that it has performed and shall continue to perform its duties and obligations under the Appointment in accordance with the Appointment and that it has exercised and shall continue to exercise the reasonable skill, care and diligence to be expected of a properly qualified member of the Sub-Consultant's profession experienced in carrying out duties such as its duties under the Appointment in relation to works and services of similar scope, nature, timescale and complexity and on a similar site or at a similar location to the Project.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 Subject to the following provisions of this Deed, all Intellectual Property Rights in the Documents shall remain vested in the Sub-Consultant.
- 4.2 The Sub-Consultant grants (or, if such a grant cannot legally take place until a later date, agrees to grant) to the Beneficiary with effect from the date of this Deed or in the case of any of the Intellectual Property Rights not yet in existence with effect from the creation of such Intellectual Property Rights, an irrevocable, royalty-free, non-exclusive licence (such licence to remain in full force and effect notwithstanding the completion of the Sub-Consultant's obligations or the termination of the Appointment or this Deed or the determination of the Sub-Consultant's engagement under the Appointment or any dispute under the Appointment or this Deed) to use the Intellectual Property Rights and to reproduce all Documents for any purpose whatsoever connected with the Project including, but without limitation, the execution, completion, maintenance, letting, advertisement, modification, extension, reinstatement and repair of the Project. Such licence shall carry the right to grant sub-licences and shall be transferable to third parties. Such licence shall enable the Beneficiary to use and reproduce the Documents for any extension of the Project, but shall not include a licence to reproduce the Intellectual Property Rights in the Documents for any extension of the Project.
- 4.3 The Sub-Consultant shall not grant to any third party the right to use any of the Documents save under any warranty it is obliged to give under the

Appointment or as otherwise required to enable it to fulfil its obligations under the Appointment.

- 4.4 The Sub-Consultant shall not be liable for any use the Beneficiary may make of the Documents for any purpose other than the purposes set out in **clause 4.2**.
- 4.5 The Sub-Consultant warrants that the Documents are the Sub-Consultant's own original work and that in any event their use in connection with the Project shall not infringe the rights of any third party.
- 4.6 The Sub-Consultant agrees on reasonable request at any time and following reasonable prior notice to give to the Beneficiary, or those authorised by the Beneficiary, access to the Documents and to provide copies (including electronic copies in a readable form) of the Documents at the Beneficiary's expense.

5. **PROFESSIONAL INDEMNITY INSURANCE**

- 5.1 The Sub-Consultant by this Deed covenants with the Beneficiary that it has taken out and shall maintain Professional Indemnity Insurance, for the duration of the Liability Period in relation to the Services, provided always that:
 - 5.1.1 if such insurance is not available to the Sub-Consultant at commercially reasonable rates and terms (excluding any increase in premiums attributable to the actions, omissions, errors or defaults of the Sub-Consultant), the Sub-Consultant and the Beneficiary shall meet, the Sub-Consultant shall outline the steps it intends to take to manage such risks and the Sub-Consultant and the Beneficiary shall use reasonable endeavours to agree a method of managing such risks;
 - 5.1.2 the Sub-Consultant shall provide the Beneficiary with reasonable evidence that the policies referred to in this **clause 5** are in full force and effect together with a summary of the policy terms and conditions.

6. **NO APPROVAL**

The Sub-Consultant's liabilities under this Deed shall not in any way be reduced or extinguished by reason of any inspection or approval of the

Documents or attendance at site meetings or other enquiry or inspection which the Beneficiary may make or procure to be made for the Beneficiary's benefit or on its behalf.

7. ASSIGNMENT

The Beneficiary may, without the consent of the Sub-Consultant [and without prejudice to the provisions of **clause 13**], assign the benefit of and its benefits and rights under this Deed to any person by way of absolute legal assignment, on not more than two occasions only. The Beneficiary shall give the Sub-Consultant notice following any such assignment specifying the name and address of the assignee and the date of the assignment. The Sub-Consultant shall not contend that any such assignee is precluded from recovering any loss resulting from any breach of this Deed (whatever the date of such breach) by reason only that that person is an assignee and not the original beneficiary under this Deed or by reason that the original beneficiary or any intermediate beneficiary escaped any loss resulting from such breach by reason of the disposal of any interest in the Site or that the original beneficiary or any intermediate beneficiary has not suffered any or as much loss.

8. NOTICES

Any notice, approval, request or other communication to be given by either party under this Deed shall be in writing and shall be sufficiently served if sent by hand, by fax or by post to the registered office or if there is none the last known address of the party to be served. Any notice, approval, request or other communication sent by hand shall be deemed to be served on the date of delivery and if sent by fax shall be deemed to be served in full at the time recorded on the fax sheet, provided that if sent by hand or fax is sent after 4.45p.m. on any day it shall be deemed to be served on the next working day. Any notice, approval, request or other communication sent by post shall be deemed to have been duly served at the expiration of 48 hours after the time of posting if the end of that period falls before 4.45p.m. on a working day and otherwise on the next working day.

9. OTHER RIGHTS AND REMEDIES

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

10. **LIMITATION**

- 10.1 The Sub-Consultant has no liability under this Deed which is greater or of longer duration than it would have had if, in lieu of this Deed, the Beneficiary had been a party to the Appointment as joint employer, provided that the Sub-Consultant shall not be entitled to set-off or deduct from any sums payable to the Beneficiary under this Deed any sums due or claimed as due by the Sub-Consultant from the Contractor.
- 10.2 The Sub-Consultant shall be entitled in any action or proceedings brought by the Beneficiary under this Deed to rely on any limitation in the Appointment and to raise equivalent rights in defence of liability (but excluding set-offs and counterclaims) as it would have against the Beneficiary if, in lieu of this Deed, the Beneficiary had been a party to the Appointment as joint employer.
- 10.3 The parties agree that no action or proceedings may be brought or commenced under this Deed at any time after the Liability Period has come to an end.

11. **THIRD PARTY RIGHTS**

The parties do not intend that any term of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties.

12. **GOVERNING LAW AND JURISDICTION**

- 12.1 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England.
- 12.2 The parties agree that the courts of England and Wales shall have exclusive jurisdiction to determine any dispute arising out of or in connection with this Deed (including (without limitation) in relation to any non-contractual obligations). The parties irrevocably submit to the jurisdiction of those courts.

13. **[STEP-IN RIGHTS]**

[Drafting Note: step-in rights will be required if the beneficiary is the Employer, otherwise the relevant Employer will confirm whether or not step-in rights will be required for each beneficiary]

- 13.1 Subject to **clause 13.7**, the Sub-Consultant shall not exercise or seek to exercise any right which may be or become available to it to terminate or

treat as terminated or repudiated the Appointment or its engagement under it or discontinue or suspend the performance of any duties or obligations under the Appointment, without first giving to the Beneficiary not less than twenty-eight days' prior notice specifying the Sub-Consultant's grounds for terminating or treating as terminated or repudiated the Appointment or its engagement under it or discontinuing or suspending its performance of the Appointment and stating the amount (if any) of monies outstanding under the Appointment. Within such period of notice:

13.1.1 the Beneficiary may give notice to the Sub-Consultant expressly confirming its intention to comply with **clause 13.1.3** and that the Beneficiary shall become the client under the Appointment to the exclusion of the Contractor and, upon giving such notice, that shall be the case and the Appointment shall be and remain in full force and effect notwithstanding any of the grounds in the Sub-Consultant's notice under **clause 13.1**; and

13.1.2 if the Beneficiary has given notice under **clause 13.1.1** or under **clause 13.3**, the Beneficiary shall then as soon as practicable remedy any outstanding breach by the Contractor; and

13.1.3 if:

13.1.3.1 the Beneficiary has given notice under **clause 13.1.1** then from the date of the Sub-Consultant's notice; or

13.1.3.2 the Beneficiary has given notice under **clause 13.3** then from the date of the Beneficiary's notice

the Beneficiary shall, by **clause 13.1.1**, become responsible for all sums properly payable to the Sub-Consultant under the Appointment and for the observance and performance of all of the other duties and obligations on the part of the Contractor to be observed and performed under the Appointment accruing due after the service of such Sub-Consultant's notice or Beneficiary's notice (as applicable) but the Beneficiary shall in paying such sums be entitled to the same rights of set-off and deduction as would have applied to the Contractor under the Appointment.

13.2 Notwithstanding anything contained in this Deed and notwithstanding any payments which may be made by the Beneficiary to the Sub-Consultant the

Beneficiary shall not be under any obligation to the Sub-Consultant nor shall the Sub-Consultant have any claim or cause of action against the Beneficiary unless and until the Beneficiary has given notice to the Sub-Consultant under either **clause 13.1.1** or **clause 13.3**.

- 13.3 The Sub-Consultant further covenants with the Beneficiary that if requested by the Beneficiary by notice expressly confirming the Beneficiary's intention to comply with **clause 13.1.3** and subject to **clause 13.1.2** and **clause 13.1.3**, it shall accept the instructions of the Beneficiary to the exclusion of the Contractor in respect of the Services upon the terms and conditions of the Appointment. The Beneficiary shall then become the client under the Appointment to the exclusion of the Contractor and the Sub-Consultant shall, if so requested, enter into a novation agreement in order to substitute the Beneficiary for the Contractor under the Appointment.
- 13.4 [Where the Sub-Consultant has given rights in relation to the Appointment similar to those contained in this **clause 13** to any other person then if both the Beneficiary and any such other person serve notice under **clause 13.1** or **clause 13.3** or its equivalent the notice served by the Beneficiary shall [prevail] [not prevail] [not prevail over any notice served by [Name] but prevail over any notice served by any other person]].
- 13.5 The Contractor acknowledges that the Sub-Consultant shall be entitled to rely on a notice given to the Sub-Consultant by the Beneficiary under **clause 13.3** as conclusive evidence that the Beneficiary is entitled to serve such notice.
- 13.6 The Beneficiary may by notice to the Sub-Consultant appoint another person to exercise its rights under this **clause 13** subject to the Beneficiary remaining liable to the Sub-Consultant as guarantor for its appointee in respect of its obligations under this Deed.
- 13.7 Where the Sub-Consultant is seeking to exercise a right to suspend the performance of any duties or obligations under the Appointment as a result of non-payment or in accordance with s112 of the Housing Grants, Construction and Regeneration Act 1996, the Sub-Consultant shall give to the Beneficiary notice of its intention so to do at the same time as it serves notice on the Contractor.
- 13.8 Notwithstanding the other provisions of this **clause 13**, if the Appointment has for any reason been terminated prior to receipt by the Sub-Consultant of

a notice from the Beneficiary served under **clause 13.1.1** or **clause 13.1.3**, the Sub-Consultant shall on receipt of any such notice from the Beneficiary enter into a new appointment with the Beneficiary on the same terms as the Appointment to continue the services in all respects as if the Appointment had been transferred to the Beneficiary in accordance with the provisions of this **clause 13.**]

THIS DOCUMENT is executed as a deed and delivered on the date stated at the beginning of this Deed.

EXECUTED as a deed by)
[SUB-CONSULTANT])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

EXECUTED as a deed by)
[BENEFICIARY])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

EXECUTED as a deed by)
[CONTRACTOR])
acting by)
a director and its company secretary)
or two directors)

Director

Director/Secretary

SCHEDULE 6 PART 4 – PARENT COMPANY GUARANTEE

Form of Parent Company Guarantee

(Letterhead of Parent Company)

To: [insert name and address of the Employer or Contracting Authority as appropriate]

Date:

Dear Sir/Madam

[We, *[insert name of Guarantor]* (“**the Guarantor**”), understand that you have agreed to enter into a Framework Agreement reference number [INSERT] (“**the Agreement**”) with *[insert name of Contractor]* (“**the Contractor**”) under which the Contractor has agreed to provide services and/or works in accordance with the terms and conditions of the Agreement and call off contracts issued pursuant to the Agreement on the condition that the obligations of the Contractor under the Agreement be guaranteed by a Guarantor.] ***[Drafting Note: delete this recital and use the option below if the PCG is being provided in connection with a call-off contract]***

[We, *[insert name of Guarantor]* (“**the Guarantor**”), understand that you have agreed to enter into Contract No *[insert contract number]* (“**the Agreement**”) with *[insert name of Contractor]* (“**the Contractor**”) in respect of *[briefly describe nature of contract]* on the condition that the obligations of the Contractor under the Agreement be guaranteed by a Guarantor.]

We are *[recite the relationship of the Guarantor to the Contractor]*, and we warrant to you that this description of our relationship with/to the Contractor is true and accurate in all material respects.

WE HEREBY AGREE AND UNDERTAKE with you as follows:-

1. We unconditionally guarantee on demand:
 - 1.1 the proper, complete and punctual performance by the Contractor of any and all its obligations, undertakings and responsibilities under the Agreement and we shall forthwith make good any default thereunder on the part of the Contractor; and
 - 1.2 the due and punctual payment by the Contractor of all sums, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable to you under or arising out of the Agreement in accordance with its terms or otherwise by reason or in consequence of any such default on the part of the Contractor

when and as the same shall become due for performance or payment (as the case may be).

2. As a separate and primary obligation we unconditionally guarantee to you that in the case of default by the Contractor in making any of the payments or in performing any of the obligations, undertakings and responsibilities set out in paragraph 1 above, we shall on demand pay all sums and observe and perform any or all of such obligations, undertakings and responsibilities as if we instead of the Contractor were the primary obligor. Any payment under this Guarantee shall be made by us in pounds sterling or in any currency which may from time to time replace pounds sterling.
3. This Guarantee shall be a continuing security and shall remain in full force and effect until all obligations to be performed or observed by the Contractor under or arising out of the Agreement have been duly and completely performed and observed and the Contractor shall have ceased to be under any actual or contingent liability to you thereunder.
4. Any demand or other notice made by you under this Guarantee shall be duly made if sent by first class recorded delivery post to us.
5. You shall be entitled to enforce this Guarantee without first notifying the Contractor of any default or taking any proceedings or demanding upon, enforcing or exhausting any right or remedy against the Contractor or any other person or taking any action to enforce any other security, bond or guarantee held by you or making or filing any claim in a bankruptcy, liquidation, administration or insolvency of the Contractor or any person.
6. If any sum due or purportedly due under this Guarantee is not or would not be recoverable under a guarantee for any reason whatsoever, whether or not known to you, such sum shall still be recoverable from us as a sole principal debtor upon the terms of this Guarantee.

PROVIDED THAT:

1. We shall be under no greater obligation or greater liability under this Guarantee than we would have been under the Agreement if we had been named as the Contractor in the Agreement.
2. Our obligations hereunder are those of primary obligor and shall remain in full force and effect and shall not be terminated, reduced, discharged or otherwise affected by:
 - 2.1 any alteration or variation to the terms of the Agreement made by agreement between you and the Contractor (including, without limitation, any increase in the Contractor's obligations under the Agreement or any alteration in the extent or nature or sequence or method or timing of the works and/or services to be carried out under the Agreement) or any novation of the Agreement (in whole or in part); or
 - 2.2 any time being given to the Contractor or any other indulgence, waiver, concession, forbearance or forgiveness to the Contractor (whether express or by conduct) or any other thing done, omitted or neglected to be done under the Agreement; or

- 2.3 any other bond, security or guarantee now or hereafter held by you for all or any part of the obligations of the Contractor under the Agreement; or
 - 2.4 the release or waiver of any such bond, security or guarantee referred to in paragraph 2.3 above; or
 - 2.5 any amalgamation, reconstruction or dissolution including, without limitation, winding-up of the Contractor; or
 - 2.6 the winding-up, bankruptcy, administration, receivership or insolvency of the Contractor; or
 - 2.7 any legal limitation, disability or incapacity relating to the Contractor or discharge by operation of law or any change in the constitution, name or style of the Contractor or any other person (whether or not known to you); or
 - 2.8 any total or partial invalidity in, irregularity affecting or unenforceability of any of the obligations of the Contractor under the Agreement; or
 - 2.9 the termination or partial termination of the Agreement or the cessation of any works and/or services for any reason or the making of any variation to the works and/or services in accordance with the Agreement; or
 - 2.10 any claim or enforcement of payment from the Contractor or any other person;
 - 2.11 any act or omission which would not have discharged or affected the liability of a sole principal debtor instead of a guarantor or any act or omission, matter or thing which, but for this provision, might operate to exonerate, discharge, reduce or extinguish our liability under this Guarantee.
- 3. So long as we remain under any actual or contingent liability under this Guarantee, we shall not exercise any right of subrogation or any other right or remedy which we may have against the Contractor in respect of any payment made by or sum recovered from us pursuant to or in connection with this Guarantee or prove in any liquidation of the Contractor in competition with you for any sums or liabilities owing or incurred to us by the Contractor in respect of any such payment by or recovery from us or take or hold any security from the Contractor in respect of any liability of ours hereunder. We shall hold any monies recovered or security taken or held in breach of this provision in trust for you.
 - 4. Except where prevented from doing so by law, we waive and agree not to enforce or claim the benefit of any and all rights we have or may from time to time have as guarantor under any applicable law which is or may be inconsistent with any of the provision of this Guarantee.
 - 5. This Guarantee is irrevocable.
 - 6. This Guarantee, executed and delivered as a deed, is governed by and shall be construed in accordance with the law of England and Wales. The courts of England shall have exclusive jurisdiction to settle any dispute which may

arise out of or in connection with this Guarantee except that you have the right in your absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which we are incorporated or in which any of our assets may be situated. You and we agree to submit to that jurisdiction.

7. [For non-UK resident Guarantors only:
8. For the purposes of this Guarantee we hereby appoint of (to be a London address) to accept service of process on our behalf, and service on the said at the said address shall be deemed to be good service on us; and we hereby irrevocably agree not to revoke or terminate such appointment.]
9. You will be entitled to assign the benefit of this Guarantee in whole or in part but we may not assign the benefit and/or delegate the burden of this Guarantee in whole or in part or enter into any transaction which would result in any of those benefits and/or burdens passing to another person.
10. If any provision (in whole or in part) of this Guarantee is found by any court, tribunal, administrative body or authority of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Guarantee and shall be ineffective, without, so far as is possible, modifying any other provision of this Guarantee and this shall not affect any other provisions of this Guarantee which shall remain in full force and effect.

Executed as a Deed and delivered the day and year written above.

Executed as a Deed by) _____
<i>[Parent Company]</i>) Director
acting by a Director and the) _____
Secretary or by two Directors) _____
	Director/Secretary

OR

The common seal of) _____
<i>[Parent Company]</i>) Director
was affixed in the presence of:) _____
) _____
	Director/Secretary

Form of Legal Opinion for use with Guarantee

To: [insert name and address of the Employer]

Date:

Dear Sir/Madam

I am counsel to and I am giving this legal opinion in connection with the making by of the Guarantee (as defined below) in your favour.

1. I have examined the Deed of Guarantee (the "Guarantee") dated made between (the "Guarantor") and [insert name of Employer] ("the Employer"). Terms defined in or for the purpose of the Guarantee have the same meanings in this opinion.
2. Having considered the Guarantee and examined any other document, resolution or certificate I deemed necessary to enable me to give the opinion contained herein and having regard to all applicable laws of I am pleased to advise that in my opinion:
 - 2.1 the Guarantor was incorporated in on as a [company with limited liability] and validly exists under the laws of as a separate legal entity possessing the capacity to sue or be sued in its own name. To the best of my knowledge having carried out [DESCRIBE APPLICABLE SEARCHES] today, no steps have been, or are being, taken to appoint a receiver or liquidator (or similar encumbrancer or officer) over, or to wind up, the Guarantor;
 - 2.2 the Guarantor has the necessary power and authority, and all necessary corporate and other action (including, without limitation, approvals and consents of members, stockholders, debenture holders or governmental or other regulatory authorities) has been taken to enable the Guarantor to enter into the Guarantee and to perform the obligations of the Guarantor and the transactions contemplated thereby; and
 - 2.3 The entry into and performance of the Guarantee and the transactions contemplated thereby will not cause:
 - 2.3.1 any limit on the Guarantor or its directors (whether imposed by the documents constituting the Guarantor, statute, regulation, agreement or otherwise) to be exceeded;
 - 2.3.2 any law or order or constitutional document in respect of the Guarantor to be contravened;
 - 2.4 any default under, or give rise to an obligation to create or impose any security interest of any nature whatsoever pursuant to, any agreement or other instrument or any judgment or other requirement known to us after due enquiry to which the Guarantor is a party or by which it or any of its assets is bound. Further, no event has occurred that, with the giving of notice, lapse of time, determination of materiality or other conditions might constitute a default under or in respect of such agreement, instrument or judgment;

- 2.5 the Guarantee has been properly signed and delivered on behalf of the Guarantor and the obligations on the part of the Guarantor contained in the Guarantee, assuming them to be valid and binding according to English law by which they are expressed to be governed, are valid, legally binding on and enforceable against the Guarantor under the laws of and in the courts of
- 2.6 the signature, delivery and performance of the Guarantee by the Guarantor constitute private and commercial acts by it rather than public or governmental acts;
- 2.7 all authorisations, approvals, consents, licences, exemptions, filings, registrations, notarisations and other requirements of governmental, judicial and public bodies and authorities of or in [COUNTRY] required or advisable in connection with the entry into, performance, validity and enforceability of the Guarantee and the transactions contemplated thereby have been obtained or effected and are in full force and effect;
- 2.8 the obligations of the Guarantor under the Guarantee rank at least equally and rateably (paripassu) in point of priority and security with any and all other unsecured obligations of the Guarantor;
- 2.9 all amounts payable by the Guarantor under the Guarantee may be made free and clear of, and without deduction for, or on account of, any taxes imposed, assessed or levied by [COUNTRY] or any authority of or in [COUNTRY];
- 2.10 there are no registration, stamp or other taxes or duties of any kind payable in in connection with the Guarantor including its signature, performance or enforcement by legal proceedings;
- 2.11 The Employer will not violate any law or regulation in nor become liable to tax in by reason of entering into the Guarantee or performing its obligations thereunder. It is not necessary to establish a place of business in in order to enforce any provisions of the Guarantee;
- 2.12 the choice of English law to govern the Guarantee will be upheld as a valid choice of law in any action in respect of the Guarantee in the Courts;
- 2.13 the consent to the jurisdiction by the Guarantor contained in the Guarantee is valid and binding on the Guarantor and not subject to revocation;
- 2.14 any judgment obtained in the courts of England against the Guarantor would be recognised and accepted by the courts without re-trial or re-examination of the merits of the case;
- 2.15 neither the Guarantor nor any of its assets enjoys any right or immunity from set-off, suit or execution in respect of its obligations under the Guarantee;

2.16 so far as I am aware after due enquiry, no litigation, arbitration or administrative proceedings are at present current, pending or threatened that might, if adversely determined, have a material effect on the business, assets or financial condition of the Guarantor.

3. I do not purport to be expert on and do not purport to be generally familiar with or qualified to express legal opinions based on any law other than the laws of and accordingly express no legal opinion herein based upon any law other than the laws of

Signed

Name in Capitals

SCHEDULE 6 PART 5 – PERFORMANCE BOND

PERFORMANCE BOND

Between

[SURETY]

and

[EMPLOYER]

Relating to

[INSERT PROJECT DESCRIPTION]

THIS BOND is made on

20[]

PARTIES:

- (1) [CONTRACTOR] [(registered number [no.]) whose registered office is] [of] [Address] ("the Contractor"); and
- (2) [SURETY] [(registered number [no.]) whose registered office is] [of] [Address] ("the Surety"); and
- (3) [EMPLOYER] of [Address] ("the Employer", which expression shall include its successors and assigns).

BACKGROUND:

- (A) The Contractor entered into a framework agreement with the Greater London Authority dated [DATE] pursuant to which the Employer and the Contractor may enter into call off contracts for the delivery of services and/or works.
- (B) By a call off contract ("the Call Off Contract") entered into between the Employer and the Contractor, particulars of which are set out in the Schedule to the Bond ("the Schedule"), the Contractor has agreed with the Employer to execute works and/or services ("the Services") upon and subject to the terms and conditions set out within the Call Off Contract.
- (C) The Surety has agreed with the Employer at the request of the Contractor to guarantee the performance of the obligations of the Contractor under the Call Off Contract upon the terms and conditions of this Bond subject to the limitation set out in clause 2.

IT IS AGREED AS FOLLOWS:

1. GUARANTEE

The Surety guarantees to the Employer that in the event of a breach of the Call Off Contract (which for the avoidance of doubt, but without limitation, will include the occurrence of any of the events of insolvency listed in clause [INSERT RELEVANT CLAUSE REFERENCE] of the Call Off Contract, ("an Insolvency Event")) the Surety shall subject to the provisions of this Bond satisfy and discharge the damages sustained or debts incurred by the Employer as established and ascertained pursuant to and in accordance with the provisions of or by reference to the Call Off Contract taking into account all sums due or to become due to the Contractor.

2. BOND AMOUNT

The maximum aggregate liability of the Surety and the Contractor under this Bond shall not exceed the sum set out in the Schedule ("the Amount") but subject to such limitation and to clause 4 the liability of the Surety shall be co-extensive with the liability of the Contractor under the Call Off Contract and

for such purposes the terms and conditions of the Call Off Contract shall be deemed to be incorporated.

3. NO DISCHARGE OF LIABILITY

3.1 The Surety shall not be discharged or released by:

3.1.1 any fact, event or rule of law which, but for this clause 3 might operate to release in whole or in part the Surety from its obligations under this Bond including (without limitation) any alteration, variation or waiver of any of the terms conditions and provisions of the Call Off Contract or in the extent or nature of the Services and no allowance of time by the Employer under or in respect of the Call Off Contract or the Services on the part of the Employer shall in any way release reduce or affect the liability of the Surety under this Bond;

3.1.2 any fact event or rule of law which results in any total or partial invalidity, illegality or unenforceability of the Call Off Contract which the Contractor could have avoided by the use of its reasonable endeavours or could by using its reasonable endeavours have drawn to the attention of the Employer prior to the date of the Call Off Contract (in which case for the purposes of this Bond the Call Off Contract will be deemed valid, legal and enforceable as if such reasonable endeavours had been exercised and appropriate steps been taken to avoid or mitigate the invalidity, illegality or unenforceability); or

3.2 a legal limitation, disability or incapacity of the Contractor.

4. EXPIRY

Whether or not this Bond shall be returned to the Surety the obligations of the Surety under this Bond shall be released and discharged absolutely upon the Expiry Date (as defined in the Schedule) save in respect of any breach of the Call Off Contract or an Insolvency Event which has occurred and in respect of which a claim in writing has been made upon the Surety before the Expiry Date.

5. CONTRACTOR'S UNDERTAKING

The Contractor, having requested the execution of this Bond by the Surety, undertakes to the Surety (without limitation of any other rights and remedies of the Employer or the Surety against the Contractor) to perform and discharge the obligations on its part set out in the Call Off Contract. Furthermore the Contractor undertakes to the Employer that he will not seek to recover from the Employer a sum due or to become due to the Contractor which has been taken into account when assessing sums due to the Employer under this Bond.

6. **THIRD PARTY RIGHTS**

The parties to this Bond 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.

7. **ASSIGNMENT**

The benefit of this Bond may be assigned by the Employer at any time without the prior written consent of the Surety or the Contractor subject to the Employer giving prior written notice of such assignment to the Contractor and the Surety.

8. **JURISDICTION**

The Bond shall be governed by and construed in accordance with the laws of England and be in all respects subject to the exclusive jurisdiction of the courts of England.

SCHEDULE

The Call Off Contract:	A call off contract dated [DATE] between the Employer and the Contractor for [<i>DESCRIBE WORKS/SERVICES</i>]
The Amount:	In respect of any breach of the Call Off Contract or an Insolvency Event which has occurred and in respect of which a claim in writing has been made upon the Surety the sum of £[<i>FIGURE</i>] ([<i>WORDS</i>] pounds) in each case exclusive of interest, legal fees and expenses
The Expiry Date:	The [INSERT DATE OR REFERENCE TO EXPIRY TRIGGER EVENT].

THIS DOCUMENT is executed as a deed and delivered on the date stated at the beginning of this Deed.

[EXECUTION AS A DEED BY ALL PARTIES]

SCHEDULE 6 PART 6 – ON DEMAND PERFORMANCE BOND

On-Demand Performance Bond

(Letterhead of Bank)

To: [insert name and address of the Employer]

Date:

Dear Sir/Madam

IN CONSIDERATION of you entering into Contract No [] ("**the Contract**") with [insert name of Contractor] ("**the Contractor**") in respect of [insert brief description of scope of contract] we [insert name of Bank] ("**the Bank**") hereby undertake upon first demand in writing made by you upon us from time to time or at any time to pay on each occasion the sum demanded by you on the terms and conditions set out in this letter ("**this Bond**").

PROVIDED THAT:

- 1 This Bond shall come into force on the date of this Bond.
- 2 Any demand under this Bond shall be substantially in the form of either Annex 1 or Annex 3 to this Bond as required by the circumstances in which such demand is made, and as between you and us the facts set out in that demand shall (a) be deemed to be true and (b) shall be accepted by us as conclusive evidence for the purposes of this Bond that the amount claimed in the demand is due to you under this Bond.
- 3 Any demand in the form of Annex 1 shall be accompanied by a copy of a letter from you sent to the Contractor by first class recorded post 14 or more days before the date of the demand, substantially in the form of Annex 2 of this Bond.

* Delete as appropriate

* (Option 1 - No reduction in amounts payable under the Bond.)

4. Our liability under this Bond shall be limited so as not to exceed the aggregate sum of £[] [e.g. the total Charges under the Contract or a percentage thereof] and we shall have no liability under this Bond in respect of any demand dated after [] [expiry date to be defined with reference to the expiry date of the Contract.] ("**the Expiry Date**")

* (Option 2 - Reducing amounts payable under the Bond.)

5. Our liability under this Bond shall be limited as follows:-
 - (a) in respect of a demand or demands dated before the date of [e.g. on the completion of a milestone] under the Contract, our liability shall not exceed in aggregate the sum of _____ [e.g. 20% of the total Charges];

- (b) in respect of a demand or demands dated after the date of [e.g. *completion of a milestone*] under the Contract but before [] [*expiry date to be defined with reference to the expiry date of the Contract*] (“**the Expiry Date**”), our liability shall not exceed an amount equal to the aggregate sum of _____ [e.g. *10% of the total Charges*] less the aggregate of sums already paid by us in respect of demands made pursuant to paragraph 4(a) above; and
- (c) we shall have no liability under this Bond in respect of any demand dated after [] [*expiry date to be defined with reference to the expiry date of the Contract*] (“**the Expiry Date**”).

6. Our obligations under this Bond shall remain in full force and effect and shall not be terminated, reduced, discharged or otherwise affected by:

- (a) any alteration or variation to the terms of the Contract made by agreement between you and the Contractor including, without limitation, any alteration in the extent or nature or sequence or method or timing of the Services to be carried out under the Contract or any novation of the Contract (in whole or in part); or
- (b) any defence, counterclaim, withholding, set off or other deduction available to the Contractor under the Contract or otherwise; or
- (c) any time being given to the Contractor or any other indulgence, waiver, concession, forbearance or forgiveness to the Contractor whether express or by conduct or any other thing done, omitted or neglected to be done under the Contract; or
- (d) any other bond, security or guarantee now or subsequently held by you for all or any part of the obligations of the Contractor under the Contract; or
- (e) the release or waiver of any such bond, security or guarantee referred to in paragraph 6(d) above; or
- (f) any amalgamation, reconstruction or dissolution including, without limitation, winding-up of the Contractor; or
- (g) the termination of the Contract for any reason; or
- (h) any other event which would or might operate to discharge a guarantor or any act or omission, matter or thing which, but for this provision, might operate to exonerate, discharge, reduce or extinguish your liability under this Bond; or
- (i) the winding-up, bankruptcy, administration, receivership or insolvency of the Contractor; or
- (j) any legal limitation, disability, incapacity, discharge by operation of law, change in the constitution, name or style of the Contractor or any other person relating to the Contractor (whether or not known to you); or
- (k) any total or partial invalidity in, irregularity affecting or unenforceability of any of the obligations of the Contractor.

7. Any payment under this Bond shall be made by us in pounds sterling [or in any currency which may from time to time replace pounds sterling].
8. This Bond is irrevocable.
9. Terms defined in the Contract and not otherwise defined in this Bond shall have the same meaning in this Bond.
10. This Bond, executed and delivered as a deed, is governed by and shall be construed in accordance with the law of England and Wales. The courts of England shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Bond except that you have the right in your absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which we are incorporated or in which any of our assets may be situated. You and we agree to submit to that jurisdiction.
11. You will be entitled to assign the benefit of this Bond in whole or in part but we may not assign the benefit and/or delegate the burden of this Bond in whole or in part or enter into any transaction which would result in any of those benefits and/or burdens passing to another person.
12. If any provision (in whole or in part) of this Bond is found by any court, tribunal, administrative body or authority of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Bond and shall be ineffective, without, so far as is possible, modifying any other provision of this Bond and this shall not affect any other provisions of this Bond which shall remain in full force and effect.
13. Any demand or other notice made by you under this Bond shall be duly made if sent by first class recorded delivery post to us.

[For non-UK resident banks with only a branch or office in the UK :

14. For the purposes of this Bond we hereby appoint of (to be a London address) to accept service of process on our behalf, and service on the said at the said address shall be deemed to be good service on us and we hereby irrevocably agree not to revoke or terminate such appointment.

Executed as a Deed and delivered the day and year written above.

Executed as a Deed by) _____
[Bank]) Director

acting by a Director and the)
Secretary or by two Directors) _____
Director/Secretary

The common seal of [Bank]) _____
was affixed to this Deed in) Director

the presence of

)
)

Director/Secretary

Annex 1

Form of Demand from the Employer to [the Bank]

Dear Sirs

Contract No [] in respect of services for []

We refer to the Bond given by you to us dated []. We enclose a copy of a letter from us to [insert name of Contractor] ("**the Contractor**") which was sent to the Contractor by first class recorded post on [] which is more than 14 days before the date of this demand.

The Contractor has not taken steps which we consider adequate to remedy the breaches.

* Delete as appropriate

* (**Option 1** - No reduction in amounts payable under the bond.)

The Expiry Date has not been reached.

* **(Option 2 - Reducing amounts payable under the bond.)**

[e.g. *INSERT DATE/REFERENCE POINT*] has/has not been achieved and the Expiry Date has not been reached.

We hereby demand from you the sum of £[] under your Bond. Please make payment by your cheque in sterling payable to [insert name of Employer].

Yours faithfully

On behalf of [*insert name of Employer*]

Annex 2

Form of letter from the Employer to the Contractor

To be sent by first class recorded delivery post

Dear Sirs

Contract No [] in respect of services for []

As explained in [previous letters to you/our letter dated to you] you are in breach of your obligations under Contract [], and you have neither remedied nor implemented sufficient steps to remedy, those breaches.

This letter therefore notifies you that unless within 14 days from the date of this letter you take steps which we consider adequate to remedy the breaches we shall be entitled without further notice to you to call for payment under the Bond given on your behalf by [*name of bank*] dated [DATE].

Yours faithfully

On behalf of *[insert name of Employer]*

Annex 3

Alternative form of demand from the Employer to [the Bank]

Dear Sirs

Contract No [] in respect of services for []

We refer to the Bond given by you to us dated [].

* Delete as appropriate

* (**Option 1** - No reduction in amounts payable under the Bond.)

An event has occurred of a type described in Clause [] of the Contract which entitles us (inter alia) to terminate the Contract in accordance with that Clause.

The Expiry Date has not been reached.

* (**Option 2** - Reducing amounts payable under the Bond.)

An event has occurred of the type described in Clause [] of the Contract which entitles us (inter alia) to terminate the Contract in accordance with that clause.

[e.g. *INSERT DATE/REFERENCE POINT*] has/has not been achieved and the Expiry Date has not been reached.

We hereby demand payment from you of the sum of £[] under your Bond. Please make payment by your cheque in sterling payable to [*insert name of Employer*].

Yours faithfully

On behalf of [*insert name of Employer*]

SCHEDULE 7 – RESPONSIBLE PROCUREMENT

1. Work Related Road Risk

- 1.1 For the purposes of Paragraphs 1.2 to 1.9 (inclusive) of this Schedule, the following expressions shall have the following meanings:

“Bronze Accreditation” the minimum level of accreditation within the FORS Standard, the requirements of which are more particularly described at:

www.fors-online.org.uk

“Car-derived Vans” a vehicle based on a car, but with an interior that has been altered for the purpose of carrying larger amounts of goods and/or equipment;

“Collision Report” a report detailing all collisions during the previous 12 months involving injuries to persons or fatalities;

“Delivery and Servicing Vehicle” a Lorry, a Van or a Car-derived Van;

“Driver” any employee of the Contractor (including an agency driver), who operates Delivery and Servicing Vehicles on behalf of the Contractor while delivering the Services;

“DVLA” Driver and Vehicle Licensing Agency;

“FORS” the Fleet Operator Recognition Scheme, which is an accreditation scheme for businesses operating van and lorry fleets. It offers impartial, independent advice and guidance to motivate companies to improve their compliance with relevant laws and their environmental, social and economic performance;

“FORS Standard” the standard setting out the accreditation requirements for the Fleet Operator Recognition Scheme, a copy of which can be found at:

www.fors-online.org.uk

“Gold Accreditation”	the highest level of accreditation within the FORS Standard, the requirements of which are more particularly described at: www.fors-online.org.uk
“Lorry”	a vehicle with an MAM exceeding 3,500 kilograms;
“MAM”	the maximum authorised mass of a vehicle or trailer including the maximum load that can be carried safely while used on the road;
“Side Guards”	guards that are fitted between the front and rear axles of a Lorry and that comply with EC Directive 89/297/EEC and the Road Vehicles (Construction and Use) Regulations 1986;
“Silver Accreditation”	the intermediate level of accreditation within the FORS Standard, the requirements of which are more particularly described at: www.fors-online.org.uk
“Van”	a vehicle with a MAM not exceeding 3,500 kilograms.

Fleet Operator Recognition Scheme Accreditation

- 1.2 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services, it shall within 90 days of the Agreement Commencement Date:
 - 1.2.1 (unless already registered) register for FORS or a scheme, which in the reasonable opinion of the Contracting Authority, is an acceptable substitute to FORS (the **“Alternative Scheme”**); and
 - 1.2.2 (unless already accredited) have attained the standard of Bronze Accreditation (or higher) or the equivalent within the Alternative Scheme and shall maintain the standard of Bronze Accreditation (or equivalent standard within the Alternative Scheme) by way of an annual independent assessment in accordance with the FORS Standard or take such steps as may be required to maintain the equivalent standard within the Alternative Scheme. Alternatively, where the Contractor has attained Silver or Gold Accreditation, the maintenance requirements shall be undertaken in accordance with the periods set out in the FORS Standard.

Safety Equipment on Vehicles

- 1.3 The Contractor shall ensure that every Lorry, which it uses to provide the Services, shall:
- 1.3.1 have Side Guards, unless the Contractor can demonstrate to the reasonable satisfaction of the Contracting Authority that the Lorry will not perform the function for which it was built if Side Guards are fitted;
 - 1.3.2 have front, side and rear blind spots completely eliminated or minimised as far as practical and possible, through the use of fully operational direct and indirect vision aids and driver audible alerts;
 - 1.3.3 have equipment fitted with an audible means of warning other road users of the Lorry's left manoeuvre; and
 - 1.3.4 have prominent signage on the Lorry to warn cyclists and other road users of the dangers of passing the Lorry on the inside and of getting too close to the Lorry.

Driver Licence Checks

- 1.4 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services the Contractor shall ensure that:
- 1.4.1 it has a system in place to ensure all its Drivers hold a valid driving licence for the category of vehicle that they are tasked to drive, along with recording any endorsements, or restrictions on the Drivers licence; and
 - 1.4.2 each of its Drivers engaged in the provision of the Services has a driving licence check with the DVLA or such equivalent before that Driver commences delivery of the Services and that the driving licence check with the DVLA or equivalent authority is repeated in accordance with either the following risk scale (in the case of the DVLA issued licences only), or the Contractor's risk scale, provided that the Contractor's risk scale has been approved in writing by the Contracting Authority within the last 12 months:
 - 1.4.2.1 0 – 3 points on the driving licence – annual checks;
 - 1.4.2.2 4 – 8 points on the driving licence – six monthly checks;
 - 1.4.2.3 9 – 11 points on the driving licence – quarterly checks; or
 - 1.4.2.4 12 or more points on the driving licence – monthly checks.

Driver Training

- 1.5 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services the Contractor shall ensure that each of its Drivers undergo approved progressive training (to include a mix of theoretical, e-learning, practical and on the job training) and continued professional development to include training covering the safety of vulnerable road users and on-cycle hazard awareness, throughout the Term and each Call-Off Term.

Collision Reporting

- 1.6 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services, the Contractor shall:
- 1.6.1 ensure that it has a system in place to capture, investigate and analyse road traffic collisions that results in fatalities, injury or damage to vehicles, persons or property and for generating Collision Reports; and
 - 1.6.2 within 15 days of the Agreement Commencement Date, provide to the Contracting Authority a Collision Report. The Contractor shall provide to the Contracting Authority an updated Collision Report within five working days of a written request from the Contracting Authority.

Self Certification of Compliance

- 1.7 Where the Contractor operates Delivery and Servicing Vehicles to provide the Services, within 90 days of the Agreement Commencement Date, the Contractor shall make a written report to the Contracting Authority detailing its compliance with Paragraph 1.3, 1.4 and 1.5 of this Schedule (the “**WRRR Self-certification Report**”). The Contractor shall provide updates of the WRRR Self-certification Report to the Contracting Authority on each three month anniversary of its submission of the initial WRRR Self-certification Report.

Obligations of the Contractor Regarding Subcontractors

- 1.8 The Contractor shall ensure that those of its sub-contractors who operate Delivery and Servicing Vehicles to provide the Services shall:
- 1.8.1 comply with Paragraph 1.2; and
 - 1.8.2 where its subcontractors operates the following vehicles to provide the Services shall comply with the corresponding provisions of this Schedule:
 - 1.8.2.1 For Lorries – Paragraphs 1.3, 1.4, 1.5 and 1.6; and
 - 1.8.2.2 For Vans – Paragraphs 1.4, 1.5 and 1.6,as if those sub-contractors were a party to this Agreement.

Failure to Comply with Work Related Road Risk Obligations

1.9 Without limiting the effect of any other clause of this Agreement relating to termination, if the Contractor fails to comply with Paragraphs 1.2, 1.3, 1.4, 1.5, 1.6, 1.7 and 1.8:

1.9.1 the Contractor has committed a material breach of this Agreement; and

1.9.2 the Contracting Authority and any other Employer may refuse the Contractor, its employees, agents and Delivery and Servicing Vehicles entry onto any property that is owned, occupied or managed by the Contracting Authority or any other Employer for any purpose (including but not limited to deliveries).

2. **Timber Standards**

2.1 For the purposes of this paragraph 2, unless the context indicates otherwise, the following expressions shall have the following meanings:

"Independent Report" an independent report by an individual or body:

(a) whose organisation, systems and procedures conform to:

(i) ISO Guide 65:1996 (EN 45011:1998); and

(ii) general requirements for bodies operating product certification systems; and

(b) who is accredited to audit against forest management standards by a national or international body whose organisation, systems and procedures conform to ISO Guide 61 General Requirements for Assessment and Accreditation of Certification Bodies;

"Legal Timber" Timber in respect of which the organisation that felled the trees and/or provided the Timber from which the wood supplied under the Call-Off Contract derived:

(a) had legal rights to use the forest;

(b) holds a register of all local and national laws and codes of practice relevant to forest operations; and

(c) complied with all relevant local and

national laws and codes of practice including environmental, labour and health and safety laws and paid all relevant royalties and taxes;

"Recycled Timber" and "Reclaimed Timber" recovered wood that has been reclaimed or re-used and that has been in previous use and is no longer used for the purpose for which the trees from which it derives were originally felled. The terms 'recycled' and 'reclaimed' are interchangeable and include, but are not limited to the following categories: pre-consumer recycled wood and wood fibre or industrial by-products but excluding sawmill co-products (sawmill co-products are deemed to fall within the category of Virgin Timber), post-consumer recycled wood and wood fibre and drift wood. Recycled or Reclaimed Timber must be capable of being evidenced as such to the Contracting Authority's satisfaction in order to satisfy this definition;

"Sustainable Timber" Timber, which in order to meet the Contracting Authority's criteria for sustainable timber, must be:

- (a) Recycled Timber; or
- (b) Sustainably Sourced Timber; or
- (c) a combination of (a) and (b);

"Sustainably Sourced Timber" Timber sourced from organisational, production and process methods that minimise harm to ecosystems, sustain forest productivity, ensure that both forest ecosystem health and vitality, and forest biodiversity is maintained. In order to satisfy this definition, Timber must be accredited to meet the Forest Stewardship Council (FSC) or equivalent. Where it is not practicable to use Forest Stewardship Council (FSC) standard accredited timber, the Contracting Authority will accept timber accredited through other schemes approved by the Central Point of Expertise on Timber (CPET), as listed below:

- (a) Canadian Standards Association

(CSA);

(b) Programme for the Endorsement of Forest Certification (PEFC); or

(c) Sustainable Forestry Initiative (SFI),

or such other source as the Contractor may demonstrate to the Contracting Authority's satisfaction is equivalent;

"Timber"

wood from trees that have been felled for that purpose, but excludes any item where the manufacturing processes applied to it has obscured the wood element (by way of example only, paper would not be treated as timber). Where the term Timber is used as a generic term it includes both Virgin Timber and Recycled Timber; and

"Virgin Timber"

timber supplied or used in performance of the Contract that is not Recycled Timber.

2.2 Contractor's Obligations and the Employer's Rights

2.2.1 The Contractor shall ensure that all Timber supplied or used in the performance of each Call-Off Contract shall be Sustainable Timber. If it is not practicable for the Contractor to meet this condition the Contractor must inform the relevant Employer in writing prior to the supply of any Timber that is not Sustainable Timber, and stating the reason for the inability to comply with this condition. The relevant Employer reserves the right, in its absolute discretion, to approve the use of Timber that is not Sustainable Timber. Where the relevant Employer exercises its right to reject any Timber, the provisions of paragraph 2.2.4 shall apply.

2.2.2 Without prejudice to paragraphs 2.2.1 and 2.4.2, all Virgin Timber procured by the Contractor for supply or use in performance of each Call-Off Contract shall be Legal Timber.

2.2.3 The Contractor shall ensure that Virgin Timber it procures for supply or use in performance of each Call-Off Contract shall not have derived from any species of tree that is protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) unless the supplier can prove, by producing official documentation, that he has complied with the CITES requirements that permit trading in the particular species of tree so listed under that Convention.

2.2.4 Each Employer reserves the right to reject at any time any Timber that does not comply with the conditions of this Agreement or the

relevant Call-Off Contract. Where an Employer exercises its right to reject any Timber, the Contractor shall supply contractually compliant alternative Timber, at no additional cost to the relevant Employer and without causing delay to the performance of the relevant Call-Off Contract.

- 2.2.5 The Contractor shall maintain records of all Timber supplied and used in the performance of each Call-Off Contract. Such information shall be made available to the Contracting Authority and each relevant Employer promptly if requested at any time.

2.3 Employer's Reporting Requirements

- 2.3.1 Unless the relevant Employer has given its written approval in accordance with paragraph 2.2.1 that Timber that is not Sustainable Timber may be used, then, if requested, the Contractor shall promptly provide evidence to the relevant Employer's satisfaction that the Timber is Sustainable Timber.
- 2.3.2 Upon a request by the relevant Employer referred to in paragraph 2.3.1, in the event that the Contractor does not promptly provide such evidence, or the evidence provided does not satisfy the relevant Employer's requirements, then (and without prejudice to paragraph 2.4.1), the relevant Employer reserves the right to retain 25% of any monies payable to the Contractor under the relevant Call-Off Contract until such date as the relevant Employer is in receipt of such evidence and the relevant Employer is satisfied that the evidence establishes that the Timber is Sustainable Timber.
- 2.3.3 The Contractor shall report quarterly on its use of Sustainable Timber in the performance of each Call-Off Contract, in accordance with the Timber Standards Appendix of this schedule.
- 2.3.4 The Contractor shall report on the amount of Timber that has been supplied to each Employer in accordance with paragraph 2.2.1 which is not Sustainable Timber.

2.4 Verification

2.4.1 Evidence of Sustainable Timber

Each Employer reserves the right to determine whether the evidence supplied by the Contractor is sufficient to satisfy it that the relevant Specification and the conditions of the relevant Call-Off Contract have been fully complied with. In the event that the relevant Employer is not so satisfied, the Contractor shall, on written request by the relevant Employer, commission and meet the costs of an Independent Report to:

- 2.4.1.1 verify the source of the Timber; and

- 2.4.1.2 assess whether the forests of origin were managed in accordance with the specified local laws and regulations.

2.4.2 Evidence of Legal Timber

- 2.4.2.1 The Contractor shall, before delivering any Virgin Timber under each Call-Off Contract, obtain documentary evidence to the relevant Employer's satisfaction that the Timber is both Legal and Sustainable Timber. If requested in writing by the relevant Employer, the Contractor shall submit such documentary evidence to the relevant Employer either prior to delivery or at such other times as the relevant Employer may require. For the avoidance of doubt, the Contractor shall identify, as part of the evidence submitted, a chain of custody from the source of the Timber through to delivery of the final product.
- 2.4.2.2 The Contracting Authority and each relevant Employer reserves the right at any time during the execution of each Call-Off Contract and for a period of 6 years from final delivery of any Timber under each Call-Off Contract to require the Contractor to produce the evidence required for the Contracting Authority and each relevant Employer's inspection within 14 days of the Contracting Authority or relevant Employer's written request.

3. **London Living Wage**

- 3.1 For the purposes of this paragraph 3, unless the context indicates otherwise, the expression "London Living Wage" means a basic hourly wage (as at the date of this Agreement) of £9.15 (nine pounds fifteen pence) (before tax, other deductions and any increase for overtime) but as is updated from time to time and notified to the Contractor.
- 3.2 Without prejudice to any other provision of this Contract, the Contractor shall:
 - 3.2.1 ensure that none of its employees engaged in the provision of the Services within the Greater London area, or on the Contracting Authority's estate, but not otherwise is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage. For the purpose of this paragraph 3.2.1 any allowance paid to the relevant employee for living costs and expenses (including accommodation provided by the Contractor) while the relevant employee is working within the Greater London area is taken into account in determining whether employees have been paid the London Living Wage;

- 3.2.2 ensure that none of its employees engaged in the provision of the Services is paid less than the amount to which they are entitled in their respective contracts of employment;
 - 3.2.3 provide to each Employer such information concerning the London Living Wage and as the relevant Employer or its nominees may reasonably require from time to time;
 - 3.2.4 disseminate on behalf of each relevant Employer to its employees engaged in the provision of the Services such perception questionnaires as the relevant Employer may reasonably require from time to time and promptly collate and return to the relevant Employer responses to such questionnaires; and
 - 3.2.5 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage.
- 3.3 For the avoidance of doubt the Contractor shall implement any updated London Living Wage on or before 1 April in the year following notification of such updated London Living Wage.
- 3.4 The Contracting Authority and each Employer who has entered into a Call-Off Contract reserve the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Contractor's staff and the staff of its sub-contractors.
- 3.5 Any breach by the Contractor of the provisions of this paragraph 3 shall be treated as a material breach capable of remedy in accordance with Clause 27.1.1.

4. Ethical Sourcing

- 4.1 The Contracting Authority is committed to ensuring that workers employed in its supply chains throughout the world are treated fairly, humanely and equitably. In the course of complying with this Agreement, the Contractor shall comply with and shall procure that its sub-contractors (as applicable) comply with those principles of the Ethical Trading Initiative (ETI) Base Code as are detailed in Ethical Sourcing Appendix to this Schedule, or an equivalent code of conduct (the "Ethical Sourcing Principles") in relation to the provision of the Services.
- 4.2 As soon as practicable following the Agreement Commencement Date the Contractor shall be registered with an ethical supplier database, such as SEDEX (Supplier Ethical Data Exchange). The Contractor agrees that for the duration of this Agreement, it shall permit and enable the Contracting Authority to have access to the information relating to the Contractor that subsists in such ethical supplier database.
- 4.3 During the course of this Agreement, the Contracting Authority has the right to request the Contractor to carry out one or more audits using a reputable auditor to verify whether the Contractor is complying with the Ethical Sourcing

Principles. The identity of the auditor is to be approved by the Contracting Authority, such approval not to be unreasonably withheld or delayed. The costs of the audit shall be borne by the Contracting Authority.

- 4.4 During the course of this Agreement, if the Contracting Authority has reasonable cause to believe that the Contractor is not complying with any of the Ethical Sourcing Principles, then the Contracting Authority shall notify the Contractor and the Framework Parties shall agree an action plan with appropriate timeframes for compliance by the Contractor (the "Action Plan"), such Action Plan to be agreed by the Framework Parties by no later than 2 weeks from the date of the Contracting Authority notifying the Contractor that remedial action is required or such other period as the Framework Parties may otherwise agree in writing. The costs of the creation and implementation of the Action Plan shall be borne by the Contractor.
- 4.5 Following the agreement of the Action Plan, the Contracting Authority reserves the right to conduct one or more audits, (either itself or via a third-party auditor approved by the Contracting Authority) in relation to compliance by the Contractor with the Action Plan.
- 4.6 For the avoidance of doubt, the rights of audit contained in this paragraph 4 shall include without limitation the right of the Contracting Authority (or an Contracting Authority-approved auditor) acting reasonably to undertake physical inspections of relevant sites/factories, to conduct interviews with relevant personnel and to inspect relevant documents. The Contractor shall co-operate and shall procure that its sub-contractors (as applicable) co-operate with the Contracting Authority in relation to all aspects of any audit.

Ethical Sourcing Appendix: The ETI Base Code

1.1 EMPLOYMENT IS FREELY CHOSEN

- 1.1.1 There is no forced, bonded or involuntary prison labour.
- 1.1.2 Workers are not required to lodge "deposits" or their identity papers with their employer and are free to leave their employer after reasonable notice.

1.3 WORKING CONDITIONS ARE SAFE AND HYGIENIC

- 1.3.1 A safe and hygienic working environment shall be provided, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Adequate steps shall be taken to prevent accidents and injury to health arising out of, associated with, or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.
- 1.3.2 Workers shall receive regular and recorded health and safety training, and such training shall be repeated for new or reassigned workers.
- 1.3.3 Access to clean toilet facilities and to potable water, and, if appropriate, sanitary facilities for food storage shall be provided.
- 1.3.4 Accommodation, where provided, shall be clean, safe, and meet the basic needs of the workers.
- 1.3.5 The company observing the code shall assign responsibility for health and safety to a senior management representative.

1.4 CHILD LABOUR SHALL NOT BE USED

- 1.4.1 There shall be no new recruitment of child labour.
- 1.4.2 Companies shall develop or participate in and contribute to policies and programmes which provide for the transition of any child found to be performing child labour to enable her or him to attend and remain in quality education until no longer a child.
- 1.4.3 Children and young persons under 18 shall not be employed at night or in hazardous conditions.
- 1.4.4 These policies and procedures shall conform to the provisions of the relevant ILO standards.

1.5 LIVING WAGES ARE PAID

- 1.5.1 Wages and benefits paid for a standard working week meet, at a minimum, national legal standards or industry benchmark standards, whichever is higher. In any event wages should always be enough to meet basic needs and to provide some discretionary income.
- 1.5.2 All workers shall be provided with written and understandable information about their employment conditions in respect to wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid.
- 1.5.3 Deductions from wages as a disciplinary measure shall not be permitted nor shall any deductions from wages not provided for by national law be permitted without the expressed permission of the worker concerned. All disciplinary measures should be recorded.

1.6 WORKING HOURS ARE NOT EXCESSIVE

- 1.6.1 Working hours comply with at least UK national laws and benchmark industry standards, whichever affords greater protection.

1.7 NO DISCRIMINATION IS PRACTISED

- 1.7.1 There is no discrimination in hiring, compensation, access to training, promotion, termination or retirement based on race, caste, national origin, religion, age, disability, gender, marital status, sexual orientation, union membership or political affiliation.

1.8 REGULAR EMPLOYMENT IS PROVIDED

- 1.8.1 To every extent possible work performed must be on the basis of recognised employment relationship established through national law and practice.
- 1.8.2 Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, sub- contracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment.

1.9 NO HARSH OR INHUMANE TREATMENT IS ALLOWED

- 1.9.1 Physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation shall be prohibited.

SCHEDULE 8 – MINIMUM STANDARDS

Part	Measure	Document Title	Document Link	Webpage Link (Hosting organisation)
A1	ASHP	The Microgeneration Certification Scheme		http://www.microgenerationcertification.org/index.php?option=com_content&view=article&id=21&Itemid=155
A1	BIOMASS	The Microgeneration Certification Scheme		http://www.microgenerationcertification.org/index.php?option=com_content&view=article&id=21&Itemid=155
A1	Boiler Replacement	Domestic Building Services Compliance Guide	http://www.planningportal.gov.uk/uploads/br/domestic_building_services_compliance_guide.pdf	
A1	CWI	British Board of Agreement (BBA)-Blown in cavity Wall Insulation		http://www.bbacerts.co.uk/product-approval/agreement-certificates/
A1	EWI	British Board of Agreement (BBA)-External Wall Insulation		http://www.bbacerts.co.uk/product-approval/agreement-certificates/
A1	Flat roof insulation	British Board of Agreement (BBA)-roof insulation		http://www.bbacerts.co.uk/product-approval/agreement-certificates/
A1	Flue gas heat recovery			https://etl.decc.gov.uk/etl/site.html
A1	General	British Board of Agreement (BBA)-product approval/agreement certificates		http://www.bbacerts.co.uk/product-approval/agreement-certificates/
A1	General	The Building Regulations 2010 Sanitation, hot water safety and water efficiency	http://www.planningportal.gov.uk/uploads/br/BR_PDF_ADG_2010_V2.pdf	http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partg/approved
A1	GSHP	The Microgeneration Certification Scheme		http://www.microgenerationcertification.org/index.php?option=com_content&view=article&id=21&Itemid=155
A1	Heat recovery ventilation	The Building Regulations 2010-Electrical safety-Dwellings (PART P)	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_P_2013.pdf	http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partp/approved#Download
A1	Heat recovery ventilation	The Building Regulations 2010-Ventilation	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_F_2010_V2.pdf	http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partf/approved#

				Download
A1	Hot water cylinder insulation	Domestic Building Services Compliance Guide	http://www.planningportal.gov.uk/uploads/br/domestic_building_services_compliance_guide.pdf	
A1	IWI	British Board of Agreement (BBA)- Internal Wall Insulation		http://www.bbacerts.co.uk/product-approval/agreement-certificates/
A1	MICRO CHP	The Microgeneration Certification Scheme		http://www.microgenerationcertification.org/index.php?option=com_content&view=article&id=21&Itemid=155
A1	MINI CHP	The Microgeneration Certification Scheme		http://www.microgenerationcertification.org/consumers/product-search
A1	More efficient storage heaters	Domestic Building Services Compliance Guide	http://www.planningportal.gov.uk/uploads/br/domestic_building_services_compliance_guide.pdf	
A1	Solar PV	The Microgeneration Certification Scheme		http://www.microgenerationcertification.org/index.php?option=com_content&view=article&id=21&Itemid=155
A1	Solar thermal	The Microgeneration Certification Scheme		http://www.microgenerationcertification.org/index.php?option=com_content&view=article&id=21&Itemid=155
A1	Water measures	GOV.UK PRODUCT SEARCH		http://wtl.defra.gov.uk/product_search_landing.asp?section=66&itemTitle=Product+Search&qclid=Cj0KEQjws8ggBRC_Lp-aploLbqcQBEiQAm0rD5-yfuqT71z_wkyj-ughRyQzWC8h81031VXUge_9xCl8aAq9V8P8HAQ
A1	Window upgrades	The Building Regulations 2010 Conservation of fuel and power	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_L1B_2011.pdf	
A2	MINI CHP			https://www.gov.uk/government/policies/reducing-demand-for-energy-from-industry-businesses-and-the-public-sector--2/supporting-pages/combined-heat-and-power-chp
B1	General	Nuisance calls and Messages: Marketing emails	http://consumers.ofcom.org.uk/files/2012/09/email-logo.pdf	http://consumers.ofcom.org.uk/phone/tackling-nuisance-calls-and-messages/marketing-emails/
B1	General	Cap advice and Training	http://www.cap.org.uk/~media/Files/CAP/Misc/CAP%20Advice%20and%20Training%20rate%20card_online.ashx	http://www.cap.org.uk/Advice-Training-on-the-rules.aspx
B1	General	Code of Practice	http://gdorb.decc.gov.uk/adm	http://gdorb.decc.gov.uk/code

		for control of condensation in buildings	in/documents/Green%20Deal%20Code%20of%20Practice%20Version%204.pdf	-of-practice
B1	General	Cold Calling Control Zones	Cold Calling Control Zones Handbook (PDF 167KB)	http://www.tradingstandards.gov.uk/policy/doorstopperswelcome.cfm
B1	General	Consumer Credit		http://www.fca.org.uk/firms/firm-types/consumer-credit
B1	Surveys and assessments	Financial Adviser		http://www.fca.org.uk/firms/firm-types/financial-adviser
B2	Surveys and assessments	Disclosure and Barring Service (DBS) checks (previously CRB checks)		https://www.gov.uk/disclosure-barring-service-check/overview
C1	General	The Building Regulations 2010 Electrical Safety-Dwellings Part P	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_P_2013.pdf	http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partp/approved#Download
C1	General	The Building Regulations 2010 Electrical Safety-Dwellings Part P	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_P_2013.pdf	http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partp/approved#Download
C1	General	Planning Approvals		http://www.planningportal.gov.uk/planning/
C1	General	Approval Process		http://www.planningportal.gov.uk/buildingregulations/howto/getapproval/howtogetapproval/
C2	General	Chartered Institute of Building Services Engineers		http://www.cibse.org/knowledge
C2	General	BSRIA	https://www.bsria.co.uk/resources/asset/document/compliancebrochure.pdf	https://www.bsria.co.uk/services/compliance/
C2	General	Sustainable Traditional Buildings Alliance		http://responsible-retrofit.org/wheel/
C2	General	Moisture risk assessment and guidance (in consultation)	http://sdf.pht.surefirehosting.co.uk/downloads/Moisture-guidance-consultation-doc-2.pdf	
C2	General	Preparing for Floods	http://www.planningportal.gov.uk/uploads/odpm/4000000009282.pdf	
D1	ASHP	Microgeneration Certification Scheme		http://www.microgenerationcertification.org/
D1	BIOMASS	Microgeneration Certification Scheme		http://www.microgenerationcertification.org/
D1	Boiler Replacement	Gas Safe Register		http://www.gassaferegister.co.uk/
D1	Chimney	Code of Practice		http://shop.bsigroup.com/Pro

	Balloons/sheep/baffles	for control of condensation in buildings		ductDetail/?pid=000000000030171811
D1	Communal Heating	Gas Safe Register		GAS Safe Register http://www.gassaferegister.co.uk/
D1	Communal Heating	Hetas Register		Hetas Register http://www.hetas.co.uk/
D1	Communal Heating	European Commission Enterprise and Industry		European standard (DH) (monitoring, metering, sensing – poss D2) Measuring Instruments Directive: http://ec.europa.eu/enterprise/policies/european-standards/harmonised-standards/measuring-instruments/index_en.htm
D1	CWI	Registered installers		CIGA http://www.ciga.co.uk/register-ed-installers/
D1	CWI	BSI Group Product Detail		http://shop.bsigroup.com/ProductDetail/?pid=000000000000140698
D1	DH heat meters	European Commission Enterprise and Industry		http://ec.europa.eu/enterprise/policies/european-standards/harmonised-standards/measuring-instruments/index_en.htm
D1	Draught Proofing	Specification for draughtstrips for the draught control of existing doors and windows in housing		http://shop.bsigroup.com/ProductDetail/?pid=000000000001215217
D1	EWI	Certification Body Schedules-PERS		http://www.ukas.com/about-accreditation/accredited-bodies/certification-body-schedules-PERS.asp
D1	Flat roof insulation	Rigid (PUR) and (PIR) products for building end use applications		http://shop.bsigroup.com/ProductDetail/?pid=000000000030124176
D1	Flue gas heat recovery	Gas Safe Register		http://www.gassaferegister.co.uk/
D1	General	PAS 2030 Accreditation		http://shop.bsigroup.com/en/Browse-by-Sector/Building-Construction/The-Green-Deal/?t=r
D1	General	Health and Safety Executive-working at heights	http://www.hse.gov.uk/pubns/indg401.pdf	http://www.hse.gov.uk/work-at-height/the-law.htm
D1	General	Conservation of fuel and power in existing dwellings		http://www.planningportal.gov.uk/buildingregulations/approveddocuments/part1/approved

				%20-%20ApprovedDocumentL1B: Conservationoffuelandpower Existingdwellings
D1	GSHP	Microgeneration Certification Scheme		http://www.microgenerationcertification.org/
D1	Heat recovery ventilation	The Building Regulations 2010 Electrical Safety-Dwellings Part P	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_P_2013.pdf	http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partp/approved#Download
D1	Heat recovery ventilation	The Building Regulations 2010-Ventilation Part F	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_F_2010_V2.pdf	http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partf/approved
D1	Heating Controls	Domestic Building Services Compliance Guide	Domestic heating compliance Guide: http://www.planningportal.gov.uk/uploads/br/domestic_building_services_compliance_guide.pdf	
D1	Heating Controls	Gas Safe Register		http://www.gassaferegister.co.uk/
D1	Hot water cylinder insulation	Domestic Building Services Compliance Guide	http://www.planningportal.gov.uk/uploads/br/domestic_building_services_compliance_guide.pdf	
D1	Loft top up	Thermal insulation for use in pitched roof spaces in dwellings. Specification for installation of man-made mineral fibre and cellulose fibre insulation		http://shop.bsigroup.com/ProductDetail/?pid=000000000000104461
D1	Loft top up	Code of Practice for control of condensation in buildings		http://shop.bsigroup.com/ProductDetail/?pid=000000000030115895
D1	MICRO CHP	Microgeneration Certification Scheme		http://www.microgenerationcertification.org/
D1	MINI CHP	Gas Safe Register		GAS Safe Register http://www.gassaferegister.co.uk/
D1	ROOM IN ROOF INSULATION	(PIR) and (PUR) products for building end-use applications		http://shop.bsigroup.com/ProductDetail/?pid=000000000030146782
D1	ROOM IN ROOF INSULATION	Code of Practice for control of condensation in buildings		http://shop.bsigroup.com/ProductDetail/?pid=000000000030115895
D1	Solar PV	The Microgeneration		http://www.microgenerationcertification.org/

		Certification Scheme		
D1	Solar PV	Electrical Safety-Dwellings	http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_P_2013.pdf	Part P: http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partp/approved
D1	Virgin Loft	Thermal insulation for use in pitched roof spaces in dwellings		http://shop.bsigroup.com/ProductDetail/?pid=000000000000104461
D1	Virgin Loft	Code of Practice for control of condensation in buildings		http://shop.bsigroup.com/ProductDetail/?pid=000000000030115895
D1	General	BS 5250		http://shop.bsigroup.com/ProductDetail/?pid=000000000030171811
D1	IWI	Certification Body Schedules-PERS		http://www.ukas.com/about-accreditation/accredited-bodies/certification-body-schedules-PERS.asp
D1	Solar PV	Requirements for electrical installations. IET Wiring Regulations.		http://www.theiet.org/resources/wiring-regulations/
D1	Solar thermal	Microgeneration Certification Scheme		Registered on MCS Scheme http://www.microgenerationcertification.org/
D1	Surveys and assessments	Accreditation DEA Domestic Energy Assessor		https://www.gov.uk/domestic-energy-assessor-existing-buildings
D2	General	Centre of Refurbishment Excellence		http://www.core-skills.com
D2	Surveys and assessments	The British Institute of Non-Destructive Testing		http://www.bindt.org/Certification/
D2	Surveys and assessments	Green Deal Assessor Role		http://gdorb.decc.gov.uk/assessors
E1	General	Department of Energy and Climate Change The Green Deal-Code of Practice	http://gdorb.decc.gov.uk/admin/documents/Green%20Deal%20Code%20of%20Practice%20Version%204.pdf	http://gdorb.decc.gov.uk/code-of-practice
F1	General	Considerate Constructors Scheme		http://www.ccscheme.org.uk/
F1	General	The Joint Contracts Tribunal		Standard contract term - JCT?
F2	General	Construction skills Certificate Scheme		http://www.cscs.uk.com

