

SCHEDULE OF AMENDMENTS

JCT Minor Works with Contractor's Design Building Contract 2024 edition (JCT MWD 2024)

Particulars

Eighth Recital and Schedule 4 – insert “Supplemental Provision 5: The Public Contracts Regulations 2015 does not apply.”

Conditions

ARTICLES

SECTION 1: DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

Add the following definitions:

Accountable Person: the person(s) who are or may be from time to time required by the Building Safety Laws to perform the functions of the accountable person.

Building Safety Laws:

.1 the Building Safety Act 2022;

.2 the Defective Premises Act 1972;

.3 the Building Act 1984;

.4 the Building Regulations;

.5 any statutory instrument, regulation, rule, order, code of practice or guideline made under or relating to the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and the Building Regulations having the force of law that affects the Works;

.6 any building safety laws and regulations that affect the Works or performance of any obligations under this Contract,

together with any guidance issued and/or updated from time to time by a government department, the Building Safety Regulator or the Health and Safety Executive in connection with the legislation referred to in paragraphs (1) to (6) above.

Building Safety Regulator: the Building Safety Regulator as defined in the Building Safety Act 2022.

Commercially Sensitive Information: means any Party's information that: (i) if disclosed, could prejudice a Party's commercial interests; and/or (ii) constitutes a trade secret.

Connected Person: has the meaning given in paragraph 45, Part 3, Schedule 6 of Procurement Act 2023.

Data Protection Legislation: all applicable UK law relating to the processing of personal data and privacy, including but not limited to the UK GDPR, and the Data Protection Act 2018.

Debarment List: the list of suppliers referred to in Section 62 of the Procurement Act 2023]

Deleterious Elements: Materials, equipment, products, kits and the like, which at the time of specification or use (as the case may be): (a) by their nature or application contravene any relevant British Standard or EU equivalent; (b) contravene the recommendations of the British Council for Offices' publication Good Practice in the Selection of Construction Materials (2011) or (c) which are generally considered to be deleterious when used in the manner in which they are to be used (either to health and safety or to the durability of the Works) within the building design professions in the UK.

EIR: the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

FOIA: 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 or relevant government department in relation to such legislation.

Information: takes the meaning given in section 84 of the FOIA.

Local or Public Authority: delete the words "PC Regulations" at the end of this definition and replace with "Procurement Act".

Payment Application: an application for interim payment made in accordance with the requirements of clause 4.5.

Personal Data: takes the meaning given in the UK GDPR.

Principal Accountable Person: the person who is or may be from time to time required by the Building Safety Laws to perform the functions of the principal accountable person.

Procurement Act: the Procurement Act 2023 and implementing regulations.

Project Team: collectively all persons employed or engaged on or in connection with the Works or any part of them and any other person properly on the site in connection with the Works.

Request for Information: takes the meaning set out in the FOIA or EIR as relevant (where the meaning set out for the term “request” shall apply).

UK GDPR: means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union Withdrawal Act of 2018.

Amend the definition of Interim Valuation Date:

“Interim Valuation Date: the date falling one month after the Date of Possession and thereafter on the same day of each month or the nearest Business Day in that month until the date of practical completion and thereafter on the same date at intervals of 3 months”.

Delete the definition of **Statutory Requirements** and replace with:

“Statutory Requirements: Any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law including the Building Safety Laws which affects the Works or performance of any obligations under this Contract, any code of practice or guideline for the time being in force under the Health and Safety etc. at Work Act 1974 or the Control of Pollution Act 1974 or the Environmental Protection Act 1990 and any regulation or bye-law of Statutory Provider or any person which has any jurisdiction with regard to the Works or with whose systems the Works are, or are to be, connected.”

Add a new clause 1.9

“Building safety compliance limitation period

Notwithstanding any other provision of this Contract, any action under this Contract relating to a breach or alleged breach of the Contractor's obligations to carry out and complete the Works in accordance with clause 2.13 may be brought at any time before the expiration of 15 years from the date of issue of the final certificate of making good under clause 2.11 of the Contract or from the date of termination of the Contractor's employment under Section 6 of the Conditions (whether or not the validity of that termination is contested), whichever is the earlier.”

SECTION 2: CARRYING OUT THE WORKS

Add a new clause 2.1A:

“The Contractor shall promptly co-operate and collaborate with the Employer, Project Team and the Building Safety Regulator to ensure compliance with the Building Safety Laws.”

Add a new clause 2.1.3.6:

“The Contractor warrants that:

.1 it has not used and will not use or specified for use;

.2 it has exercised and will continue to exercise reasonable skill, care and diligence to see that there are not used;

.3 it is not aware and has no reason to suspect or believe that there have been or will be used;

.4 it will promptly notify the Employer in writing if it becomes aware or has reason to suspect or believe that there have been or will be used;

Deleterious Elements.

Add new clause 2.11A:

“Deleterious Elements indemnity

The Contractor shall indemnify the Employer against any costs, claims, damages, losses and liabilities that might be incurred or suffered by the Employer as a result of the presence of Deleterious Elements in the Works.”

Add a new clause 2.13:

“Sharing information

The Contractor and the Contractor's Persons shall promptly and without charge provide to the Accountable Person and/or the Principal Accountable Person on request copies of any information in their possession or within their control that the Accountable Person and/or the Principal Accountable Person reasonably request or that the Contractor and the Contractor's Persons are required to provide to the Accountable Person and/or the Principal Accountable Person by the Building Safety Laws.”

Add a new clause 2.14:

“Compliance with Building Safety Laws

The Contractor warrants to the Employer that:

.1 neither it nor any of the Contractor's Persons has done, or permitted to be done, or will do or permit to be done, anything which:

.1 is in breach, or is likely to have been in breach of any Building Safety Laws; or

.2 will result, or is likely to result, in the Employer being in breach of any Building Safety Laws; and

.2 it shall comply, and shall procure compliance by each of the Contractor's Persons with the Building Safety Laws."

SECTION 3 CONTROL OF THE WORKS

Clause 3.1 Assignment

Delete clause 3.1 and replace with:

"3.1.1 The Contractor shall not without the consent of the Employer assign this Contract or any rights thereunder, except where permitted to do so by virtue of the Business Contract Terms (Assignment of Receivables) Regulations 2018 or any amendment thereof".

Insert new clause 3.1.2:

"3.1.2 In the event of transfer by the Employer of his freehold or leasehold interest in, or of a grant by the Employer of a leasehold interest in, the whole of the premises comprising the Works or (if the Contract Particulars so state) any Section, the Employer may at any time after practical completion of the Works or of the relevant Section grant or assign to any such transferee or lessee (without the Contractor's prior consent) the right to bring proceedings in the name of the Employer (whether by arbitration or litigation, whichever applies under this Contract) to enforce any of the terms of this Contract made for the benefit of the Employer and the Contractor which may arise out of and relate to this Contract (whether or not they are or appear to be a derogation from the right assigned) and which are made prior to the date of any grant or assignment."

Clause 3.3 Sub-contracting

In sub-clause 3.3.2.2 insert after CDM Regulations, "and applicable Building Safety Laws".

In sub-clause 3.3.2.2 delete "as applicable Part 2A of the Building Regulations" in the third line and insert:

"Building Safety Laws".

Add a new sub-clause 3.3.2.4:

".4 each party to the sub-contract shall promptly co-operate and collaborate with the Employer, Project Team and the Building Safety Regulator to ensure compliance with the Building Safety Laws."

Clause 3.9 CDM Regulations and Part 2A of the Building Regulations

Replace clause 3.9.2 with:

“3.9.2 the Contractor shall comply with:

3.9.2.1 regulations 8 to 10 and 15 of the CDM Regulations and, where it is the Principal Contractor for the purposes of the CDM Regulations, with regulations 12 to 14 of those regulations; and

3.9.2.2 regulations 11F, 11I, 11J, and 11L of the Building Regulations, and where it is the Principal Contractor for the purposes of the Building Regulations, with regulation regulations 11 H and 11N of those regulations;”

Replace the full stop at the end of sub-clause 3.9.3 with a semi-colon and add new sub-clauses 3.9.4, 3.9.5, 3.9.6 and 3.9.7:

“.4 the Contractor warrants that it is competent to fulfil the duties of the Principal Contractor under the CDM Regulations and the Building Regulations in relation to the Works and has allocated or (as the case may be) will allocate adequate resources to enable it to comply with the provisions of this Clause.

.5 the Contractor warrants that the Contractor's Persons are competent and shall remain competent to perform all duties and functions required to be performed by them under the CDM Regulations and the Building Regulations.

.6 as and when requested to do so by the Employer, the Contractor shall give to the Employer a written record of the steps taken under regulation 11E(2) of the Building Regulations when appointing each of the Contractor's Persons.

.7 where the Contractor is not the Principal Designer but is the Principal Contractor for the purposes of the CDM Regulations and the Principal Designer's appointment concludes before practical completion of the Works, the Contractor shall review, update and revise the health and safety file in accordance with regulations 12(8) to (10) of the CDM Regulations at no cost to the Employer and which shall not entitle the Contractor to an extension of time.”

SECTION 4: PAYMENTS

Clause 4.3 Interim payments – dates and certificates

4.3.1 Line 1, delete “up to the due date for the final payment fixed under clause 4.9.1” and insert “up to practical completion”

Line 2, delete “7 days after the relevant Interim Valuation Date” and insert “10 days after the receipt by the Architect/ Contract Administrator of a Payment Application in accordance with clause 4.5”.

4.3.2 Line 1, delete “shall” and insert “may”

4.3.3, delete “14 days” and insert “20 days”.

Insert new clause 4.3.4 as follows:

“4.3.4 The due date for the interim payment following practical completion of the Works shall be 15 days after the date of receipt by the Employer of a Payment Application in accordance with clause 4.5 and the Architect/Contract Administrator may not later than 5 days thereafter certify payment to the Contractor of the percentage stated in the Contract Particulars of the total sum to be paid to the Contractor under this Contract so far as then ascertainable (including any amount ascertained or agreed under clause 3.6 and 3.7 (less the deductions and sums paid in respect of any such payment notice as are referred to in clause 4.4). Payment Applications shall thereafter be issued at intervals of 3 months (unless otherwise agreed) up to the expiry of the Rectification Period, each stating the sum due to the Contractor and the basis on which that sum has been calculated. The final date for payment shall be 20 days from the due date.

Insert new clause 4.3.5 as follows:

“4.3.5 Notwithstanding the provisions of Clause 4.3 the Employer shall not hold the retention money in a fiduciary capacity as trustee.”

Clause 4.5 Contractor’s applications and payment notices

Delete all the text in clause 4.5 and replace as follows:

“4.5.1 In relation to each interim payment the Contractor shall make an application to the Architect/Contract Administrator (“Payment Application”) which shall:

1. be issued (in relation to interim payments up to practical competition) no later than the Interim Valuation Date specified in the Contract Particulars and thereafter on the same day or the nearest Business Day at monthly intervals until the date of practical completion and (in relation to payments after practical completion) no later than 5 days after the date of practical completion and thereafter on the Interim Valuation Date at intervals of 3 months;
2. state the sum that the Contractor considers will become due on the Interim Valuation Date in accordance with clauses 4.3.1, 4.3.2 and 4.3.4 and the basis on which that sum has been calculated in accordance with clause 4.4;
3. include all documentation reasonably necessary for the computation of any amount due;
4. be given in accordance with clause 1.6.2 or as specified by the Employer for the purposes of this clause.

4.5.2 if a certificate is not issued in accordance with clause 4.3.1 or 4.9, then where the Contractor has made an application in accordance with clause 4.5.1 that application is, for the purposes of these Conditions a payment notice”.

Clause 4.6 Payment – amount and notices

Clause 4.6.1 line 2, after “certificate” insert “or payment notice”

Clause 4.6.2, delete text and insert: “If a certificate is not issued by the Employer in accordance with clause 4.3.1 or 4.9, the Employer shall, subject to any subsequent notice given by the Employer under clause 4.6.4, pay the Contractor the sum stated as due in the Payment Application.”

Clause 4.6.3 delete text and insert “For the avoidance of doubt, any application for interim payment which does not satisfy all of the requirements of clause 4.5 as to time, content and service shall be ineffective and shall not constitute a Payment Application; no due date for payment shall arise in respect of it; the Employer shall not be obliged to issue any certificate in respect of it and no payment shall be due in respect of it pursuant to clause 4.6.1 and 4.6.2”.

Clause 4.6.4.1 line 2, delete “where applicable, the Contractor’s payment notice” and insert “the Payment Application”.

Clause 4.6.4 line 6, delete “5 days” and insert “2 days”.

Clause 4.9 Final certificate and final payment

Clause 4.9.1 line 3, delete “28 days” and insert “3 months”.

Clause 4.9.2.2 line 2, delete “Contractor’s payment notice” and insert “Payment Application”

Clause 4.9.3 line 1, delete “14 days” and insert “28 days”.

SECTION 5: INJURY, DAMAGE AND INSURANCE

Clause 5.3 Contractor’s insurance of its liability

Line 1, re-number as 5.3.1 and amend the old clause numbers “5.3.1” and “5.3.2” to “5.3.1.1 and 5.3.1.2 respectively

Insert additional clause 5.3.2:

“5.3.2 The Contractor’s insurance shall include an indemnity to principal clause in favour of the Employer’s interest in the Works or alternatively be endorsed as follows: It is hereby declared and agreed that the Employer is interested in the insurance effected by this policy as Principal in respect of a contract made between [*insert the details of the parties and the date of the Contract*].”

Insert additional Clause 5.3.3:

“5.3.3 The Contractor shall forthwith notify the Employer and the insurers of any happenings or event which may give rise to any claim, demand, proceeding, damage, cost or charge whatsoever arising out of the carrying out of the Works, including but not limited to incidents that are notifiable under the CDM Regulations. The Contractor shall indemnify the Employer against any loss whatsoever which may be incurred by Employer due to the Contractor’s failure to give such notification.”

Clause 5.6 Insurance of the Works and existing structures by other means

Re-number 5.6 as 5.6.1 and at line 1, delete all the text after “shall apply” and insert “in accordance with this clause 5.6”

Insert a new clause 5.6.2 as follows:

“5.6.2 Insurance Option 5.6 has been drafted on the basis that the term “Risk” means in relation to the Contractor that the Employer is responsible for loss or damage by risks covered by the definition “All Risks Insurance” but can have recourse against the Contractor if the loss or damage to the Works and Site Materials or to the existing structures and their contents owned by the Employer or for which he is responsible is caused by the negligence or breach of statutory duty, omission or default of the Contractor or any Contractor’s Person.”

Insert a new clause 5.6.3 as follows:

“5.6.3 Subject always to the provisions of Clause 5.6.5 the Employer shall be responsible for and shall bear the Risk of loss and damage caused by the risks covered by the definition of All Risks Insurance for the full reinstatement value of the Works and Site Materials (plus the percentage, if any, stated in the Contract Particulars to cover professional fees up to a maximum amount of 15% of the cost of reinstatement).”

Insert a new clause 5.6.4 as follows:

“5.6.4 Subject always to the provisions of Clause 5.6.5 the Employer shall be responsible for and shall bear the Risk of loss or damage to existing structures and their contents owned by the Employer or for which he is responsible, limited to the full cost of reinstatement, repair or replacement of the loss, or damages caused by risks covered by the definition of All Risks Insurance provided that such risks are also Specified Perils and provided that such loss or damage occurred up to and including the date of issue of the practical completion certificate or (if earlier) the date of termination of the Contractor’s employment.”

Insert a new clause 5.6.5 as follows:

“5.6.5 Where the loss or damage to the Works and Site Materials and or the existing structures and their contents is caused by the negligence or breach of statutory duty, omission or default of the Contractor or any Contractor’s Person, the Contractor shall be

liable for the cost of reinstatement, repair or replacement of such loss or damage to the Works and Site Materials and/or to the existing structures together with the contents thereof owned by the Employer or for which he is responsible.”

Clause 5.8 Loss or damage – insurance claims and reinstatement

Clause 5.8.6 line 1, delete “or where clause 5.6 applies”

SECTION 6: TERMINATION

Clause 6.6 Corruption and regulation 73(1)(b) of the PC Regulations

In the heading, delete “regulation 73(1)(b) of the PC Regulations” and replace with: “sections 78(2)(b) and 78(2)(c) of the Procurement Act”.

In the line 6, delete "regulation 73(1) of the PC Regulations" and replace with: “section 78 of the Procurement Act”

In line 7, delete "regulation 73(1)(b) of the PC Regulations apply" and replace with: “section 78(2)(b) or 78(2)(c) of the Procurement Act apply and the Employer has complied with the relevant requirements of section 78”.

Clause 6.7 Consequences of termination under clauses 6.4 to 6.6

Clause 6.7.3 line 2, delete “3 months” and insert “6 months”.

Clause 6.10 Termination by either Party and regulations 73(1)(a) of the PC Regulations

In the heading immediately before clause 6.10 and in the heading of clause 6.10 itself, delete “regulation 73(1)(a) of the PC Regulations” and replace with: “section 78(2)(a) of the Procurement Act”.

Delete clause 6.10.3 and replace with:

“6.10.3 Where this Contract is one to which section 78 of the Procurement Act applies the Employer shall be entitled by notice to the Contractor in accordance with the relevant requirements of the Procurement Act to terminate the Contractor’s employment under this Contract where the grounds set out in section 78(2)(a) of the Procurement Act apply.”

ADD the Following Section

SECTION 8: MISCELLANEOUS PROVISIONS

Clause 8.1 Performance Bond

8.1.1 Where the Contract Particulars state that a Performance Bond applies, 1 week prior to the date of possession or Works commencement date (whichever is earlier) the Contractor shall provide and maintain a Performance Bond in favour of the

Employer in an amount equivalent to 10% of the Contract Sum from a surety approved by the Employer in the terms set out in Schedule 3 or in the Framework Agreement. Without prejudice to any other rights or remedies that the Employer might otherwise have, the Contractor shall not be entitled to make a Payment Application and, for the avoidance of doubt, shall not be entitled to any payment under this Contract whatsoever, unless and until the Contractor has provided the bonds or guarantees required.

- 8.1.2 Where the Contract Particulars state that a Performance Bond does not apply, the Contractor may still be required post-execution of the Contract to provide and thereafter maintain a Performance Bond in the terms set out in clause 8.1. If a Performance Bond is required after execution of this Contract, the Contractor shall provide a quotation from an approved surety and the Employer shall pay the net premium due thereunder in addition to the Contract Sum (unless the requirement for the Performance Bond arises as a result of a change in the financial standing of the Contractor in which case the Performance Bond shall be provided at the Contractor's expense).

Clause 8.2 Parent Company Guarantee

Where the Contractor is a part of a group of companies of which the Contractor is not the parent company, the Contractor shall be obliged to provide the Employer at the Employer's request a parent company guarantee by the parent company in the terms set out in Schedule 3.

[Guidance note: Clause 8.3 (Data Protection) assumes a position where there is no processing of Personal Data. If Personal Data is to be processed under the contract, please contact Legal Services.]

Clause 8.3 Data Protection

- 8.3.1 It is not anticipated that any there will be any Personal Data processed under this Contract with the exception of business names and contact details which the Employer and Contractor shall share in order to manage the Contract.
- 8.3.2 If any other Personal Data is processed the Parties shall comply at all times with the Data Protection Legislation and shall agree any necessary amendments or variations to this clause 8.3 in accordance with the provisions set out in this Contract.
- 8.3.3 Each Party agrees that it shall not perform its obligations under this Contract in such a way as to cause the other Party to breach any of its applicable obligations under the Data Protection Legislation.
- 8.3.4 The Contractor hereby agrees that if the Contractor, and Contractor's Persons, gain access in the course of the performance of this Contract or otherwise to Personal Data of which the Employer is a Controller, such information shall remain confidential and shall not be further processed or disclosed to any other

person for any reason whatever without the express authority of the Employer, and the Contractor hereby further agrees and undertakes to indemnify the Employer against any loss suffered by or claim made against the Employer from any breach of the Data Protection Legislation by the Contractor or Contractor's Person. The Contractor further agrees and undertakes that it will include in any subcontract the same requirements relating to Personal Data to those in this Contract.

Clause 8.4 Social Responsibility

The Contractor shall in all matters arising in the performance of the Contract conform with the provisions of any statutory obligations under any legislation regarding equality, diversity, health and safety legislation and bribery and any regulations made thereunder. The Employer shall be entitled at the Employer's expense to inspect such books, accounts and records belonging to the Contractor as are necessary to demonstrate compliance. The Contractor shall be liable for and indemnify the Employer against any expense, liability loss, claim or proceeding it may incur arising from the Contractor's failure to comply with or perform its obligations and responsibilities. The cost to the Contractor in meeting the requirements of this clause shall be included in his tender price.

Clause 8.5 Freedom of Information

8.5.1 The Contractor recognises that the Employer is subject to the legal duties which may require the release of information under the FOIA and EIR or any other applicable legislation governing access to information, and that the Employer may be under an obligation to provide information on request. Such information may include matters relating to, arising out of or under this Contract.

8.5.2 The Contractor shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the Employer to enable the Employer to comply with its obligations under FOIA and EIR;
- (b) transfer to the Employer all Requests for Information relating to this Contract that it receives as soon as reasonably practicable and in any event with two (2) days of receipt;
- (c) provide the Employer with a copy of all Information belonging to the Employer requested in the Request for Information which is in its possession or control in the form that the Employer requires within five (5) days (or such other period as the Employer may reasonably specify) of receipt of the Employer's request.

8.5.3 The Contractor acknowledges that the Employer may be required under the FOIA and EIR to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Contractor. The Employer shall take reasonable steps to notify the Contractor of a Request for Information (in

accordance with the Cabinet Office's Freedom of Information Code of Practice issued under section 45 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Employer shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIR.

- 8.5.4 Notwithstanding any other term of this Contract, the Contractor consents to the publication of this Contract in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA and EIR.
- 8.5.5 The Employer may, prior to publication, consult with the Contractor on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decisions in its absolute discretion. The Contractor shall assist and co-operate with the Employer to enable the Employer to publish this Contract.
- 8.5.6 The Employer will not be liable for any loss, damage, cost, harm or other detriment however caused arising from the disclosure of information relating to this Contract further to its duties under the FOIA and EIR or other applicable legislation governing access to information.

8.6 Prevention of Corruption

- 8.6.1 The Contractor shall not offer or give, or agree to give, to the Employer or any other public body or any person employed by or on behalf of the Employer or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Employer or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract.
- 8.6.2 The Contractor shall not commit any offence under the Bribery Act 2010 or give any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- 8.6.3 The Contractor warrants that it has not paid commission or agreed to pay commission to the Employer or any other public body or any person employed by or on behalf of the Employer or any other public body in connection with the Contract.
- 8.6.4 If the Contractor, Contractor's Persons or anyone acting on the Contractor's behalf, (with or without the knowledge of the Contractor) engages in conduct prohibited by clauses 8.6.1 to 8.6.3 the Employer may:
 - .1 terminate the Contract and recover from the Contractor the amount of any loss suffered by the Employer resulting from the termination, including the cost reasonably incurred by the Employer of making other arrangements for

the carrying out of the Works and any additional expenditure incurred by the Employer throughout the remainder of the Contract; or

- .2 recover in full from the Contractor any other loss sustained by the Employer in consequence of any breach of those clauses.

8.7 Transparency

- 8.7.1 Notwithstanding any other term of this Agreement, but subject to clause 8.7.2, the Contractor hereby gives its consent for the Employer to publish this Contract in its entirety, including from time to time agreed changes to this Contract, to the general public.
- 8.7.2 The Employer shall not disclose pursuant to clause 8.7.1 any part of this Contract containing information which (had there been a Request for Information) would have been exempt from disclosure in accordance with the provisions of the FOIA and EIR, provided that the Contractor acknowledges that the Employer shall be responsible for determining in its absolute discretion whether any part of this Contract would have been exempt from disclosure in accordance with the provisions of the FOIA and the EIR.
- 8.7.3 The Employer may consult with the Contractor to inform the Contractor of its decision under clause 8.7.2 but the Employer shall have the final decision in its absolute discretion.
- 8.7.4 The Contractor shall assist and cooperate with the Employer to enable the Employer to publish this Contract in accordance with this clause 8.7.
- 8.7.5 This Clause 8.7 shall supersede Provision 4 of Schedule 2 (Supplemental Provisions – Transparency).

8.8 Prevent Duty and compliance with anti-slavery and human trafficking laws

- 8.8.1 The Contractor acknowledges that the Employer has a duty under the Counter Terrorism and Security Act 2015 (“CTSA 2015”) to have due regard to the requirement to prevent people from being drawn into terrorism (“Prevent Duty”). The Contractor shall, and shall procure that the Contractor’s Persons shall, give all reasonable assistance and support to the Employer in meeting its Prevent Duty as a specified authority pursuant to the CTSA 2015 (and all regulations made thereunder) and the Contractor shall have regard to the statutory guidance issued under section 29 of the CTSA 2015.
- 8.8.2 In performing its obligations under the Contract, the Contractor shall:
 - (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;

- (b) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct has been carried out in the UK;
- (c) comply with the Employer's Modern Slavery Statement which can be found at: <https://documents.hants.gov.uk/aboutthecouncil/Modern-Slavery.pdf>;
- (d) include in contracts with its subcontractors' anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 8.8.2;
- (e) notify the Employer as soon as it becomes aware of any actual or suspected breach of clause 8.8.2(a) and/or 8.8.2(b); and
- (f) maintain a complete set of records to trace the supply chain of all Works provided to the Employer in connection with this Contract; and permit the Employer and its third party representatives to inspect the Contractor's premises, records, and to meet the Contractor's personnel to audit the Contractor's compliance with its obligations under this clause 8.8.2.

8.8.3 The Contractor represents and warrants that it has not been convicted of any offence involving slavery and human trafficking or been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

8.8.4 The Employer may terminate the Contract with immediate effect by giving written notice to the Contractor if the Contractor commits a breach of this clause 8.8.

Clause 8.9 Procurement Act - Debarment List and Connected Persons

8.9.1 The Contractor shall promptly notify the Employer in writing if:

- (a) the Contractor, the Contractor's Connected Persons or any sub-contractor is placed on the Debarment List;
- (b) a mandatory exclusion ground or discretionary exclusion ground applies to the Contractor, the Contractor's Connected Persons or any sub-contractor; and
- (c) shall promptly notify the Employer in writing within seven (7) days of any changes to the Contractor's Connected Persons together with information regarding the identity of the new Connected Persons.

8.9.2 For the avoidance of doubt, the Employer shall not consent to any proposed sub-contract if the sub-contractor (or any Connected Person of the sub-contractor) is on the Debarment List for a mandatory exclusion ground.

SCHEDULES TO THE CONDITIONS

SCHEDULE 1: ARBITRATION

Not Used

SCHEDULE 2 SUPPLEMENTAL PROVISIONS

Paragraph 3.3 line 5, after “the share” insert “, if any,”

Paragraph 5: delete and replace with “Supplemental Provision 5 does not apply.”

Add new **Schedule 3**:

SCHEDULE 3: PERFORMANCE BOND AND PARENT COMPANY GUARANTEE

Performance Bond

See Appendix_____.

Parent Company Guarantee

See Appendix_____.