transfer to the *Client* or an Incoming Consultant,

efficiently and without additional expense or delay immediately on termination or expiry of the contract.

1.2 *Contractor* Information Systems

1.2.1 The *Contractor* at the *starting date*

- has in place and provides or makes available to the *Client,* appropriate Information Systems (and relevant hardware required to use such Information Systems) of the type set out in section 1.9, to comply with the *Client* information requirements and the contract management information requirements,
- has in place Information Systems (electronic or otherwise) of the type set out in the non-exhaustive list in Table 1, to comply with the *Contractor* information requirements concerning its own corporate business and operations and
- has proof of compliance with the HMG Security Policy Framework (SPF) (see link in **Annex 02**) in respect of those Information Systems.

1.3 *Client* Information Systems & Training

1.3.1 Unless otherwise agreed with the *Client*, the *Contractor* uses and interfaces with the *Client's* current systems (Table 2, in 1.10 below) and new systems (Table 3) when available.

The *Client* provides relevant training for all relevant systems provided by the *Client* that are listed in this Annex.

The *Contractor* proposes a list of appropriate Staff to be trained for each requirement for acceptance by the *Client*. The *Contractor* liaises with the Client to programme the training to optimise efficiencies.

1.4 Access Requirements to Information Systems provided by the *Client*

1.4.1 Gateway access requirements

The Business Information Gateway or its successor (the Gateway) is the interface through which

- the *Contractor* is required to access the *Client's* business IT network and the Client Information Systems and
- the *Client* may access one or more of the *Contractor's* Information Systems and documents.

1.4.2 Unless otherwise agreed with the *Client*, the *Contractor* connects to

the Gateway, using a virtual private network specified by the *Client*.

1.4.3 The *Contractor*

- applies to the *Client* for authorisation to connect to the Gateway and connects to the Gateway in a manner to be specified by the *Client*,
- procures and pays for the installation and ongoing costs of connection of any of its premises or Information Systems to the Gateway through a telecommunications network, taking into account the data volume and the number of the *Contractor's* staff that it expects to use the Gateway,
- arranges suitable support and business continuity for connection to the Gateway,
- facilitates the installation and maintenance of the Gateway by the *Client's* or Other's consultants,
- employs appropriate requirements and procedures, and trains its staff to operate the current systems,
- attends training in connection with the implementation, and where appropriate, the *Contractor* facilitates the implementation of New Systems and any other systems required by the *Client* and
- does not alter any documents provided by the *Client* through the Gateway (which are the exclusive property of the *Client*) without the prior acceptance of the *Client*.

1.4.4 The *Contractor* acknowledges that

- the network technology underlying the Gateway is subject to change from time to time,
- access through and continued membership of the Gateway depends on the *Contractor* complying with (and the *Contractor* complies with):
- applicable user access requirements
- Her Majesty's Government Security Policy Framework and
- other confidentiality, technical and security requirements set out in the contract.

1.4.5 The connection point to the Gateway situated at the *Contractor's* premises is located in a room that is secured from theft, damage, unauthorised or malicious use to reduce risk to the connection point by using appropriate physical security controls as set out in Her Majesty's Government Security Policy Framework. The location remains fixed for the duration of the contract unless the *Contractor*

requests and the *Client* approves a new location.

1.4.6 Other access requirements

- *Client* Information Systems not covered by clause 1.4.1 may be accessed through the internet via third party hosts and using relevant software applications installed on *Contractor* systems. They are not subject to the same security and related access requirements that apply to *Client* Information Systems accessed through the Gateway.
- The *Contractor* may request authorisation and other details regarding Internet access to such *Client* Information Systems from the *Client*.
- The *Contractor* ensures that any device which is used to process *Client* data meets all of the security requirements set out in the National Cyber Security Centre (NCSC) "End User Devices Platform Security Guidance."

1.5 Access Requirements to Information Systems provided by the *Contractor*

1.5.1 The *Contractor* provides the *Client* remote access to the *Contractor's* Information Systems and related documents

- through the Gateway; or
- through another interface agreed by the *Client*.

1.5.2 Any access required by the *Client* to systems provided by the *Contractor* must be made available via the Gateway or by other remote access methods agreed by the *Client*.

1.6 *Contractor* Security and User Access

1.6.1 The *Contractor* ensures that all persons who use *Client* Information Systems for or on behalf of the *Contractor* comply with the *Client's* security requirements.

1.6.2 The *Contractor* is responsible for determining any formal application and security clearance requirements to enable the *Client* to access any Information Systems provided by the *Contractor*. The *Contractor* informs the *Client* of those requirements, including timescales, no later than four weeks after the *starting date*.

1.6.3 The *Contractor* immediately notifies the *Client's* IT Security Team and the help desk when staff with access to the *Client's* IT network, leave their employment.

1.6.4 The *Client* suspends any accounts supplied to persons who use

Client's Information Systems for or on behalf of the *Contractor* if they are not used for a continuous period of six months.

1.6.5 The *Client* deletes any accounts supplied to persons who use *Client* Information Systems for or on behalf of the *Contractor* if they are not used for a continuous period of thirteen months.

1.6.6 The *Client* immediately suspends any accounts supplied to persons who use *Client* Information Systems for or on behalf of the *Contractor* if they are used by anyone other than the person for whom they were created (the "authorised user"), or they are used from a device which is not issued by the *Contractor*, or they are used from a physical location not agreed with the *Client*. Accounts suspended will not be re-opened until a formal explanation for the account's misuse is provided by the *Contractor*, and in all these cases the *Client* is not liable for any financial penalty or other expense incurred as a result of the *Contractor* failing to meet its commitments.

1.7 Software and Licences

1.7.1 The *Contractor* grants, or procures the grant of, licences required to allow the *Client* to use the Information Systems developed, procured or otherwise provided by the *Contractor* to the *Client*.

1.7.2 The *Contractor* has in place or procures its own licences required to use common software applications that it may require to be able to interface with, or to access *Client* Information Systems.

1.7.3 The *Contractor* applies to the *Client* for licences to allow the *Contractor* to use certain Information Systems provided or made available by the *Client*.

1.8 Liaison and cooperation between *Client* and *Contractor*

1.8.1 The *Client* is adopting an Information Technology Infrastructure Library best practice approach for Information Communication and Technology (ICT) services. The *Contractor* demonstrates a formal approach to its ICT service management through the development of an ICT strategy and make its ICT strategy available to the *Client*.

1.9 Systems provided by the *Contractor* to meet *Client* and Contract Management Information Requirements

1.9.1 <u>Electronic Document and Records Management</u>

The *Contractor* operates an Information System for the management of electronic documents and records (including e-mails) which are created and maintained on behalf of the *Client.* Documents and

records are defined in the *Clients* record policy, a copy of which can be obtained from the *Client.*

1.9.2 The *Contractor* seeks agreement through the *Client*, regarding the development and implementation of an Information System for electronically managing both the electronic and physical records which the *Contractor* creates and maintains on behalf of the *Client*. This Information System is required for the capture, retention and disposal of all electronic format documents and other records.

1.10 Information Systems provided by the *Contractor*

Table 1: Information Systems as provided by the *Contractor* to fulfil the requirements of the *Contractor's* own business and effective delivery of the contract

System	Comment
IT and Information Security Systems	The *Contractor* implements IT and Information Security systems to protect the confidentiality, integrity, and availability of this information it handles, and have those systems independently audited. The *Contractor* aligns these systems to meet the *Client's* requirement for the services provided.
Quality Management System	The *Contractor* implements a quality management Information System which will ensure consistency and improvement of working practices. The *Contractor* aligns its quality management Information System to meet the quality requirement used by the *Client.*
Change Control System	This Information System will manage changes to processes and systems
Human Resource Management System (HRMS)	The *Contractor* uses a HRMS to manage issues such as recruitment, skill sets, employee history and payroll
Financial Management System (FMS)	The *Contractor* uses a FMS to produce timely in-year and year-end management and accounting information
Project Management System	System to assist in the planning and organisation of activities in order to meet the *Contractor*'s objectives
	or any revised systems notified by the *Client*

1.11 Current Systems provided by the *Client* to meet the contract management information requirements

Table 2 Current Systems

Current Information System	Description
Customer Relationship Management System (CRM)	The CRM is a Microsoft Dynamics 365 system that manages the CRM strategy to ensure long lasting relationships with the Contractor's customers. It acts as one central and consistent stakeholder / customer database where all interactions with stakeholders and associated tasks are managed on one platform. It is associated to the Confirm system.
CEMAR – (Contract Event Management Analytics and Reporting)	CEMAR is a cloud based NEC contract management system. It is a collaborative tool that requires the two parties; *Client* and *Contractor* to manage contract events through the system as required by good practice NEC contract management. System features include the following: • contract event management through registers e.g. Early Warnings, Compensation Events, *Client* Instructions and more. • application for payments / Invoices • technical queries and Defect management • general communications Multiple in-built reports and charts and graphs proving reports and dashboards across one or multiple contracts to allow effective management of contracts through outputs on communication behaviour, cost, quality, risk and time.
Accident Incident Reporting System (AIRSweb)	The AIRSweb incident reporting Information System, allowing the completion of a single incident report online, which can be submitted to several organisations
WebDAS	WebDAS provides service providers with an easy to use front end to Departures Approvals System (DAS) for submitting departures and searching past submissions. Database of departures from the *Client's* requirements and aspects not covered by requirements, including Specification for Highway Works (SHW) specification departures.

HAPMS	HAPMS is a set of IT systems that hold the following data sets: • approved network master data set • pavement inventory master data set • pavement construction master data set • pavement condition master data set • inventory master data set • traffic data • accident data HAPMS also provides the following business capabilities: • analysis and reporting of data both in map-based and textual formats • integrated tools for the whole life cost optimisation, of proposed pavement maintenance schemes
Highways Agency Geotechnical Data Management System (HAGDMS)	Internet hosted and GIS based geotechnical inventory. Holds details of the Highways England geotechnical asset, together with geological maps, borehole details, and specialist reports.
Highways Agency Drainage Data Management System (HADDMS)	Shares the facilities developed for HAGDMS and exists on the same platform. This provides integrated geotechnical/drainage information.
Lean Tracker System	A system used to capture and track lean benefits.
Highways Agency Environmental Information System (HA) EnvIS	EnvIS consists of specific environmental data supplied by *Contractors*, the HA and other bodies which is collated and displayed in a read only format in the Highways Agency Geographical Information System (HAGIS). This data is used to assist in managing the environment, within and surrounding the trunk road network, and in the review and reporting of the environmental performance of both *Contractors* and the *Client*.
Confirm and ConfirmConnect	The *Contractor* uses Confirm and Confirm's mobile solution (ConfirmConnect) to manage their operational process. Operatives must use ConfirmConnect to capture job data in the field and where necessary additional tasks on the handheld device.

Network Occupancy Management System (NOMS)	The *Client* provides a Network Occupancy Management System (NOMS) as part of the Integrated Asset Management Information System (IAMIS) that is fully compliant with the national specification for the Electronic Transfer of Notifications (EToN) and is used to: • record, update and manage all occupancies on the Affected Property including their delay and impact, • record, update and manage all information as necessary for the fulfilment of obligations relating to: • Traffic Management Act 2004 • New Roads and Street Works Act 1991 • other legislation associated to the delivery of the TMA 2004 s16 Network Management Duty and associated secondary legislation NOMS provides direct information feeds to external stakeholders for public use and feeds to the Clients National Traffic Information Service (NTIS) for publication to customers
PBA Web Portal	Cost Intelligence tool for capturing payments to Tier 2 suppliers from Project Bank Accounts on live contracts.

1.12 New Systems to be used by the *Contractor* when available

Table 3 New Systems

New Information System	Description
Financial System	The *Client's* new finance and accounting Information System which supports major business transaction processing requirements.
Emergency Services Network (ESN)	ESN will provide 'next generation integrated critical voice and broadband data services' and will replace Airwave
Green Claims	System to enable the electronic submission of Green Claims information.

Performance Management Information System	The *Client* may introduce a Performance Management Information System (PMIS) or other system for recording and reporting against the requirements of this Annex. When/ if provided, the *Contractor* provides performance data directly into the PMIS.
Finance and Works Management System (PB Confirm)	The *Client* intends to introduce a Finance and Works Management System which will be used to raise and manage works orders. The *Contractor* uses the system and provides such information to the *Client* as required to evidence the *service* provided and costs incurred to Provide the Service.

2 INFORMATION SECURITY

2.1 Security Plan

2.1.1 The *Contractor* prepares a robust information security plan complying with the *Client's* information security requirements and submits it to the *Client* for acceptance. The *Contractor* includes the security plan in its quality management system. The security plan complies with the requirements of ISO/IEC27001 and ISO/IEC27002 and includes procedures which

- ensure compliance with the Data Protection Legislations,
- protect IT systems from viruses and similar threats,
- provide for disaster recovery, and in particular ensure that the Data is safely backed-up and
- provide for the vetting of its employees and Subcontractors' staff in accordance with the *Client's* staff vetting procedures.

2.1.2 The *Contractor* provides training for its employees and Subcontractors in accordance with the security plan.

2.1.3 The *Contractor* does not use any confidential or proprietary information provided to or acquired by it for any purpose other than to Provide the Service. The *Contractor* implements measures to prevent the disclosure of such information by its employees or Subcontractors.

2.1.4 The *Client's* security policy is set out in the documents "Statement of Highways England's IT Security Policy" and Chief Information Officer Memos 01/09, 05/08 and 04/08 (see link in **Annex 02)**.

2.2 Data Collection System

2.2.1 The *Contractor* captures all costs within a data collection system identified by the *Client* in Work Breakdown Structure (WBS) form as a minimum for use on the contract in respect of applications for

payment.

2.2.2 If the *Client's* minimum requirements for the *Contractor's* data collection system are not met, the *Contractor* is required to effect such modifications or enhancements to its own data collection system, or those of its supply chain, as are required, to meet the *Client's* requirements.

2.3 Data Handling Requirements

2.3.1 The *Contractor* complies with the *Client*'s data handling policy (see link in **Annex 02)** when working on the *Client*'s systems or handling the *Client*'s data.

2.3.2 A system on which the *Contractor* holds any *Client*'s data, including back-up data, is a secure system that complies with the security policy.

2.4 Breech of Security

2.4.1 "Breach of security" is the occurrence of:

- any unauthorised access to or use of the Information Systems, the *Client* Premises, the survey sites, the Service Provider System, the *Client* System (to the extent that it is under the control of the *Contractor*) and/or any IT, information or data (including the confidential information and the *Client* Data) used by the *Client* and/or the *Contractor* in connection with the contract; and/or
- the loss (physical or otherwise), corruption and/or unauthorised disclosure of any information or data (including the confidential information and the *Client* Data), including any copies of such information or data, used by the *Client* and/or the *Contractor* in connection with the contract.

2.4.2 The *Contractor* develops and maintain a Security Incident management and reporting policy in accordance with the Customer's 'Information Security Incident Management Requirements' (see link in **Annex 02)** and ISO27001. The *Contractor* makes a full log of Security Incidents available to the *Client* on request, and in any case on a quarterly basis. All Security Incidents defined as a Major Incident will be reported to the *Client* as soon as practicable (in any case within twenty four (24) hours of the *Contractor* becoming aware of the Incident).

2.4.3 The Security Incident management process (see **Annex 02**), as a minimum, requires the *Contractor* upon becoming aware of a Breach of Security or an attempted Breach of Security to:

- immediately take all reasonable steps (which includes any action or changes reasonably required by the *Client* which will be completed within such timescales as the *Client* may reasonably require) necessary to:
    - minimise the extent of actual or potential harm caused by such breach of security
    - remedy such breach of security to the extent possible and protect the integrity of the Information System against any such potential or future attempt breach of security
    - apply a tested mitigation against any such breach of security or potential or attempted breach of security and, provided that reasonable testing has been undertaken by the *Contractor*, if the mitigation adversely affects the *Contractor*'s ability to deliver the Services so as to meet any Performance Indicator, the *Contractor* is granted relief against the failure to meet such affected Performance Indicator for such period as the *Client*, acting reasonably, may specify by written notice to the Service Provider; and
    - prevent a further breach of security or attempted breach of security in the future exploiting the same root cause failure
- as soon as reasonably practicable and, in any event, within 2 working days, following the breach of security or attempted breach of security, provide to the *Client* full details of the breach of security or attempted breach of security, including a root cause analysis where required by the *Client*.

2.4.4 In the event that any action is taken in response to a breach of security or attempted breach of security which occurred as a result of non-compliance of the information security management system (ISMS) outlined in ISO 27001 and/or the risk management with the Baseline Personnel Security standard outlined in the HMG SPF and/or this contract, then such action and any required change to the Information System and/or risk management will be completed by the *Contractor* at no cost to the *Client*.

Highways England Company Limited

Sample only - will be issued if applicable

Scope

Form of Novation

Annex 13
(Old Client to New Client)

CONTENTS AMENDMENT SHEET

Amend. No.	Revision No.	Amendments	Initials	Date
0	0	Tender issue	ET	Feb 2021

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Sample only - will be issued if applicable

HIGHWAYS ENGLAND COMPANY LIMITED
as Old Client

[●]
as New Client

[●]
as Contractor

Sample only - will be issued if applicable

DEED OF NOVATION

relating to a term service short contract for the provision of Technical Surveys and Testing – Pavement (intrusive) in Highways England Region [●]

DATED [●]

Parties	
1)	**HIGHWAYS ENGLAND COMPANY LIMITED** (company no 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ (the "**Old Client**"),
2)	***[insert details of replacement authority***] (the "**New Client**")
3)	[●] (company no [●]) whose registered office is at [●] (the "**Contractor**")
Background	
A)	By the Contract, the Client has employed the Contractor to provide the Service.
B)	The Old Client has agreed (with the consent of the Contractor) to transfer all its rights and obligations under the Contract to the New Client and the Contractor has agreed to accept the liability of the New Client in place of the liability of the Old Client under the Contract upon and subject to the terms of this deed, which is supplemental to the Contract.
1. Definitions and Interpretation	
1.1	Unless the contrary intention appears, the following definitions apply: "**Contract**" means the contract dated [●] between the Client (1) and the Contractor (2) (including any further agreement varying or supplementing the Contract) under which the Contractor has agreed to provide the Service. "**Service**" means the services to be carried out by the Contractor pursuant to the Contract.
1.2	The clause and paragraph headings in this deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
1.3	Words in this deed denoting the singular include the plural meaning and vice versa.
1.4	References in this deed to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it.
1.5	Words in this deed importing one gender include both other genders and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and vice versa.

Sample only - Not to be used if not applicable

2. Novation	
2.1	The Old Client and the Contractor release and discharge each other from the further performance of their respective obligations under the Contract and the Contractor acknowledges and accepts the liability of the New Client in place of the liability of the Old Client under the Contract.
2.2	The Contractor undertakes to be bound to the New Client by the terms of the Contract in every way as if the New Client was and always had been a party to the Contract in place of the Old Client.
2.3	The Contractor acknowledges and warrants to the New Client that it has duly observed and performed and will continue duly to observe and perform all its obligations under the Contract.
3. New Client's Undertakings	
3.1	Subject to Clause 4.1 below, the New Client undertakes to be bound to the Contractor by the terms of the Contract and to perform the obligations on the part of the Client under the Contract in every way as if the New Client was and always had been a party to the Contract in place of the Old Client.
4. Payment of Sums Due	
4.1	The Contractor and the Old Client agree that the total amount to be paid by the Old Client to the Contractor for the Service provided under the Contract prior to the date of this deed is £[●]. The Contractor acknowledges that the Old Client has paid the sum of £[●] prior to the date of this deed. The balance of £[●] shall be invoiced by the Contractor to the Old Client and paid by the Old Client in accordance with the Contract.
4.2	The Contractor and the New Client agree that the New Client shall be solely responsible (to the exclusion of the Old Client) for payment of all sums due to the Contractor under the Contract for any Service provided after the date of this deed.
4.3	Where, under Clause 2.2 above or under any other contract between the New Client and the Contractor, any sum of money is recoverable from or payable by the Contractor to the New Client, such sum may be deducted from or reduced by the amount of any sum then due or which may at any time become due from the New Client to the Contractor under Clause 4.2 above or under any other contract with any Department or Office of Her Majesty's Government.
5. Notices	
5.1	Any notice or other communication required under this deed shall be given in writing and shall be deemed to have been properly given if compliance is

Sample only - Withheld if applicable

	made with section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962 and the Postal Services Act 2000).
6. Governing Law and Disputes	
6.1	This deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law.
6.2	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.

Sample only - will be issued if applicable

Execution Page
This deed has been executed as a deed and delivered on the date stated at the beginning of this deed.

Executed as a deed by **HIGHWAYS ENGLAND COMPANY LIMITED** by affixing its common seal in the presence of:	
	Authorised Signatory

Sample only - will be issued if applicable

Highways England Company Limited

Sample only - will be issued if applicable

Scope

Form of Novation

Annex 14
(Old Contractor to New Contractor)

CONTENTS AMENDMENT SHEET

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Sample only - will be issued if applicable

HIGHWAYS ENGLAND COMPANY LIMITED
as Client

[●]
as New Contractor

[●]
as Old Contractor

DEED OF NOVATION

relating to a term service short contract for the provision of Technical Surveys and Testing – Pavement (intrusive) in Highways England Region [●]

Sample only - Will be issued if applicable

DATED [●]

Parties	
1)	**HIGHWAYS ENGLAND COMPANY LIMITED** (company no 09346363) whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ (the "**Client**"),
2)	[●] (company no [●]) whose registered office is at [●] (the "**Old Contractor**")
3)	[●] (company no [●]) whose registered office is at [●] (the "**New Contractor**")
Background	
A)	By the Contract, the Client has employed the Old Contractor to provide the Service.
B)	The Old Contractor has agreed (with the consent of the Client) to transfer all its rights and obligations under the Contract to the New Contractor and the Client has agreed to accept the liability of the New Contractor in place of the liability of the Old Contractor under the Contract upon and subject to the terms of this deed, which is supplemental to the Contract.
1. Definitions and Interpretation	
1.1	Unless the contrary intention appears, the following definitions apply: "**Contract**" means the contract dated [●] between the Client (1) and the Old Contractor (2) (including any further agreement varying or supplementing the Contract) under which the Old Contractor has agreed to provide the Service. "**Service**" means the services to be carried out by the Contractor pursuant to the Contract.
1.2	The clause and paragraph headings in this deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
1.3	Words in this deed denoting the singular include the plural meaning and vice versa.
1.4	References in this deed to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments and regulations made pursuant to it.
1.5	Words in this deed importing one gender include both other genders and may be used interchangeably, and words denoting natural persons, where the context allows, include corporations and vice versa.

Sample only - Not to be used if not applicable

2. Novation	
2.1	The Old Contractor and the Client release and discharge each other from the further performance of their respective obligations under the Contract and the Client acknowledges and accepts the liability of the New Contractor in place of the liability of the Old Contractor under the Contract
2.2	The New Contractor undertakes to be bound to the Client by the terms of the Contract in every way as if the New Contractor was and always had been a party to the Contract in place of the Old Contractor.
2.3	The Client acknowledges and warrants to the New Contractor that it has duly observed and performed and will continue duly to observe and perform all its obligations under the Contract.
3. New Contractor's Undertakings	
3.1	Subject to Clause 4.1 below, the New Contractor undertakes to be bound to the Client by the terms of the Contract and to perform the obligations on the part of the Contractor under the Contract in every way as if the New Contractor was and always had been a party to the Contract in place of the Old Contractor.
4. Payment of Sums Due	
4.1	The Client and the Old Contractor agree that the total amount to be paid by the Client to the Old Contractor for the Service provided under the Contract prior to the date of this deed is £[●]. The Old Contractor acknowledges that the Client has paid the sum of £[●] prior to the date of this deed. The balance of £[●] shall be invoiced by the Old Contractor to the Client and paid by the Client in accordance with the Contract.
4.2	The New Contractor acknowledges that any payment made by the Client to the Old Contractor in respect of the Service (whether before or after the date of this deed) shall be treated as having been made to the New Contractor and that the Client's payment obligation under the Contract shall to that extent be treated as discharged.
5. Notices	
5.1	Any notice or other communication required under this deed shall be given in writing and shall be deemed to have been properly given if compliance is made with section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962 and the Postal Services Act 2000).

Sample only - will be issued if applicable

6. Governing Law and Disputes	
6.1	This deed and any non-contractual obligations arising out of or in connection with it shall be governed by English law.
6.2	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.

Sample only - will be issued if applicable

Execution Page
This deed has been executed as a deed and delivered on the date stated at the beginning of this deed.

Executed as a deed by **HIGHWAYS ENGLAND COMPANY LIMITED** by affixing its common seal in the presence of:	
	Authorised Signatory

Sample only - will be issued if applicable

Highways England Company Limited

Scope

Health and Safety

Annex 15

CONTENTS AMENDMENT SHEET

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1 HEALTH AND SAFETY

1.1 General Requirements

1.1.1 The *Contractor* complies with the *Client*'s health and safety requirements as detailed in Annex 02 (reference documents) to the Scope.

1.1.2 The *Contractor* complies with and operates according to all relevant and prevailing health and safety legislation, considerations, guidance and industry best practice. The *Contractor* Provides the Service in a way that aligns to the ***Client's*** health and safety policies and initiatives.

1.2 Management of Health and Safety

1.2.1 The *Contractor*

- operates a formal health and safety management system which complies with ISO45001:2018, or another relevant, equivalent standard accepted by the *Client* and
- documents the systems and fully and effectively implements the health and safety management system prior to the *access date*.

1.2.2 The *Contractor*

- obtains certification from a body accredited by UKAS (or another body accepted by the *Client*) of its health and safety management system within 6 months of the Contract Date and
- submits to the *Client* a copy of all certificates within one week after it is obtained.

If the *Contractor* already holds such certification at the Contract Date, the *Contractor* submits to the *Client* a copy of all certificates within one week of the Contract Date.

1.2.3 The *Contractor* operates and develops its health and safety management system to meet the ***Client's*** requirements. The *Contractor* provides consistency of approach and interoperability with other stakeholders where appropriate, ensuring activities are consistent between all stakeholders allowing seamless provision of *service* between different sites within the Affected Property.

1.2.4 The ***Contractor's*** health and safety management system forms part of the ***Contractor's*** Quality Plan.

1.3 ***Contractor's*** occupational health management system

1.3.1 The *Contractor*

- operates an occupational health management system in line with

requirements of the Health and Safety Executive's prevailing construction occupational health management model, "Essentials of Managing Construction Health Risks" and

- participates in *Client* working groups to improve health and safety management performance in relation to the following topics
    - designing for health and safety in buildability and operability and maintenance,
    - construction health and safety improvement and
    - sustainable design and sustainable construction.

1.3.2 If, in the opinion of the *Client*, the *Contractor* is Providing the Service in an unsatisfactory manner or commits a breach in

- any prevailing legislation or
- the *Contractor's* health and safety management system or
- a subcontractor's health and safety management system or
- the *Client's* health and safety management system,

the *Client* notifies the *Contractor* following the process set out in GG128 ("Requirements for reporting incidents, events and undesirable circumstances: health, safety, wellbeing, structural and environmental") (**see link in Annex 2**) and raises formally via the *Client's* H&S management system assurance process.

1.3.3 The notification provided by the *Client* to the *Contractor* sets out the breach or breaches identified with reasons and outlines the minimum steps required of the *Contractor* to rectify the breach and a date for rectifying.

1.3.4 Where the *Contractor* has been given notification of a breach, the *Contractor* rectifies the breach or failure to Provide the Service in a satisfactory manner, by the date specified by the *Client*. The *Contractor* corrects other breaches that are not notified by the *Client*.

1.4 Subcontractors' health and safety management systems

1.4.1 The *Contractor* ensures that any of its subcontractors (at any stage of remoteness from the *Client)* working on sites where the *Contractor* is the principal contractor operate a formal health and safety management system which fulfils the requirements set out above.

1.5 Health and safety culture and communication

1.5.1 The *Contractor* ensures that it creates a culture and communications that align to the *Client's* "Home Safe and Well" message. The *Contractor*

- operates a behavioural safety programme,

- establishes, operates and delivers health and safety employee consultation arrangements to its employees in accordance with applicable prevailing health and safety legislation,
- provides relevant health and safety training, including induction, to staff and visitors to ensure compliance with prevailing health and safety legislation and approved codes of practice and
- participates in *Client* events, programmes and initiatives as appropriate and if requested.

1.6 Health and safety exchange of information

1.6.1 The *Client* provides information requested by the *Contractor* to enable the *service* to be performed in a safe and legally compliant manner.

1.6.2 The *Contractor* provides information in the frequency and format specified in the contract, or if a different frequency and format is required, as specified by the *Client*.

1.6.3 The *Contractor* immediately brings to the attention of the *Client* any issue or potential issue that may have a detrimental impact on the health and safety and wellbeing of any stakeholders.

1.7 Health and safety resources

1.7.1 The *Contractor* retains sufficient competent health and safety resource as part of its management structure.

1.7.2 The minimum requirements for the *Contractor's* health and safety resources are that their leads

- have membership of The Institution of Occupational Safety and Health (IOSH),
- are qualified to National Examination Board in Occupational Safety and Health (NEBOSH) standard (or higher),
- have a demonstrable working knowledge of prevailing health and safety legislation, guidance and approved codes of practice relevant to the *service,* and
- have the appropriate level of competence, training and demonstrable experience in the field for which they are Providing the Service.

1.8 Health & safety competence of *Contractor*'s employees

1.8.1 The *Contractor* ensures that its employees are competent to Provide the Service and upon request provides the *Client* with information about the *Contractor's* arrangements for assuring employee competence and with employee training records.

1.8.2 Before commencement of the *service,* the *Contractor* provides the *Client* with a statement (signed by a person authorised to sign tenders on behalf of the company) to confirm that all the *Contractor's* employees and subcontractors (at any stage of remoteness from the *Client*) are competent to undertake the roles that they are assigned to deliver the *service*. The *Contractor* provides further signed statements to the *Client* when any new *Contractor* employees are appointed or assigned to deliver the *service*.

1.8.3 For roles where no suitable recognised competence standards exist, the *Contractor* provides information against the selection criteria and method used to provide assurance of competence.

1.9 Health and Safety in Construction

1.9.1 The *Contractor* ensures that assets, including materials and equipment, are used, installed, constructed and maintained in accordance with prevailing legal requirements, standards and specifications instructed by the *Client*.

1.10 Incident Reporting and Investigation

1.10.1 The *Contractor* complies with the *Client*'s Guidance GG128 "Requirements for reporting incidents, events and undesirable circumstances: health, safety, wellbeing, structural and environmental" or its later update or replacement, including any time periods required by GG128 (see link in **Annex 02)**. If a time period is not specified in GG128, then *period of reply* applies, unless agreed otherwise by the *Client.*

1.10.2 Following the notification of an incident, the *Contractor*, in line with the *Client*'s standards, determines if a formal investigation is required, and if necessary follows the notification, investigation and reporting procedures as set out therein.

1.10.3 The *Contractor* undertakes investigations with an independent competent person who has relevant training, knowledge and experience in effective accident/incident investigation.

1.10.4 Nothing prevents the *Contractor* from carrying out its own (additional) investigation of an incident, and in such case, the *Contractor* provides a copy of its completed incident report to the *Client*.

1.10.5 The incident report provides

- information on the circumstances surrounding the accident/ incident and any remedial measures to be taken in order to prevent a recurrence, and
- relevant photographs and statements as an integral part of the report.

1.10.6 Where the *Contractor* is compiling a draft investigation report, the *Contractor* discusses the findings of the draft report with the *Client* prior to the production of the final draft of such a report.

1.10.7 The *Contractor* implements applicable recommendations arising from incident investigations within the timescales agreed with the *Client*.

1.10.8 The *Client* has the right to investigate any incidents wherever they may occur.

1.10.9 The *Contractor* provides the *Client* unrestricted access at all reasonable times to the facilities, equipment, materials, employees and records of the *Contractor* or the subcontractor (at any stage of remoteness from the *Client)* for this purpose (subject to any statutory or contractual obligation prohibiting this access).

1.10.10 The *Contractor* provides a copy all materials related to an incident to the *Client* within the timescales agreed. Any material that would otherwise fall to be disclosed by the *Contractor* to the *Client* may be withheld by the *Contractor* provided that the *Contractor*'s legal adviser confirms to the *Client* that the material is:

- a confidential communication between the *Contractor* and its legal advisor for the purposes of seeking or giving legal advice that the legal advisers would normally expect to be given legal privilege in the normal course of its business with the *Contractor*, or
- a confidential communication between the *Contractor* or its legal advisers and a third party where the communication came into existence with the dominant purpose of being used in connection with contemplated, pending or actual litigation in adversarial proceedings (as opposed to investigations or fact-finding inquiries).

1.10.11 The *Contractor* ensures that all subcontracts (at any stage of remoteness from the *Client*) contain requirements similar to subparagraphs 1 and 10 above.

1.11 Health and Safety Inspections

1.11.1 The *Contractor:*

- carries out formal site safety inspections as agreed with the *Client* and documents the findings of these inspections;
- ensures that only competent persons carry out inspections,
- notifies the *Client* in advance of the date of an inspection, and allows the *Client* to participate in inspections if the *Client* requests to do so, and

- takes effective actions to ensure that any issues identified during inspections are effectively addressed within the timescales agreed with the *Client*.

1.12 Health and Safety Management Audit

1.12.1 The *Contractor* allows the *Client* unrestricted access at all contracted hours to the premises, equipment, materials, employees and records of the *Contractor* and any subcontractors (at any stage of remoteness from the *Client*) (unless a statutory or contractual obligation prohibits the disclosure of any such records) to audit any or all of the ***Contractor's*** health and safety management systems. The *Contractor* includes, in all subcontracts, the rights of access for the *Client.*

1.12.2 The *Contractor* implements all recommendations from such audits agreed by the *Client* within a timescale mutually agreed between the *Client* and the *Contractor*.

1.13 Construction Design and Management (CDM) Regulations 2015 compliance

1.13.1 The *Client* appoints relevant CDM duty holders in writing, based upon a review of an organisation's ability and competence to perform the *service*.

1.13.2 CDM duty holders (principal contractor and principal designer) discharge their obligations under the CDM Regulations 2015 in compliance with any Approved Code of Practice or best practice guidance issued by the HSE, and provide the *Client* with evidence of such compliance, ensuring competent persons are maintained to continuously fulfil duty requirements throughout the *service*.

1.13.3 Principal contractor duties (as defined by CDM Regulations 2015) are to be undertaken by the *Contractor* when instructed by the *Client.* The *Contractor* refers to the Construction Industry Training Board (CITB) guidance when carrying out the principal contractor/ designer role. Where the *Contractor* is not required to undertake the principal contractor duties, the *Client* notifies the *Contractor* as to who will be undertaking this role.

1.13.4 During the pre-construction phase and before setting up a construction site in the Working Area, the *Contractor* creates a construction phase plan in respect of the relevant *service* in compliance with Regulation 12(2) of the CDM Regulations 2015 and provides a copy of the plan to the *Client.*

1.13.5 Where instructed by the *Client,* the *Contractor* undertakes the role of principal contractor and associated duties in respect of the *service* to which the CDM Regulations 2015 apply including:

- work carried out by the *Client* or
- work carried out by Others.