



Professional Service Short Contract

This contract should be used for the appointment of a supplier to provide a professional service which does not require sophisticated management techniques, comprises straightforward work and imposes only low risks on both client and consultant

An NEC document

June 2017

(with amendments January 2023)

The Government Construction Board, Cabinet Office UK

The Government Construction Board (formerly Construction Clients' Board) recommends that public sector organisations use the NEC contracts and in particular the NEC4 contracts where appropriate, when procuring construction. Standardising use of this comprehensive suite of contracts should help to deliver efficiencies across the public sector and promote behaviours in line with the principles of the Government Construction Strategy.

The Development Bureau, HKSAR Government

The Development Bureau recommends the progressive transition from NEC3 to NEC4 in public works projects in Hong Kong. With suitable amendments to adapt to the Hong Kong local environment, NEC4 is expected to further enhance collaborative partnering, unlock innovations and achieve better cost management and value for money in public works projects.

NEC is a division of Thomas Telford Ltd, which is a wholly owned subsidiary of the Institution of Civil Engineers (ICE), the owner and developer of the NEC.

The NEC is a suite of standard contracts, each of which has these characteristics:

- Its use stimulates good management of the relationship between the two parties to the contract and, hence, of the work included in the contract.
- It can be used in a wide variety of commercial situations, for a wide variety of types of work and in any location.
- It is a clear and simple document – using language and a structure which are straightforward and easily understood.

NEC4 Engineering and Construction Subcontract is one of the NEC suite and is consistent with all other NEC4 documents. Also available are User Guides and Flow Charts.

ISBN (complete box set) 978-0-7277-6391-4

ISBN (this document) 978-0-7277-6214-6

ISBN (Establishing a Procurement and Contract Strategy) 978-0-7277-6223-8

ISBN (Preparing a Professional Service Short Contract) 978-0-7277-6227-6

ISBN (Selecting a Supplier) 978-0-7277-6234-4

ISBN (Managing a Professional Service Short Contract) 978-0-7277-6238-2

ISBN (Professional Service Short Contract Flow Charts) 978-0-7277-6270-2 (e-only)

First edition 2013

Second edition June 2017

Reprinted with amendments January 2019

Reprinted with amendments October 2020

Reprinted with amendments January 2023

British Library Cataloguing in Publication Data for this publication is available from the British Library.

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Typeset by Manila Typesetting Company

Printed and bound in Great Britain by Henry Ling, Dorset

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Foreword

Continuous improvement in project delivery is required to build confidence in the UK construction sector so that we can attract more investment. The Infrastructure and Projects Authority (IPA) is the government's centre of expertise for infrastructure and major projects. We sit at the heart of government, reporting to the Cabinet Office and HM Treasury.

The application of the right contract is central to the success of the overall project delivery system. The NEC suite of contracts has been in existence for over the 20 years and has linked the projects, people and processes together to create the correct environment for successful delivery.

This new and updated NEC4 contract embraces the digital changes that are happening in the construction industry, especially around BIM, which I believe will be central to creating a step change in performance. Whilst looking forward it also builds on the fundamentals required for an effective contract.

The use of NEC4 on public sector projects will help to deliver the Government Construction Strategy as we seek to improve central government's capability as a construction client to deliver further savings in the order of £1.7bn across the Government estate. The IPA looks forward to collaborating with industry to make the delivery of projects more efficient and effective.

Tony Meggs, Chief Executive, Infrastructure and Projects Authority



**Infrastructure
and Projects
Authority**

Reporting to Cabinet Office
and HM Treasury

Preface

NEC was first published as a new and innovative way of managing construction contracts in 1993 – some 24 years ago. It was designed to facilitate and encourage good management of risks and uncertainties, using clear and simple language.

The NEC approach to managing contracts was endorsed in “Constructing the team – The Latham Report”, which was a government/industry review of procurement and contractual arrangements in the UK construction industry. This led to a second edition in 1995 incorporating the further recommendations of that review. This contract was used increasingly in the UK and overseas, and a major revision was made with the third edition in 2005.

NEC has played a part in helping the industry do things differently and better. It has done so by introducing effective project management procedures into the contract itself. These require pro-active management of risk and change, and the day-to-day use of an up-to-date programme. The range of pricing options has given Clients flexibility in the allocation of risk and the ability to share risk and manage it, collaboratively.

The NEC suite has evolved over three decades, embedding consultation responses and user feedback, and reflecting industry development, including new procurement approaches and management techniques such as alliances, management of information (BIM) and supply chain engagement. This feedback and the new procurement approaches formed the driver for the development of the next generation contracts and the launch of NEC4.

There were three key objectives in drafting NEC4:

- provide greater stimulus to good management
- support new approaches to procurement which improve contract management and
- inspire increased use of NEC in new markets and sectors.

It was to be evolution, not revolution.

Some features of NEC4 include:

- a new design build and operate contract to allow flexibility between construction and operational requirements in timing and extent
- a new multi-party alliance contract based upon an integrated risk and reward model
- new forms of subcontract to improve integration of the supply chain.

Further enhancements include:

- finalising cost elements during the contract
- incorporating a party-led dispute avoidance process into the adjudication process
- increasing standardisation between contracts and
- providing enhanced guidance to give greater practical advice to users.

NEC has always been known for its innovative approach to contract management, and this revision continues that approach. No other contract suite has had such a transformative effect on the built environment industry as NEC. It has put the collaborative sharing of risk and reward at the heart of modern procurement. It is also unique in providing a complete, back-to-back procurement solution for all works, services and supplies in any sector and any country.

NEC4 continues to set the benchmark for best practice procurement worldwide.

Peter Higgins BSc (Hons), CEng, FICE
Chair of NEC4 Contract Board

Acknowledgements

The original NEC was designed and drafted by Dr Martin Barnes then of Coopers and Lybrand with the assistance of Professor J. G. Perry then of the University of Birmingham, T. W. Weddell then of Travers Morgan Management, T. H. Nicholson, Consultant to the Institution of Civil Engineers, A. Norman then of the University of Manchester Institute of Science and Technology and P. A. Baird, then Corporate Contracts Consultant, Eskom, South Africa.

This fourth edition of the NEC suite was produced by the Institution of Civil Engineers through its NEC4 Contract Board.

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The Institution of Civil Engineers acknowledges the help in preparing the fourth edition given by the NEC4 Contract Board and NEC4 drafting team and the support of the following organisations in releasing their staff:

Anthony Collins Solicitors LLP
Berwin Leighton Paisner LLP
CEMAR
Costain plc
Mott MacDonald Ltd

Amendments

JANUARY 2019

The following amendments have been made to the June 2017 edition.

Page	Clause/location	Amendments
2	The <i>Client's</i> Contract Data	Entry for whether work is to be carried out on a time charge basis deleted
2	The <i>Client's</i> Contract Data	Entry for the <i>defects date</i> amended
3	The <i>Client's</i> Contract Data	Entry for the minimum amount of cover for the second and third insurance in the insurance table amended
4	Contract Data Part one: General	Preamble amended
5	The <i>Consultant's</i> Contract Data	Additional guidance note added after the entry for <i>people rates</i>
5	The <i>Consultant's</i> Contract Data	Entry added for <i>key persons</i>
7	Price List	Price List amended
CC2	15.1	Clause amended
CC7	50.3	Clause amended
CC15	93.4	Clause amended

Full details of these amendments can be found at www.neccontract.com.

OCTOBER 2020

The following amendments have been made to the June 2017 edition.

Page	Clause/location	Amendments
4	The <i>Client's</i> Contract Data	Preamble amended
CC7	50.6	Clause amended

Full details of these amendments can be found at www.neccontract.com.

JANUARY 2023

The following amendments have been made to the October 2020 edition.

Page	Clause/location	Amendments
4	The <i>Client's</i> Contract Data	Preamble amended
CC8	60.1(9)	Clause added
CC14	93.3	Clause amended

Full details of these amendments can be found at www.neccontract.com.

Short Contract

A contract between

Natural England

and

AtkinsRéalis PPS Limited

for

Provision of services as described in the Scope.

Contract Forms

Contract Data

The *Consultant's Offer* and the *Client's Acceptance*

Price List

Scope

Contract Data

The *Client's* Contract Data

The *Client* is

Name Natural England

Address for communications Natural England
of Foss House, Kings Pool, 1-2 Peasholme Green, YORK, YO1 7PX

Address for electronic communications [REDACTED]

The *service* is Provision of services as described in the Scope.

The *starting date* is 10th March 2025

The *completion date* is 10th March 2026

The *delay damages* are 0 per day

The *law of the contract* is England and Wales shall have exclusive jurisdiction with regard to any dispute in connection with this Agreement and the Parties irrevocably agree to submit to the jurisdiction of those courts

The *period for reply* is 2 weeks

The *defects date* is 52 weeks weeks after Completion

The *assessment day* is the 1st day of the month of each month

The United Kingdom Housing Grants, Construction and Regeneration Act (1996) **does** apply (delete as applicable)

The *Adjudicator* is

Name The Royal Institute of Chartered Surveyors

Address for communications One Great George Street. Westminster. London SW1P 3AA

Address for electronic communications [REDACTED]

Contract Data

The *Client's* Contract Data

The interest rate on late payment is % per complete week of delay.

The *Client* provides this insurance

Not applicable

Not applicable

The *Consultant* provides the following insurance cover

INSURANCE AGAINST	MINIMUM AMOUNT OF COVER	PERIOD FOLLOWING COMPLETION OR EARLIER TERMINATION
Liability of the <i>Consultant</i> for claims made against it arising out of the <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i> .	£2,000,000 (five million pounds) in respect of each claim, without limit to the number of claims	6 years
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> Providing the Service.	£1,000,000 (one million pounds) in respect of each event, without limit to the number of events	12 months
Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	£2,000,000 (five million pounds) in respect of each event, without limit to the number of events	For the period required by law

The *Consultant's* total liability to the *Client* which arises under or in connection with the contract is limited to

other than the excluded matters, is limited to £2,000,000 for each and every claim

The *Adjudicator nominating body* is

The Royal Institute of Chartered Surveyors

The *tribunal* is

arbitration

If the *tribunal* is arbitration,
the arbitration procedure is

the London Court of International Arbitration Rules;

The place where arbitration is to be held is London

The person or organisation who will choose the arbitrator if the parties cannot agree a choice or if the arbitration procedure does not state who selects and arbitrator is: The Royal Institute of Chartered Surveyors.

Contract Data

The *Client's* Contract Data

The *conditions of contract* are the NEC4 Professional Service Short Contract June 2017 (with amendments January 2023) and the following additional conditions

See below re contract and extension options.

This contract will initially be let for 12 months with a maximum period of 42 months. This is made up of a 12month + 12 month (To be agreed no later than one month prior to the end of year one and to be finalised via a CE) + 12 month (To be agreed no later than one month prior to the end of year two and to be finalised via a CE)+ 6 month (To tie up any pieces of work on the various projects and to be finalised via a CE). The client retains the ability to flex the 1.2ft equivalent up or down and as the workload requires.

Contract Data

The *Consultant's* Contract Data

The *Consultant* is

Name

AtkinsRéalis

Address for communications

3100, Century Way, Thorpe Park
Leeds, West Yorkshire, LS15 8ZB

Address for electronic communications

The *fee percentage* is

N/A

%

The *people rates* are

category of person	unit	rate
Principal / Associate Director	hour	
Senior Professional	hour	
Technician / Graduate	hour	

If the work is to be carried out on a time charge basis the *Consultant* includes *people rates* for its own people and people provided by a subcontractor

The *key persons* are

Name (1)

Job

Regional Director – Programme Manager

Responsibilities

Qualifications

Experience

Name (2)

Job

Responsibilities

Qualifications

Experience

The Consultant's Offer and Client's Acceptance

The *Consultant* offers to Provide the Service in accordance with these *conditions of contract* for an amount to be determined in accordance with these *conditions of contract*.

The offered total of the Prices is

Not applicable

Signed on behalf of the *Consultant*

Name

Position

Signature

Date

05/03/2025

The *Client* accepts the *Consultant's* Offer to Provide the Service

Signed on behalf of the *Client*

Name

Position

Signature

Date

06/03/2025

Price List

The contract does not provide for the *Consultant* to be paid on a mixture of time charge and Prices and one or the other must be selected. This contract will be paid on a time charge basis.

Costs incurred by the *Consultant* other than the listed expenses are included in the Rates and Prices and the People Rates.

See Commercial Price list in Appendix 5 of the ITT bidder pack for some rules regarding Car Private Mileage, Fines and penalty charges – Private mileage, Hotels and Subsistence and Receipts.

/

ITEM NUMBER	DESCRIPTION	UNIT	EXPECTED QUANTITY	RATE	PRICE
Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

The total of the Prices

EXPENSES

Mileage	Car Private Mileage – to be agreed with the <i>Client</i> prior to travelling	Per mile	TBC	0.45	TBC
Hotel and subsistence	Hotel and subsistence to be agreed with the <i>Client</i> prior to booking. At this point the agreed rates will be provided.	Each	TBC	N/A	TBC

The method and rules used to compile the Price List are

Review of Rates

Rates to be reviewed in-line with the agreement with CCS and as per the CPI link below - The framework level approach is that suppliers can increase their rates annually (each October) in line with the preceding CPI as of January that year.

<https://www.ons.gov.uk/economy/inflationandpriceindices/timeseries/d7g7/mm23>

Scope

The Scope should be a complete and precise statement of the *Client's* requirements. If it is incomplete or imprecise, there is a risk that the *Consultant* will interpret it differently from the *Client's* intention. Information provided by the *Consultant* should be listed in the Scope only if the *Client* is satisfied that it is required, is part of a complete statement of the *Client's* requirements and is consistent with other parts of the Scope.

1 Purpose of the service

Provide a summary of why the *service* is being commissioned and what it will be used for.

Appendix 2, as issued in the Tender.

2 Description of the service

Give a complete and precise description of what the *Consultant* is required to do.

Appendix 2, as issued in the Tender.

Scope

3 Existing information

List existing information which is relevant to the *service*. This can include documents which the *Consultant* is to further develop.

Appendix 2, as issued in the Tender. Also see additional information provided within the Tender period as a clarification, titled “Priority Sites Postcodes”

4 Specifications and standards

List the specifications and standards that apply to the contract.

Appendix 2, as issued in the Tender.

Scope

5 Constraints on how the *Consultant* Provides the Service

State any constraints on sequence and timing of work and on method and conduct of work including the requirements for any work by the *Client*.

The *Client*'s NNR bases, offices and staff are available to the Consultant Monday to Friday, 9.00am to 5.00pm. They are only available outside these hours with mutual agreement.

Visits to project NNR sites to be pre agreed with the *Clients* area key contact and/or Built Estate Programme Manager.

The Consultant will follow the *Clients* internal governance procedures. Which will be provided by the *Client* as and when required.

Scope

6 Requirements for the programme

State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

No outline programme required.

Work will be allocated by Natural England's Principal Officer and as detailed in the SCOPE will follow the usual peaks and troughs in demand.

Scope

7 Information and other things provided by the *Client*

The *Client* will provide Project Managers with IT hardware (e.g. mobile phone, NE laptop) to perform the assigned role. The Project Manager will also have access to the *Client's* IT systems, provided with a Natural England email account and access to project documentation as required.

ITEM	DATE BY WHICH IT WILL BE PROVIDED
List of projects and key stakeholder contact details	<i>Within the first 1-4 weeks of starting the role</i>
Current list of Natural England, DgC and Defra contacts	<i>Within the first 1-4 weeks of starting the role</i>

Conditions of Contract

1. GENERAL

Actions	10	
	10.1	The Parties shall act as stated in this contract.
	10.2	The Parties act in a spirit of mutual trust and co-operation.
Identified and defined terms	11	
	11.1	In these <i>conditions of contract</i> , terms identified in the Contract Data are in italics and defined terms have capital initials.
	11.2	<p>(1) Completion is when the <i>Consultant</i> has completed the <i>service</i> in accordance with the Scope except for correcting notified Defects which do not prevent the <i>Client</i> from using the <i>service</i> or others from doing their work.</p> <p>(2) The Completion Date is the <i>completion date</i> unless later changed in accordance with the contract.</p> <p>(3) A Corrupt Act is</p> <ul style="list-style-type: none"> the offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust or abusing any entrusted power for private gain <p>in connection with this contract or any other contract with the <i>Client</i>. This includes any commission paid as an inducement which was not declared to the <i>Client</i> before the date of the <i>Client's</i> Acceptance.</p> <p>(4) A Defect is a part of the <i>service</i> which is not in accordance with the Scope or the applicable law.</p> <p>(5) Defined Cost is the cost of the following components incurred by the <i>Consultant</i> in Providing the Service.</p> <ul style="list-style-type: none"> People employed directly or indirectly by the <i>Consultant</i>, calculated by multiplying each of the People Rates by the total time appropriate to that rate. Work subcontracted by the <i>Consultant</i>, the amount paid by the <i>Consultant</i> to the subcontractor. <p>(6) The Fee is the amount calculated by applying the <i>fee percentage</i> to the amount of Defined Cost.</p> <p>(7) The Parties are the <i>Client</i> and the <i>Consultant</i>.</p> <p>(8) The People Rates are the <i>people rates</i> unless later changed in accordance with the contract.</p> <p>(9) The Prices are the amounts stated in the Price column of the Price List. Where a quantity is stated for an item in the Price List, the Price is calculated by multiplying the quantity by the rate.</p> <p>(10) To Provide the Service means to do the work necessary to complete the <i>service</i> in accordance with the contract and all incidental work, services and actions which the contract requires.</p>

- (11) The Scope is information which
- specifies and describes the *service* or
 - states any constraints on how the *Consultant* Provides the Service and is either
 - in the document called Scope or
 - in an instruction given in accordance with the contract.

Interpretation and the law
12

- 12.1 In the contract, except where the context shows otherwise, words in the singular also mean plural and the other way around.
- 12.2 The contract is governed by the *law of the contract*.
- 12.3 No change to the contract, unless provided for by these *conditions of contract*, has effect unless it has been agreed, confirmed in writing and signed by the Parties.
- 12.4 The contract is the entire agreement between the Parties.

Communications
13

- 13.1 Each communication which the contract requires has effect when it is received in a form that can be read, copied and recorded at the last address notified by the recipient for receiving communications.
- 13.2 If the contract requires the *Client* or the *Consultant* to reply to a communication, unless otherwise stated in these *conditions of contract*, they reply within the *period for reply*.

The *Client's* authority and delegation
14

- 14.1 The *Consultant* obeys an instruction which is in accordance with the contract and is given by the *Client*.
- 14.2 The *Client* may give an instruction to the *Consultant* which changes the Scope.
- 14.3 The *Client* gives an instruction to correct a mistake in the Price List which is
- a departure from the method and rules stated in the Price List and used to compile it or
 - due to an ambiguity or inconsistency.
- 14.4 The *Client's* acceptance of a communication from the *Consultant* or acceptance of the work does not change the *Consultant's* responsibility to Provide the Service.
- 14.5 The *Client*, after notifying the *Consultant*, may delegate any of the *Client's* actions and may cancel any delegation. A reference to an action of the *Client* in the contract includes an action by its delegate.
- 14.6 The *Client* does not give an instruction to the *Consultant* which would require it to act in a way that is outside its professional code of conduct.

Early warning
15

- 15.1 The *Consultant* and the *Client* give an early warning by notifying the other as soon as either becomes aware of any matter which could
- increase the amount the *Client* pays to the *Consultant*,
 - delay Completion,
 - impair the usefulness of the *service* to the *Client* or
 - affect the work of the *Client* or others with whom the *Client* is in contract.
- The *Client* or the *Consultant* may give an early warning by notifying the other of any other matter which could increase the *Consultant's* total cost. Early warning of a matter for which a compensation event has previously been notified is not required.

15.2 The *Consultant* and the *Client* co-operate in making and considering proposals for how the effect of each matter which has been notified as an early warning can be avoided or reduced and deciding and recording actions to be taken.

Provision of information	16	
	16.1	The <i>Client</i> provides information and other things which the contract requires the <i>Client</i> to provide by the dates stated in the Scope or a later date if agreed.

Corrupt Acts	17	
	17.1	The <i>Consultant</i> does not do a Corrupt Act.
	17.2	The <i>Consultant</i> takes action to stop a Corrupt Act of a subcontractor or supplier of which it is, or should be, aware.
	17.3	The <i>Consultant</i> includes equivalent provisions to these in subcontracts.

2. THE CONSULTANT'S MAIN RESPONSIBILITIES

Providing the Service	20	
	20.1	The <i>Consultant</i> Provides the Service in accordance with the Scope.
	20.2	The <i>Consultant's</i> obligation is to use the skill and care normally used by professionals providing services similar to the <i>service</i> .
	20.3	The <i>Consultant</i> is not liable for a Defect unless it failed to carry out the <i>service</i> using the skill and care normally used by professionals providing services similar to the <i>service</i> .
Subcontracting and people	21	
	21.1	If the <i>Consultant</i> subcontracts work, it is responsible for Providing the Service as if it had not subcontracted.
	21.2	The <i>Consultant</i> either uses each <i>key person</i> named to do the job stated in the Contract Data or, following acceptance by the <i>Client</i> , uses a replacement person with qualifications and experience as good as those of the person who is replaced.
	21.3	The <i>Client</i> may, having stated the reasons, instruct the <i>Consultant</i> to stop using a person to Provide the Service. The <i>Consultant</i> then arranges that, after one day, the person has no further connection with the work included in the contract.

3. TIME

Starting and Completion	30	<p data-bbox="384 230 1388 293">30.1 The <i>Consultant</i> does not start work until the <i>starting date</i> and does the work so that Completion is on or before the Completion Date.</p> <p data-bbox="384 320 1388 383">30.2 The <i>Consultant</i> submits a forecast of the date of Completion to the <i>Client</i> each week from the <i>starting date</i> until Completion.</p> <p data-bbox="384 409 1388 472">30.3 The <i>Client</i> decides the date of Completion and certifies it to the <i>Consultant</i> within one week of the date.</p> <p data-bbox="384 499 1388 633">30.4 The <i>Client</i> may instruct the <i>Consultant</i> to stop or not to start any work. The <i>Client</i> subsequently gives an instruction to the <i>Consultant</i> to</p> <ul data-bbox="469 566 871 633" style="list-style-type: none"> • re-start or start the work or • remove the work from the Scope.
The programme	31	<p data-bbox="384 703 1388 736">31.1 The <i>Consultant</i> submits programmes to the <i>Client</i> as stated in the Scope.</p>

4. QUALITY MANAGEMENT

Notifying Defects	40	
	40.1	The <i>Client</i> may notify a Defect to the <i>Consultant</i> at any time before the <i>defects date</i> .
	40.2	At Completion, the <i>Consultant</i> notifies the <i>Client</i> of the Defects which have not been corrected.
	40.3	The <i>Client's</i> rights in respect of a Defect which the <i>Client</i> has not found or notified by the <i>defects date</i> are not affected.
<hr/>		
Correcting Defects	41	
	41.1	The <i>Consultant</i> corrects a Defect whether or not the <i>Client</i> has notified it.
	41.2	The <i>Consultant</i> corrects Defects within a time which minimises the adverse effect on the <i>Client</i> or others who are using the <i>service</i> .
<hr/>		
Accepting Defects	42	
	42.1	The <i>Consultant</i> and the <i>Client</i> may each propose to the other that the Scope should be changed so that a Defect does not have to be corrected. If the <i>Consultant</i> and the <i>Client</i> are prepared to consider the change, the <i>Consultant</i> submits a quotation for reduced Prices or an earlier Completion Date or both to the <i>Client</i> for acceptance. If the <i>Client</i> accepts the quotation, it changes the Scope, the Prices and the Completion Date accordingly.
<hr/>		
Uncorrected Defects	43	
	43.1	If the <i>Consultant</i> has not corrected a notified Defect within the time required by the contract, the <i>Client</i> assesses the cost of having the Defect corrected by other people and the <i>Consultant</i> pays this amount.

5. PAYMENT

Assessing the amount due

- 50
- 50.1 The *Consultant* assesses the amount due and submits an invoice to the *Client* for payment before each *assessment day*. There is an *assessment day* in each month from the *starting date* until the earlier of
- the month after the *defects date* and
 - either Party gives notice to the other to terminate the *Consultant's* obligation to Provide the Service.
- 50.2 The *Consultant's* invoice includes details of how the amount due has been assessed.
- 50.3 If the *Consultant* submits an invoice for payment before the *assessment day*, the amount due at the *assessment day* is
- the Price for each lump sum item in the Price List which the *Consultant* has completed,
 - where a quantity is stated for an item in the Price List, an amount calculated by multiplying the quantity which the *Consultant* has completed by the rate,
 - for work carried out on a time charge basis, the time expended on work which has been completed multiplied by the appropriate People Rates plus the Fee,
 - the amount of the expenses stated in the Price List properly spent by the *Consultant*,
 - plus other amounts to be paid to the *Consultant*,
 - less amounts to be paid by or retained from the *Consultant*.
- 50.4 If the *Consultant* does not submit an invoice for payment before the *assessment day* the amount due at the *assessment day* is the lesser of
- the amount the *Client* assesses as due at the *assessment day*, assessed as though the *Consultant* had submitted an invoice for payment before the *assessment day*, and
 - the amount due at the previous *assessment day*.
- If the *Client* assesses an amount due it gives details of the how the amount has been calculated.
- 50.5 If the *Consultant* has incorrectly assessed the amount due in an invoice submitted before the *assessment day*, the *Client* corrects the amount due and gives details of how the corrected amount has been calculated before payment.
- 50.6 The *Consultant* pays *delay damages* for each day from the Completion Date until the earlier of
- Completion and
 - the date either Party gives notice to the other to terminate the *Consultant's* obligation to Provide the Service.
-

Payment	51	
	51.1	A payment is made within three weeks after the <i>assessment day</i> . The first payment is the amount due. Other payments are the change in the amount due since the previous assessment. A payment is made by the <i>Consultant</i> to the <i>Client</i> if the amount due is less than the amount due in the previous assessment. Other payments are made by the <i>Client</i> to the <i>Consultant</i> .
	51.2	Interest is paid if a payment is late or includes a correction of an earlier payment. Interest is assessed from the date by which the correct payment should have been made until the date when it is paid. Interest is calculated at the rate stated in the Contract Data or, if none is stated, at 0.5% of the delayed amount per complete week of delay.
	51.3	Any tax which the law requires a Party to pay to the other Party is added to any payment made under the contract.

6. COMPENSATION EVENTS

Compensation events	60	<p>60.1 The following events are compensation events.</p> <ol style="list-style-type: none"> (1) The <i>Client</i> gives an instruction changing the Scope unless the change is in order to make a Defect acceptable. (2) The <i>Client</i> does not provide something which it is to provide by the date stated in the contract. (3) The <i>Client</i> gives an instruction to stop or not to start any work. (4) The <i>Client</i> does not work within the conditions stated in the Scope. (5) The <i>Client</i> does not reply to a communication from the <i>Consultant</i> within the period required by the contract. (6) The <i>Client</i> changes a decision which it has previously communicated to the <i>Consultant</i>. (7) Either Party notifies the other of a correction to an assumption made for the assessment of a compensation event. (8) The <i>Client</i> gives an instruction to correct a mistake in the Price List. (9) The <i>Consultant</i> corrects a Defect for which it is not liable under the contract.
Notifying compensation events	61	<p>61.1 The <i>Client</i> and the <i>Consultant</i> notify the other of an event which has happened or which they expect to happen as a compensation event.</p> <p>61.2 If the <i>Client</i> notifies the compensation event, it also instructs the <i>Consultant</i> to submit a quotation for the compensation event. The <i>Consultant</i> submits the quotation within one week of being instructed to do so by the <i>Client</i>. If the <i>Consultant</i> notifies the compensation event, it submits a quotation with the notification.</p> <p>61.3 If the <i>Consultant</i> does not notify a compensation event within four weeks of becoming aware that the event has happened the Prices and Completion Date are not changed unless the event arises from a correction to an assumption stated by the <i>Client</i> or the <i>Client</i> giving an instruction or changing an earlier decision.</p> <p>61.4 A compensation event is not notified by the <i>Client</i> or <i>Consultant</i> after the <i>defects date</i>.</p>
Quotations for compensation events	62	<p>62.1 A quotation for a compensation event comprises proposed changes to the Prices and Completion Date assessed by the <i>Consultant</i>. The <i>Consultant</i> submits details of its assessment with each quotation. If the effects of a compensation event are too uncertain to be forecast reasonably, the <i>Consultant</i> states assumptions about the compensation event in the quotation. Assessment of the compensation event is based on these assumptions. If any of them is later found to have been wrong, either Party may notify a correction to the other Party.</p> <p>62.2 The <i>Client</i> replies within one week of the <i>Consultant's</i> submission. If the <i>Client</i> decides that an event notified by the <i>Consultant</i></p> <ul style="list-style-type: none"> • arises from the fault of the <i>Consultant</i>, • has not happened and is not expected to happen, • has not been notified within the timescales set out in these <i>conditions of contract</i> or • is not one of the compensation events stated in the contract <p>the <i>Client</i> notifies the <i>Consultant</i> that the Prices and Completion Date are not to be changed.</p> <p>If the <i>Client</i> decides otherwise, it notifies the <i>Consultant</i> accordingly and includes in the notice</p> <ul style="list-style-type: none"> • acceptance of the <i>Consultant's</i> quotation or • a statement that it does not agree with the quotation and details of the <i>Client's</i> own assessment.

- 62.3 If the *Client* does not reply to a quotation in accordance with the contract and within the time allowed, it is treated as acceptance by the *Client* of the quotation.
- 62.4 If the *Consultant* does not provide a quotation which the contract requires it to submit in the time allowed, the *Client* assesses the compensation event and notifies the *Consultant* of the *Client's* assessment within one week of when it should have received the *Consultant's* quotation.
- 62.5 The *Client* includes details of its assessment of a compensation event when it notifies the *Consultant* of the assessment. If the effects of a compensation event are too uncertain to be forecast reasonably, the *Client* states assumptions about the compensation event in the assessment. Assessment of the compensation event is based on these assumptions. If any of them is later found to have been wrong, either Party may notify a correction to the other Party.

**Assessing
compensation
events**

- 63**
- 63.1 For a compensation event which only affects the quantities of work shown in the Price List, the change to the Prices is assessed by multiplying the changed quantities of work by the appropriate rates in the Price List.
- 63.2 For other compensation events, the change to the Prices is assessed as the effect of the compensation event upon
- the actual Defined Cost of the work already done,
 - the forecast Defined Cost of the work not yet done and
 - the resulting Fee.
- 63.3 The *Client* and the *Consultant* may agree rates or lump sums to assess the change to the Prices.
- 63.4 The effects of compensation events upon the Defined Cost are calculated using rates and percentages stated in the Contract Data and other amounts at open market or competitively tendered prices with deductions for all discounts, rebates and taxes which can be recovered.
- 63.5 If, when assessing a compensation event the People Rates do not include a rate for a category of person required, the *Client* and *Consultant* may agree a new rate. If they do not agree the *Client* assesses the rate based on the People Rates. The agreed or assessed rate becomes the People Rate for that category of person.
- 63.6 A delay to the Completion Date is assessed as the length of time that, due to the compensation event, Completion is forecast to be delayed.
- 63.7 An assessment of the effect of a compensation event made using Defined Cost
- includes risk allowances for cost and time for matters which have a significant chance of occurring and are not compensation events and
 - is based upon the assumptions that
 - the *Consultant* reacts competently and promptly to the event and
 - any additional Defined Cost and time due to the event are reasonably incurred.
- 63.8 A compensation event which is an instruction to change the Scope in order to resolve an ambiguity or inconsistency is assessed as if the Prices and the Completion Date were for the interpretation most favourable to the *Consultant*.
- 63.9 Assessments for changed prices for compensation events are in the form of changes to the Price List.
- 63.10 If
- the *Client* has accepted a *Consultant's* quotation,
 - a *Consultant's* quotation is treated as accepted or
 - the *Client* has notified the *Consultant* of a *Client's* own assessment
- for a compensation event, the assessment of that compensation event is not revised except as stated in these *conditions of contract*.

7. RIGHTS TO MATERIAL

The Parties' use of material	70	
	70.1	The <i>Client</i> has the right to use the material provided by the <i>Consultant</i> for the purpose stated in the Scope. The <i>Consultant</i> obtains from a subcontractor equivalent rights to use material prepared by a subcontractor.
	70.2	The <i>Consultant</i> has the right to use the material provided by the <i>Client</i> only to Provide the Service. The <i>Consultant</i> may make this right available to a subcontractor.
	70.3	The <i>Consultant</i> may use the material provided by it under the contract for other work unless stated otherwise in the Scope.

8. LIABILITIES AND INSURANCE

Client's liabilities	80	
	80.1	<p>The following are <i>Client's</i> liabilities.</p> <ul style="list-style-type: none"> Claims and proceedings from others and compensation and costs payable to others which are due to <ul style="list-style-type: none"> the unavoidable result of the <i>service</i>, negligence, breach of statutory duty or interference with any legal right by the <i>Client</i> or by any person employed by or contracted to it except the <i>Consultant</i>. A fault of the <i>Client</i> or any person employed by or contracted to it, except the <i>Consultant</i>.
Consultant's liabilities	81	
	81.1	<p>The following are <i>Consultant's</i> liabilities unless they are stated as being <i>Client's</i> liabilities.</p> <ul style="list-style-type: none"> Claims and proceedings from the <i>Client</i> and others and compensation and costs payable to the <i>Client</i> and others which arise from a failure by the <i>Consultant</i> to use the skill and care normally used by professionals providing services similar to the <i>service</i>. Death or bodily injury to the employees of the <i>Consultant</i>.
Recovery of costs	82	
	82.1	Any cost which the <i>Client</i> has paid or will pay as a result of an event for which the <i>Consultant</i> is liable is paid by the <i>Consultant</i> .
	82.2	Any cost which the <i>Consultant</i> has paid or will pay as a result of an event for which the <i>Client</i> is liable is paid by the <i>Client</i> .
	82.3	The right of a Party to recover these costs is reduced if an event for which it was liable contributed to the costs. The reduction is in proportion to the extent that the event for which that Party is liable contributed, taking into account each Party's responsibilities under the contract.
Insurance cover	83	
	83.1	The <i>Client</i> provides the insurances which the <i>Client</i> is to provide as stated in the Contract Data.
	83.2	The <i>Consultant</i> provides the insurances stated in the Insurance Table except any insurance which the <i>Client</i> is to provide as stated in the Contract Data.
	83.3	The insurances provide cover for events which are the <i>Consultant's</i> liability from the <i>starting date</i> until the end of the periods stated in the Contract Data.

INSURANCE TABLE	
INSURANCE AGAINST	MINIMUM AMOUNT OF COVER
Liability of the <i>Consultant</i> for claims made against it arising out of the <i>Consultant's</i> failure to use the skill and care normally used by professionals providing services similar to the <i>service</i>	The amount stated in the Contract Data
Loss of or damage to property and liability for bodily injury to or death of a person (not an employee of the <i>Consultant</i>) arising from or in connection with the <i>Consultant</i> Providing the Service	The amount stated in the Contract Data for any one event with cross liability so that the insurance applies to the Parties separately
Liability for death of or bodily injury to employees of the <i>Consultant</i> arising out of and in the course of their employment in connection with the contract	The greater of the amount required by the applicable law and the amount stated in the Contract Data for any one event

Limitation of liability	84	The <i>Consultant's</i> total liability to the <i>Client</i> which arises under or in connection with the contract is limited to the amounts stated in the Contract Data. These liabilities and limits apply in contract, tort or delict or otherwise to the extent allowed under the <i>law of the contract</i> .
	84.1	

9. TERMINATION AND RESOLVING DISPUTES

Termination and reasons for termination	90	
	90.1	A Party may terminate the <i>Consultant's</i> obligation to Provide the Service for a reason stated in these <i>conditions of contract</i> by notifying the other Party and giving details of the reason for terminating. After a notification to terminate has been issued, the <i>Consultant</i> does no further work necessary to Provide the Service.
	90.2	Either Party may terminate if the other Party has become insolvent or its equivalent (Reason 1).
	90.3	The <i>Client</i> may terminate if the <i>Client</i> has notified the <i>Consultant</i> that the <i>Consultant</i> has not stopped one of the following defaults within two weeks of the date when the <i>Client</i> notified the <i>Consultant</i> of the default. <ul style="list-style-type: none"> • Substantially failed to comply with the contract (Reason 2). • Substantially hindered the <i>Client</i> (Reason 3). • Substantially broken a health or safety regulation (Reason 4).
	90.4	The <i>Consultant</i> may terminate if <ul style="list-style-type: none"> • the <i>Client</i> has not paid an amount due under the contract within thirteen weeks of the <i>assessment day</i> which followed receipt of the <i>Consultant's</i> invoice for it (Reason 5) or • the <i>Client</i> has instructed the <i>Consultant</i> to stop or not to start any substantial work or all work for a reason which is not the <i>Consultant's</i> fault and an instruction allowing the work to re-start or start or removing work from the Scope has not been given within eight weeks (Reason 6).
	90.5	The <i>Client</i> may terminate if the <i>Consultant</i> does a Corrupt Act, unless it was done by a subcontractor or supplier and the <i>Consultant</i> <ul style="list-style-type: none"> • was not and should not have been aware of the Corrupt Act or • informed the <i>Client</i> of the Corrupt Act and took action to stop it as soon as the <i>Consultant</i> became aware of it (Reason 7).
	90.6	The <i>Client</i> may terminate for any other reason (Reason 8).
Procedures on termination	91	
	91.1	On termination, the <i>Client</i> may complete the <i>service</i> and use any material to which it has title.
	91.2	After the final payment has been made, the <i>Consultant</i> gives to the <i>Client</i> information which it has obtained or prepared which it has a responsibility to provide under the contract.
Payment on termination	92	
	92.1	The amount due on termination includes <ul style="list-style-type: none"> • an amount due assessed as for normal payments and • other costs reasonably incurred by the <i>Consultant</i> in expectation of completing the <i>service</i> and to which the <i>Consultant</i> is committed.
	92.2	If the <i>Client</i> terminates for Reason 1, 2, 3, 4 or 7 the amount due on termination also includes a deduction of the forecast additional cost to the <i>Client</i> of completing the <i>service</i> .
	92.3	If the <i>Consultant</i> terminates for Reason 1, 5 or 6 or if the <i>Client</i> terminates for Reason 8, the amount due on termination also includes 5% of any excess of a forecast of the amount due at Completion had there been no termination over the amount due on termination assessed as for normal payments.
	92.4	Within thirteen weeks of termination, the <i>Client</i> assesses the final amount due. The final payment is the amount due on termination less the total of previous payments. The <i>Client</i> gives the <i>Consultant</i> details of the assessment. Payment is made within three weeks of the <i>Client's</i> assessment.

Dispute resolution 93

93.1 A dispute arising under or in connection with the contract is referred to and decided by the *Adjudicator*. A Party does not refer a dispute to the *Adjudicator* that is the same, or substantially the same, as one that has already been referred to the *Adjudicator*.

The Adjudicator

93.2 (1) The Parties appoint the *Adjudicator* under the NEC Dispute Resolution Service Contract current at the *starting date*. The *Adjudicator* acts impartially and decides the dispute as an independent adjudicator and not as an arbitrator.

(2) If the *Adjudicator* is not identified in the Contract Data or if the *Adjudicator* resigns or is unable to act, the Parties choose a new adjudicator jointly. If the Parties have not chosen an adjudicator, either Party may ask the *Adjudicator nominating body* to choose one. The *Adjudicator nominating body* chooses an adjudicator within four days of the request. The chosen adjudicator becomes the *Adjudicator*.

(3) The *Adjudicator* and the *Adjudicator's* employees and agents are not liable to the Parties for any action or failure to take action in an adjudication unless the action or failure to take action was in bad faith.

The adjudication

93.3 (1) A Party may refer a dispute to the *Adjudicator* if

- the Party notified the other Party of the dispute within four weeks of becoming aware of it and
- between two and four further weeks have passed since the notification.

If a disputed matter is not notified and referred within the times set out in the contract, neither Party may subsequently refer it to the *Adjudicator* or the *tribunal*.

(2) The Party referring the dispute to the *Adjudicator* includes with its referral information to be considered by the *Adjudicator*.

(3) The *Adjudicator* decides the procedure and timetable to be followed in the adjudication. In doing so the *Adjudicator* may

- take the initiative in ascertaining the facts and the law relating to the dispute and
- instruct a Party to take any other action within a stated time which is necessary to reach a decision.

(4) A communication between a Party and the *Adjudicator* is communicated to the other Party at the same time.

(5) If the *Adjudicator's* decision includes assessment of additional cost or delay caused to the *Consultant*, the assessment is made in the same way as a compensation event is assessed.

The *Adjudicator* may in the decision

- review and revise any action or inaction of the *Client* related to the dispute and
- alter a matter which has been treated as accepted or correct.

(6) The *Adjudicator* decides the dispute and informs the Parties of the decision and reasons within four weeks of the referral. This period may be extended by up to two weeks with the consent of the referring Party, or by any period agreed by the Parties. If the *Adjudicator* does not inform the Parties of the decision within the time allowed, either Party may act as if the *Adjudicator* has resigned.

(7) Unless and until the *Adjudicator* has notified the Parties of the decision, the Parties proceed as if the matter disputed was not disputed.

(8) The *Adjudicator's* decision is binding on the Parties unless and until revised by the *tribunal* and is enforceable as a matter of contractual obligation between the Parties and not as an arbitral award. The *Adjudicator's* decision is final and binding if neither Party has notified the other within the times required by the contract that it intends to refer the matter to the *tribunal*.

The *tribunal*

- 93.4 A Party may refer a dispute to the *tribunal* if
- the Party is dissatisfied with the *Adjudicator's* decision or
 - the *Adjudicator* did not inform the Parties of a decision within the time allowed and a new adjudicator has not been chosen,
- except that neither Party may refer a dispute to the *tribunal* unless they have notified the other Party of their intention to do so not more than four weeks after
- the *Adjudicator* informs the Parties of the decision, or, if the *Adjudicator* did not inform the Parties of the decision within the time allowed,
 - the end of the time allowed for the *Adjudicator's* decision.

IF THE UNITED KINGDOM HOUSING GRANTS, CONSTRUCTION AND REGENERATION ACT 1996 AS AMENDED BY THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009 (THE ACT) APPLIES TO THE CONTRACT, THE FOLLOWING ADDITIONAL CONDITIONS APPLY.

Definitions	1.1	(1) In this clause, time periods stated in days exclude Christmas Day, Good Friday and bank holidays. (2) Each <i>assessment day</i> is a payment due date. If there is a termination, the payment due date is thirteen weeks after the notice of termination. (3) The final date for payment is three weeks after the payment due date.
Assessing the amount due	1.2	If the <i>Consultant</i> submits an invoice for payment before the payment due date, the invoice is the notice of payment specifying the sum that the <i>Consultant</i> considers to be due at the payment due date (the notified sum). The <i>Consultant's</i> invoice states the basis on which the amount is calculated and includes details of the calculation.
	1.3	If the <i>Consultant</i> does not submit an invoice for payment before a payment due date, the notified sum is zero or, if an amount is to be paid to the <i>Client</i> , the amount which the <i>Client</i> considers is to be paid. The <i>Client</i> notifies the <i>Consultant</i> of the notified sum.
	1.4	The following replaces clause 50.5 If a Party intends to pay less than the notified sum, it notifies the other Party of its assessment of the amount due not later than seven days (the prescribed period) before the final date for payment. The notification states the basis on which the amount due is calculated and includes details of the calculation. A Party pays the notified sum unless it has notified its intention to pay less than the notified sum.
Compensation event	1.5	If the <i>Consultant</i> exercises its right under the Act to suspend performance, it is a compensation event.
The adjudication	1.6	The following replaces clause 93.3(1) A Party may issue to the other Party a notice of its intention to refer a dispute to adjudication at any time. The Party refers the dispute to the <i>Adjudicator</i> within seven days of the notice.
	1.7	The <i>Adjudicator</i> may in the decision allocate the <i>Adjudicator's</i> fees and expenses between the Parties.
	1.8	The <i>Adjudicator</i> may, within five days of giving the decision to the Parties, correct the decision to remove a clerical or typographical error arising by accident or omission.
	1.9	If the <i>Adjudicator's</i> decision changes an amount notified as due, payment of the sum decided by the <i>Adjudicator</i> is due not later than seven days from the date of the decision or the final date for payment of the notified amount, whichever is the later

The *additional conditions of contract* are as detailed in the appended Schedule of Amendments which is to be read and construed accordingly.

Z1 - Identified and defined terms

Insert new clause 11.3 additional defined terms.

11.3 (1) *Client Confidential Information* is all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and *Consultants* of the *Client*, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential.

11.3 (2) *Client Data* is the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and

- which are supplied to the *Consultant* by or on behalf of the *Client*,
- which the *Consultant* is required to generate, process, store or transmit pursuant to this contract or
- which are any Personal Data for which the *Client* is the Data Controller to the extent that such Personal Data is held or

processed by the *Consultant*.

11.3 (3) Commercially Sensitive Information is the information agreed between the Parties (if any) comprising the information of a commercially sensitive nature relating to the *Consultant*, the charges for the *Services*, its IPR or its business or which the *Consultant* has indicated to the *Client* that, if disclosed by the *Client*, would cause the *Consultant* significant commercial disadvantage or material financial loss.

11.3 (4) Confidential Information is the *Client's* Confidential Information and/or the *Consultant's* Confidential Information.

11.3 (5) Contracting Body is any Contracting Body as defined in Regulation 5(2) of the Public Contracts (*Services*, Service and Supply) (Amendment) Regulations 2000 other than the *Client*.

11.3 (6) *Consultant's* Confidential Information is any information, however it is conveyed, that relates to the probusiness, affairs, developments, trade secrets, know-how, personnel and *Consultants* of the *Consultant*, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including the Commercially Sensitive Information.

11.3 (7) Crown Body is any department, office or agency of the Crown.

11.3 (8) Data Controller has the meaning given to it in the Data Protection Act 2018.

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

11.3 (10) Environmental Information Regulations is the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.

11.3(11) FOIA is the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

11.3 (12) General Anti-Abuse Rule is

- the legislation in Part 5 of the Finance Act 2013 and
- any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements and to avoid national insurance contributions.

11.3 (13) Halifax Abuse Principle is the principle explained in the CJEU Case C-255/02 Halifax and others.

11.3 (14) Intellectual Property Rights or "IPRs" is

- copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information,
- applications for registration, and the right to apply for registration, for any of the rights listed in the first bullet point that are capable of being registered in any country or jurisdiction,
- all other rights having equivalent or similar effect in any country or jurisdiction and
- all or any goodwill relating or attached thereto.

11.3 (15) Law is any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the *Consultant* is bound to comply under the *Law of the Contract*.

11.3(16) An Occasion of Tax Non-Compliance is

- where any tax return of the *Consultant* submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of
- a Relevant Tax Authority successfully challenging the *Consultant* under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle or
- the failure of an avoidance scheme which the *Consultant* was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime and

where any tax return of the *Consultant* submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Contract Date or to a civil penalty for fraud or evasion.

11.3(17) Personal Data has the meaning given to it in the Data Protection Act 2018.

11.3 (18) Prohibited Act is

- to directly or indirectly offer, promise or give any person working for or engaged by the *Client* or other Contracting Body or any other public body a financial or other advantage to

- induce that person to perform improperly a relevant function or activity or
- reward that person for improper performance of a relevant function or activity,
- to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this contract,
- committing any offence
 - under the Bribery Act 2010 (or any legislation repealed or revoked by such Act),
 - under legislation or common law concerning fraudulent acts or
 - defrauding, attempting to defraud or conspiring to defraud the *Client* or

any activity, practice or conduct which would constitute one of the offences listed above if such activity, practice or conduct had been carried out in the UK.

11.3 (19) Request for Information is a request for information or an apparent request under the Code of Practice on Access to government Information, FOIA or the Environmental Information Regulations.

11.3 (20) Relevant Requirements are all applicable Laws relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

11.3 (21) Relevant Tax Authority is HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the *Consultant* is established.

Z2 - Admittance to site

Insert new clause 18A:

18A.1 The *Consultant* submits to the *Project Manager* details of people who are to be employed by it and its *Subcontractors* in Providing the *Services*. The details include a list of names and addresses, the capabilities in which they are employed, and other information required by the *Project Manager*.

18A.2 The *Project Manager* may instruct the *Consultant* to take measures to prevent unauthorised persons being admitted to the Site.

18A.3 Employees of the *Consultant* and its *Subcontractors* are to carry a *Client's* pass and comply with all conduct requirements from the *Client* whilst they are on the parts of the Site identified in the Scope.

18A.4 The *Consultant* submits to the *Project Manager* for acceptance a list of the names of the people for whom passes are required. On acceptance, the *Project Manager* issues the passes to the *Consultant*. Each pass is returned to the *Project Manager* when the person no longer requires access to that part of the Site or after the *Project Manager* has given notice that the person is not to be admitted to the Site.

18A.5 The *Consultant* does not take photographs of the Site or of work carried out in connection with the *Services* unless it has obtained the acceptance of the *Project Manager*.

18A.6 The *Consultant* takes the measures needed to prevent its and its *Subcontractors'* people taking, publishing or otherwise circulating such photographs.

Z3 - Prevention of fraud and bribery

Insert new clauses:

17.4.1 The *Consultant* represents and warrants that neither it, nor to the best of its knowledge any of its people, have at any time prior to the Contract Date

- committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act or
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

17.4.2 During the carrying out of the *Services* the *Consultant* does not

- commit a Prohibited Act and
- do or suffer anything to be done which would cause the *Client* or any of the *Client's* employees, consultants, *Consultants*, *Subcontractors* or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

17.4.3 In Providing the *Services* the *Consultant*

- establishes, maintains and enforces, and requires that its *Subcontractors* establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act,
- keeps appropriate records of its compliance with this contract and make such records available to the *Client* on request and

- provides and maintains and where appropriate enforces an anti-bribery policy (which shall be disclosed to the *Client* on request) to prevent it and any *Consultant's* people or any person acting on the *Consultant's* behalf from committing a Prohibited Act.

17.4.4 The *Consultant* immediately notifies the *Client* in writing if it becomes aware of any breach of clause 17.4.1, or has reason to believe that it has or any of its people or *Subcontractors*

- have been subject to an investigation or prosecution which relates to an alleged Prohibited Act,
- been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act or
- received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this contract or otherwise suspects that any person or party directly or indirectly connected with this contract has committed or attempted to commit a Prohibited Act.

17.4.5 If the *Consultant* makes a notification to the *Client* pursuant to clause 17.4.4, the *Consultant* responds promptly to the *Client's* enquiries, co-operates with any investigation, and allows the *Client* to audit any books, records and/or any other relevant documentation in accordance with this contract.

17.4.6 If the *Consultant* breaches Clause 17.4.3, the *Client* may by notice require the *Consultant* to remove from carrying out the *Services* any person whose acts or omissions have caused the *Consultant's* breach.

Z4 Legislation and Official secrets

Insert new clauses:

20.5 The *Consultant* complies with Law in the carrying out of the *Services*.

20.6 The Official Secrets Acts 1911 to 1989 and, where appropriate, the provisions of section 11 of the Atomic Energy Act 1946 apply to this contract.

20.7 The *Consultant* notifies its employees and its *Subcontractors* of their duties under these Acts.

Z5 - Freedom of information

Insert new clauses:

23.1 The *Consultant* acknowledges that unless the *Project Manager* has notified the *Consultant* that the *Client* is exempt from the provisions of the FOIA, the *Client* is subject to the requirements of the Code of Practice on Government Information, the FOIA and the Environmental Information Regulations. The *Consultant* cooperates with and assists the *Client* so as to enable the *Client* to comply with its information disclosure obligations.

23.4 The *Consultant*

- transfers to the *Project Manager* all Requests for Information that it receives as soon as practicable and in any event within two working days of receiving a Request for Information,
- provides the *Project Manager* with a copy of all information in its possession, or power in the form that the *Project Manager* requires within five working days (or such other period as the *Project Manager* may specify) of the *Project Manager's* request,
- provides all necessary assistance as reasonably requested by the *Project Manager* to enable the *Client* to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations and
- procures that its *Subcontractors* do likewise.

23.5 The *Client* is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

23.6 The *Consultant* does not respond directly to a Request for Information unless authorised to do so by the *Project Manager*.

23.7 The *Consultant* acknowledges that the *Client* may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of information Act 2000, be obliged to disclose information without consulting or obtaining consent from the *Consultant* or despite the *Consultant* having expressed negative views when consulted.

23.8 The *Consultant* ensures that all information is retained for disclosure throughout the *Period for Retention* and permits the *Project Manager* to inspect such records as and when reasonably requested from time to time.

Z6 - Confidentiality and Information Sharing

Insert a new clause

23.9 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this contract, each Party shall

- treat the other Party's Confidential Information as confidential and safeguard it accordingly,
- not disclose the other Party's Confidential Information to any other person without prior written consent,
- immediately notify the other Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information and
- notify the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

23.10 The clause above shall not apply to the extent that

- such disclosure is a requirement of the Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause Z10 (Freedom of Information),
- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner,
- such information was obtained from a third party without obligation of confidentiality,
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this contract or
- it is independently developed without access to the other party's Confidential Information.

23.11 The *Consultant* may only disclose the *Client's* Confidential Information to the people who are directly involved in Providing the *Services* and who need to know the information, and shall ensure that such people are aware of and shall comply with these obligations as to confidentiality.

The *Consultant* shall not, and shall procure that the *Consultant's* people do not, use any of the *Client* Confidential Information received otherwise than for the purposes of this contract.

23.12 The *Consultant* may only disclose the *Client* Confidential Information to *Consultant's* people who need to know the information, and shall ensure that such people are aware of, acknowledge the importance of, and comply with these obligations as to confidentiality. In the event that any default, act or omission of any *Consultant's* people causes or contributes (or could cause or contribute) to the *Consultant* breaching its obligations as to confidentiality under or in connection with this contract, the *Consultant* shall take such action as may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any *Consultant's* people, the *Consultant* shall provide such evidence to the *Client* as the *Client* may reasonably require (though not so as to risk compromising or prejudicing the case) to demonstrate that the *Consultant* is taking appropriate steps to comply with this clause, including copies of any written communications to and/or from *Consultant's* people, and any minutes of meetings and any other records which provide an audit trail of any discussions or exchanges with *Consultant's* people in connection with obligations as to confidentiality.

23.13 At the written request of the *Client*, the *Consultant* shall procure that those members of the *Consultant's* people identified in the *Client's* request signs a confidentiality undertaking prior to commencing any work in accordance with this contract.

23.14 Nothing in this contract shall prevent the *Client* from disclosing the *Consultant's* Confidential Information

- to any Crown Body or any other Contracting Bodies. All Crown Bodies or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Body,
- to a professional adviser, *Consultant*, consultant, supplier or other person engaged by the *Client* or any Crown Body (including any benchmarking organisation) for any purpose connected with this contract, or any person conducting an Office of Government Commerce Gateway Review,
- for the purpose of the examination and certification of the *Client's* accounts,
- for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the *Client* has used its resources,
- for the purpose of the exercise of its rights under this contract or
- to a proposed successor body of the *Client* in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this contract,

and for the purposes of the foregoing, disclosure of the *Consultant's* Confidential Information shall be on a confidential basis and subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the *Client* under this clause 23.14.

23.15 The *Client* shall use all reasonable endeavours to ensure that any government department, Contracting Body, people, third party or *Subcontractor* to whom the *Consultant's* Confidential Information is disclosed pursuant to the above clause is made aware of the *Client's* obligations of confidentiality.

23.16 Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

23.17 The *Client* may disclose the Confidential Information of the *Consultant*

- to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement,

- to the extent that the *Client* (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions,

Z7 – Security Requirements

The *Consultant* complies with, and procures the compliance of the *Consultant's* people, with the Security Policy and the Security Management Plan produced by the *Consultant* and the *Consultant* shall ensure that the Security Management Plan fully complies with the Security Policy and Contract Schedule J.

Z8 - Tax Compliance

Insert new clauses:

23.18 The *Consultant* represents and warrants that at the Contract Date, it has notified the *Client* in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.

23.19 If, at any point prior to the *defects date*, an Occasion of Tax Non-Compliance occurs, the *Consultant* shall

- notify the *Client* in writing of such fact within 5 days of its occurrence and
- promptly provide to the *Client*
 - details of the steps which the *Consultant* is taking to address the Occasions of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant and
 - such other information in relation to the Occasion of Tax Non-Compliance as the *Client* may reasonably require.

Z9 - Fair payment

Insert a new clause:

52.1 The *Consultant* assesses the amount due to a *Subcontractor* without taking into account the amount certified by the *Project Manager*.

52.2 The *Consultant* includes in the contract with each *Subcontractor*

- a period for payment of the amount due to the *Subcontractor* not greater than 5 days after the final date for payment in this contract. The amount due includes, but is not limited to, payment for work which the *Subcontractor* has completed from the previous assessment date up to the current assessment date in this contract,
- a provision requiring the *Subcontractor* to include in each sub-subcontract the same requirement (including this requirement to flow down, except that the period for payment is to be not greater than 9 days after the final date for payment in this contract and
- a provision requiring the *Subcontractor* to assess the amount due to a *sub-subcontractor* without taking into account the amount paid by the *Consultant*.
-

Z10 - Intellectual Property Rights

Insert new clause 22

In this clause 22 only:

“Document” means all designs, drawings, specifications, software, electronic data, photographs, plans, surveys, reports, and all other documents and/or information prepared by or on behalf of the *Consultant* in relation to this contract.

22.1 The Intellectual Property Rights in all Documents prepared by or on behalf of the *Consultant* in relation to this contract and the work executed from them remains the property of the *Consultant*. The *Consultant* hereby grants to the *Client* an irrevocable, royalty free, non-exclusive licence to use and reproduce the Documents for any and all purposes connected with the construction, use, alterations or demolition of the *Services*. Such licence entitles the *Client* to grant sub-licences to third parties in the same terms as this licence provided always that the *Consultant* shall not be liable to any licensee for any use of the Documents or the Intellectual Property Rights in the Documents for purposes other than those for which the same were originally prepared by or on behalf of the *Consultant*.

22.2 The *Client* may assign novate or otherwise transfer its rights and obligations under the licence granted pursuant to 22.1 to a Crown Body or to anybody (including any private sector body) which performs or carries on any functions and/or activities that previously had been performed and/or carried on by the *Client*.

22.3 In the event that the *Consultant* does not own the copyright or any Intellectual Property Rights in any Document the *Consultant* uses all reasonable endeavours to procure the right to grant such rights to the *Client* to use any such copyright or Intellectual Property Rights from any third party owner of the copyright or Intellectual Property Rights. In the event that the *Consultant* is unable to procure the right to grant to the *Client* in accordance with the foregoing the *Consultant* procures that the third party grants a direct licence to the *Client* on industry acceptable terms.

22.4 The *Consultant* waives any moral right to be identified as author of the Documents in accordance with section 77, Copyright

Designs and Patents Acts 1988 and any right not to have the Documents subjected to derogatory treatment in accordance with section 8 of that Act as against the *Client* or any licensee or assignee of the *Client*.

22.5 In the event that any act unauthorised by the *Client* infringes a moral right of the *Consultant* in relation to the Documents the *Consultant* undertakes, if the *Client* so requests and at the *Client's* expense, to institute proceedings for infringement of the moral rights.

22.6 The *Consultant* warrants to the *Client* that it has not granted and shall not (unless authorised by the *Client*) grant any rights to any third party to use or otherwise exploit the Documents.

22.7 The *Consultant* supplies copies of the Documents to the *Project Manager* and to the *Client's* other *Consultants* and consultants for no additional fee to the extent necessary to enable them to discharge their respective functions in relation to this contract or related *Services*.

22.8 After the termination or conclusion of the *Consultant's* employment hereunder, the *Consultant* supplies the *Project Manager* with copies and/or computer discs of such of the Documents as the *Project Manager* may from time to time request and the *Client* pays the *Consultant's* reasonable costs for producing such copies or discs.

22.9 In carrying out the *Services* the *Consultant* does not infringe any Intellectual Property Rights of any third party. The *Consultant* indemnifies the *Client* against claims, proceedings, compensation and costs arising from an infringement or alleged infringement of the Intellectual Property Rights of any third party.

Z11 - Small and Medium Sized Enterprises (SMEs)

Insert new clause:

21.4

The *Consultant* is required to take all reasonable steps to engage SMEs as *Subcontractors* and to seek to ensure that no less than the SME percentage of *Subcontractors* stated in the Contract Data are SMEs or that a similar proportion of the Defined Cost is undertaken by SMEs.

The *Consultant* is required to report to the *Client* in its regular contract management monthly reporting cycle the numbers of SMEs engaged as *Subcontractors* and the value of the Defined Cost that has been undertaken by SMEs.

Where available, the *Consultant* is required to tender its Subcontracts using the same online electronic portal as was provided by the *Client* for the purposes of tendering this contract.

The *Consultant* is to ensure that the terms and *conditions* used to engage *Subcontractors* are no less favourable than those of this contract. A reason for the *Project Manager* not accepting subcontract documents proposed by the *Consultant* is that they are unduly disadvantageous to the *Subcontractor*.

Z12 - Apprenticeships

Insert new clause:

21.5

The *Consultant* takes all reasonable steps to employ apprentices, and reports to the *Client* the numbers of apprentices employed and the wider skills training provided, during the delivery of the *Services*.

The *Consultant* takes all reasonable steps to ensure that no less than a percentage of its people (agreed between the Parties) are on formal apprenticeship programmes or that a similar proportion of hours worked in Providing the *Services*, (which may include support staff and *Subcontractors*) are provided by people on formal apprenticeship programmes.

The *Consultant* makes available to its people and *Subcontractors* working on the contract, information about the Government's Apprenticeship programme and wider skills opportunities.

The *Consultant* provides any further skills training opportunities that are appropriate for its people engaged in Providing the *Services*.

The *Consultant* provides a report detailing the following measures in its regular contract management monthly reporting cycle and is prepared to discuss apprenticeships at its regular meetings with the *Project Manager*

the number of people during the reporting period employed on the contract, including support staff and *Subcontractors*,

- the number of apprentices and number of new starts on apprenticeships directly initiated through this contract,
- the percentage of all people taking part in an apprenticeship programme,
- if applicable, an explanation from the *Consultant* as to why it is not managing to meet the specified percentage target,
- actions being taken to improve the take up of apprenticeships and
- other training/skills development being undertaken by people in relation to this contract, including:
 - (a) work experience placements for 14 to 16 year olds,
 - (b) work experience /work trial placements for other ages,
 - (c) student sandwich/gap year placements,
 - (d) graduate placements,
 - (e) vocational training,

- (f) basic skills training and
- (g) on site training provision/ facilities.

Z13 - GDPR

The *Client* and the *Consultant* shall comply with the provisions of schedule 1

Z14 – Cyber Essentials

If required the *Client* and the *Consultant* shall comply with the provisions of schedule 2

New clauses are added as follows:

Z15 - Discrimination

Z15.1 The *Consultant* does not discriminate directly or indirectly or by way of victimisation or harassment against any person contrary to the Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Acts 1995 and 2005 or the Equality Act 2010 (the "Discrimination Acts").

Z15.2 Where possible in Providing the *Services*, the *Consultant* co-operates with and assists the *Client* to satisfy its duty under the Discrimination Acts to eliminate unlawful discrimination and to promote equality of opportunity between persons of different racial groups and between disabled people and other people.

Z15.3 Where an employee or *Subcontractor* employed by the *Consultant* is required to carry out any activity alongside the *Client's* employees in any premises, the *Consultant* ensures that each such employee or *Subcontractor* complies with the *Client's* employment policies and codes of practice relating to discrimination and equal opportunities.

Z15.4 The *Consultant* notifies the *Project Manager* in writing as soon as he becomes aware of any investigation or proceedings brought against the *Consultant* under the Discrimination Acts in connection with this contract and

- provides any information requested by the investigating body, court or tribunal in the timescale allotted,
- attends (and permits a representative from the *Client* to attend) any associated meetings,
- promptly allows access to any relevant documents and information and
- co-operates fully and promptly with the investigatory body, court or tribunal.

Z15.5 The *Consultant* indemnifies the *Client* against all costs, charges, expenses (including legal and administrative expenses) and payments made by the *Client* arising out of or in connection with any investigation or proceedings under the Discrimination Acts resulting from any act or omission of the *Consultant*.

Z15.6 The *Consultant* includes in the *conditions of contract* for each *Subcontractor* obligations substantially similar to those set out above.

Z16 - Quality Management and Audit

Z16.1 The *Consultant* operates a quality management system for Providing the *Services* which

- complies with the relevant parts of ISO 9001:2008 and ISO 9001:2008/Cor 1:2009,
- incorporates an environmental management system consistent with ISO 14001:2004,
- includes processes for delivering continual improvement following the guidance in ISO 9004:2009,
- has third party certification from a UKAS approved accreditation body (or its equivalent) or is operating in preparation for accreditation within 12 months of the Contract Date
- complies with good industry practice and
- otherwise fully complies, and is consistent with the requirements set out in the *Services* Information.

SCHEDULE 1

GDPR

The following definitions shall apply to this Schedule 1

Agreement: this contract.

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

GDPR CLAUSE DEFINITIONS:

Data Protection Legislation : (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 subject to Royal Assent to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

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

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

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

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

DPA 2018: Data Protection Act 2018

GDPR: the General Data Protection Regulation (Regulation (EU) 2016/679)

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

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

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

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

1. DATA PROTECTION

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the *Client* is the Controller and the *Consultant* is the Processor unless otherwise specified in Schedule 1 Annex A. The only processing that the Processor is authorised to do is listed in Schedule 1 Annex A by the Controller and may not be determined by the Processor.

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

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

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the *Services*;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

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

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

(b) ensure that it has in place Protective Measures, are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:

(i) nature of the data to be protected;

(ii) harm that might result from a Data Loss Event;

(iii) state of technological development; and

(iv) cost of implementing any measures;

(c) ensure that :

(i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 1 Annex A);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Processor's duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following *conditions* are fulfilled:

(i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;

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

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

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

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

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

(a) receives a Data Subject Request (or purported Data Subject Request);

(b) receives a request to rectify, block or erase any Personal Data;

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

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

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

- (a) the Controller with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Controller following any Data Loss Event;
- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

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

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

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

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

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

- (a) notify the Controller in writing of the intended Subprocessor and processing;
- (b) obtain the written consent of the Controller;
- (c) enter into a written agreement with the Subprocessor which give effect to the terms set out in this clause 1.11 such that they apply to the Subprocessor; and
- (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

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

1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

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

1.15 Where the Parties include two or more Joint Controllers as identified in Schedule 1 Annex A in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement.

Schedule 1 Annex A: Processing, Personal Data and Data Subjects

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

1. The contact details of the Controller's Data Protection Officer are: It is not anticipated this will be required as there is no sharing of personal data required. However should further details be required, the contact email is:

2. The contact details of the Processor's Data Protection Officer are:

3. The Processor shall comply with any further written instructions with respect to processing by the Controller.

4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the <i>Client</i> is the Controller and the <i>Consultant</i> is the Processor
Subject matter of the processing	Not applicable
Duration of the processing	Not applicable
Nature and purposes of the processing	Not applicable
Type of Personal Data being Processed	Not applicable
Categories of Data Subject	Not applicable
Plan for return and destruction of the data once the processing is complete <u>UNLESS requirement under union or member state law to preserve that type of data</u>	Not applicable

SCHEDULE 2 CYBER ESSENTIALS

CYBER ESSENTIALS SCHEME

1. DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings:

"Cyber Essentials Scheme"	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found here: https://www.gov.uk/government/publications/cyber-essentialsscheme-overview ;
"Cyber Essentials Basic Certificate"	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
"Cyber Essentials Certificate"	Cyber Essentials Basic Certificate, the Cyber Essentials Plus Certificate or the Cyber Essential Scheme certificate equivalent to be provided by the <i>Consultant</i> as set out in the Framework Data Sheet;
"Cyber Essential Scheme Data"	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
"Cyber Essentials Plus Certificate"	the certification awarded on the basis of external testing by an independent certification body of the <i>Consultant's</i> cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2. CYBER ESSENTIALS OBLIGATIONS

- 2.1 Where the Scope requires that the *Consultant* provide a Cyber Essentials Certificate prior to the execution of the *Services* the *Consultant* shall provide a valid Cyber Essentials Certificate, then on or prior to the commencement of the *Services* the *Consultant* delivers to the *Client* evidence of the same. Where the *Consultant* fails to comply with this paragraph it shall be prohibited from commencing the carrying out of the *Services* under any contract until such time as the *Consultant* has evidenced to the *Client* its compliance with this paragraph 2.1.
- 2.2 Where the *Consultant* continues to Process Cyber Essentials Scheme Data during the carrying out of the *Services* the *Consultant* delivers to the *Client* evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the *Consultant* under paragraph 2.1.
- 2.3 Where the *Consultant* is due to Process Cyber Essentials Scheme Data after the commencement of the *Services* but before completion of the *Services* the *Consultant* delivers to the *Client* evidence of:
- 2.3.1 a valid and current Cyber Essentials Certificate before the *Consultant* Processes any such Cyber Essentials Scheme Data; and
 - 2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the *Consultant* under paragraph 2.1.

- 2.4 In the event that the *Consultant* fails to comply with paragraphs 2.2 or 2.3 (as applicable), the *Client* reserves the right to terminate this contract for material Default.
- 2.5 The *Consultant* ensures that all sub-contracts with *Sub-Consultants* who Process Cyber Essentials Data contain provisions no less onerous on the *Sub-Consultants* than those imposed on the *Consultant* under this contract in respect of the Cyber Essentials Scheme under paragraph 2.1 of this Schedule.
- 2.6 This Schedule shall survive termination or expiry of this contract.



Full Name:

[Redacted]

Job Title/Role:

[Redacted]

Date Signed: 11th March 2025

Authorities - Signature



Full Name:

[Redacted]

Job Title/Role:

[Redacted]

Date Signed: 11/03/2025

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