

DATE

1st February

2024

(1)

THE DISTRICT COUNCIL OF FOLKESTONE AND HYTHE

- and -

(2)

STEADLINE LIMITED

**CONTRACT FOR THE INSTALLATION OF
MOBILITY SCOOTER STORAGE**

THIS AGREEMENT is made the 1st day of February 2024

BETWEEN

(1) **THE DISTRICT COUNCIL OF FOLKESTONE AND HYTHE** of Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY ("**the Employer**")

AND

(2) **STEADLINE LIMITED** (company registration no. 01841836) whose registered office is at Detling Aerodrome Industrial, Estate Detling Aerodrome Detling, Maidstone, Kent, ME14 3HU ("**the Contractor**")

hereinafter collectively called "**the Parties**" and independently called "**the Party**"

WHEREAS

The Employer wishes certain works to be provided, namely **Installation of Mobility Scooter Storage** ("the Works") and has accepted a tender from the Contractor dated 11 January 2024 for the provision of the Works

IT IS HEREBY AGREED as follows:

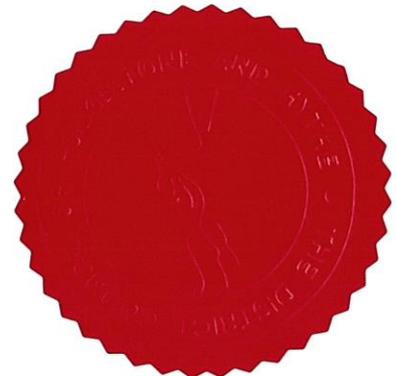
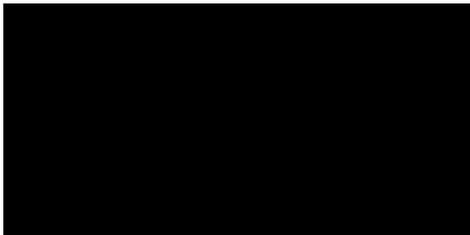
1. This Agreement incorporates the following documents and constitutes the entire agreement between the Parties relating to the Works:
 - JCT Minor Works Building Contract 2016 referred to in Appendix 1;
 - the Employer's Schedule of Amendments to the JCT Minor Works Building Contract 2016 Edition ("Schedule of Amendments") contained in Appendix 2, which shall prevail over any of the other documents listed below in the event of conflict between those documents and the Employee's Schedule of Amendments;
 - Employer's Form of Tender and Contract Specification including:
 - Schedule of Works/Scope of Works;
 - Construction Works Policy

- Contractor's tender dated 11 January 2024 including:
 - Form of Tender and priced Contract Specification;
 - Forms of Declaration;
 - Any relevant correspondence between the Parties.
2. In consideration of the provision of the Works by the Contractor, the Employer agrees to pay the Contractor the Contract Sum at the times and in the manner set out in this Agreement. The Contract Sum shall be **£362,523.64**
 3. In consideration of the payments to be made by the Employer to the Contractor in accordance with Clause 2 of this Agreement, the Contractor agrees to deliver the Works in compliance in all respects with the provisions of this Agreement.
 4. The Employer hereby appoints the Contractor as Principal Contractor for the Works for the purposes of regulation 14 of the Construction (Design and Management) Regulations 2015 ("CDM").
 5. The Contractor shall indemnify and hold harmless the Employer against any liability which the Employer may incur to any person whatsoever and against any claims, demands, costs and/or expenses sustained, incurred or payable by the Employer to the extent that the same arises by reason of any breach of this Agreement or an instruction or any tortious or negligent act or omission on the Contractor's part (and/or any third party to whom the Contractor has subcontracted the performance of the Contractor's obligations or part thereof) in the performance of the Contractor's obligations under and in connection with this Agreement.
 6. Nothing in the Contracts (Rights of Third Parties) Act 1999 shall entitle a person who is not a party to this Agreement to enforce any term of the Agreement.
 7. For the avoidance of doubt the provisions of this Agreement shall be construed and interpreted according to the laws of England and for the

purpose of any steps to be taken by the Employer to enforce the Contractor's obligations under this Agreement or any of them the Contractor hereby submits to the jurisdiction of the Courts of Law of England.

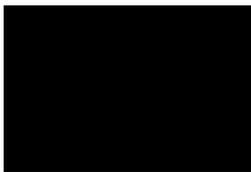
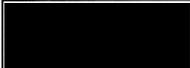
IN WITNESS whereof the Parties have executed this Agreement under hand on the day and year first above written

THE COMMON SEAL of
THE DISTRICT COUNCIL OF FOLKESTONE AND HYTHE
was hereunto affixed in the presence of:



9996

EXECUTED AS A DEED by
STEADLINE LIMITED acting by:

Director	Signature 
	
Director/ Company Secretary	Signature 
	

APPENDIX 1

CONDITIONS OF CONTRACT

The Form of Contract in respect of **Installation of Mobility Scooter Storage** shall be the **JCT Minor Works Building Contract 2016 Edition**

The Employer shall be:

THE DISTRICT COUNCIL OF FOLKESTONE AND HYTHE of Civic Centre,
Castle Hill Avenue, Folkestone, Kent CT20 2QY

The Contractor shall be:

STEADLINE LIMITED (company number 01841836) whose registered office is
at Detling Aerodrome Industrial, Estate Detling Aerodrome Detling, Maidstone,
Kent, ME14 3HU

The Contractor shall enter into the Contract with the Employer executed as a
Deed

The Recitals, Articles and Contract Particulars shall be construed in accordance
with the following:

Recitals

First: The Employer wishes to have the following work carried out:

The Installation of Mobility Scooter Storage

at various Sheltered Locations within the Folkestone & Hythe
district ("the Works")

Second: the Employer has had the following documents prepared which
show and describe the work to be done:

the drawings listed below ("the Contract Drawings"):

DRAWING NUMBER	TITLE
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1	Romney Marsh House Location
2	Halliday Court Location
3	Middelburg House Location
4	Stockham Court Location
5	Walmsley House Location
6	Mackeson Court Location
7	Philippa House Location

a Specification (“the Contract Specification”)

Price Schedule

Scooter Stores KPIs

Pre-Construction Information

Asbestos Policy

Priority Programme

those documents together with this Agreement, the Conditions, Schedule of Amendments thereto and, if applicable, a Schedule of Rates as referred to in the Third Recital (collectively ‘the Contract Documents’)^[5] as defined in the Schedule of Amendments are annexed to this Agreement

Third: priced Contract Specification

Articles

Article 1: Contractor’s Obligations

The Contractor shall carry out and complete the Works in accordance with the Contract Documents

Article 2: Contract Sum

Three hundred and sixty two thousand, five hundred and twenty three pounds, sixty four pence (£362,523.64)

Article 3: Contract Administrator shall be: [REDACTED] Major Works Surveyor

of Folkestone & Hythe District Council, Civic Centre, Castle Hill Avenue, Folkestone, Kent. CT20 2QY

or, if he ceases to be the Contract Administrator, such other person as the Employer shall nominate for that purpose

Article 4: Principal Designer

The Principal Designer for the purposes of the CDM Regulations is the Contract Administrator

Or^[1] _____ [1]

of _____

_____ or such replacement as the Employer at any time appoints to fulfil that role

Article 5: The Principal Contractor for the purposes of the CDM Regulations is the Contractor

or _____

of _____

_____ or such replacement as the Employer at any time appoints to fulfil that role

Article 7: Applies

Article 8: Applies

Article 9: The Articles of Agreement and the Conditions shall have effect as modified by the Employer's Schedule of Amendments attached hereto

Contract Particulars

Fourth Recital and Base Date
Schedule 2
(paragraphs 1.1,
1.2, 1.5, 1.6, 2.1
and 2.2)

Base Date: 11 January 2024

^[5] It is envisaged that in those cases where there is an applicable BIM or other communications protocol this will be included within one of the Contract Documents identified in the Second Recital

^[1] Under the CDM Regulations 2015, regardless of whether or not a project is notifiable, there is a requirement to appoint a principal designer and a principal contractor in all cases where there is more than one contractor, or if it is reasonably foreseeable that more than one contractor will be working on a project at any time. For these purposes, the term 'contractor' is broadly defined by the regulations and treats the Contractor's sub-contractors as separate contractors

Fourth Recital and clause 4.2	Construction Industry Scheme (CIS)	Employer at the Base Date is not a 'contractor' for the purposes of the CIS
Fifth Recital	CDM Regulations ^[3]	The project is not notifiable
Sixth Recital	Framework Agreement (if applicable) <i>(state date, title and parties)</i>	_____ _____ _____
Seventh Recital and Schedule 3	Supplemental Provisions	
	Collaborative working	Paragraph 1: applies
	Health and Safety	Paragraph 2: applies
	Cost savings and value improvements	Paragraph 3: applies
	Sustainable development and environmental considerations	Paragraph 4: applies
	Performance Indicators and monitoring	Paragraph 5: applies
	Notification and negotiation of disputes	Supplemental Provision 6: applies
	Where Supplemental Provision 6 applies, the respective nominees of the Parties are	Employer's nominee: ██████████ Major Works Surveyor of Folkestone & Hythe District Council, Civic Centre, Castle.
		Contractor's nominee: ██████████ Director for the project or such replacement as each Party may notify to the other from time to time
Article 7	Arbitration (if neither entry is deleted, Article 7 and Schedule 1 do not apply)	Article 7 and Schedule 1 (Arbitration) apply

^[3] Under the CDM Regulations 2015 a project is notifiable if the construction work on a construction site is scheduled either to last longer than 30 working days and have more than 20 workers working simultaneously at any point in the project or to exceed 500 person days

2.2	Works commencement Date :	01 February 2024
2.2	Date for Completion:	31 March 2025
2.8	Liquidated Damages	at the rate of: £100 per day
2.10	Rectification Period: (The period is three months unless a different period is stated)	12 months from date of practical completion
4.3	Interim payments – Interim Valuation Dates ^[17] (Unless otherwise stated, the first Interim Valuation Date is one month after the Works commencement date specified in these Particulars (against the reference to clause 2.2) and thereafter at monthly intervals)	The first Interim Valuation Date is and thereafter at intervals of
4.3	Payments due prior to practical completion – percentage of total value of work etc. (The percentage is 95 per cent unless a different rate is stated.)	95 Per cent ^[16]
4.3	Payments becoming due on or after practical completion – percentage of the total amount to be paid to the Contractor (The percentage is 97 ½ per cent unless different rate is stated)	97.5 Per cent ^[16]
4.3 and 4.8	Fluctuations provision (Unless another provision or entry is selected, Schedule 2 applies)	no fluctuations provision applies

^[17] The first Interim Valuation Date should not be more than one month after the Works commencement date and the intervals between Interim valuation Dates should not be more than one month.

^[16] An insertion is needed here only if the default position is not to apply. If no retention is required, insert '100' in the percentage entries for clause 4.3.

4.3 and 4.8	Percentage addition for Schedule 2 (paragraph 13) if applicable	Per cent
4.8.1	Supply of documentation for computation of amount to be finally certified:	thirty (30) Days from the date of practical completion
5.3.	Contractor's Public Liability Insurance:	
	injury to persons or property – the required level of cover is not less than	£5,000,000 For any one occurrence or series of occurrences arising out of one event
5.4A, 5.4B and 5.4C	Insurance of the Works etc - alternative provisions	Clause 5.4B (Works and existing structures insurance by Employer in Joint Names)
5.4A and 5.4B	Percentage to cover professional fees (if no other percentage is stated, it shall be 15 per cent)	15%
5.4C	Insurance arrangements – details of the required policy or policies	Are set out in the following document(s)
7.2	Adjudication Nominating body:	The Adjudicator is:

Schedule 1 paragraph 2.1 – Arbitration	Appointer of Arbitrator (and of any replacement):	President or a Vice president of: The Royal Institution of Chartered Surveyors
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APPENDIX 2

Schedule of Amendments to the JCT Minor Works Building Contract 2016 Edition (Article 9)

SECTION 1 DEFINITIONS AND INTERPRETATION

Clause 1.1 Definitions

Amend the definition of “Joint Names Policy” by inserting the words “and any funder or other third party as the Employer may require” after the word “Contractor” and before the word “as”.

Insert the following new Definitions:

“Contract Documents:

- Joint Contracts Tribunal (JCT) Minor Works Building Contract 2016 edition;
- the Employer’s Schedule of Amendments to the JCT Minor Works Building Contract 2016 edition;
- the Contractor’s Tender Document including:
 - Form of Tender dated 11 January 2024;
 - ITT Response Document
 - Pricing Schedules
 - Specification
 - Priority Programme
 - Drawings (Location Plan)
 - Forms of Declaration;

Any relevant specified correspondence between the parties”

“Data Protection Legislation - means (i) the Data Protection Act 1998 (DPA 1998), (ii) the General Data Protection Regulation (Regulation (EU) 2016/679) (“GDPR”), Law Enforcement Directive (Directive (EU) 2016/680) (“LED”), (iii) the Data Protection 2018 (“DPA 2018”) to the extent that it relates to processing of personal data and privacy and (iv) all applicable Legislation about the processing of personal data and privacy;”

“Environmental Laws - any law statute, statutory instrument or legislation of the European Union having effect in the United Kingdom, or circulars, guidance notes and the like issued by the United Kingdom Government or relevant regulatory agencies relating to the protection or pollution of the environment (within the meaning of the Environmental Protection Act 1990);”

“Hazardous Substances - any substances which are capable of carrying harm to man or any living organisms supported by the environment (within the meaning of the Environmental Protection Act 1990);”

“Proprietary Material - all drawings, details, plans, specifications, schedules, reports, calculations and other work, whether in written or electronic form (and any designs, ideas and concepts contained in them) prepared, conceived or developed by or on behalf of the Contractor in connection with this Contract and/or any Order;”

“TFEU – means the Treaty on the Functioning of the European Union;”

“the Treaties – means the Treaty on European Union and TFEU”

SECTION 2: CARRYING OUT THE WORKS

Contractor’s obligations

Delete Clause 2.1.1 and replace with the following new clauses:

- “2.1.1A The Contractor shall fully carry out the works using all the reasonable skill, care, expedition and efficiency to be expected of a properly qualified and competent contractor who is experienced in carrying out work of a similar scope, nature and complexity and size to the works.
- 2.1.1B The Contractor shall work in a proper and workmanlike manner and fully in accordance with the Contract Administrator's instructions, any instructions of the Employer, the Contract Documents and other Statutory Requirements and shall give all notices required by the Statutory Requirements.
- 2.1.1C The Contractor shall take due account of the terms of any agreements between the Employer and third parties as are from time to time disclosed to him and shall perform his obligations under this Contract in such a manner as not to constitute, cause

or contribute to any breach by the Employer of his obligations under such agreements and shall indemnify the Employer in respect of any loss and/or damage which he incurs as a result of any breach by the Contractor of this clause where such loss and/or damage arises under such agreements.

- 2.1.1D The Contractor shall not use, generate, dispose of or transport to the Works and site any Hazardous Substances otherwise than in accordance with Environmental Laws.”

Clause 2.1.2 shall be amended by inserting the following words at the end of the clause:

“To the extent that the quality of materials and goods or standards of workmanship are not prescribed nor stated to be a matter for such opinion or satisfaction, they shall be of a standard appropriate to the relevant work. For the avoidance of doubt the standards of workmanship required pursuant to this clause shall be no less than those set out in British Standard 8000 or any other standard that may be applicable.”

After clause 2.1.3 insert new clauses 2.1.4 and 2.1.5 as follows:

“Confidentiality

2.1.4 The Contractor shall be aware of and make it known to all employees agents or sub-contractors that all information in this Contract, or acquired in any way as a result of the performance or carrying out of the Contract is confidential to the Employer. The Contractor or the Contractor’s employees or agents or sub-contractors shall not divulge any such information to any other person, other than for the purposes of the performance or carrying out of the Contract except with the written permission of the Employer. The Contractor shall neither dispose nor part with possession of any confidential information or material provided to the Contractor pursuant to this Contract or prepared by the Contractor pursuant to this Contract other than in accordance with the express written instructions of the Employer. The Contractor shall indemnify and keep indemnified the Employer against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this clause.

2.1.5 The Contractor hereby agrees that if the Contractor its employees officers sub-contractors or agents gain access in the course of the performance of this Contract or otherwise to information held by the Employer and consisting of personal data within the meaning of the Data Protection Legislation, such information shall remain confidential and shall not be disclosed to any other person for any reason whatsoever without the express authority of the Employer and the Contractor hereby further agrees and undertakes to indemnify the Employer from all actions arising from any such unauthorised disclosure.”

Clause 2.5.2 shall be deleted and replaced with the following new clause 2.5.2:

"Provided the Contractor has provided the written notice specified in clause 2.5.1 then it shall not be liable under this Contract if the works carried out do not comply with the Statutory Requirements, but only to the extent that the non-compliance results from the divergence between the Statutory Requirements and the Contract Documents and/or instructions that the Contractor has previously advised the Employer of in accordance with clause 2.5.1."

Amend clause 2.9 by deleting "3.9.4" at the end of the clause and inserting the words "3.9 in respect of the supply of documents and information".

Clause 2.10 shall be amended by replacing "14 days" with "28 days".

SECTION 3: CONTROL OF THE WORKS

Delete Clause 3.1 in its entirety and replace with the following clause:

"3.1 The Employer may assign or otherwise transfer this Contract or the benefit thereof at any time without the consent of the Contractor. The Contractor hereby consents to the novation of this Contract by the Employer and agrees to enter into such documents as are required to effect such novation. The Contractor shall not assign, novate or otherwise transfer this Contract without the prior written consent of the Employer."

Delete Clause 3.2 in its entirety and replace with the following clause new clause 3.2:

"3.2.1 The Contractor shall appoint a competent Contractor's Representative for the proper administration of this Contract.

3.2.2 The Contractor's Representative shall have suitable and sufficient qualifications and experience to carry out this function and shall be the representative empowered to act on behalf of the Contractor for all purposes connected with the Contract.

3.2.3 The Contractor's Representative shall be the person referred to in the tender documentation or such other person nominated in writing by the Contractor from time to time to act in the name of the Contractor for the purposes of the Contract.

3.2.4 From time to time the Contractor may appoint one or more representatives to act for the Contractor generally or for specified purposes or periods. Immediately any such appointment is made or terminated, the Contractor shall give written notice thereof to the Employer and until such notice is received the Employer shall be under no obligation to comply with any instruction issued by such representative.

3.2.5 Any notice, information, instruction or other communication given to the Contractor's Representative by the Employer shall be deemed to have been given to the Contractor.

Delete Clause 3.3.1 in its entirety and replace with the following clause:

"3.3.1 Except as otherwise may be provided in this Contract the Contractor shall not sub-contract the whole or any part of the Works without the prior written consent of the Employer (which the Employer may in its absolute discretion permit or withhold)."

Renumber clause 3.3.2 as clause 3.3.3 and insert the following new clause 3.3.2:

"3.3.2 In the event of the Employer agreeing to any assignment or sub-contracting such consent shall not relieve the Contractor from any liability or obligation under this Contract and the Contractor shall be responsible for the acts, defaults and negligence of any assignee or sub-contractor, his or its agents, servants or employees."

Clause 3.8 shall be amended by inserting the following sentence at the end of the clause:

"The Contractor shall then ensure that such person is immediately excluded from the site."

New Clause 3.10:

"Access to site

"3.10 The Contract Administrator or their representative shall have at all times access to the Works and site or other places off-site where materials or equipment are being stored or prepared for the Works."

SECTION 4: PAYMENT

Delete clauses 4.4.1, 4.4.2, 4.5.2 and 4.5.3 in their entirety.

Clause 4.8.1 shall be amended by replacing "28" with "30" in the first sentence.

SECTION 5: INJURY, DAMAGE AND INSURANCE

Clause 5.3.2: following the words "of one event" insert the words "with no limit to the number of events".

Insert new clause 5.8 as follows:

"5.8 The Contractor shall ensure, so far as is reasonably practicable, the health, safety and welfare at work of his employees and shall conduct

his undertakings in such a way as to ensure that persons other than his employees who may be affected by his operations are not exposed to risks to their health or safety and shall in all respects perform his duties under the Health and Safety at Work, etc Act 1974 and any Health and Safety Regulations made thereunder."

Insert new clause 5.9 as follows:

"5.9 The Contractor shall at all times reasonably prevent any public or private nuisance (including without limitation any such nuisance caused by noxious fumes, noisy working operations or the deposit of any materials or debris on the public highway) or other interference with the rights of any adjoining or neighbouring landowner, tenant or occupier or any statutory undertaker arising out of the provision of the Works or of any obligation pursuant to clause 2.10 and shall defend or, at the Employer's option, assist the Employer in defending any action or proceedings which may arise as a result of any breach by the Contractor of its obligations under this Contract."

SECTION 6: TERMINATION

Insert additional sub-clauses 6.4.1.4 and 6.4.1.5 as follows:

" . 4 fails to comply with clause 5.8 (Health and Safety), or
 . 5 fails to comply with any of his obligations including all conditions contained in the Contract Documents"

Re-number clause 6.4.2 as clause 6.4.3.

Insert new clause 6.4.2 as follows:

"6.4.2.1 Where the Contractor receives notice under Clause 6.4.1 that it has failed to perform the Works in accordance with the Contract Documents, the Employer may, without prejudice to any other remedy it may have:

- (i) request from the Contractor that, at the Contractor's own expense and as specified by the Employer, it reschedules and carries out the Works in a manner satisfactory to the Employer, which may include rectifying completed Works or repeating the provision of any of the Works within such period as the Employer may specify by such written notice; and/or
- (ii) withhold or reduce payments to the Contractor, as the Employer shall reasonably deem appropriate in each particular case; and/or
- (iii) request that the Contractor pay or allow to the Employer liquidated damages at the rate stated in the Contract Particulars between the specified date for completion and the actual date of completion; and/or

- (iv) employ a third party to carry out and complete the Works.

6.4.2.2 Any expenses incurred which are in addition to the cost of the relevant part of the Works arising as a consequence of suspension of the Works or procuring a third party to do so, shall be recovered in full from the Contractor, including any administrative costs reasonably incurred by the Employer.”

Delete clause 6.6 and replace with the following new clause 6.6:

“6.6 Prevention of Bribery and Corruption

“6.6.1 The Contractor warrants and undertakes to the Employer that:

- .1 it will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and will not give any fee or reward the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972;
- .2 it will procure that any person who performs or has performed services for or in its behalf (“Associated Person”) in connection with this Contract complies with this clause and subject to the JCT Form of Contract to be used;
- .3 it will not enter into any agreement with any Associated Person in connection with this Contract, unless such agreement contains undertakings on the same terms as contained in this clause and subject to the JCT Form of Contract to be used;
- .4 it has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with the Contract;
- .5 from time to time at the reasonable request of the Employer it will confirm in writing that it has complied with its undertakings under clauses 6.6.1.1 to 6.6.1.4 and will provide any information reasonably requested by the Employer in support of such compliance;
- .6 it shall notify the Employer as soon as practicable of any breach of any of the undertakings contained within this clause of which it becomes aware.

6.6.2 Where the Contractor or Contractor’s employees, servants, sub-contractors, suppliers or agents or anyone acting on the Contractor’s behalf, engages in conduct prohibited by the Bribery Act 2010 or the Local Government Act 1972 section 117(2) in relation to this or any other contract with the Employer, the Employer has the right to;

- .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 provision of the Works and any additional expenditure incurred by the Employer throughout the remainder of the Contract.
- .2 recover in full from the Contractor any other loss sustained by the Employer in consequence of any breach of this clause, whether or not the Contract has been terminated.”

Delete heading of clause 6.7 and replace with new heading “Consequence of termination under clauses 6.4, 6.5 and 6.6”

Insert new Section 8 (TUPE) to the JCT Conditions of Contract as follows:

“Section 8 TUPE

- 8.1 The Contractor accepts and undertakes that when it tendered for (and entered into) this Contract it has taken into consideration the provisions of the European Acquired Rights Directive 77/187 (“Directive”) and the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“Regulations”) and has considered the application or otherwise of those provisions to this Contract and has taken the appropriate action required under the Directive and/or the Regulations.
- 8.2 Where, in the opinion of the Employer, the Regulations are likely to apply on the termination or expiration of the Contract, the Contractor shall provide such information as the Employer may require in order to comply with the Regulations including, without limitation, such information regarding any Contractor employee who would transfer under the same terms of employment under the Regulations. Such information shall be provided to the Employer within fourteen (14) days of request or as otherwise required by the Regulations.
- 8.3 Where the award of this Contract, or any successor/replacement contract, creates rights under the Regulations, the Contractor shall indemnify the Employer against any transfer costs (including, without limitation, any claims, damages, awards, orders or payments for the Contractor’s failure to comply with the Regulations).”

Insert new Section 9 (Freedom of Information) to the JCT Conditions of Contract as follows:

“Section 9 Freedom of Information

- 9.1 The Employer is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 (“the Acts”). As part of the Employer’s duties under the Acts, it may be required to disclose information forming part of the Contract to anyone who makes a request.

The Employer has absolute discretion to apply or not to apply any exemptions under the Acts.

- 9.2 The Contractor shall assist and co-operate with the Employer (at the Contractor's expense) to enable the Employer to comply with the information disclosure requirements under the Acts and in so doing will comply with any timescale notified to it by the Employer.
- 9.3 The Contractor acknowledges that the Employer is committed to the Government's transparency agenda requiring the Employer to publish on line items of spend over £500 (five hundred pounds) including actual payments made to the Contractor, the Contractor's tender and the terms of this Contract (excluding commercially sensitive Information).
- 9.4 The Contractor acknowledges that the Employer may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the discharge of public authorities functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004) be obliged under the FOIA or the Environmental Information Regulations to disclose information;
- a) without consulting with the Contractor, or
 - b) following consultation with the Contractor and having taken its views into account."

Insert new Section 10 (Data Protection) to the JCT Conditions of Contract as follows:

"Section 10 Data Protection

The Contractor shall (and shall procure that any of its staff involved in the provision of the Works) comply with any requirements under the Data Protection Legislation."

Insert new Section 11 (Equal Opportunities, Unlawful Discrimination and Human Rights) to the JCT Conditions of Contract as follows:

"Section 11 Equal Opportunities, Unlawful Discrimination and Human Rights

- "11.1 The Contractor shall comply with all applicable equalities, inclusion, and diversity legislation, which shall include any law, statute, bye-law, regulation, order, regulatory policy, guidance or code of practice, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body ("the Equalities Provisions") now in force or which may be in force in the future and with the Employer's equality and diversity policies as may be amended from time to time, copies of which will be provided by the Employer to the Contractor at the Contractor's written request.

- 11.2 For the avoidance of doubt, the term “Contractor” in this clause 11 shall include the Contractor’s employees, agents, representatives and sub-contractors employed in the execution of the Contract.
- 11.3 The Contractor will provide to the Employer such information as the Employer may reasonably request in respect of the impact of equality issues on the operation of the Contract.
- 11.4 If a complaint is made about the acts or omissions of the Contractor in relation to the Equality Provisions, the Contractor may be the subject of an investigation by the Employer. During the course of such an investigation the Contractor shall make all documents the Employer considers to be relevant to the investigation available and co-operate with the investigation. If any breach of the Employer’s duties under the Equalities Provisions is found to have occurred due to the acts or omissions of the Contractor, the Contractor shall indemnify the Employer in respect of any loss, damage and/or compensation, fines and costs (including but not limited to legal costs and expenses) which may be suffered by or imposed on the Employer by any court, tribunal or ombudsman.
- 11.5 If requested to do so by the Employer the Contractor shall co-operate with the Employer at the Contractor’s expense in connection with any legal proceedings, ombudsman enquiries, arbitration or Court proceedings in which the Employer may become involved arising from any breach of the Employer’s duties under the Equalities Provisions due to the alleged acts or omissions of the Contractor.
- 11.6 The Contractor shall carry out the works in a manner which is consistent with the Human Rights Act 1998 as though (for the avoidance of doubt) it is bound by the Act and in such a way that the Employer shall not be liable to any person for a breach of its duties under the said Act and shall indemnify the Employer against any direct or indirect costs expenses damages compensation liabilities or other claims incurred or suffered by the Employer arising from or in relation to a breach or alleged breach of the said Act.
- 11.7 Failure by the Contractor to comply with the provisions of this clause 11 may lead to the termination of this Contract.”

Insert new Section 12 (Contractor’ Personnel) to the JCT Conditions of Contract as follows:

“Section 12 Contractor’s Personnel

- “12.1 The Contractor shall comply with all relevant legislation relating to the Contractor’s personnel (“Personnel”), however employed, including (but not limited to) the compliance in law of the ability of the Personnel to work in the United Kingdom.

12.2 The Contractor shall employ sufficient persons to ensure that the Works are carried out in accordance with the Contract. The Personnel engaged in and about the provision of the Works shall be properly and sufficiently qualified, competent, skilled and experienced and the Contractor shall ensure that such Personnel are properly and continuously trained, sufficiently instructed and adequately supervised with regard to the provision of the Works generally and in particular:

- .1 the task or tasks such Personnel have to perform;
- .2 all relevant rules, procedures and statutory requirements concerning health and safety, including the Employer's health and safety policy;
- .3 all other statutory requirements in connection with the Contract

and the Contractor shall indemnify the Employer against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this clause 12.

12.3 The Employer shall be entitled to require the Contractor to remove from the performance and carrying out of the Works any of the Personnel whose behaviour is in the opinion of the Employer negligent, (should it become aware) disruptive, disturbing or likely to cause offence to the Employer or its employees and where the Employer has received a valid complaint.

12.4 The Employer shall in no circumstances be liable either to the Contractor or to any Personnel (including its sub-contractors) removed pursuant to clause 12.3 in respect of any cost, expense, liability, loss or damage occasioned by such removal and the Contractor shall fully indemnify the Employer in respect of any claim or proceedings made or brought against the Employer by such Personnel."

Insert new Section 13 (Safeguarding) to the JCT Conditions of Contract as follows:

"Section 13 Safeguarding

13.1 The Contractor shall make arrangements during the provision of any works under this Contract to ensure that the Contractor and its Personnel comply, in all respects, with all relevant legislation and Employer policy in relation to the safeguarding of children and vulnerable adults, which may include enhanced disclosure checking of the Personnel, undertaken through the Disclosure and Barring Service ("DBS") and a check against the adults barred list or the children's barred list as appropriate.

13.2 The Contractor shall monitor the level and validity of the checks for each of its Personnel.

- 13.3 The Contractor warrants that at all times for the purposes of this Contract, it has no reason to believe that any person who is or will be employed or engaged by the Contractor in the provision of the Works is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.”

Insert new Section 14 (Asbestos) to the JCT Conditions of Contract as follows:

“Section 14 Asbestos

- 14.1 Where any works under this Contract involves the use and handling of asbestos, the Contractor shall, at all times, comply with the provisions of the Control of Asbestos Regulations 2012 and any other relevant legislation, codes of practice and guidelines in respect of asbestos.
- 14.2 Where incidental asbestos is discovered or suspected at any of the Employer’s premises or sites, the Contractor shall notify the Contract Administrator immediately. The Contract Administrator will advise the Contractor by further instruction.
- 14.3 Where no asbestos survey has been conducted, the Employer may require the Contractor to arrange a survey and provide the Employer with the results of the survey as soon as is reasonably possible.
- 14.4 In order that the Employer’s asbestos register may be updated, the Contractor shall promptly notify the Employer in writing of any new asbestos materials discovered, or any asbestos materials found to have become seriously damaged and of any asbestos materials wholly removed from the property.
- 14.5 It is a condition of this Contract that all of the Contractor’s Personnel, which shall include all of the Contractor’s employees, agents, representatives and sub-contractors engaged in the provision of the Works, are required to have undertaken asbestos awareness/identification training prior to commencing work at any of the Employer’s properties. The Contractor shall provide the Employer with written evidence of such training prior to commencing the Works and such written evidence must be held in the Contractor’s office for inspection by the Employer at all times. If it is determined that a member of the Contractor’s Personnel has not undertaken such asbestos awareness/identification training, then that person shall be removed from the provision of the Works immediately.
- 14.6 The Contractor shall indemnify the Employer against any expense, liability, loss, claim or proceedings etc., in respect of personal injury to any person whomsoever and the contraction of any industrial disease as a result of exposure to asbestos during the course of the work within this Contract will be deemed to be covered by that condition.”

Insert new Section 15 (Additional Employer's Requirements) to the JCT Conditions of Contract as follows:

"Section 15 Additional Employer's Requirements

"15.1 In the event of any inconsistencies or any ambiguity between the Articles of Agreement, Conditions and this Schedule of Amendments, the Parties agree that the Schedule of Amendments shall take precedence over the Articles of Agreement and Conditions whilst the Articles of Agreement shall take precedent over the Conditions.

15.2 The Contractor shall ensure that it has policies or codes of conduct in relation to:

- equality and diversity policies
- sustainability
- information security rules
- whistleblowing and/or confidential reporting policies.

15.3 The Contractor shall keep and maintain until 6 years after the Contract has been completed, or as long a period as may be agreed between the Parties, full and accurate records of the agreement including:

- (a) the works provided under it;
- (b) all expenditure reimbursed by the Employer;
- (c) all payments made by the Employer

and the Contractor shall on request afford the Employer or the Employer's representatives with such access to those records as may be required in connection with this Contract.

15.4 The Contractor shall co-operate fully with any enquiry or investigation made by the Employer's internal or external auditors, or any other quality or performance inspectors, that in any way concerns this Contract or any sums claimed or charged in relation to this Contract. The Employer may use information given by the Contractor in connection with this Contract to prevent and detect fraud and money-laundering; it may also share this information, for the same purpose, with other organizations that handle public funds. The Contractor shall take all necessary action to prevent money laundering. Where the Employer deems that the Contractor has been involved in money laundering it will take whatever measures appropriate to prevent this and report such action to the relevant authorities. The discovery of fraud and/or money laundering shall be grounds for termination of the Contractor's employment.

15.5 The Contractor shall comply with any Employer policies affecting the Contract and shall if requested provide the Employer with any relevant information required in connection with any legal inquiry, arbitration or court proceedings in which the Employer may become involved or any relevant disciplinary hearing internal to the Employer and shall give evidence in such inquiries or proceedings or hearings arising out of the

Contract. The Contractor shall co-operate fully with the Commissioner for Local Administration in England (the Local Government Ombudsman) in any investigation by him of any complaint relating to the Contract and in enquiries by any of the Employer's Committees. From time to time, the Employer may require the Contractor to provide reports to, or be involved in discussions with, elected members. The Contractor shall comply with the Employer's reasonable requirements and shall not be entitled to any additional payment in respect thereof save to the extent such costs are incurred as a result of a default on the part of the Employer.

- 15.6 The Contractor shall, upon becoming aware of anything in connection with the Contract that is likely to give rise to legal inquiry or litigation, forthwith notify the Contract Administrator, giving such details as are available.
- 15.7 The Contractor shall deal with any complaints about its performance of the Contract, received from whatever source, in a prompt, courteous and efficient manner. The Contractor shall set up an internal process for dealing with complaints and shall keep a written record of all complaints received and of the action taken in relation to such complaints. The Contractor shall inform the Contract Administrator in writing of all complaints received and of all steps taken, and shall permit its record of complaints to be inspected by the Contract Administrator (or any other person nominated by him) at all reasonable times on reasonable notice.
- 15.8 The Contractor and its Personnel shall not speak to the press or broadcasting media about any matters connected with the Contract without the prior written consent of the Contract Administrator. If the Contractor intends to advertise its provision of the Works to the Employer, it shall obtain approval of the Employer before doing so as to the content of such advertisement.
- 15.9 The Contractor should note that it is of the utmost importance that their employees and sub contract employees carry with them at all times their company's identification card to produce when challenged by the Employer's staff or council residents.
- 15.10 Where under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum item due or which at any time thereafter may become due to the Contractor under the Contract or under any other similar construction contract with the Employer.
- 15.11 The Contractor shall be deemed to have obtained information on all matters affecting the execution of the works. No claim arising from errors or omissions will be considered.
- 15.12 The Contractor shall comply with all Standing Orders of the Employer in so far as they are applicable to the execution of the Works. It is the

responsibility of the Contractor to determine the nature and extent of such Standing Orders for lack of knowledge will not constitute grounds for non-compliance. A copy will be available for inspection on request.

- 15.13 The Contractor shall comply with all statutory requirements to be observed and performed in connection with the Contract and shall indemnify the Employer against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Contractor of this clause 15.

Bonds and Guarantees

Insert new Section 16 to the JCT Conditions of Contract as follows:

“16.1 At the exclusive discretion of the Employer, when the Contractor is a subsidiary of another company it shall procure that its ultimate holding company (or, at the Employer’s complete discretion, such other company within the Contractor’s group as the Employer shall require) shall provide a parent company guarantee in favour of the Employer in respect of the Contractor’s obligations under the Contract executed as a deed in the form set out in Appendix 1. The guarantee must be in place before the Contract commences.

16.2 At the exclusive discretion of the Employer, where the Contractor does not have a parent company or where the parent company is not approved by the Employer, the Contractor shall enter into a contract guarantee bond, in the form set out in Appendix 2, by which they shall be jointly and severally bound to the Employer in a sum equivalent to 10% of the total contract value conditioned for the due fulfilment of the terms and conditions of the Contract. The surety shall be either an insurance company or bank whose registered office is situated in England. The bondsman is to be approved by the Employer. The bond must be in place before the Contract commences.”

Insert new Section 17 to the JCT Conditions of Contract as follows:

“Greenhouse Gases and Carbon Emissions¹

- 17.1 The following definitions apply in this clause and in Schedule 4:
“GHG Emissions” means the emissions of GHGs from all sources related to this Agreement, categorised as “Scope 1” and “Scope 2” emissions

¹ This clause does not require a specific reduction in carbon emissions, but contains a general obligation to reduce and minimise emissions in providing the services. Specific reduction requirements could be dealt with by linking year-on-year improvements to relevant KPIs. Alternatively, a project specific sustainability clause may be more appropriate.

by The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition 2015 as updated from time to time;

“Greenhouse Gases (GHGs)” means the natural and anthropogenic gases which trap thermal radiation in the earth’s atmosphere and are specified in Annex A to the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), as may be amended from time to time, which include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF₆), and nitrogen trifluoride (NF₃), each expressed as a total in units of Carbon Dioxide Equivalent (CO₂e).

“Overall Sustainability Impact” means the Contractor’s assessment and performance of the relevant social, environmental and economic policies related to this Agreement in accordance with the Small business user guide: Guidance on how to measure and report your greenhouse gas emissions published by the Department for Environment, Food & Rural Affairs Published on February 2012 <https://www.gov.uk/government/publications/small-business-user-guide-guidance-on-how-to-measure-and-report-your-greenhouse-gas-emissions>.

“Sustainability Report” has the meaning given to it in clause 17.3.

- 17.2 In performing its obligations under this Contract, the Contractor shall, where applicable to this Contractor, to the reasonable satisfaction of the Employer:
- 17.2.1 in its operations, comply with all applicable environmental law, including in relation to waste disposal, GHG emissions and the handling of hazardous and toxic materials and the provision of certificates if requested and as appropriate;
 - 17.2.2 demonstrate low carbon resource efficiency, including minimising the use of resources and responding promptly to the Employer’s reasonable questions;
 - 17.2.3 minimise the release of GHG emissions, air pollutants and other substances damaging to health and the environment in providing the Services taking into account factors including the locations from which materials are sourced, transport of materials, work-related travel by relevant staff, emissions from Contractor offices and equipment.

- 17.3 On each anniversary of the Works commencement date as specified in the Contract Particulars, the Contractor shall complete and submit to the Employer a sustainability report in relation to the Works, which shall be in the form specified in Schedule 4 (the "Sustainability Report"), and include the assumptions used in the reporting and contain information on:
- 17.3.1 the Contractor's GHG emissions associated with the delivery of this Contract in accordance with established best practice and internationally accepted standards²
 - 17.3.2 the Contractor's water use (in metres cubed);
 - 17.3.3 the Contractor's energy consumption for all fossil fuels (in kilowatt-hours (kWh)) relating to assets used at Employer premises or other locations;³
 - 17.3.4 transport use (and resulting GHG emissions from transport fuel) for goods delivered to, or Contractor staff travel to, Employer premises or other Employer locations or the location where the contract is delivered;
 - 17.3.5 volume of waste (in kilograms/tonne) produced at Employer premises or other locations that relate to the provision of the Works, including how the Contractor intends to process and dispose of waste; and
 - 17.3.6 the Overall Sustainability Impact of the Works, including improvements identified by the Contractor, new policies or targets adopted to reduce the environmental impact of the Contractor's operations and contributions towards any Employer environmental policies or targets.

Insert new Schedule 1 to the JCT Conditions of Contract as follows:

SCHEDULE 1: GREENHOUSE GAS REPORTING

² The Small Business User Guide published by DEFRA, 2012: *SMALL BUSINESS USER GUIDE: Guidance on how to measure and report your greenhouse gas emissions* ([publishing.service.gov.uk](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69494/pb13310-ghg-small-business-guide.pdf)) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69494/pb13310-ghg-small-business-guide.pdf

³ Calculating the CO₂ equivalent from the *UK Government GHG Conversion Factors for Company Reporting* for the relevant reporting period. <https://www.gov.uk/government/publications/greenhouse-gas-reporting-conversion-factors-2022>

1. This Schedule shall be completed on each anniversary of the Works commencement date as specified in the Contract Particulars of this Contract by the Contractor and the completed schedule shall be referred to as the "Sustainability Report". The CO2 equivalent emissions associated with fossil fuels will be calculated, and the water usage, recycling rates and waste produced will be reported.
2. The Sustainability Report will demonstrate, measure and report on the carbon emissions (CO2 equivalent) associated with the delivery of the Works under this Contract.
3. The Sustainability Report will set out the Overall Sustainability Impact of the Works, including improvements identified by the Contractor, new policies or targets adopted to reduce the environmental impact of the Contractor's operations and contributions towards any Employer environmental policies or targets.
4. The calculation methodology for the Sustainability Report will follow the latest guidance from DEFRA⁴ and include:

Step 1.

Measure the greenhouse gas emissions for the Contractor's business,

-taking into account the parts of the Contractor's business which the Contractor either owns or has control over. This means that the Contractor is only measuring emissions which relate to the Contractor's business operations. To do this, the Contractor needs to set a boundary which will ring fence the Contractor's business operations and will help identify which greenhouse gases the Contractor needs to measure; and

-apportion the emissions relating to this Contract, noting the assumptions that the Contractor has made.

Step 2.

Identify the main activities relating to this Contract, that release greenhouse gases in the Tables 1 (Fossil Fuel Use) and Table 2 Water & Waste) below.

Step 3.

⁴ Latest guidance follows the DEFRA approach and can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69494/pb13310-ghg-small-business-guide.pdf

The assumptions made in the calculation of the emissions associated with this Contract are to be expressly stated in Tables 1 (Fossil Fuel Use) and Table 2 Water & Waste) below.

Step 4.

Provide information on the Overall Sustainability Impact of the Works and return the completed Sustainability Report and Tables 1 (Fossil Fuel Use) and Table 2 Water & Waste) to the Employer.

Folkstone & Hythe District Council Sustainability Report: greenhouse gas emissions⁵

Name of Contract: *Installation of Mobility Scooter Storage (DN701870)*

Date of Report: *[insert date of report]*

Contractor/Supplier/Consultant Name: *[insert name, address and company number (if applicable)]*

Table 1: Fossil Fuel Use

Activity	Data Source	Assumptions used to apportion the consumption	CO2 equivalent in kg
Electricity Use	Electricity bills in kWh apportioned to this contract	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Natural Gas use	Gas bills in kWh apportioned to this contract	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Other fossil fuels	Oil, LPG, propane delivery notes	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Fuels used in vehicles and machinery to service the contract	Mileage and fuel bills (litres)	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Assumptions	<i>[insert relevant assumptions used for calculated the figures inserted above]</i>		

Table 2: Water and Waste

⁵ The methodology to calculate the Sustainability Report should follow the latest guidance from DEFRA. Latest guidance follows the DEFRA approach and can be found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69494/pb13310-ghg-small-business-guide.pdf

Activity	Data Source	Assumptions used to apportion the consumption	Consumption
Water consumption	Water supply from bills in m3	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Water treatment	Water treatment bills in m3	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Waste disposal	Tonnes of waste to landfill	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Waste recycling	Tonnes of waste to recycling facility	<i>[Please be as specific as possible]</i>	<i>[insert figure]</i>
Assumptions	<i>[insert relevant assumptions used for calculated the figures inserted above]</i>		