

DATE

11 May

2023

(1)

THE DISTRICT COUNCIL OF FOLKESTONE AND HYTHE

- and -

(2)

AW CONSTRUCTION SERVICES LIMITED

CONTRACT FOR THE PROVISION OF
CAT A FIT OUT TO FIRST FLOOR OFFICE AT CONNECT 38

THIS AGREEMENT is made the¹¹..... day of^{May}.....2023

BETWEEN

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

(2) **AW CONSTRUCTION SERVICES LIMITED** (company registration no. 08720363) whose registered office is at 20-24 Stanley Court Shearway Business Park, Shearway Road, Folkestone, Kent, England, CT19 4FJ ("**the Contractor**")

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

WHEREAS

The Employer wishes certain works to be provided, namely CAT A fit out of First Floor office at Connect 38 ("the Works") and has accepted a tender from the Contractor dated 22 March 2023 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 with contractor's design 2016 referred to in Appendix 1;
 - the Employer's Schedule of Amendments to the JCT Minor Works Building Contract with contractor's design 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 Employer'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 22 March 2023 including:
 - Form of Tender and priced Contract Specification;
 - Forms of Declaration;
 - Any relevant correspondence between the Parties.
 - Contractor Qualifications dated 24 April 2023
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 **£204,872.62**.
- 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:

[Redacted Signature]

Authorised Officer



2841

**EXECUTED AS A DEED by
AW CONSTRUCTION SERVICES LIMITED acting by:**

Director		
Director Company Secretary		
WITNESS		

APPENDIX 1

CONDITIONS OF CONTRACT

The Form of Contract in respect of CAT A fit out of First Floor office at Connect 38 shall be the **JCT Minor Works Building Contract with contractor's design 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:

AW CONSTRUCTION SERVICES LIMITED (company registration no. 08720363) whose registered office is at 20-24 Stanley Court Shearway Business Park, Shearway Road, Folkestone, Kent, England, CT19 4FJ.

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:

CAT A Fit Out

at First Floor Office, Connect 38, Station Rd, Ashford, Kent TN23 1FB ("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
1	First Floor AS BUILT
2	First Floor FIRE
3	First Floor VENTILATION

- Tender Specification

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 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

Two hundred and three thousand, eight hundred and twenty five pounds, eleven pence (£203,825.11) ("the Contract Sum")

Article 3: Contract Administrator shall be: Martello Building Consultancy
of Studio 9, 2 South Street, Folkestone, Kent CT20 1RW.

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

^[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

or _____

of _____

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

Article 7: Does not apply

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

Fifth Recital and Schedule 2 (paragraphs 1.1, 1.2, 1.5, 1.6, 2.1 and 2.2)	Base Date	22 March 2023
Fifth Recital and clause 4.2	Construction Industry Scheme (CIS)	Employer at the Base Date is not a 'contractor' for the purposes of the CIS
Sixth Recital	CDM Regulations ^[3]	The project is not notifiable
Seventh Recital	Framework Agreement (if applicable) <i>(state date, title and parties)</i>	_____ _____ _____ _____
Eighth 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	Paragraph 5: applies

^[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

and monitoring

Notification and negotiation of disputes

Where Supplemental Provision 6 applies, the respective nominees of the Parties are

Supplemental Provision 6: applies

Employer's nominee: [REDACTED], Building Surveyor, Civic Centre, Castle Hill Avenue, Folkestone, Kent CT20 2QY.

Contractor's nominee: [REDACTED] 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
2.3	Works commencement Date :	15 th May 2023
2.3	Date for Completion:	21 st July 2023
2.9	Liquidated Damages	at the rate of: £100 per day
2.11	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	The first Interim Valuation Date is One month after commencement. and thereafter at intervals of one month.

^[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.

	Particulars (against the reference to clause 2.2) and thereafter at monthly intervals)	
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
4.3 and 4.8	Percentage addition for Schedule 2 (paragraph 13) if applicable	N/A
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 5.4C (Existing structures insurance by Employer in own name)
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 Royal Institution of Chartered Surveyors	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

APPENDIX 2

Schedule of Amendments to the JCT Minor Works Building Contract with contractor's design 2016 Edition (Article 9)

Incorporation of contract amendments

New Article 9 Add as Article 9 the following; "The Articles, Contract Particulars, Conditions and Schedules are subject to the Contract Amendments."

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 with contractors design 2016 edition;
- the Employer's Schedule of Amendments to the JCT Minor Works Building Contract with contractor's design 2016 edition;
- the Contractor's Tender Document including:
 - Form of Tender dated 22 March 2023;
 - Tender Specification
 - Pricing Schedule

 - Contract Drawings
 - 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.”
- 2.1.1E 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.

Insert new clause 2.13 as follows:

“Confidentiality

2.13.1 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.

2.13.2 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.”

Materials, Goods and Workmanship

Clause 2.2.1 shall be deleted and replaced by the following new clause 2.2.1:

“The Contractor in carrying out each Order shall not specify or use materials which are generally known at the time of use to be deleterious to health and safety or to durability in the particular circumstances in which they are used and the Contractor shall use materials, goods and workmanship of the quality and standards specified in the Order, or if not so specified, of the quality and standard to be expected of a contractor experienced in works of a like nature to the works set out

in the Order. The Contractor warrants to the Employer that he has not specified and will not specify for use nor use in carrying out each Order any substance and/or material which is not in conformity with any relevant British or European Standards or Codes of Practice or which are generally known to the UK construction industry to be deleterious to health and safety or the durability of the Works in the particular circumstances in which it is used or which is not used in accordance with the guidance contained in the publication "Good Practice in the Selection of Construction Materials" 1997) Over Arup & Partners."

Clause 2.2.2 shall be deleted and replaced by the following new clause 2.2.2:

"Where and to the extent that the approval of the quality of materials or goods or of the standards of workmanship is a matter for the opinion of the Contract Administrator, such quality and standards shall be to his reasonable satisfaction. To the extent that the quality of materials and goods or standards of workmanship are not described in the Order 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."

Clause 2.6.2 shall be deleted and replaced with the following new clause 2.6.2:

"Provided the Contractor has provided the written notice specified in clause 2.6.1 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 2.6.1."

Clause 2.11 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

Clause 4.8.1 shall be amended by replacing “28” with “30” in the second 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 2.11 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 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."

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

Insert new Section 10 to the JCT Conditions of Contract as follows:

“Data Subject Access Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

“DPA” means the Data Protection Act 2018 as amended from time to time;

“Data Protection Officer” has the meaning given in the GDPR;

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679)

“LED” means the Law Enforcement Directive (Directive (EU) 2016/680)

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

“Processor Personnel” all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any sub-contractor of the Processor

“Personal Data Breach” has the meaning given in the GDPR;

“Sub-processor” any third party appointed to process Personal Data on behalf of the Contractor related to this agreement;

10.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Employer and East Kent Housing, as the contract administrator, are joint Controller and the Contractor is the Processor unless otherwise specified in Schedule Processing Personal Data). The only processing that the Processor is authorised to do is listed in Schedule Processing Personal Data and may not be otherwise be determined by the Processor.

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

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

- a) a systematic description of the envisaged processing operations and the purpose of the processing;
- b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

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

- a) process that Personal Data only in accordance with Schedule Processing Personal Data, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
- b) ensure that it has in place Protective Measures which have been reviewed and approved by the Controller as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule Processing Personal Data);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;

- (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
 - e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.
- 10.5 Subject to Clause 12.7, the Processor shall notify the Controller immediately if it:
- a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - b) receives a request to rectify, block or erase any Personal Data;
 - c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - f) becomes aware of a Data Loss Event.
- 10.6 The Processor's obligation to notify under Clause 12.5 shall include the provision of further information to the Controller in phases, as details become available.
- 10.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 12.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- a) the Controller with full details and copies of the complaint, communication or request;
 - b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

- d) assistance as requested by the Controller following any Data Loss Event;
 - e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 10.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- a) the Controller determines that the processing is not occasional;
 - b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 10.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 10.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 10.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
- a) notify the Controller in writing of the intended Sub-processor and processing;
 - b) obtain the written consent of the Controller;
 - c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 12.11 such that they apply to the Sub-processor; and
 - d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 10.12 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- 10.13 The Employer may, at any time on not less than 30 Working Days' notice, revise this Clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 10.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Employer may on not less than 30 Working Days' notice to the Contractor amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office."

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 cooperate 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. 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, by which they shall be jointly and severally bound to the Employer in a sum equivalent to 10% of the total contract value/annual price 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 Emissions”¹

- 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 by The

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.

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:

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)

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>

SCHEDULE 1: GREENHOUSE GAS REPORTING

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: *[insert name of contract and contract reference number]*

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>		

CONNECT 38 - CAT A OFFICE FIT OUT PRICING SCHEDULE



Suppliers are asked to submit a fixed quote for the fulfilment of the requirements
 Prices submitted must be exclusive of Value Added Tax.

Suppliers are to complete cells highlighted in green only
 Total cost for evaluation will be taken from CELL D57

	Element	Description of Works	Cost (£)
1.0	COOLING/HEATING & VENTILATION SYSTEM		
		Produce contract design drawings of whole floor plate design for full heating/cooling system to connect into existing VRF system to be agreed by client prior to commencement. Design to compliment original build design where floor plate was designed to be sub-divided into 4 equal parts.	
		Connection to existing VRF 3-pipe heat recovery VRF system, survey and testing of existing system including previously installed plant in enclosure on the roof.	
		Supply and install Fan Coil Units (FCU) with ducting to vent locations throughout the open plan floor area and controlled within 4 quarterly zones.	
		Supply and install dedicated control system to each FCU to allow variable control of heating/cooling between the 4 quarterly zones of the floor plate. All control units to be compatible with the base build BMS to ensure full management and control functionality.	
		Refrigerant pipework from the roof mounted VRF unit to FCUs to be fully insulated with drainage pipework linked back and connected to internal core drainage stacks within risers.	
		Test and commission whole system, provide full O&M package.	
		Produce contract design drawings of whole floor plate design for fresh/stale air ventilation system. Design to compliment original build design where floor plate was designed to be sub divided into 4 equal parts.	
		Survey and assess existing installation of 4 Nuaire MVHR fan systems. Test integrity of existing ducting including louvres and filters.	
		Supply and install ducting to be extended from Nuaire fan systems to delivery grilles located at equidistant locations to provide a consistent ventilation rate of 4,000 m3/h.	
		Install and certify all electrical wiring of MVHR fan systems back to the buildings existing BMS to ensure automatic shutdown in event of triggered fire alarm. Test and provide documentation.	
		Test and commission whole system, provide full O&M package including 'as built' contract drawings.	
SUB-TOTAL			
2.0	SUSPENDED CEILING GRID		
		Supply and install suspended, fully accessible ceiling grid system across whole floor area of approx. 12,000 sq. ft. Standard 600x600mm grid with AMF Thermatex Fine Stratos Micro 15mm tiles in white (RAL 9010) using a VT15 recessed grid system.	
SUB-TOTAL			
3.0	ELECTRICAL INSTALLATION		
		Survey existing electrical installation with mains feed from GF plant room, 3-Phase board located in electrical riser on FF lobby area. 4no existing cable supplies installed from electrical riser extended into office area ready for new board connections.	
		Supply and install 4no local distribution boards in agreed locations to provide local board supply for 4 quarterly zones. Make all required connections for live systems and testing. Supply and install MID approved type meter located in electrical riser cupboard.	

		Supply and install all required cable trays and associated cabling for all open plan designs for lighting, fire and ventilation.	
		Supply full 'as built' schematics of cabling and supply routes for whole floor electrical installation.	
		Provide full EICR upon completion.	
SUB-TOTAL			
4.0	LIGHTING INSTALLATION		
		Provide full lighting design survey with contract drawings, to be agreed by client prior to commencement, to achieve consistent lighting levels of 500lux across the whole open plan floor area. Lighting design to allow for supply feeds from local DB in quarterly zones across the open plan floor plate.	
		Supply and install 600x600mm flush fitting 34w LED Fulton lighting units, NVC Lighting. Lighting units to incorporate a maintained Emergency Lighting option.	
		Emergency light test switches to be distributed locally within quarterly zones, same as lighting design supply feed. Detail to be provided on contractor design drawings.	
		Lighting units to be controlled by PIR sensors and photocells for each area of the open plan office. Each controlled area to be contained within the quarterly zones.	
		Modular plug-in system to supplied and installed to connect LED lighting panel to wiring matrices with all cabling fixed to cable trays.	
		Test and commission whole system.	
		Provide full O&M package with 'as built' contract drawings on completion including cabling routes and full labelling of all units and wiring.	
SUB-TOTAL			
5.0	FIRE DETECTION		
		Survey existing fire alarm installation.	
		Produce full fire detection system survey with contract drawings, to be agreed by client prior to commencement, based a full open plan design allowing for the agreed 4 quarterly zones of the floor plate.	
		Supply & install additional detector heads, sounders and associated cabling loops as required and designed in pre-agreed contract drawings to achieve a L1 level of coverage.	
		Provisional sum to instruct Landlords retained maintenance and service contractor (FISK) to commission installed system to ensure full compliance with BMS and sign off.	
SUB-TOTAL			
6.0	CONTINGENCY		
6.1		Allow general contingency sum of £10,000.00 for unforeseen works to be expended only by the Council Surveyor.	£ 10,000.00
7.0	TOTALS		£ 204,872.62

ITEMS OF NOTE EXCLUDED FROM PRICING SCHEDULE

JCT Minor Works with contractors design (2016 edition) will be the administered form of standard building contract between the preferred tenderer and the employer, Folkestone & Hythe District Council.
Provide all necessary O&M documentation prior to Practical Completion.
Provide all Building Reg Compliance Certificates.

24th April 2023.

E23.099. Connect 38. 1st Floor Station Road. Ashford. Kent. TN23 1FB.

Contractor's Qualifications and Clarifications.

Following due consideration of the Tender documents received, we would respectfully draw to your attention the following Contractors Qualifications and Clarifications:

1. We have based our tender on 1 week lead in period, followed by a 10 - week client instructed construction period.
2. Our offer will be honoured for a period of 30 days.
3. We have allowed for the works to be undertaken in normal working hours only, including drilling works.
4. We have allowed for deliveries to be made during normal working hours via the rear trade entrance door.
5. We have assumed that water and electricity will be available free of charge for the duration of the contracted works.
6. We have limited our tender offer to the works expressed within the F&HDC tender issue pricing schedule.
7. We have allowed for the provision of one carparking space for the placing of a lockable skip for the duration of the contracted works, within the landlord demise.
8. We have allowed for using the 1st floor toilets for the period of contracted works.
9. We have assumed that the existing BMS has a central controller for the VRF air conditioning, to which we have allowed for the new indoor units to be connected back to. We have allowed for the BMS connections to be carried out by the incumbent landlord contractor, Powell Systems, within the Provisional Sum below.
10. We have allowed for 64 No supply and return air grilles.
11. We have allowed for 12 No indoor VRF units.
12. We have allowed for supply and extract ductwork including thermal insulation connecting to the existing MVHR unit installation.
13. We have allowed for 8 No fire dampers.
14. We have allowed for a visual only, non-intrusive, validation of the existing MVHR & VRF.
15. We have allowed for connection only to the existing heat recovery / VRF outdoor units. We have not allowed for any additional capacity that may be required for a future fit out, the installation is therefore limited to the existing capacity of the existing VRF outdoor units.
16. We have not allowed for any alteration, remedial or new installation work to the above ground drainage.
17. We have not included any allowance for the cleaning of any existing ventilation ductwork that is to remain.
18. We have assumed that all HVAC / Electrical system isolations can be carried out locally and reconnections made after commissioning without impacting upon the buildings tenants or landlord.
19. We have assumed that the tender issue Stage 3 concept design is spatially coordinated, compliant with any Tenant Fit Out Guide, and to current building and fire regulations.
20. We have allowed to convert the existing pdf tender issue drawings to .dwg(AutoCAD) as instructed by the client post tender.
21. We have not allowed for any intrusive surveys or coring of the structure, within our tender bid.
22. We have not allowed for any building Regulation fees, Diversity Impact Assessment, SBEMs, BRUKL report, Energy Modelling, Overheating Strategies, Acoustic external or internal design or noise testing or BREEAM.
23. We have not allowed for the production of an EPC report, although we are able to provide installation data for the report drafting by others.

24. We have not allowed for any central BMS, smoke vent or AOV design.
25. We have not allowed for any Utility applications or Fees.
26. We have not allowed for any alterations, upgrading or replacement of any of the existing utility supplies or subdivided landlord supplies.
27. We have allowed for cable tie cable management to match the existing installation and have not allowed for any metal tray containment.
28. We have only allowed for local modification to the electrical circuits. It is assumed that local containment and wiring is in a serviceable state. No additional circuits or protective devices have been allowed for, as this would require identifying DB locations, capacity, routes, etc.
29. The fire alarm incumbent Fisk Group have not allowed for any void protection.
30. We have not allowed for any sprinkler or deluge system installation or alteration work.
31. We have not allowed for any alterations, remedial or new firestopping works to any part of the building within our tender submission, unless specifically stated.
32. We have not allowed for any alterations, remedials, upgrading or replacement of any of the existing raised access floor system, skirtings, architraves, doors, ironmongery, signage, decorations, wall, or floor finishes.
33. We have not allowed to carry out any works outside the proposed 1st floor office fit out area.
34. We have not allowed to carry out any works within the non-office and / or circulation spaces.
35. AW Ltd Provisional Sums:
 - a. We have allowed a Provisional Sum of £1,000.00 for the BMS connection and commissioning by Powell Systems. Powell Systems did not provide a quotation.