

Dated

17/12/2021

(1) **THE GOVERNEMENT PROPERTY AGENCY**

- and -

(2) **WATES CONSTRUCTION LIMITED**

**Pre-Construction Services Agreement
Incorporating the JCT Pre-Construction Services
Agreement (General Contractor) 2016 edition with
amendments**

**relating to the fit out of CAT-A and CAT-B Refurbishment and associated works of 35,000ft²
office space located over 5 floors at Feethams House, Darlington**

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THIS CONTRACT is made on 17/12/2021

BETWEEN:

- (A) **THE GOVERNMENT PROPERTY AGENCY** of 10 Victoria Street, London, SW1H 0NN ('Employer'); and
- (B) **WATES CONSTRUCTION LIMITED** (company registration number: 01977948), whose registered office is at Wates House, Station Approach, Leatherhead, Surrey KT22 7SW ('the Contractor'); and

IT IS HEREBY AGREED AS FOLLOWS:

RECITALS:

- (First) The Employer wishes to have the following work carried out:
- Fit out of CAT-A and CAT-B refurbishment and associated works at Feethams House, Darlington (the '**Project**'), as described in greater detail in the document(s) identified in the Particulars, that work to be carried out under a main contract (the '**Main Contract**') provisional details of which are also given or referred to in the Particulars;
- (Second) the Employer's Agent for the pre-construction phase of the Project (the '**Pre-Construction Period**') is AECOM Ltd or such other person as may be appointed by the Employer to act as employer's agent in connection with the Contract from time to time.
- (Third) The Principal Designer for the purposes of the CDM Regulations is the Contractor or such other person as may be appointed by the Employer to act as principal designer under the CDM Regulations.
- (Fourth) The Principal Contractor for the purposes of the CDM Regulations is the Contractor or such other person as may be appointed by the Employer to act as contractor under the CDM Regulations.
- (Fifth) Prior to the execution of this Agreement, the Contractor has submitted to the Employer a first stage tender, on the basis of which the Employer has requested that, for the fee specified in Annex A (the '**Fee**') and other payments in accordance with this Agreement, the Contractor should during the Pre-Construction Period provide the pre-construction services listed in Annex B;
- (Sixth) It is intended that work on the Construction Phase of the Project shall commence on site on 8th February 2022 (the '**Date of Possession**') with a duration initially estimated at 20 weeks and that for the purposes of the Main Contract, not later than 2 weeks prior to the date of Possession:
- the Parties shall agree the terms of the Main Contract, and
 - the Contract Sum shall be agreed between the Parties
- in conformity with the requirements '(the '**Main Contract Requirements**') identified in the Particulars.
- (Seventh) The Contractor is a party to the Framework Agreement and the Employer is entitled to enter into Project Contracts pursuant to the Framework Agreement.

(Eighth) This Agreement shall incorporate all the provisions of the Joint Contracts Tribunal Standard Form Pre-Construction Services Agreement (General Contractor 2016 Edition ('JCT PCSA 2016'), except that:

- (i) the Agreement and the Recitals contained in JCT PCSA 2016 shall be replaced in their entirety by the Agreement and Recitals in this Contract;
- (ii) The Conditions, the Particulars and the Annexes shall have effect as modified by the Schedule to this Contract; and
- (iii) The Conditions, the Particulars and the Annexes shall be construed as varied accordingly and if there is any ambiguity, conflict or discrepancy within or between the Conditions, the Particulars or the numbered Annexes contained in JCT PCSA 2016 and the Schedule of Amendments set out in this Agreement, then the Schedule of Amendments shall prevail.

IN WITNESS WHEREOF the parties have executed this agreement as a deed and delivered it on the date stated above.

EXECUTED as a **DEED** and delivered (but not)
until the date hereof) by **THE GOVERNMENT**
PROPERTY AGENCY acting by:

Director

[Redacted]

Print name

[Redacted]

Director

[Redacted]

Print name

[Redacted]

EXECUTED as a **DEED** and delivered (but not until
the date hereof) by **WATES CONSTRUCTION**
LIMITED acting by:

Director

[Redacted]

Print name

[Redacted]

Director/Company Secretary

[Redacted]

Print name

[Redacted]

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Protection - S40
FOIA - Personal
Information

**SCHEDULE OF AMENDMENTS TO THE
JCT PRE-CONSTRUCTION SERVICES AGREEMENT
2016 EDITION**

**relating to
the fit out of CAT-A and CAT-B Refurbishment and associated works of 35,000ft² office space
located over 5 floors at Feethams House, Darlington**

CONDITIONS

SECTION 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

INSERT the following additional definitions in clause 1.1:

"BIM Information Manager:	the person having responsibility for managing and maintaining the Project's building information model.
Business Day:	means any weekday which is not a bank holiday, or other national public holiday.
Completion Date:	1st February 2022 as may be extended in accordance with clause 5.4.
Contractor's Proposals:	the documents showing and describing the Contractor's proposals for achieving the Employer's Requirements as set out in Annex D.
Framework Agreement:	the framework agreement awarded by the Employer to the Contractor on 17 December 2019.
Key Performance Indicators:	the key performance indicators set out in Annex C.
Lot:	has the same meaning as given to the term under the Framework Agreement.
Project Contracts:	has the same meaning as given to the term under the Framework Agreement.
Retention Percentage:	3%
Schedule of Amendments:	the schedule of amendments headed "Schedule of Amendments to the JCT Pre-Construction Services Agreement (General Contractor) 2016 Edition.
Standards:	any standards, policies, and procedures applicable to the Pre-Construction Services as specified by the Employer in the Employer's Requirements.

KPI Target:	the KPI target set out in Annex C.
Vesting Certificate:	the form of vesting certificate to be provided by the Employer in respect of materials ordered pursuant to clause 5.2.3.
Works:	the works and the services required for the design, construction, completion and commissioning of the Project as more particularly described in the Main Contract."

INSERT the following at the end of the definition of "Contractor's Information":

"including without limitation designs, drawings, C.A.D. materials, reports, plans, programmes and schedules"

1.5 Applicable Law

1.5 DELETE clause 1.5 and INSERT the following wording:

'This Agreement shall be governed and construed in accordance with English law and the English courts shall have exclusive jurisdiction (except for the purposes of enforcement of an English court judgment or order in another jurisdiction) with regard to all matters arising from it.'

1.6 Duration and Effect of this Agreement

INSERT the following as a new clauses 1.6 – 1.11:

"Duration and Effect of this Agreement

1.6 The Parties' obligations under this agreement start on the date of this agreement or, if earlier, the date on which the Contractor commenced performance of the Pre-Construction Services until the earlier of:

1.6.1 the execution and completion of the Main Contract;

1.6.2 the completion of the Services (where the Employer does enter into the Main Contract with the Contractor pursuant to clause 2.7.2); and

1.6.2 the Contractor or the Employer issuing a notice of termination of this agreement under Clause 10.5.

1.7 Before execution and completion of the Main Contract, the rights and obligations of the Parties in relation to the Services shall be governed by the provisions of this Agreement supplemented, where applicable, by the terms of the Main Contract. If there is any conflict or difference between this agreement and the terms of the Main Contract, this agreement prevails.

1.8 On the execution and completion of the Main Contract, the Parties' respective rights and liabilities in respect of all matters with which this agreement is concerned (including any design performed or any work carried out or order placed) shall be subsumed into and be subject to the Main Contract.

1.9 Should there be any ambiguity or conflict in or between the documents comprising this Agreement, the priority of the documents is in accordance with the following sequence:

1.9.1 the terms and conditions of the Framework Agreement;

- 1.9.2 the terms and conditions of this Agreement;
- 1.9.4 the Employer's Requirements;
- 1.9.5 the terms of the Main Contract; and
- 1.9.5 any other Annex forming part of this Agreement and the order of precedence of such documents shall be decided by the Employer.
- 1.10 Nothing in this Agreement shall prevent or restrict the Employer from entering into negotiations or contracting with any other contractor at any time in relation to the Project.
- 1.11 Subject to Clause 1.9 above, the Parties agree that they will comply with the terms of the Framework Agreement.

SECTION 2: CONTRACTOR'S GENERAL OBLIGATIONS

2.1 Performing the Services

- 2.1 INSERT the words "this Agreement" after the words "in accordance with" in line 1 and in line 2 DELETE the words "with due regard to" and INSERT "in compliance with".
- 2.1.1 DELETE clause 2.1.1 and SUBSTITUTE the following:

"exercise the reasonable skill, care and diligence to be expected of a multi-disciplinary design consultant having experience of projects of a similar nature, size, scope, character and complexity to the Project."
- 2.1.4 INSERT the following:

"2.1.4 allocate personnel of sufficient numbers and qualifications to perform the Pre-Construction Services, deploying as a minimum the personnel and resources referred to in paragraph 2.1.2
- 2.1.5 INSERT the following:

"2.1.5 at all times meet the Standards during the term of this Agreement."
- 2.1.6 INSERT the following

"2.1.6 act as the BIM information manager for the Project, as more fully set out in the BIM Protocol."

2.4 Specification of materials

- 2.4 DELETE clause 2.4 and SUBSTITUTE the following:

"2.4 The Contractor shall exercise the degree of skill and care referred to in clause 2.1.1 to see that it has not (to the extent that the Contractor is required to do so when performing the Pre-Construction Services) specified, approved or authorised for use any materials which by their nature or application contravene any British or European standard or code of practice current at the date of specification or which at the time of specification, approval or authorisation are generally known by members of the construction industry to be deleterious to health and safety or to the durability of buildings and/or structures and/or finishes and/or plant and machinery in the particular circumstances in which they are specified, approved or authorised for use."

2.6 Sub-contracting

RENUMBER clause 2.6 to 2.6.1 and insert additional clauses after clause 2.6.1

- “2.6.1 At the end of the first sentence INSERT "and the Contractor shall confirm to the Employer whether or not the Contractor intends to use any sub-contractor proposed for the Pre-Construction Services to also provide work, services or goods for works under the Main Contract.
- 2.6.2 In placing orders, executing work, delegating or sub-contracting the Pre-Construction Services, or carrying out any other function under this Agreement, the Contractor shall comply with the Employer's instructions and the procedures and obligations referred to in the Employer's Requirements and, where applicable, the Main Contract.
- 2.6.3 Without affecting the Contractor's obligations under this Agreement or the Main Contract, the Contractor shall:
- (i) be responsible for the acts and activities of its consultants and sub-contractors, and its liability to the Employer shall not in any way be reduced, qualified, released or diminished by the Employer's approval of any list, design, document, material, programme, sub-contract, supply agreement, order, appointment, consultant, sub-contractor or supplier;
 - (ii) ensure that any consultant and/or sub-contractor appointed during the Pre-Construction Period in relation to any element of the design of the Works shall provide a collateral warranty or shall grant third party rights as provided for, and in favour of the parties identified in, the Main Contract;
 - (iii) ensure that any consultant appointment and/or sub-contract entered into in relation to the Pre-Construction Services contains a clause that permits its termination if the Employer does not enter into the Main Contract with the Contractor;
 - (iv) itself, and shall procure that any consultant and/or sub-contractor appointed by it in relation to the Pre-Construction Services shall, on any termination of this Agreement by the Employer, consent to and (if requested by the Employer or the Contractor) effect the novation of their respective appointment and/or sub-contract (as applicable) and any other similar document to the Employer or any person that the Employer nominates; and
 - (v) give the Employer a copy of any sub-contract, and any other similar document within three business days of the Employer's request to do so.
- 2.6.4 The Contractor shall where required participate in joint initiatives with other contractors and third parties to establish a common and harmonised supply chain. The common and harmonised supply chain may be designed to secure:
- (i) a clear methodology for surveys, design (as applicable), manufacture, supplies, installation, delivery and other activities including achieving sustainability;
 - (ii) best value, improved prices, warranties and other added value;
 - (iii) integrated briefs and a consistent approach to ordering;
 - (iv) structures of joint performance reviews agreed Key Performance Indicators and KPI Targets;
 - (v) long-term commitments in the achievement of agreed KPI Targets;
 - (vi) the operation of full processes and procedures for continuous improvement for the Pre-Construction Services;
 - (vii) terms and conditions reasonably acceptable to the Contractor and

- (viii) other third parties including without limitation any suppliers;
- (viii) reduced number of material components used and move towards standardisation to reduce subsequent maintenance;
- (ix) the application of any discount that the Contractor may receive in relation to any project or works carried out in its Lot, to all works carried out by the Contractor in another Lot; and
- (x) the delivery of efficiency savings.

In order to further the objectives in this clause 2.6.4, the Contractor shall provide and share such reasonably necessary information regarding its own supply chain (subject always to its duty of confidentiality)."

2.7 Second Stage Tender

- 2.7.1 DELETE the words 'Second Stage Tender Requirements' in the second line and INSERT 'the Main Contract Requirements'.

At the end of clause 2.7.1 INSERT the following:

"and on the basis that the Main Contract will be the JCT D&B 2016 Edition standard form with bespoke amendments ".

- 2.7.2 DELTE clause 2.7.2 and INSERT the following:

"The Employer is under no obligation to enter into the Main Contract and the Contractor shall have no claim against the Employer for loss of profit, loss of contract, loss of business, loss of chance or any indirect or consequential loss in the event that the Employer does not enter into the Main Contract.

- 2.7.3 The Contractor acknowledges that the Contractor's Proposals include fixed lump sum prices for the works set out in Annex E (the '**Initial Works Packages**'). The Contractor shall include the fixed lump sum prices for the Initial Works Packages within his Second Stage Tender submission. The Employer may reject the Contractor's Second Stage tender as a result of the Contractor's failure to comply with the requirements of this clause "

2.8 Liability for design work

- 2.8 DELETE "unless otherwise specifically provided in Annex B have no liability of any kind " and SUBSTITUTE "be liable".

In line 4 DELETE "other than" and SUBSTITUTE "including for".

In line 4 DELETE ", unless and until" and SUBSTITUTE ". Once".

In line 5 DELETE "upon entry into which"

2.9 Reliance

- 2.9 Insert a new clause 2.9 as follows:

"2.9 The Contractor acknowledges that the Employer will rely on the Contractor's professional expertise when performing the Pre-construction Services and the Employer may rely on any certificate or written approval or statement the Contractor give in respect of the Project. The Contractor acknowledges that the Employer is deemed not to have any intrinsic expert knowledge or skill relating to the Pre-construction Services."

SECTION 5: ADDITIONAL SERVICES, FEE ADJUSTMENT ETC.

5.1A Programme

INSERT the following new clause 5.1A:

“5.1A.1 The Contractor shall complete the Pre-Construction Services in accordance with the Programme and by the Completion Date.”

5.2 Changes, delaying events etc

DELETE this clause and INSERT:

- 5.2.1 “The Fee and/or other amounts payable under this Agreement shall be adjusted for additional work and for any additional costs that the Contractor incurs as a result of instructions for any Additional Services. As a condition precedent to the Contractor’s entitlement to any additional payment in connection with the Additional Services, the Contractor shall notify the Employer if it will require additional payment for those services or claim any additional time within ten business days of receipt of the Employer’s instruction issued pursuant to clause 5.1. That notice shall state the total sum the Contractor requires to perform those Additional Services and, where applicable, an estimate of any additional time required. On receiving such a notice from the Contractor, the Employer may cancel its instruction, at no cost to the Employer, the Contractor shall not be paid for those Additional Services nor the preparation of providing the notice, and the Contractor shall not perform those Additional Services.
- 5.2.2 The Contractor may (with the prior consent of the Employer) and shall (if so instructed by the Employer or the Employer’s Agent) place a specific order for materials or perform a specific item of work comprising part of the Works (including any design of the Works) prior to the parties entering into the Main Contract provided that, unless the Employer expressly so directs, the Contractor shall not place an order or commence any item of work until the sum in respect of that order or item has been agreed in writing between the Employer and the Contractor.
- 5.2.3 In the event the Employer or the Employer’s Agent requests the Contractor to place a specific order for materials in accordance with clause 5.2.2, and the Employer and the Contractor have agreed in writing the amount payable by the Employer to the Contractor for such materials (the ‘**Agreed Cost of Materials**’), the Contractor shall only be entitled to include the Agreed Cost of Materials in his application for payment in the month following the date on which the parties have entered into a Vesting Certificate in respect of such materials.”

5.3 Notification by the Contractor

DELETE this clause and INSERT “Not used”

5.4 Adjustment of Fee or additional payment and time

“5.4 DELETE the reference to clause “5.3” and INSERT a reference to clause “5.2.1”.

DELETE the words “or the Contractor is able to demonstrate loss and/or expense arising from an event or cause within clause 5.2.2” and INSERT “and the Contractor has complied with the requirements of clause 5.2.1”

DELETE the words “agreed between the parties, or in default of such agreement,” in line 4.

DELETE the words “Where relevant a fair adjustment of time shall be made.” and INSERT “The Employer may adjust the Completion Date at its discretion, acting reasonably.”

SECTION 6: PAYMENT

6.3 Due date and final date for payment

- 6.3.1 DELETE clause 6.3.1 and INSERT “The due date for payment of any amount payable under section 6 shall be the later of either seven (7) days after the application date specified in Annex A and the date of receipt of the Contractor’s payment application by the Employer.”
- 6.3.2 DELETE “14” and SUBSTITUTE “28.”

6.7 Retention

INSERT the following new clause 6.7:

- “6.7.1 During the period prior to completion of the Pre-Construction Services, the Employer shall deduct the Retention Percentage from any amounts payable pursuant to clause 6.1.
- 6.7.2 Half the Retention Percentage shall be deducted from the total amount where the Pre-Construction Services have reached completion.
- 6.7.3 The remaining half of the Retention Percentage shall be released to the Contractor either when the parties enter into the Main Contract or the Employer notifies the Contractor that is shall not be entering into the Main Contract with the Contractor as applicable.”

SECTION 7: INSURANCE

7.1 Professional Indemnity and Public Liability insurance

- 7.1 INSERT the following at the end of the clause:
- “(but this proviso shall not benefit the Contractor to the extent that such insurance is not available on such rates and terms due to the acts and/or defaults and/or claims record of the Contractor).”

SECTION 8: USE OF CONTRACTOR'S INFORMATION, CONFIDENTIALITY ETC.

8.1 Use of Contractor's Information

Delete clauses 8.1.1 – 8.1.4 and replace with the following:

- 8.1.1 Copyright in any Contractor’s Information shall remain vested in the Contractor, but the Contractor hereby grants to the Employer and the Employer’s successors in title and permitted assigns an irrevocable, royalty-free, non-exclusive licence to copy, use and reproduce the Contractor’s Information for any and all purposes relating to the Project, except that the Employer shall not be entitled to reproduce any designs contained in the Contractor’s Information for the purposes of an extension to the Project. This licence shall include the right to grant sub-licences in the terms of this licence and shall be transferable to third parties without the Contractor’s consent. To the extent that the Contractor does not have ownership of the copyright in the Contractor’s Information the Contractor shall procure from the copyright owner a licence with full title guarantee to the Employer in respect of the Contractor’s Information in the same terms as set out in this clause.
- 8.1.2 The Contractor shall not be liable for any use by the Employer or the Employer’s appointees of any of the Contractor’s Information for any purpose other than that for

which the Contractor's Information was prepared and provided by the Contractor or as may be reasonably foreseeable.

- 8.1.3 The Contractor agrees that the Contractor have not and will not produce, specify or employ any Contractor's Information in breach of any copyright, patent or other right of any third party and the Contractor agrees to indemnify the Employer from and against any and all claims, demands, costs, losses and expenses which the Employer suffers or incurs in connection with such breach.
- 8.1.4 The Contractor will at any time provide to the Employer on the Employer's request with copies (in hard copy, CAD format, electronic format and such other format as the Employer may reasonably require) of the Contractor's Information and any other information, correspondence and documentation the Contractor has prepared in connection with the Project and the Contractor agrees not to exercise any lien for any reason which the Contractor might otherwise be entitled to exercise over the Contractor's Information.
- 8.1.5 The Contractor hereby waives and agrees not to assert any moral rights in the Contractor's Information granted pursuant to the Copyright Designs and Patents Act 1988.

8.2 Confidentiality and publicity

DELETE clause 8.2 and INSERT the following:

- 8.2.1 The Contractor shall treat as confidential any information which the Contractor either has obtained or later obtain from the Employer or the Employer's other consultants, contractors, servants or agents in connection with the Project. The Contractor shall not disclose any such information to anyone other than as required and necessary to carry out the Contractor's obligations under this Agreement or in order to seek professional advice in relation to the Contractor's rights or obligations under this Agreement or as otherwise required by law, without the Employer's prior written consent (such consent not to be unreasonably withheld or delayed).
- 8.2.2 The Contractor will take all practicable steps to see that the Contractor's employees, agents and sub-consultants are bound by similar confidentiality obligations as stated in clause 8.2.1.
- 8.2.3 The Contractor shall not without the prior written approval of the Employer:-
 - 8.2.3.1 take or permit to be taken any photographs of the Project for use in publicity or advertising; or
 - 8.2.3.2 publish or permit to be published by any other persons articles photographs or illustrations relating to the Project; or
 - 8.2.3.3 provide to any publication journal or newspaper or any radio or television programme any information regarding the Project.

SECTION 9: ASSIGNMENT AND NOVATION

9.1 Assignment

DELETE clause 9.1 and SUBSTITUTE the following:

- "9.1 The benefit to the Employer of this Agreement may be assigned by absolute legal

assignment without the Contractor's consent. The Contractor shall not be entitled to contend that any person to whom this Agreement is assigned in accordance with this clause is precluded from recovering under this Agreement any loss incurred by such assignee resulting from any breach of this Agreement (whenever happening), by reason that such person is an assignee and not a named party under this Agreement or by reason that the Employer or any intermediate assignee or party escaped any loss by reason of the disposal of any interest in the Development or that the Employer or any intermediate assignee or party has not suffered any or as much loss as such assignee. The Contractor shall not, without the prior written consent of the Employer, assign this agreement or any rights thereunder."

INSERT the following additional clauses:

"11 Bribery Act Compliance

- 11.1 In this clause:
 - 11.1.1 the expressions 'adequate procedures', 'foreign public official', 'associated person(s)' and 'performing services' shall bear the meanings assigned to them in the Bribery Act 2010 ('the Bribery Act') and, as the case may be, any Guidance for the time being issued under section 9 of the Bribery Act ('the Guidance'); and
 - 11.1.2 an associated person of the Contractor includes any contractual counterparty or subcontractor of the Contractor.
- 11.2 The Contractor shall and shall procure that any associated person or other person performing services in connection with this Contract shall:
 - 11.2.1 comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption practices including the Bribery Act and the Guidance (together 'the Requirements'); and
 - 11.2.2 comply with the Employer's Anti-bribery Policy as the Employer may update the same from time to time a copy of which is available for inspection at the Employer's registered office at all times upon request.
- 11.3 The Contractor shall not engage in, and shall procure that any associated person or other person performing services in connection with this Contract shall not engage in, any activity practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act if such activity practice or conduct had been carried out in the United Kingdom.
- 11.4 The Contractor shall:
 - 11.4.1 have and maintain in place throughout the term of this Contract their own policy and procedures including adequate procedures to ensure compliance with the Requirements, the Policy, and clause 11.3 above and shall enforce them whenever appropriate;
 - 11.4.2 promptly report to the Employer any request or demand for any financial or other advantage of any kind offered promised or given to it in connection with the performance of this Contract;
 - 11.4.3 at the Employer's request certify to the Employer in writing signed by it or its duly authorised officer compliance with this clause by it and by all

associated persons of it performing services in connection with this Contract;

11.4.4 forthwith notify the Employer in writing in the event that a foreign public official becomes an officer or employee of it or acquires a direct or indirect interest in the Contractor and the Contractor warrants that no officer, employee or direct or indirect owner of it is a foreign public official as at the date of this Contract; and

11.4.5 be directly liable to the Employer in the event of any breach of this clause 11 by an associated person of it for any costs, losses, damages or expenses consequent upon such breach howsoever arising.

11A Key Performance Indicators

11A.1 The Contractor shall at all times during the Pre-Construction Period comply with the Key Performance Indicators and achieve the KPI Target set out in Annex C of this Agreement.

11A.2 The Contractor shall establish processes to monitor its performance against the agreed Key Performance Indicators. The Contractor shall at all times ensure compliance with the standards set by the Key Performance Indicators.

11A.3 The Employer shall review progress against these KPIs to evaluate the effectiveness and efficiency of which the Contractor performs its obligations to fulfil this agreement.

11A.4 The Employer may, at its absolute discretion:

11A.4.1 use and publish the performance of the Contractor against the Key Performance Indicators and KPI Target without restriction; and

11A.4.2 initiate performance escalation in respect of any failure by the Contractor to comply with the Key Performance Indicators or KPI Target in accordance with this agreement.

12 Modern Slavery

12.1 In order to assist the Employer to meet its obligations under the Modern Slavery Act 2015, the Contractor agrees to raise any concerns about the issue or suspicion of modern slavery in any parts of its business or supply chain with the Employer at the earliest possible opportunity.

12.2 The Contractor warrants that it shall and shall procure that its sub-contractors and supply chain complies with the ETI Base Code and any anti-slavery measures notified to the Contractor by the Employer.

12.3 The Employer, acting by itself or through its audit agents, shall have the right during the period of the Agreement and for a period of 18 (eighteen) months thereafter to assess compliance by the Contractor, its sub-contractor and the Contractor's supply chain with this Clause 12.

13 Counterparts

13.1 This Agreement may be executed in any number of counterparts each of which when executed and delivered shall constitute an original of this Agreement but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until each party has executed at least one counterpart.

14 Dispute Resolution

- 14.1 The Contractor will co-operate and assist the Employer in dealing with any dispute that the Employer may have with any third party in relation to the Pre-construction Services or the Project.
- 14.2 Without prejudice to the Employer's or the Contractor's right to commence or continue with court proceedings, any disputes or differences arising as between the Contractor and the Employer under or in connection with this Agreement may (subject to the appointment of an Adjudicator under clause 14.3) be referred by either party to adjudication in accordance with the TeCSA Adjudication Rules current at the date of referral save that the adjudicator may decide only on the basis of the parties' legal rights and that the adjudicator may not decide on his own substantive jurisdiction.
- 14.3 The referring party shall choose the Adjudicator from a recognised nominating body.

15 Limitation Period

- 15.1 Notwithstanding the manner in which this Agreement has been entered into, the statutory period of limitation in respect of the Contractor's liability in connection with this Agreement pursuant to the Limitation Act 1980 (as may be amended) shall not apply and the contractual limitation period in respect of the Contractor's obligations under this Agreement shall extend to the expiration of twelve (12) years after the date of completion of the Pre-construction Services.

AMENDMENTS TO THE CONTRACT PARTICULARS SET OUT IN JCT PCSA 2016

<i>Clause etc.</i>	<i>Term</i>	<i>Document/Listing</i>
First Recital	Project (detailed description)	Development of RIBA Stage 4 design onwards and procurement for the proposed refurbishment of Feethams House in line with the budget and guidelines set out in GPA standards, to include backlog maintenance, replacement of HVAC and works associated with the refurbishment of Feethams House.
First Recital	Main Contract	JCT Design and Build 2016 with bespoke amendments.
Sixth Recital	Main Contract Requirements	Annex B: Pre-Construction Services & Employers Requirements
1.1	BIM Protocol	applies as set out in the following documents included in the Employer's Requirements Annex B: Pre-Construction Services & Employers Requirements: Attachment 3.4 – BIM Pack
2.1	Cost Plan	Annex D: Contractors Proposals Attachment 4 – 2 Stage Pricing Document
2.1	Employer's Requirements	Annex B: Pre-Construction Services & Employers Requirements
2.1	Programme	Annex D: Contractors Proposals Final Tender Programme - Stage 1.
2.1	Project Team	GPA [REDACTED] AECOM [REDACTED] Wates [REDACTED]
2.1	Third Party Agreements	As applicable to: Architect – Box Architects

<i>Clause etc.</i>	<i>Term</i>	<i>Document/Listing</i>
		Structural Engineer – Sutcliffe MEP Sub-Contractor – DL M&E Building Services Ltd Any other Consultant Engineer or Sub-Contractor appointed to provided Design Services.
2.1.2	Contractor's Key Personnel	[REDACTED] [REDACTED]
2.1.2	Contractor's Representative	[REDACTED]
7.1.1	Professional Indemnity Insurance – level of cover	[REDACTED] [REDACTED] [REDACTED]
7.1.1	Professional Indemnity Insurance - cover for pollution and contamination claims	[REDACTED] [REDACTED] [REDACTED]
7.1.2	Public Liability Insurance	[REDACTED] [REDACTED]
9.2.1	Consultant Team members to whom clause 9 applies	does not apply
9.2.2	Sub-Contractors/Suppliers to whom clause 9.2 applies	does not apply
9.2.2 (hanging paragraph)		does not apply
10.2	Period (if other than 6 months)	6 months
10.7	Adjudication	The adjudicator shall be appointed by the Royal Institution of Chartered Surveyors.

Annex A – DELETE and INSERT new “Annex A: Fees”

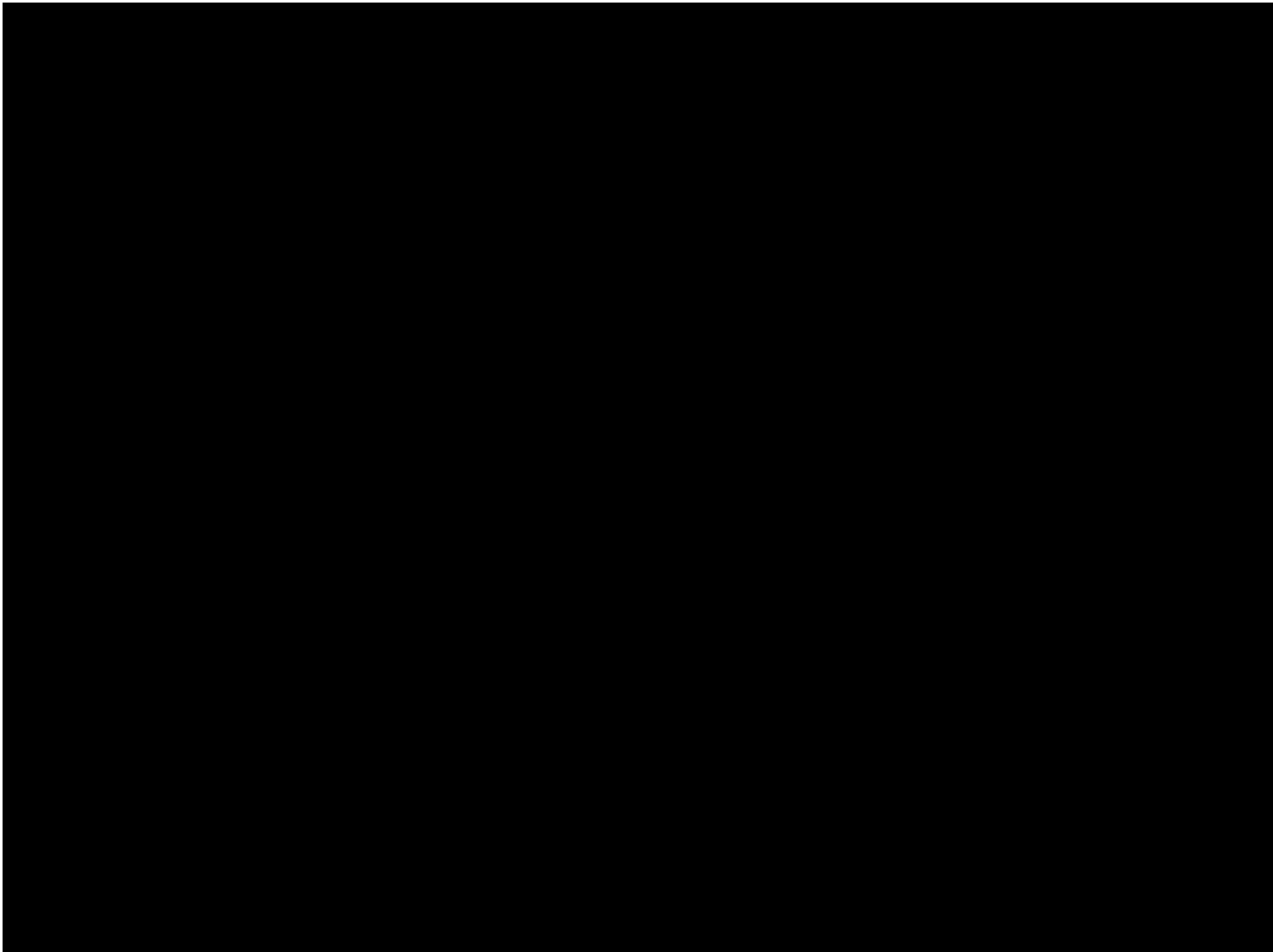
Annex B – DELETE and INSERT new “Annex B: Pre-Construction Services & Employers Requirements”

INSERT new “Annex C: Key Performance Indicators”

1. GENERAL

- 1.1 This Annex C sets out the KPIs by which the Contractor’s overall performance under this Agreement shall be monitored and managed.
- 1.2 The Employer may, at its discretion, adjust, introduce new, or remove KPIs throughout the Pre-Construction Period, however any significant changes to KPIs shall be agreed between the Employer and the Contractor.
- 1.3 The Contractor shall comply with all its obligations related to KPIs set out in this Agreement and shall use all reasonable endeavours to meet the adhere to the KPIs.
- 1.4 The KPIs from which performance by the Contractor of this Agreement will be reported against are set out at Figure 1 below.
- 1.5 The Contractor shall establish processes to monitor its performance against the agreed KPIs. The Contractor shall at all times ensure compliance with the standards set by the KPIs.
- 1.6 The Employer shall review progress against these KPIs to evaluate the effectiveness and efficiency of which the Contractor performs its obligations to fulfil this agreement.
- 1.7 The Employer may, at its absolute discretion:
 - 1.7.1 use and publish the performance of the Contractor against the KPIs without restriction; and
 - 1.7.2 initiate performance escalation in respect of any failure by the Contractor to comply with the KPIs in accordance with this Agreement.

Figure 1



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INSERT new “Annex D: Contractor’s Proposals”

Annex E – INSERT new “Annex E: Initial Works Packages”



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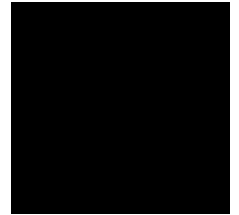
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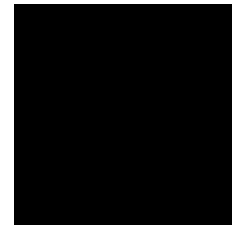
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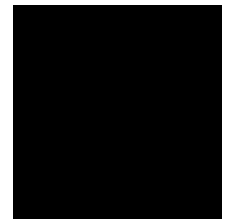
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