

Folkestone & Hythe District Council

JCT 2016: Measure Term Contract

Project ID: 15592

Vinci Construction UK Limited

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Agreement

This Agreement is made the 4th October 20 22

Between **The Employer** Folkestone & Hythe District Council

of Civic Centre, Castle Hill Ave, Folkestone CT20 2QY

And **The Contractor** Vinci Construction UK Limited

(Company No. 02295904)⁽¹⁾

whose registered office is at Astral House, Imperial Way, Watford, Hertfordshire, WD24 4WW

⁽¹⁾ Where the Employer or Contractor is neither a company incorporated under the Companies Acts nor a company registered under the laws of another country, delete the references to Company number and registered office. In the case of a company incorporated outside England and Wales, particulars of its place of incorporation should be inserted immediately before its Company number.

As to execution by foreign companies and matters of jurisdiction, see the Measured Term Contract Guide.

Recitals

Whereas

- First** the Employer requires maintenance and minor works to be carried out in:
Folkestone area as specified by the employer ('the Contract Area') in accordance with the details set out or referred to in the Contract Particulars;
- Second** the Contractor has offered to carry out the required works at specified rates or as otherwise determined in accordance with the Conditions and the Employer has accepted that offer;
- Third** the Employer has appointed a Contract Administrator to issue Orders for the required works and carry out the functions ascribed to the Contract Administrator by the Conditions;
- Fourth** the Contractor has supplied to the Employer the Contractor's safety policy complying with Statutory Requirements, a copy of which is annexed;
- Fifth** whether any of Supplemental Provisions 1 to 6 apply is stated in the Contract Particulars;
- Sixth** The Employer is a member of Fusion 21 Consortium this contract is a call of under a Fusion 21 Framework Agreement.

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out all Orders that are placed with him during the Contract Period in accordance with the Contract Documents.

Article 2: Payment

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions amounts calculated by reference to the Schedule of Rates identified in the Contract Particulars (item 12), adjusted and, if appropriate, revised as therein mentioned, or (where applicable and appropriate) calculated by reference to a Schedule of Hourly Charges (subject to items 13 and 14).

Article 3: Contract Administrator

For the purposes of this Contract the Contract Administrator is

Martin Kerlake

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 nominates in accordance with clause 3.10.1 of the Conditions.

Article 4: Principal Designer

The Principal Designer for the purposes of the CDM Regulations is

Vinci Construction UK Limited

of Astral House, Imperial Way, Watford, Hertfordshire, WD24 4WW

or such other person as the Employer at any time appoints to fulfil that role either in relation to all Orders or for specific Orders.

Article 5: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations is the Contractor or such other contractor as the Employer at any time appoints to fulfil that role either in relation to all Orders or for specific Orders.

Article 6: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 7: Arbitration

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Where Article 7 applies⁽⁹⁾, then, subject to Article 6 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2016 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 7 are:

- any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 8: Legal proceedings⁽⁹⁾

Subject to Article 6 and (where it applies) to Article 7, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

⁽⁹⁾ If it is intended, subject to the right of adjudication and exceptions stated in Article 7, that disputes or differences should be determined by arbitration and not by legal proceedings, the Contract Particulars **must** state that Article 7 and clauses 9.3 to 9.8 apply and the words "do not apply" **must** be deleted. If the Parties wish any dispute or difference to be determined by the courts of another jurisdiction the appropriate amendment should be made to Article 8 (see also clause 1.7).

Contract Particulars

Note: An asterisk * indicates where selection has been or should have been made.

1 Properties and description of the types of work (First Recital)

1 List of properties in the Contract Area in respect of which Orders may be issued:

Any properties within the contracted area, as instructed by the client.

2 Description of the types of work for which Orders may be issued⁽⁴⁾:

See Contract Document Three - Fusion21 - Lot 1 Decarbonisation Performance Specification

2 Supplemental Provisions⁽⁵⁾ (Fifth Recital and Schedule)

(Where neither entry against one of Supplemental Provisions 1 to 6 below is deleted, that Supplemental Provision applies.)

Collaborative working	* Supplemental Provision 1 applies
Health and safety	* Supplemental Provision 2 applies
Cost savings and value improvements	* Supplemental Provision 3 applies
Sustainable development and environmental considerations	* Supplemental Provision 4 applies
Performance Indicators and monitoring	* Supplemental Provision 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

⁽⁴⁾ Where the National Schedule of Rates is to apply (see items 12-1 and 12-2 of the Contract Particulars) but some (or all) of the work is of a type for which it is appropriate to use as a basis for pricing a version of the National Schedule other than 'Building Works', the Parties, in addition to stating that in item 12-2, should make appropriate entries here (or in any separate document incorporated by reference here) indicating the types of work to which it is agreed that such alternative version of the National Schedule shall apply.

⁽⁵⁾ Supplemental Provision 7 (Transparency) applies only where the Employer is a Local or Public Authority or other body to whom the Freedom of Information Act 2000 applies; Supplemental Provision 8 (The Public Contracts Regulations 2015) applies only where the Employer is a Local or Public Authority and this Contract is subject to the PC Regulations.

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[REDACTED]
Contractor's nominee
[REDACTED]

or such replacement as each Party may
notify to the other from time to time

3 Contract Period⁽¹⁾

(Article 1 and clause 7.1)

Subject to clause 7.1, the Contract Period will be 8 monthscommencing on 01st July 2022**4 Arbitration**

(Article 7)

(If neither entry is deleted, Article 7 and clauses 9-3 to 9-8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 7 and clauses 9-3 to 9-8 apply.)⁽¹⁾

* Article 7 and clauses 9-3 to 9-8 (*Arbitration*)
apply

5 BIM Protocol

(Clause 1.1)

BIM Protocol (where applicable)
*(State title, edition, date or other identifiers of
the relevant documents.)*

Not applicable

6 Orders – minimum and maximum value

(Clause 2.4)

Minimum value of any one Order to be issued

£1.00 (*words One Pound and Zero Pence*)

Maximum value of any one Order to be issued

£1,200,000.00 (*words One Million and Two hundred Thousan Pounds and Zero Pence*)**7 Orders – value of work to be carried out**

(Clause 2.5)

Approximate anticipated value of work to be carried out under this Contract

* £1,200,000.00 (*words One Million and Two hundred Thousan Pounds and Zero Pence*) for the
Contract Period

⁽¹⁾ The period is envisaged as normally being at least one year.

⁽²⁾ On factors to be taken into account by the Parties in considering whether disputes are to be determined by arbitration or by legal proceedings, see the Measured Term Contract Guide. See also footnote [3].

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3 Rates – Fluctuations

Clause 5-6-1 * does not apply
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

4 Basis and dates of revision

Not applicable.

13 Daywork

(Clauses 5-4, 5-6-3 and 5-6-4)

1 Valuation – percentage additions

The percentage additions to the invoice price of non-labour items are included in or annexed to the Schedule of Hourly Charges.

2 Revision of Schedule of Hourly Charges

Clause 5-6-3 * does not apply
(Unless 'applies' is deleted, the clause shall be deemed to apply.)

14 Overtime work

(Clause 5-7)

The percentage addition in respect of overheads and profit on non-productive overtime rates is **Not applicable.**
(Not applicable where an inclusive rate for such overtime is included in the Schedule of Hourly Charges)

15 Insurance

(Clauses 6-4-1, 6-7A, 6-7B, 6-8 and 6-11)

- | | | |
|---|--|---|
| 1 | Contractor's Public Liability insurance: injury to persons or property - the required level of cover is not less than | ££10,000,000.00
for any one occurrence or series of occurrences arising out of one event |
| 2 | Percentage to cover professional fees
<i>(If no other percentage is stated, it shall be 15 per cent.)</i> | <u>15</u> per cent |
| 3 | Insurance of existing structures - clause 6-7A-1 ⁽¹⁾
<i>(Unless otherwise stated, clause 6-7A-1 applies. If it is not to apply, state the reference number and date or other identifier of the replacement</i> | * applies |

⁽¹⁾ As to choice of applicable insurance provisions, see the Measured Term Contract Guide. In respect of existing structures, it is vital that any prospective Employer who is not familiar with clause 6-7A and the alternative solutions under clause 6-7A-1 – in particular, any Employer who is a tenant – or an appropriate member of the Employer's professional team, should consult specialist insurance advisers prior to the tender stage. Any Employer who is a tenant should also consult his insuring landlord prior to that stage.

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document(s.)

- 4 Insurance of work or supply comprised in Orders - clause 6.7B *(If neither entry is deleted, the clause does not apply.)* * does not apply
- 5 Not applicable
- 6 Terrorism Cover – details of the required cover *(Unless otherwise stated, Pool Re Cover is required.)* are set out in the following document(s)
Re Pool Cover

16 Break Provisions – Employer or Contractor
(Clause 7.1)

The period of notice, if less than 13 weeks, is 13 weeks

17 Settlement of Disputes
(Clauses 9.2, 9.3 and 9.4.1)

Adjudication^[12]

The Adjudicator is RICS

Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)^[13]
(Where an Adjudicator is not named and a nominating body has not been selected, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication.)

- * Royal Institute of British Architects
- * The Royal Institution of Chartered Surveyors
- * constructionadjudicators.com^[14]
- * Association of Independent Construction Adjudicators^[15]
- * Chartered Institute of Arbitrators

Arbitration^[16]

Appointor of Arbitrator (and of any replacement)^[17]
(If no appointor is selected, the appointor shall be the President or a Vice-President of The Royal Institution of Chartered Surveyors.)

- President or a Vice-President:
- * Royal Institute of British Architects
- * The Royal Institution of Chartered Surveyors
- * Chartered Institute of Arbitrators

^[12] The Parties should either name the Adjudicator and select the nominating body or, alternatively, select only the nominating body. The Adjudication Agreement (Adj) and the Adjudication Agreement (Named Adjudicator) (Adj/N) have been prepared by JCT for use when appointing an Adjudicator.

^[14] constructionadjudicators.com is a trading name of Contractors Legal Grp Ltd.

^[13] Delete all but one of the nominating bodies asterisked.

^[15] Association of Independent Construction Adjudicators is controlled by and acts as an agent of the National Specialist Contractors' Council for the purpose of the nomination of adjudicators.

^[16] This only applies where the Contract Particulars state (against the reference to Article 7) that Article 7 and clauses 9.3 to 9.8 (*Arbitration*) apply.

^[17] Delete all but one of the bodies asterisked.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Measured Term Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method used.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the *Company* Secretary or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, e.g. bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the *Company* Secretary, their respective office(s) should be substituted for the reference(s) to Director and/or to *Company* Secretary/Director. (In the case of execution by bodies that are not companies, the reference to "*Company*" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

Executed as a Deed by the Employer

namely 'Folkestone & Hythe District Council

(B) by affixing hereto the common seal of the company/other body corporate ^{2,4}

in the presence of

Signature Director

Signature Company Secretary/Director



[Common seal of company]

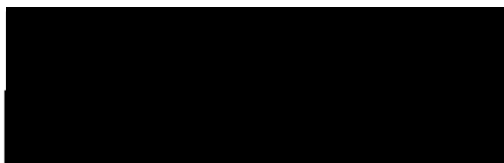
Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

IN WITNESS of which this Deed has been executed and delivered on the above date.

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



9644

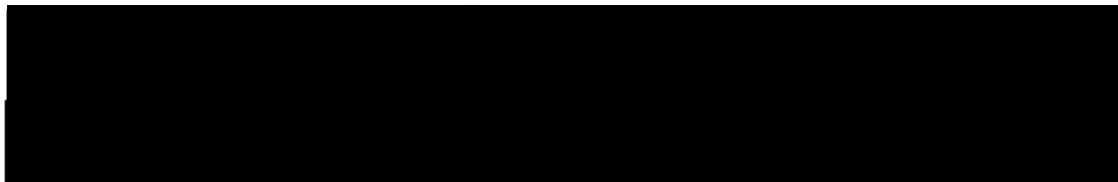


Authorised Signatory

Executed as a Deed by the Contractor

namely ¹ Vinci Construction UK Limited

(A) acting by a Director and the Company Secretary/two Directors **of the company** ^{2,3}



Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions

Section 1 Definitions and Interpretation

Definitions

- 1-1 Unless the context otherwise requires or the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below:

<i>Word or phrase</i>	<i>Meaning</i>
Adjudicator:	an individual appointed under clause 9-2 as the Adjudicator.
Adjustment Percentage:	the percentage tendered by the Contractor on or off the rates listed in the Schedule of Rates and stated in the Contract Particulars (item 12-1) (which shall not apply to any valuation of an Order or a part of it as daywork).
Agreement:	the Agreement to which these Conditions are annexed, including its Recitals, Articles and Contract Particulars.
All Risks Insurance:	see clause 6-6 .
Arbitrator:	an individual appointed under clause 9-4 as the Arbitrator.
Article:	an article in the Agreement .
BIM Protocol:	(where applicable) the document identified as such in the Contract Particulars (item 5) .
Business Day:	any day which is not a Saturday, a Sunday or a Public Holiday.
CDM Regulations:	the Construction (Design and Management) Regulations 2015.
Clause 6-7A-1 Replacement Schedule:	(where applicable) the insurance schedule and/or other documents identified as such in the Contract Particulars (item 15-3) .
Conditions:	the clauses set out in sections 1 to 9 of these Conditions, together with and including the Schedule hereto.
Construction Industry Scheme (or 'CIS'):	the current scheme under the Income and Corporation Taxes Act 1988.
Construction Phase Plan:	the plan referred to in regulation 2 of the CDM Regulations, including any updates and revisions.
Contract Administrator:	the person named in Article 3 or any successor nominated or otherwise agreed under clause 3-10 .
Contract Area:	see the First Recital .
Contract Documents:	the Agreement, these Conditions, the Schedule of Rates and (where applicable) the BIM Protocol.
Contract Particulars:	the particulars in the Agreement and there described as such, as completed by the Parties.
Contract Period:	subject to clause 7-1, the period stated in the Contract Particulars (item 3) .

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Contractor:	the person named as Contractor in the Agreement .
Contractor's Persons:	the Contractor's employees and agents, all other persons employed or engaged in the execution of Orders or any part of them and any other person properly on the Site in connection therewith, excluding the Contract Administrator, the Employer, Employer's Persons and any Statutory Undertaker.
Employer:	the person named as Employer in the Agreement .
Employer's Persons:	all persons employed, engaged or authorised by the Employer, excluding the Contractor, Contractor's Persons, the Contract Administrator and any Statutory Undertaker.
Excepted Risks:	see clause 6-6 .
Insolvent:	see clause 8-1 .
Interest Rate:	a rate 5% per annum above the official bank rate of the Bank of England current at the date that a payment due under this Contract becomes overdue.
Joint Names Policy:	see clause 6-6 .
Local or Public Authority:	a body that is a 'contracting authority' as defined by the PC Regulations.
National Schedule of Rates:	the National Schedule of Rates (Building Works) and/or such alternative version of the <u>National Schedule of Rates</u> (published by NSR Management Ltd.) identified in the Contract Particulars (item 12-2) .
Order:	the written description and/or drawings of any work and/or the supply of labour, plant, materials and/or goods to be carried out under this Contract on instructions from the Contract Administrator, including any Variation thereto.
Order Completion Date:	see clause 2-11 .
Parties:	the Employer and the Contractor together.
Party:	either the Employer or the Contractor.
PC Regulations:	the Public Contracts Regulations 2015.
Principal Contractor:	the Contractor or such other contractor as is either named in Article 5 or appointed by the Employer in relation to any Order.
Principal Designer:	the Contract Administrator or such other person as is either named in Article 4 or appointed by the Employer in relation to any Order.
Public Holiday:	Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday. ¹¹⁴⁾
Recitals:	the recitals in the Agreement .
Schedule of Hourly Charges:	see clause 5-4-1 .
Schedule of Rates:	the schedule of rates identified in the Contract Particulars (item 12) , together with the preliminaries and specification preambles applicable to this Contract included in or annexed to it.

¹¹⁴⁾ Amend as necessary if different Public Holidays are applicable.

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Scheme:	Part 1 of the Schedule to The Scheme for Construction Contracts (England and Wales) Regulations 1998.
Site:	the building(s) and/or land within the Contract Area to which an Order relates.
Site Materials:	all unfixed materials and goods delivered to and placed on or adjacent to a Site which are intended for incorporation in the work under an Order relating to that Site.
Specified Perils:	see clause 6-6 .
Statutory Requirements:	any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the work in any Order or performance of any obligations under this Contract and any regulation or bye-law of any local authority or statutory undertaker which has any jurisdiction with regard to that work or with whose systems the work is, or is to be, connected.
Statutory Undertaker:	any local authority or statutory undertaker where executing work solely in pursuance of its statutory obligations, including any persons employed, engaged or authorised by it upon or in connection with that work.
Terrorism Cover:	see clause 6-6 .
Valuation Date:	each date as specified by the Contract Particulars (Item 10) .
Variation:	see clause 5-1 .
VAT:	Value Added Tax.
Works Insurance Policy:	the Joint Names Policy or policies covering the work or supply comprised in Orders to be effected and maintained under clause 6-7A.2 or 6-7B.

Agreement etc. to be read as a whole

- 1-2** The Agreement and these Conditions are to be read as a whole. Nothing contained in any other Contract Document or in any drawing or specification issued as part of an Order shall override or modify the Agreement or these Conditions.

Headings, references to persons, legislation etc.

- 1-3** In the Agreement and these Conditions, unless the context otherwise requires:
- 1 the headings, notes and footnotes are included for convenience only and shall not affect the interpretation of this Contract;
 - 2 the singular includes the plural and vice versa;
 - 3 a gender includes any other gender;
 - 4 a reference to a 'person' includes any individual, firm, partnership, company and any other body corporate;
 - 5 a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom; and
 - 6 references to documents shall, where there is a BIM Protocol or other protocol relating to the supply of documents or information, be deemed to include information in a form or medium conforming to that protocol.

Reckoning periods of days

- 1-4** Where under this Contract an act is required to be done within a specified period of days after or

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from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.

Contracts (Rights of Third Parties) Act 1999

- 1-5 Notwithstanding any other provision of this Contract, nothing in this Contract confers or is intended to confer any right to enforce any of its terms on any person who is not a party to it.

Notices and other communications

- 1-6
- 1 Each Order, notice, instruction or other communication referred to in the Agreement or these Conditions shall be in writing.
 - 2 Unless otherwise stated in these Conditions, any notice or other communication under this Contract may be given to or served on the recipient by any effective means at the address specified in the Agreement or such other address as he shall notify to the other Party. If no address is then current, the notice or other communication shall be treated as effectively given or served if addressed and sent by pre-paid post to the last known principal business address or (where a body corporate) its registered or principal office.

Applicable law

- 1-7 This Contract shall be governed by and construed in accordance with the law of England.¹⁹⁹

¹⁹⁹ Where the Parties do not wish the law applicable to this Contract to be the law of England appropriate amendments should be made.

Section 2 Carrying out Work

Contractor's obligations

- 2-1 On receipt of an Order the Contractor shall carry it out in a proper and workmanlike manner and in accordance with the Contract Administrator's instructions, the Contract Documents, the Construction Phase Plan and Statutory Requirements, and shall give all notices required by the Statutory Requirements.

Materials, goods and workmanship

- 2-2
- 1 The Contractor in carrying out each Order shall use materials, goods and workmanship of the quality and standards specified in the Order or, if not so specified, as specified in the Schedule of Rates.
 - 2 Insofar as the quality of materials or goods or of the standards of workmanship are stated to be a matter for the Contract Administrator's approval, such quality and standards shall be to his reasonable satisfaction.
 - 3 To the extent that the quality of materials and goods or standards of workmanship are not described in the Order or Schedule of Rates nor stated to be a matter for such approval or satisfaction, they shall be of a standard appropriate to the relevant work.
 - 4 For the purposes of carrying out each Order the Contractor, subject to clause 2-3-1-2, shall:
 - 1 provide all the labour, materials and goods necessary;
 - 2 provide, unless otherwise stated in the Contract Documents, the requisite plant and equipment for the proper execution of all Orders, including scaffolding, tackle, machinery, tools or other appliances and everything necessary for the use of his workmen and shall be responsible for carrying them to the place where they are required, for any necessary erection and for subsequent removal;
 - 3 provide all items necessary to comply with the Statutory Requirements in respect of safety, health and welfare,

and for the purposes of this Contract shall take all reasonable steps to encourage Contractor's Persons to be registered cardholders under the Construction Skills Certification Scheme (CSCS) or qualified under an equivalent recognised qualification scheme.

Rights of Employer

- 2-3
- 1 The Employer reserves the right:
 - 1 to place orders for similar work with other contractors or his own labour within the Contract Area;
 - 2 to supply any of the materials, goods or plant and equipment necessary for the carrying out of any Order.
 - 2 Materials and goods supplied by the Employer under clause 2-3-1-2 shall remain the property of the Employer and shall be used by the Contractor for the carrying out of an Order and for no other purpose and the Contractor shall be responsible for their safe storage whilst on the Site. Any such materials or goods not required for the carrying out of an Order shall, on completion of the Order or on the termination of the Contractor's employment, whichever first occurs, be disposed of or dispatched by the Contractor as directed by the Contract Administrator; the cost of such disposal or dispatch shall be certified by the Contract Administrator for payment by the Employer under clause 4-6.
 - 3 The Contractor shall give a receipt for any materials or goods handed over to him by the Contract Administrator and shall obtain a receipt for any returned.
 - 4 The Contractor shall be responsible for the safe storage of any plant and equipment supplied for him by the Employer under clause 2-3-1-2 and shall return such plant and equipment to the Contract Administrator at the Site on completion of the Order for which it is supplied or on termination of the Contractor's employment, whichever first occurs. The Contractor shall give a receipt for such plant and equipment and obtain a receipt from the Contract Administrator on its return.
 - 5 The Employer shall notify the Contractor of the then current value of any materials or goods

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or usage of plant supplied under this clause 2-3 and the Contractor shall be entitled to a handling charge of 5% on that value. The Adjustment Percentage shall not be applied to that charge.

- 6 Materials and goods supplied by the Employer for any Order shall be of the respective kinds described in the Schedule of Rates; the Contractor shall not be liable for any loss or damage resulting from failure of such materials or goods to conform with this clause 2-3-6.

Size and duration of Orders

- 2-4 Unless otherwise agreed between the Contractor and the Contract Administrator, Orders shall be of a size consistent with the Contract Particulars (item 6) and shall be reasonably capable of being carried out within the Contract Period.

Value of work to be carried out under this Contract

- 2-5 With regard to the anticipated value of work as stated in the Contract Particulars (item 7), the Employer gives no warranty or undertaking as to the actual amount of work that will be ordered and no variance in the actual value of work ordered shall give rise to a change in any rate, price or percentage adjustment.

Orders – completion

- 2-6 Unless covered by a priority coding referred to in the Contract Particulars (item 8), each Order shall state a commencement date and a reasonable date for its completion and, subject to clause 2-10-2, the Contractor shall complete each Order by that completion date.

Programme

- 2-7 Where the Contract Administrator requests, the Contractor, without charge to the Employer, shall provide the Contract Administrator with a programme for carrying out the Orders identified by the Contract Administrator in his request and, within a reasonable time after the issue of a Variation, with amendments and revisions to that programme to take account of the Variation. Nothing in the programme or in any amendment or revision of it shall impose any obligations beyond those imposed by the Contract Documents.

Divergences from Statutory Requirements

- 2-8
 - 1 If the Contractor becomes aware of any divergence between the Statutory Requirements and either an Order or a Variation, he shall immediately give to the Contract Administrator a notice specifying the divergence.
 - 2 Provided the Contractor is not in breach of clause 2-8-1, the Contractor shall not be liable under this Contract if the work comprised in an Order does not comply with the Statutory Requirements to the extent that the non-compliance results from the Contractor having carried out work in accordance with the Order or with any instruction requiring a Variation.

Fees or charges

- 2-9 The Contractor shall pay all fees and charges (including any rates or taxes) legally demandable under any of the Statutory Requirements in respect of an Order. The Contractor shall be reimbursed for payment of such fees and charges to the extent that they are not included in the rates or prices in the Schedule of Rates.

Extension of time

- 2-10
 - 1 The Contractor shall forthwith give notice to the Contract Administrator of any matter which is causing or is likely to cause delay in the completion of an Order beyond the date stated for its completion but shall constantly use his best endeavours to carry out each Order by the stated date.
 - 2 If the Contractor is unable to complete an Order by its stated date for completion, due to a suspension by the Contractor of the performance of his obligations under this Contract pursuant to clause 4-7 or for reasons beyond his control (including compliance with any instruction of the Contract Administrator that does not arise from the Contractor's default), the Contract Administrator shall fix such later date for completion as may be fair and reasonable and notify the Parties accordingly. Provided the Order when issued complied with clause 2-4, the Contractor shall not be relieved of his obligations to complete the Order by the later date so fixed by reason of that later date being outside the Contract Period.

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Order Completion Date

- 2-11 -1 The Contractor shall notify the Contract Administrator the date when in his opinion an Order has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the date so notified shall for all the purposes of this Contract be the date when the Order was completed and/or supplied in accordance with this Contract (the 'Order Completion Date').
- 2 If the Contract Administrator dissents, then, as soon as he is satisfied that the Order has been duly completed and/or supplied, he shall as soon as practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date shall be the date stated in the Contract Administrator's notice.

Defects

- 2-12 Any defects, shrinkages or other faults which appear within 6 months of the Order Completion Date and which are due to materials or workmanship not in accordance with this Contract, shall be made good by the Contractor at no cost to the Employer.

Section 3 Control of Work

Assignment

- 3-1 Neither the Employer nor the Contractor shall, without the consent of the other, assign this Contract or any rights thereunder.

Sub-contracting

- 3-2 The Contractor shall not without the prior consent of the Contract Administrator sub-contract any Order or part of an Order. Such consent shall not be unreasonably delayed or withheld and shall apply to all Orders except to the extent otherwise stated in that consent. Where considered appropriate, the Contractor shall engage the Sub-Contractor using the JCT Short Form of Sub-Contract.

Contractor's representative

- 3-3 The Contractor shall employ a competent Contractor's representative and any Orders or Variations given to him by the Contract Administrator shall be deemed to have been issued to the Contractor.

Access to the Site

- 3-4
- 1 Except to the extent that the Schedule of Rates otherwise provides, access to the Site shall be arranged by, and in accordance with instructions of, the Contract Administrator who, where the Site is occupied, shall also be responsible for ensuring that the occupier removes such fixtures, fittings or other items as are necessary to enable the Contractor to carry out the Order and does not otherwise unreasonably prevent or impede the Contractor from carrying out such Order.
 - 2 If the Contractor is unable to gain access to the Site in accordance with the Contract Administrator's instructions or, having been granted access to an occupied Site, cannot reasonably carry out the Order by reason of the Contract Administrator's or occupier's non-compliance with clause 3-4-1, he shall forthwith notify the Contract Administrator; the time necessarily spent unproductively by the Contractor in consequence shall be assessed or recorded and valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.
 - 3 To the extent that clauses 3-4-1 and 3-4-2 do not apply because the Schedule of Rates provides otherwise, the Contractor shall comply with the access provisions of that Schedule.

Variations

- 3-5
- 1 The Contract Administrator may from time to time require Variations, through instructions and/or the issue of further drawings, details, directions and/or explanations.
 - 2 The Contractor shall not make any alteration in, addition to or omission from the work and/or supply comprised in any Order except as required under clause 3-5-1. If the Contractor carries out a Variation otherwise than pursuant to an instruction or other requirement of the Contract Administrator, the Contract Administrator may sanction it.
 - 3 No Variation required by the Contract Administrator or subsequently sanctioned by him shall invalidate the Order or vitiate this Contract.
 - 4 The value of any Variation issued or sanctioned by the Contract Administrator shall be ascertained in accordance with section 5 and, as soon as ascertained in whole or in part, the ascertained amount shall be included in the estimated value of the relevant Order for the purposes of clause 4-3 (progress payments) and in the valuation of it for the purposes of clause 4-4 or 4-5 (final payment).

Cancellation of an Order

- 3-6
- 1 The Contract Administrator may cancel any Order.
 - 2 On the cancellation of an Order:
 - 1 the Contract Administrator shall value and certify, in accordance with clause 4-4, for payment by the Employer under that clause, any work or supply which in his opinion

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has been properly carried out or made by the Contractor against that Order, taking into account any amounts previously certified in respect of it; and

- 2 the Employer shall reimburse the Contractor such additional direct costs as may reasonably have been incurred by the Contractor as a result.

Exclusion from the Site

- 3-7 The Contract Administrator may (but shall not unreasonably or vexatiously) issue instructions requiring the exclusion from the Site of any person employed thereon.

Non-compliance with instructions

- 3-8 If within 7 days after receipt of a notice from the Contract Administrator requiring compliance with a Contract Administrator's instruction the Contractor does not comply, the Employer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Employer in connection with such employment and such costs may be withheld or deducted by the Employer from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

CDM Regulations

- 3-9 Each Party undertakes to the other that in relation to each Order and Site he will duly comply with applicable CDM Regulations. In particular but without limitation:
 - 1 the Employer shall in each case ensure that the Principal Designer carries out his duties and, where the Contractor is not the Principal Contractor, shall ensure that the Principal Contractor carries out his duties under those regulations;
 - 2 the Contractor shall comply with regulations 8 and 15 and, where he is the Principal Contractor, with regulations 12 to 14;^[20]
 - 3 whether or not the Contractor is the Principal Contractor, compliance by the Contractor with his duties under the regulations, including any such directions as are referred to in regulation 15(3), shall be at no cost to the Employer and shall not entitle the Contractor to an extension of time;
 - 4 if the Employer appoints any other person as the Principal Designer or Principal Contractor either in relation to all Orders or for specific Orders, the Employer shall immediately upon that appointment notify the Contractor with details of the new appointee.

Replacement of Contract Administrator

- 3-10 If the Contract Administrator at any time ceases to hold that post for the purposes of this Contract, the Employer shall as soon as reasonably practicable, and in any event within 14 days of the cessation, nominate a replacement. No replacement Contract Administrator appointed for this Contract shall be entitled to disregard or overrule any certificate, opinion, decision, approval or instruction given or expressed by any predecessor in that post, save to the extent that that predecessor if still in the post would then have had power under this Contract to do so.

^[20] Where the Employer is a domestic client, as defined in regulation 2, the Principal Contractor may also be responsible for carrying out certain of the client's duties under regulations 4, 6 and 8.

Section 4 Payment

VAT

- 4-1 Sums certified for payment are exclusive of VAT and in relation to each payment to the Contractor under this Contract, the Employer shall in addition pay the amount of any VAT properly chargeable in respect of it.

Construction Industry Scheme (CIS)

- 4-2 Where it is stated in the Contract Particulars (item 9) that the Employer is a 'contractor' for the purposes of the Construction Industry Scheme (CIS) or if at any time up to the final payment in respect of the last Order outstanding under this Contract the Employer becomes such a 'contractor', his obligation to make any payment under this Contract is subject to the provisions of the CIS.

Progress payments

- 4-3
- 1 Where at the date of issue of an Order or of any Variation to it (after adjustment for the effects of any relevant Variations):
 - 1 the value of the Order is estimated by the Contract Administrator to exceed the amount stated in the Contract Particulars (item 10); and/or
 - 2 the duration of the work comprised in that Order is estimated to be 45 days or more

the Contractor may not later than each subsequent Valuation Date make an application to the Contract Administrator for a progress payment of the amount he considers due for the work carried out or supplies made pursuant to the Order calculated as at the relevant Valuation Date. The application shall state the basis on which that sum has been calculated and shall be accompanied by such further information as may be specified in the Contract Documents.
 - 2 The due date for a progress payment shall in each case be the date 7 days after the relevant Valuation Date.
 - 3 Where an application is made in accordance with clause 4-3-1, the Contract Administrator shall not later than 5 days after the due date issue a certificate, stating the sum that he considers to be, or to have been, due to the Contractor at the due date in respect of the progress payment, after taking into account any amounts previously certified and (where relevant) any sums paid under clause 4-6-3 in respect of any application made after the issue of the latest certificate. The certificate shall state the basis on which that sum has been calculated.

Final payment where Contract Administrator measures and values Orders

- 4-4 Where the Contract Administrator is to value an Order pursuant to clause 5-2:
- 1 the due date shall be 28 days after the Order Completion Date or, for Orders where progress payments are to be made, 51 days after the Order Completion Date;
 - 2 the Contract Administrator shall not later than 5 days after the relevant due date issue a certificate stating as the sum due the total amount that he considers to be or have been due to the Contractor under these Conditions in respect of the completed Order, less any amounts previously certified in respect of it under clause 4-3-3 and (where relevant) any sums paid in respect of any such application as is mentioned in clause 4-3-3, and stating the basis on which the sum has been calculated;
 - 3 if the Contract Administrator does not issue a certificate in respect of the Order in accordance with clause 4-4-2 within 33 days of the Order Completion Date or, for Orders where progress payments are to be made, within 56 days of the Order Completion Date, the Contractor may make an application stating the sum that he considers will or has become due to him in respect of the Order and the basis on which that sum has been calculated.

Final payment where Contractor measures and values Orders

- 4-5 Where the Contractor is to value an Order pursuant to clause 5-2:

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- 1 the Contractor shall following the Order Completion Date make an application to the Contract Administrator in respect of the completed Order, stating the sum that the Contractor considers will become due to him on the due date in respect of the Order and the basis on which that sum has been calculated, accompanied by such further information as may be specified in the Contract Documents;
- 2 the due date for payment in respect of the completed Order shall be the date 7 days after the next monthly Valuation Date following receipt by the Contract Administrator of the Contractor's application. Not later than 5 days after the due date the Contract Administrator shall issue a certificate stating the sum that he considers to be due to the Contractor in respect of the completed Order, after taking into account any amounts previously certified in respect of the Order, and the basis on which that sum has been calculated;
- 3 if the Contractor fails to make an application in accordance with clause 4-5-1 within 56 days after the Order Completion Date, the Contract Administrator may at any time give the Contractor notice that, unless the Contractor makes an application within a period of 28 days after the date of issue of the notice, the Contract Administrator will arrange for the measurement and valuation of the work and/or supply comprising the Order;
- 4 if the Contractor fails to make an application within the period of notice given under clause 4-5-3:
 - 1 the Contract Administrator shall arrange for measurement and valuation of the Order;
 - 2 the due date shall be 35 days from the date of expiry of the notice period; and
 - 3 the Contract Administrator shall not later than 5 days after the due date issue a certificate in accordance with clause 4-5-2 but, in addition to deducting any amounts previously certified in respect of the Order, shall also be entitled to deduct the amount of the costs reasonably and properly incurred by or on behalf of the Employer in respect of the measurement and valuation;
- 5 if clause 4-5-4 applies but the Contract Administrator fails to issue a certificate as required by clause 4-5-4-3, the Contractor may at any time after the expiry of the 5 day period referred to in clause 4-5-4-3 make an application giving the details required by clause 4-5-1.

Payments – final date and amount

- 4-6 -1 Subject to clause 4-6-4, the final date for payment of each payment under clauses 4-3 to 4-5 shall be 14 days from its due date.
- 2 Subject to any notice given by the Employer under clause 4-6-5, the Employer shall pay the sum stated as due in the relevant certificate on or before the final date for payment.
- 3 If a certificate is not issued in accordance with clause 4-3-3, 4-4-2, 4-5-2 or 4-5-4, the Employer shall, subject to any notice given under clause 4-6-5, pay the Contractor the sum stated as due in the application.
- 4 Where an application is made by the Contractor in the circumstances mentioned in clause 4-4-3 or 4-5-5, the final date for payment of the sum specified in it shall for all purposes be regarded as postponed by the same number of days after the last date for issue of the certificate referred to in clause 4-4-2 or 4-5-4-3 that the application is made but notice by the Employer under clause 4-6-5 may not be given prior to the application being made.
- 5 Where the Employer intends to pay less than the sum stated as due from him in the certificate or application, he shall not later than 5 days before the final date for payment give the Contractor notice of that intention specifying the sum he considers to be due to the Contractor at the date the notice is given and the basis on which that sum has been calculated. Where such notice is given, the payment to be made on or before the final date for payment shall not be less than the amount stated as due in the notice.
- 6 If the Employer fails to pay a sum, or any part of it, due to the Contractor under these Conditions by its final date for payment, the Employer shall, in addition to any unpaid amount that should properly have been paid, pay the Contractor simple interest on that amount at the Interest Rate for the period from the final date for payment until payment is made.
- 7 Any such unpaid amount and any interest under clause 4-6-6 shall be recoverable as a debt. Acceptance of a payment of interest shall not in any circumstances be construed as a waiver either of the Contractor's right to proper payment of the principal amount due, to suspend performance under clause 4-7 or to terminate his employment under section 8.

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- 8 A notice to be given by the Employer under clause 4.6.5 may be given on his behalf by the Contract Administrator or by any other person who the Employer notifies the Contractor as being authorised to do so.
- 9 In relation to the requirements for the issue of certificates and the giving of notices under section 4, it is immaterial that the amount then considered to be due may be zero.

Contractor's right of suspension

- 4.7
 - 1 If the Employer fails to pay a sum payable to the Contractor in accordance with clause 4.6 (together with any VAT properly chargeable in respect of that payment) by the final date for payment and the failure continues for 7 days after the Contractor has given notice to the Employer, with a copy to the Contract Administrator, of his intention to suspend the performance of his obligations under this Contract and the grounds for such suspension, the Contractor, without affecting his other rights and remedies, may suspend performance of any or all of those obligations until payment is made in full.
 - 2 Where the Contractor exercises his right of suspension under clause 4.7.1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of exercising the right.
 - 3 Applications in respect of any such costs and expenses shall be made to the Contract Administrator and the Contractor shall with his application or on request submit such details of them as are reasonably necessary for ascertaining the amount in question. When ascertained or agreed, the amount shall be included in the next certificate.

Section 5 Measurement and Valuation

Definition of Variations

- 5-1 The term 'Variation' means:
- 1 the alteration or modification of the design, quality or quantity of work or supply comprised in an Order;
 - 2 any other addition to, omission from or alteration of any Order; or
 - 3 the removal of any inconsistencies in or between any documents included in an Order.

Measurement and Valuation – responsibility

- 5-2 Unless otherwise agreed by the Contract Administrator and the Contractor, all work carried out pursuant to an Order (including any Variations required by the Contract Administrator or subsequently sanctioned by him) shall be valued in accordance with clauses 5-3 to 5-8. Such valuation of an Order shall be undertaken by whichever of them is designated in the Contract Particulars (item 11).

Valuation – measurement

- 5-3
- 1 Subject to clauses 2-3-5, 5-4-1 and 5-5 the valuation of an Order shall be ascertained by measurement and valuation in accordance with the principles of measurement and the rates or prices in the Schedule of Rates applicable at the date of the Order, insofar as such rates or prices apply, subject to adjustment by the Adjustment Percentage.
 - 2 Where the Contract Administrator is to undertake measurement of an Order, he shall give the Contractor an opportunity to be present at the time of such measurement and to take such notes and measurements as the Contractor may require.

Valuation – daywork

- 5-4
- 1 Where in the Contract Administrator's opinion the appropriate basis for valuation of an Order or part of an Order is daywork, the direct labour element shall be calculated in accordance with the all-in labour rates (inclusive of incidental costs, overheads and profit) set out in the Schedule of Hourly Charges annexed to this Contract, with related charges being calculated in accordance with that Schedule and/or the Contract Particulars⁽²⁾.
 - 2 The Contractor shall give to the Contract Administrator reasonable prior notice of the commencement of any work (or supply of labour and/or materials) which he considers should be carried out as daywork and not later than 7 Business Days after the work has been executed the Contractor shall deliver to the Contract Administrator for verification return(s) in the form required by the Contract Administrator specifying the time spent daily upon the work, the workmen's names, and the plant, materials and other items employed. A copy of the returns, if approved by the Contract Administrator, shall be returned to the Contractor.

Derived rates

- 5-5
- 1 Where the rates or prices in the Schedule of Rates do not apply or where there is no applicable all-in labour rate in the Schedule of Hourly Charges, as the case may be, the value shall be based upon such rates or prices as may fairly be deduced therefrom, rates and prices deduced from the Schedule of Rates being subject to adjustment by the Adjustment Percentage.
 - 2 If it is not practicable or would not be fair and reasonable to apply the rates or prices in the Schedule of Rates or Schedule of Hourly Charges or to deduce rates or prices therefrom, the value shall be agreed between the Parties, failing which it shall be ascertained on a fair and reasonable basis by the Contract Administrator after consultation with the Contractor.

⁽²⁾ In addition to the inclusive labour rates set out in the Schedule of Hourly Charges, this Contract envisages that that Schedule, alone or in combination with the Contract Particulars, will set out the basis of charging for any daywork sub-contracted and will provide for any percentage or other handling charges that are to be added to the cost of materials, goods, plant, services, consumables and (if appropriate) sub-contract work supplied.

Rates – Fluctuations

- 5-6** -1 Unless it is stated in the Contract Particulars (item 12.3) that this clause 5-6-1 does not apply:
- 1 where the Schedule of Rates is the National Schedule of Rates, the rates in that Schedule current at the commencement of the Contract Period will apply to the valuation of Orders issued prior to the next following 1 August and subsequently the update for those rates at 1 August in each year will apply to Orders issued on or after 1 August; or
 - 2 where the Schedule of Rates is not the National Schedule of Rates, the basis on which and the dates as at which the rates in that Schedule are to be revised during the Contract Period shall be those stated or referred to in the Contract Particulars (item 12.4).
- 2 If it is stated in the Contract Particulars that clause 5-6-1 does not apply or, where the Schedule of Rates is not the National Schedule of Rates, if there is no identified basis for revision as referred to in clause 5-6-1.2, the rates given in the Schedule of Rates current at the commencement of the Contract Period shall remain fixed for all Orders.
- 3 Unless it is stated in the Contract Particulars (item 13.2) that this clause 5-6-3 does not apply, the all-in labour rates set out in the Schedule of Hourly Charges shall be revised at 1 August in each year, or such other annual revision date as is stated in that item, in accordance with the basis (if any) set out in that Schedule or identified in the Contract Particulars or, if none, in accordance with clause 5-6-5.
- 4 Whether or not clause 5-6-3 applies, any all-in hourly rate deduced or fixed under clause 5-5 shall be revised on such revision date (if any) as is fixed for revision of the relevant Schedule or, if none is fixed, as at 1 August in each year.
- 5 In the absence of any express basis for revision where clause 5-6-3 applies or in the case of revision under clause 5-6-4, the revised rates shall be agreed between the Contractor and the Contract Administrator or, failing agreement, determined by the Contract Administrator on a fair and reasonable basis.

Overtime work

- 5-7** -1 For the purposes of this clause 5-7:
- 1 'overtime' means time worked in addition to 'normal working hours' as defined in the rules or decisions of the Construction Industry Joint Council or other wage-fixing body applicable to the work comprised in the Order, as promulgated at the date of the Order; and
 - 2 'non-productive overtime rates' means the net amounts, in excess of the rates paid for work in normal working hours, which are to be paid for overtime in accordance with the rules or decisions mentioned above as promulgated at the date of the Order.
- 2 Where overtime work for an Order is specifically directed by the Contract Administrator, unless an all-in non-productive overtime rate is included in the Schedule of Hourly Charges, the Contractor, in addition to the amount otherwise due under this Section 5 in respect of the valuation of the Order, shall be paid the amount of the non-productive overtime rates paid by the Contractor, adjusted by the percentage set out in the Contract Particulars (item 14).
- 3 No payment shall be due under clause 5-7-2 unless the Contractor has submitted to the Contract Administrator returns, in a format directed by the Contract Administrator or as provided in the preliminaries in the Schedule of Rates, stating the amount of overtime worked in accordance with the directions referred to in clause 5-7-2 and the amount of the non-productive overtime rates paid by the Contractor. A copy of those returns, if approved, shall be certified by the Contract Administrator and returned to the Contractor.

Interruption of work – unproductive costs

- 5-8** If, while carrying out the work comprised in any Order, the Contractor is required by the Contract Administrator during normal working hours (as referred to in clause 5-7-1) to interrupt such work and to carry out other work in priority to that comprised in the Order, any agreed lost time or other unproductive costs shall be valued as daywork under clause 5-4-1, and clause 5-4-2 shall apply so far as relevant.

Section 6 Injury, Damage and Insurance

Contractor's liability – personal injury or death

- 6-1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, any Employer's Person or any Statutory Undertaker.

Contractor's liability – loss, injury or damage to property

- 6-2 Subject to clause 6-3, the Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or any Contractor's Person.

Loss or damage to existing structures or their contents

- 6-3 -1 Where clause 6-7A-1 applies, the Contractor's liability and indemnity under clause 6-2 excludes any loss or damage to existing structures or to any of their contents required to be insured under clause 6-7A that is caused by any of the risks or perils required or agreed to be insured against under that clause.
- 2 The exclusion in clause 6-3-1 shall apply notwithstanding that the loss or damage is or may be due in whole or in part to the negligence, breach of statutory duty, omission or default of the Contractor or any Contractor's Person.
- 3 Where a Clause 6-7A-1 Replacement Schedule applies in lieu of clause 6-7A-1, the Contractor's liability and indemnity under clause 6-2 shall, in respect of loss, injury or damage to the existing structures and their contents due to the causes specified in that clause, be subject only to such limitations or exclusions as are specified in that schedule.
- 4 The reference in clause 6-2 to 'property real or personal' does not include the work comprised in an Order, work executed or Site Materials up to and including whichever is the earlier of the Order Completion Date or the date of termination of the Contractor's employment.

Contractor's insurance of his liability

- 6-4 -1 Without limiting or affecting his indemnities to the Employer under clauses 6-1 and 6-2, the Contractor shall effect and maintain insurance in respect of claims arising out of the liabilities referred to in those clauses which:
- 1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
- 2 for all other claims to which clause 6-4-1 applies^[22], shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall for any one occurrence or series of occurrences arising out of one event be in a sum not less than that stated in the Contract Particulars (item 15-1).^[23]
- 2 As to evidence that such insurances have been effected and are being maintained and the consequences of failure to comply, clause 6-10 shall apply.

Excepted Risks

[22] It should be noted that the cover granted under Public Liability policies taken out pursuant to clause 6-4-1 may not be co-extensive with the indemnity given to the Employer in clauses 6-1 and 6-2: for example, each claim may be subject to an excess and cover may not be available in respect of loss or damage due to gradual pollution.

[23] The Contractor may, if he wishes, insure for a sum greater than that stated in the Contract Particulars (item 15).

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- 6-5** Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall neither be liable to indemnify the Employer nor obliged to insure against any personal injury to or the death of any person or any damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site or any other property, caused by the effect of an Excepted Risk.

Related definitions

- 6-6** In these Conditions the following phrases shall have the following meanings:

All Risks Insurance^[24]: insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

(a) property which is defective due to:

- (i) wear and tear,
- (ii) obsolescence, or
- (iii) deterioration, rust or mildew;

(b) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective^[25];

(c) loss or damage caused by or arising from:

- (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government *de jure* or *de facto* or public, municipal or local authority,
- (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
- (iii) an Excepted Risk.

Excepted Risks:

the risks comprise:

(a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);

(b) pressure waves caused by aircraft or other aerial devices

^[24] The risks and costs that All Risks Insurance is required to cover are defined by exclusions. Policies issued by insurers are not standardised; the way in which insurance for these risks is expressed varies and **In some cases it may not be possible for Insurance to be taken out against certain of the risks required to be covered.** In the case of Terrorism Cover, where the extension of cover will involve an additional premium and may in certain situations be difficult to effect, the requirement is now expressly limited to Pool Re Cover or such other cover as is agreed and set out in the Contract Particulars. That extension and any other relevant details of works insurance under this Contract also require discussion and agreement between the Parties and their insurance advisers at an early stage, **prior to entering into the Contract.** See the Measured Term Contract Guide.

^[25] In an All Risks Insurance policy in respect of works to be carried out under this Contract, cover should not be reduced by any exclusion that goes beyond the terms of paragraph (b) in this definition. For example, an exclusion in terms that 'This Policy excludes all loss of or damage to the property insured due to defective design, plan, specification, materials or workmanship' would not be in accordance with the terms of clause 6-7A-2 or 6-7B or that definition. Wider All Risks cover than that specified may be available, though it is not standard.

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	travelling at sonic or supersonic speeds; and
	(c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.
Joint Names Policy:	a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.
Pool Re Cover:	such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme. ^[26]
Specified Perils:	fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.
Terrorism Cover:	Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6-12-1, to an existing structure and/or its contents) caused by or resulting from terrorism. ^[27]

Joint Names Insurance of work or supply comprised in Orders and existing structures by the Employer^[27]

6-7A The Employer shall:

- 1 unless otherwise stated by the Contract Particulars (item 15-3) effect and maintain a Joint Names Policy in respect of the existing structures for which Orders may be issued, together with the contents of them owned by him or for which he is responsible, for the full cost of reinstatement, repair or replacement of loss or damage due to any of the Specified Perils;
- 2 subject to clause 6-7B where the Contract Particulars state that that clause applies (item 15-4), effect and maintain a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6 for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars to cover professional fees (item 15-2))

and shall maintain such Joint Names Policies up to and including the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2-10 or by agreement pursuant to clause 2-4 occurs after the end of the Contract Period), or (if earlier) the date of termination of the Contractor's employment under this Contract. In respect of the insurance referred to in this clause 6-7A the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).

^[26] As respects Terrorism Cover and the insurance requirements, see footnote [24] and the Measured Term Contract Guide.

^[27] **Clause 6-7A can be used in its existing printed form by those Employers who are able to effect the Joint Names, Specified Perils cover referred to for the Contractor in respect of existing structures and their contents that are owned by the Employer or for which he is responsible.**

However, the Joint Names Policy required by clause 6-7A-1 or the extension of a subsisting structure and contents policy to being a Joint Names Policy may not be readily available – and that provision is often not now appropriate for – refurbishment projects or alterations by tenant Employers where existing structures insurance is the landlord's responsibility.

Joint Names cover may also not be readily available to some domestic owner-occupiers looking to undertake refurbishments or minor works to their property.

The Contract Particulars for clause 6-7A-1 (item 15-3) therefore expressly allow the Parties in those circumstances to disapply clause 6-7A-1 and, by means of a Clause 6-7A-1 Replacement Schedule, to include in place of that clause provisions that are tailored to their particular requirements.

In JCT's view the preparation of such replacement provisions must be assigned to insurance professionals.

An explanatory summary of the alternative arrangements generally adopted to overcome those difficulties is, however, contained in the Measured Term Contract Guide.

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Joint Names Insurance of work or supply comprised in Orders by the Contractor

- 6-7B** If the Contract Particulars (item 15-4) state that this clause 6-7B applies, the Contractor shall effect and maintain with insurers approved by the Employer a Joint Names Policy for All Risks Insurance with cover no less than that specified in clause 6-6⁽²⁹⁾ for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 15-2) to cover professional fees) up to and including the Order Completion Date for that Order and shall maintain that policy up to and including:

- 1 the end of the Contract Period or (if later) the last Order Completion Date; or
- 2 (if earlier) the date of termination of the Contractor's employment.

Clause 6-7B – use of Contractor's annual policy – as alternative

- 6-8** If and so long as the Contractor independently of this Contract maintains an annual insurance policy which in respect of the work or supplies comprised in Orders:

- 1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6-7B; and
- 2 is a Joint Names Policy,

that policy shall satisfy the Contractor's obligations under clause 6-7B. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 15-5).

Notification by Contractor of occupation and use

- 6-9** Where clause 6-7B applies, the Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the Joint Names Policy to which clause 6-7B refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.

Evidence of Insurance

- 6-10** ·1 Where a Party is required by this Contract to effect and maintain an insurance policy or cover under any of clauses 6-4, 6-7A, 6-7B and 6-11, that Party shall at the request of the other Party supply such documentary evidence as the other Party may reasonably require that the policy or cover has been effected and remains in force.
- 2 If a Party required to provide such documentary evidence fails to provide it within 7 days of a request being made, the other Party may assume that there has been a failure to insure, and may insure against any risk, liability or expense to which he may be exposed as a consequence, but shall not be obliged to do so. If the other Party insures, the defaulting Party shall be liable for the costs that the other Party incurs in taking out and maintaining that insurance. Any costs payable to the Contractor shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt; any costs payable to the Employer may be deducted by him from any sums due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.

Terrorism Cover – policy extensions and premiums

- 6-11** ·1 To the extent that the Works Insurance Policy excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor, where clause 6-7B applies, or the Employer, where clause 6-7A-2 applies, shall unless otherwise agreed effect and maintain, either as an extension to the Works Insurance Policy or as a separate Joint Names Policy, in the same amount and for the same period as the Works Insurance Policy, such Terrorism Cover as is specified in or by the Contract Particulars (item 15-6), subject to clauses 6-11-4 and 6-12.
- 2 Where clause 6-7B applies and the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.

⁽²⁹⁾ In some cases it may not be possible for insurance to be taken out against certain of the risks covered by the definition of All Risks Insurance and note the potential difficulty with respect to Terrorism Cover mentioned at footnote [24].

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- 3 Where clause 6-7B applies and Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 4 Where clause 6-7B applies and the Employer is a Local or Public Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, clause 6-13-5-3 shall apply with effect from the renewal date.

Terrorism Cover – non-availability – Employer’s options

- 6-12 -1 If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 2 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:
 - 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
 - 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.
- 3 Where clause 6-7B applies and the Employer gives notice under clause 6-12-2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.
- 4 If the Employer gives notice of termination under clause 6-12-2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4-6.
- 5 In the case of any Orders in respect of which notice of termination is not given under clause 6-12-2, but work executed and/or Site Materials under any such Order thereafter suffer physical loss or damage caused by terrorism, clauses 6-13 and 6-14 shall as appropriate apply.

Loss or damage – insurance claims and reinstatement

- 6-13 -1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any of the risks covered by the Works Insurance Policy or an Excepted Risk or there is any loss of or damage of any kind to any existing structure or its contents, the Contractor shall forthwith upon it occurring or becoming apparent give notice both to the Contract Administrator and to the Employer of its nature, location and extent.
- 2 Subject to clauses 6-13-5-1 and 6-13-6, the occurrence of such loss or damage shall be disregarded in computing any amounts payable to the Contractor under this Contract.
- 3 The Contractor, for himself and his sub-contractors, shall authorise the insurers to pay to the Employer all monies from the Works Insurance Policy, and from any policies covering existing structures or their contents that are effected by the Employer.
- 4 Where loss or damage affecting executed work or Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the Works Insurance Policy, and subject to clause 6-14 where relevant, the Contractor shall after any inspection required by the insurers under the Works Insurance Policy and with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris (collectively 'reinstatement work') and proceed with the carrying out and completion of the Order(s).
- 5 Where clause 6-7B applies:
 - 1 unless the Employer cancels the Order affected by the loss or damage, the

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Employer shall pay all monies from such insurance to the Contractor by instalments under separate reinstatement work certificates issued by the Contract Administrator at the same dates as those for certificates under section 4 less only the amounts referred to in clause 6-13-5-2;

- 2 the Employer may retain from those monies any amounts properly incurred by the Employer and notified by him to insurers in respect of professional fees up to the aggregate amount of the percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees;
- 3 in respect of reinstatement work, the Contractor shall not be entitled to any payment other than amounts received under the Works Insurance Policy except where there has been a cessation of or reduction in Terrorism Cover under clause 6-11-4 or 6-12 and loss or damage is then caused by or results from terrorism, in which case the reinstatement work shall, to the extent that its cost is no longer recoverable under the policy, be treated as a Variation and under section 4 or clause 6-13-5-1 included in Contract Administrator's certificates. In neither case shall there be any reduction in any amount payable by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage.
- 6 Where clause 6-7A-2 applies or where loss or damage is caused by an Excepted Risk, reinstatement work shall be treated as a Variation.

Loss or damage to existing structures – right of termination in respect of Orders

- 6-14** If there is material loss of or damage to any existing structure, the Employer shall be under no obligation to reinstate that structure, but either Party may, if it is just and equitable, give notice to the other within 28 days of the occurrence of that loss or damage that work on any affected Orders shall terminate. If such notice is given, then:
- 1 unless within 7 days of receiving the notice (or such longer period as may be agreed) the Party to whom it is given invokes a dispute resolution procedure of this Contract to determine whether the termination is just and equitable, it shall be deemed to be so;
 - 2 upon the giving of that notice or, where a dispute resolution procedure is invoked within that period, upon any final upholding of the notice, the provisions of clause 6-12-4 shall apply.

Section 7 Break Provision – Rights of each Party

Break notice

- 7-1 Each Party shall have the right to reduce the duration of the Contract Period by giving the other Party not less than 13 weeks' notice to that effect (or such lesser period of notice as is stated in the Contract Particulars (item 16)). That notice may in either case expire at any time not less than 6 months after the date of commencement of the Contract Period.

Existing and subsequent Orders

- 7-2 As from receipt by the Employer or the Contractor, as the case may be, of notice under clause 7-1 the Contractor shall not, unless otherwise agreed between him and the Contract Administrator, be under any obligation to accept any subsequent Orders which cannot reasonably be completed before the expiration of the notice, but the Contractor shall not be relieved of his obligation to complete all Orders properly given prior to the receipt of the notice, even if such Orders cannot be, or are not, completed before the expiry of such notice, and to complete any subsequent Orders that can reasonably be completed before that expiration or that he otherwise accepts.

Section 8 Termination for Default, etc.

Meaning of insolvency

8.1 For the purposes of these Conditions:

- 1 a company becomes Insolvent:
 - 1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
 - 2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part;
 - 3 on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act; or
 - 4 on the making of a winding-up order under Part IV or V of that Act.
- 2 a partnership becomes Insolvent:
 - 1 on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors.
- 3 an individual becomes Insolvent:
 - 1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 4 a person also becomes Insolvent if:
 - 1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 2 (in the case of a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause 8.1.

Each of clauses 8.1.1 to 8.1.4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

Notices under section 8

- 8.2
- 1 Notice of termination of the Contractor's employment shall not be given unreasonably or vexatiously.
 - 2 Such termination shall take effect on receipt of the relevant notice.
 - 3 Each notice referred to in this section shall be delivered by hand or sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner, it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting.

Other rights, reinstatement

- 8.3
- 1 The provisions of this section 8 are without prejudice to any other rights and remedies available to either Party.
 - 2 Irrespective of the grounds of termination, the Contractor's employment may at any time be reinstated, either generally or in respect of any particular Order or Orders, if and on such

terms as the Parties agree.

Default by Contractor

- 8-4 -1 If the Contractor:
- 1 fails to comply with the CDM Regulations; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the carrying out of any Order or Orders is materially disrupted, suspended or delayed,
- the Contract Administrator may give to the Contractor a notice specifying the default or defaults (a 'specified' default or defaults).
- 2 If the Contractor continues a specified default for 14 days from receipt of the notice under clause 8-4-1, the Employer may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Contractor terminate the Contractor's employment under this Contract.
 - 3 If the Employer does not give the further notice referred to in clause 8-4-2 (whether as a result of the ending of any specified default or otherwise) but the Contractor repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Employer may by notice to the Contractor terminate that employment.

Insolvency of Contractor

- 8-5 -1 If the Contractor is Insolvent, the Employer may at any time by notice to the Contractor terminate the Contractor's employment under this Contract.
- 2 The Contractor shall immediately notify the Employer if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1.
 - 3 As from the date the Contractor becomes Insolvent, whether or not the Employer has given such notice of termination:
 - 1 clause 8-10 shall apply as if such notice had been given;
 - 2 the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended; and
 - 3 the Employer may take reasonable measures to ensure that each Site, the work under each Order and any Site Materials are adequately protected and that such Site Materials are retained on site; the Contractor shall allow and shall not hinder or delay the taking of those measures.

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

- 8-6 The Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this or any other contract with the Employer if, in relation to this or any other such contract, the Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010, or, where the Employer is a Local or Public Authority, shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972, or, where this Contract is one to which regulation 73(1) of the PC Regulations applies, the circumstances set out in regulation 73(1)(b) of the PC Regulations apply.

Default by Employer

- 8-7 -1 If the Employer:
- 1 does not pay by the final date for payment the amount due to the Contractor in accordance with clause 4-6 and/or any VAT properly chargeable on that amount; or
 - 2 without reasonable cause fails in such a manner to comply with his obligations under this Contract that the ability of the Contractor to comply with his obligations under it is materially prejudiced; or
 - 3 interferes with or obstructs the issue of any certificate; or
 - 4 fails to comply with CDM Regulations,

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- the Contractor may give to the Employer a notice specifying the default or defaults (a 'specified' default or defaults).
- 2 If the Employer continues a specified default for 14 days from the receipt of notice under clause 8-7-1, the Contractor may on, or within 21 days from, the expiry of that 14 day period by a further notice to the Employer terminate the Contractor's employment under this Contract.
 - 3 If the Contractor for any reason does not give the further notice referred to in clause 8-7-2, but the Employer repeats a specified default (whether previously repeated or not), then, upon or within a reasonable time after such repetition, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract.

Insolvency of Employer

- 8-8 -1 If the Employer is Insolvent, the Contractor may by notice to the Employer terminate the Contractor's employment under this Contract;
- 2 the Employer shall immediately notify the Contractor if he makes any proposal, gives notice of any meeting or becomes the subject of any proceedings or appointment relating to any of the matters referred to in clause 8-1;
- 3 as from the date the Employer becomes Insolvent, the Contractor's obligations under Article 1 and these Conditions to carry out and complete any Orders shall be suspended pending such termination.

Termination by Employer – regulations 73(1)(a) and 73(1)(c) of the PC Regulations

- 8-9 Where this Contract is one to which regulation 73(1) of the PC Regulations applies the Employer shall be entitled by notice to the Contractor to terminate the Contractor's employment under this Contract where the grounds set out in regulation 73(1)(a) or 73(1)(c) of the PC Regulations apply.

Consequences of termination under clauses 8-4 to 8-6

- 8-10 If the Contractor's employment is terminated under clause 8-4, 8-5 or 8-6:
 - 1 the Employer may employ and pay other persons to carry out and complete uncompleted Orders;
 - 2 no further sum shall become due to the Contractor under this Contract other than any amount that may become due to him under clause 8-10-3 and the Employer need not pay any sum that has already become due either:
 - 1 insofar as the Employer has given or gives a notice under clause 4-6-5; or
 - 2 if the Contractor, after the last date upon which such notice could have been given by the Employer in respect of that sum, has become insolvent within the meaning of clauses 8-1-1 to 8-1-3;
 - 3 the Contract Administrator shall within 13 weeks of the date of termination make a valuation and issue a certificate showing:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) and any other amounts due to the Contractor under this Contract that have not been valued and certified before such termination; and
 - 2 the amount of any direct loss and/or damage caused to the Employer by the termination;
 - 4 if the amount of direct loss and/or damage exceeds the value certified under clause 8-10-3 the difference shall be a debt payable by the Contractor to the Employer or, if it is less, by the Employer to the Contractor;
 - 5 the final date for payment of the amount of the difference referred to in clause 8-10-4 shall be 28 days from the date of the certificate.

Consequences of termination under clauses 8-7 to 8-9

- 8-11 -1 Where the Contractor's employment is terminated under clause 8-7, 8-8 or 8-9, the Contractor shall within 13 weeks of the date of termination submit an account in respect of:
 - 1 the value of such work properly executed (or of labour, materials and/or plant supplied) as has not been valued and certified before such termination; and

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- 2 only where the Contractor's employment is terminated under clause 8-7 or 8-8, the amount of any direct loss and/or damage caused to the Contractor by the termination.
- 2 The Employer shall pay to the Contractor the amount properly due in respect of the account within 28 days of its submission by the Contractor.

Section 9 Settlement of Disputes

Mediation

- 9-1 Subject to Article 6, if a dispute or difference arises under this Contract which cannot be resolved by direct negotiations, each Party shall give serious consideration to any request by the other to refer the matter to mediation.^[29]

Adjudication

- 9-2 If a dispute or difference arises under this Contract which either Party wishes to refer to adjudication, the Scheme shall apply except that for the purposes of the Scheme the Adjudicator shall be the person (if any) and the nominating body shall be that stated in the Contract Particulars (item 17).

Arbitration – Conduct of arbitration

- 9-3 Any arbitration pursuant to Article 7 shall be conducted in accordance with the JCT 2016 edition of the Construction Industry Model Arbitration Rules (CIMAR), provided that if any amendments to that edition of the Rules have been issued by the JCT the Parties may, by a joint notice to the Arbitrator, state that they wish the arbitration to be conducted in accordance with the Rules as so amended. References in clause 9-4 to a Rule or Rules are references to such Rule(s) as set out in the JCT 2016 edition of CIMAR.^[30]

Notice of reference to arbitration

- 9-4
- 1 Where pursuant to Article 7 either Party requires a dispute or difference to be referred to arbitration, that Party shall serve on the other Party a notice of arbitration to such effect in accordance with Rule 2.1 identifying the dispute and requiring the other Party to agree to the appointment of an arbitrator. The Arbitrator shall be an individual agreed by the Parties or, failing such agreement within 14 days (or any agreed extension of that period) after the notice of arbitration is served, appointed on the application of either Party in accordance with Rule 2.3 by the person named in the Contract Particulars (item 17).
 - 2 Where two or more related arbitral proceedings in respect of any Orders or work under this Contract fall under separate arbitration agreements, Rules 2.6, 2.7 and 2.8 shall apply.
 - 3 After the Arbitrator has been appointed either Party may give a further notice of arbitration to the other Party and to the Arbitrator referring any other dispute which falls under Article 7 to be decided in the arbitral proceedings and Rule 3.3 shall apply.

Powers of Arbitrator

- 9-5 Subject to the provisions of Article 7 the Arbitrator shall, without prejudice to the generality of his powers, have power to rectify this Contract so that it accurately reflects the true agreement made by the Parties, to direct such measurements and/or valuations as may in his opinion be desirable in order to determine the rights of the Parties and to ascertain and award any sum which ought to have been the subject of or included in any certificate and to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision, requirement or notice had been given.

Effect of award

- 9-6 Subject to clause 9-7 the award of the Arbitrator shall be final and binding on the Parties.

Appeal – questions of law

- 9-7 The Parties hereby agree pursuant to section 45(2)(a) and section 69(2)(a) of the Arbitration Act 1996 that either Party may (upon notice to the other Party and to the Arbitrator):

^[29] See the Measured Term Contract Guide.

^[30] Arbitration or legal proceedings are not an appeal against the decision of the Adjudicator but are a consideration of the dispute or difference as if no decision had been made by an Adjudicator.

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- 1 apply to the courts to determine any question of law arising in the course of the reference;
and
- 2 appeal to the courts on any question of law arising out of an award made in an arbitration
under this arbitration agreement.

Arbitration Act 1996

- 9-8** The provisions of the Arbitration Act 1996 shall apply to any arbitration under this Contract
wherever the same, or any part of it, shall be conducted.

Schedule Supplemental Provisions

(Fifth Recital)

Supplemental Provisions 1 to 6 apply unless otherwise stated in the Contract Particulars. Supplemental Provision 7 applies where the Employer is a Local or Public Authority or other body of the type mentioned in that provision; Supplemental Provision 8 applies where the Employer is a Local or Public Authority and this Contract is subject to the PC Regulations.

Collaborative working

- 1 The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Health and safety

- 2
 - 1 Without limiting either Party's statutory and/or regulatory duties and responsibilities and/or the specific health and safety requirements of this Contract, the Parties will endeavour to establish and maintain a culture and working environment in which health and safety is of paramount concern to everybody involved with the project.
 - 2 In addition to the specific health and safety requirements of this Contract, the Contractor undertakes to:
 - 1 comply with any and all approved codes of practice produced or promulgated by the Health and Safety Executive;
 - 2 ensure that all personnel engaged by the Contractor and members of the Contractor's supply chain on site receive appropriate site-specific health and safety induction training and regular refresher training;
 - 3 ensure that all such personnel have access at all times to competent health and safety advice in accordance with regulation 7 of the Management of Health and Safety at Work Regulations 1999, and
 - 4 ensure that there is full and proper health and safety consultation with all such personnel in accordance with the Health and Safety (Consultation with Employees) Regulations 1996.

Cost savings and value improvements

- 3
 - 1 The Contractor is encouraged to propose changes to designs and specifications for each Order and/or to the programme for its execution that may benefit the Employer, whether in the form of a reduction in the cost of the Order or its associated life cycle costs, through completion at a date earlier than the date for completion or otherwise.
 - 2 The Contractor shall provide details of his proposed changes, identifying them as suggested under this Supplemental Provision 3, together with his assessment of the benefit he believes the Employer may obtain, expressed in financial terms, and a quotation.
 - 3 Where the Employer wishes to implement a change proposed by the Contractor, the Parties shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to the date for completion. Upon agreement, the change and the amount of any adjustment of the value of the Order shall be confirmed in a Contract Administrator's instruction, together with the share of the financial benefit to be paid to the Contractor and any adjustment to the date for completion.
 - 4 Original proposals by the Contractor under this Supplemental Provision 3 may only be instructed in accordance with it, provided always that nothing shall prevent the Employer

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from utilising other contractors to implement such changes after the Contract Period.

Sustainable development and environmental considerations

- 4
- 1 The Contractor is encouraged to suggest economically viable amendments to any Order which, if instructed as a Variation, may result in an improvement in environmental performance in the carrying out of the Order or of the completed Order.
 - 2 The Contractor shall provide to the Employer all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Contractor selects.

Performance Indicators and monitoring

- 5
- 1 The Employer shall monitor and assess the Contractor's performance by reference to any performance indicators stated or identified in the Contract Documents.
 - 2 The Contractor shall provide to the Employer all information that he may reasonably require to monitor and assess the Contractor's performance against the targets for those performance indicators.
 - 3 Where the Employer considers that a target for any of those performance indicators may not be met, he may inform the Contractor who shall submit his proposals for improving his performance against that target to the Employer.

Notification and negotiation of disputes

- 6
- With a view to avoidance or early resolution of disputes or differences (subject to Article 6), each Party shall promptly notify the other of any matter that appears likely to give rise to a dispute or difference. The senior executives nominated in the Contract Particulars (or if either is not available, a colleague of similar standing) shall meet as soon as practicable for direct, good faith negotiations to resolve the matter.

Transparency

- 7
- Where the Employer is a Local or Public Authority or other body to whom the provisions of the Freedom of Information Act 2000 ('FOIA') apply, the Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of FOIA, the content of this Contract is not confidential. The Employer shall be responsible for determining in his absolute discretion whether any of the content of this Contract is exempt from disclosure in accordance with the provisions of FOIA. Notwithstanding any other term of this Contract:
- 1 the Contractor hereby consents to the Employer publishing any amendments to the standard form JCT contract in their entirety, including changes to the standard form agreed from time to time, but in each case with any information which is exempt from disclosure in accordance with the provisions of FOIA redacted;
 - 2 the Employer shall promptly inform the Contractor of any request for disclosure that he receives in relation to this Contract.

The Public Contracts Regulations 2015

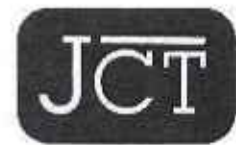
- 8
- Where the Employer is a Local or Public Authority and this Contract is subject to the PC Regulations^{P11}:

^{P11} An explanatory summary of those provisions in the PC Regulations that are reflected in this Contract is contained in the Measured Term Contract Guide. Provisions relating to the PC Regulations are also set out in section 8 (Termination) of this Contract. The JCT Short Form of Sub-Contract (ShortSub) meets the requirements of Supplemental Provision 8.

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- 1 where regulation 113 of the PC Regulations applies to this Contract, the Contractor shall include in any sub-contract entered into by him suitable provisions to impose the requirements of regulation 113(2)(c)(i) and (ii);
- 2 the Contractor shall include in any sub-contract entered into by him provisions requiring the sub-contractor:
 - 1 to supply and notify to the Contractor the information required (as applicable) under regulations 71(3), 71(4) and 71(5) of the PC Regulations; and
 - 2 to include in any sub-subcontract he in turn enters into provisions to the same effect as required under paragraph 8-2-1 of Supplemental Provision 8;
- 3 ·1 the Contractor shall include in any sub-contract entered into by him provisions that shall entitle him to terminate the sub-contractor's employment where there are grounds for excluding the sub-contractor under regulation 57;
- 2 in the event the Employer requires the Contractor to terminate a sub-contractor's employment pursuant to regulation 71(9) the Contractor shall take the appropriate steps to terminate that employment and where required by the Employer under regulation 71(9) shall, or in circumstances where there is no such requirement may, appoint a replacement sub-contractor.



This contract has been amended from the original template.

MTC 2016
Measured Term Contract 2016

2016

MEASURED TERM CONTRACT

Measured Term Contract (MTC)

Appropriate for use:

- by Employers who have a regular flow of maintenance and minor works, including improvements, to be carried out by a single contractor over a specified period of time and under a single contract;
- where the work is to be instructed from time to time and measured and valued on the basis of an agreed schedule of rates; and
- where a Contract Administrator is to administer the conditions.

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To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at and in the body of such request you must state: your previous e-mail address, your new e-mail address.

In addition, you must notify DocuSign, Inc. to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in the DocuSign system.

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To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number.

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- ii. send us an e-mail to and in the body of such request you must state your e-mail, full name, Postal Address, and telephone number.

Required hardware and software

Operating Systems:	Windows® 2000, Windows® XP, Windows Vista®; Mac OS® X
Browsers:	Final release versions of Internet Explorer® 6.0 or above (Windows only); Mozilla Firefox 2.0 or above (Windows and Mac); Safari™ 3.0 or above (Mac only)
PDF Reader:	Acrobat® or similar software may be required to view and print PDF files
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	Allow per session cookies

** These minimum requirements are subject to change. If these requirements change, you will be asked to re-accept the disclosure. Pre-release (e.g. beta) versions of operating systems and browsers are not supported.

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Fusion21,
Unit 2 Puma Court,
Kings Business Park,
Knowsley,
L34 1PJ

0845 308 2321

www.fusion21.co.uk

14 September 2022

Dear all,

15592 – Folkestone & Hythe District Council

Please find enclosed copy of a contract between Folkestone & Hythe District Council and Vinci Construction UK Limited.

If you are not an authorised signatory, please click on the link and within the DocuSign website on the top right hand side please click on "OTHER ACTIONS" and "Assign to Someone Else" to enter the details for the correct person.

Fusion21 has compiled the attached contract based on information provided by Member and Supplier. Fusion21 provides procurement services and does not purport to be a legal firm. Fusion21's staff are not legally qualified and do not provide legal advice. You are advised to seek formal legal advice prior to entering the enclosed contract.

If you have any questions, please do let us know.

Yours sincerely

Fusion21

Fusion21 has compiled the attached proposed contract based on information provided by Member and Supplier. Fusion21 provides procurement services and does not purport to be a legal firm. Fusion21's staff are not legally qualified and do not provide legal advice. You are advised to seek formal legal advice prior to entering into an agreement based upon the proposed contract. Use of the proposed contract is at your own risk and Fusion21 does not accept liability for its use. Fusion21 provides no warranty or guarantee that the proposed contract is fit for purpose.

FUSION21 STANDARD SCHEDULE OF AMENDMENTS

Recitals

In the Recitals, insert after the Fifth recital:

- Sixth: the Employer is a Member of the Fusion21 Member's Consortium. This Contract is a call-off under a Fusion21 Framework Agreement.

Articles

Add new Article 9 as follows:

*Article 9

*Notwithstanding any other provision of this Contract, the Contractor's total liability to the Employer in respect of all matters arising out of, under or in connection with this Contract shall not exceed £10 million in the aggregate.

This limit on the Contractor's liability shall apply however that liability arises, including, without limitation, a liability arising by breach of contract, arising by tort (including, without limitation, the tort of negligence) or arising by breach of statutory duty and, for the avoidance of doubt, shall apply to the Contractor's liability for any costs, expenses, losses and damage incurred by the Employer (whether in completing Orders or otherwise) following termination of the Contractor's employment under this Contract; but such limitation shall not apply to or be affected by any liability for compensation under clause 2.13.3.

Nothing in this clause is intended to limit or exclude the Contractor's liability for death or personal injury caused by the Contractor's negligence or for any other matter in respect of which the law provides that liability cannot be limited or excluded.

Nothing in Article 9 shall exclude or limit any liability of the Contractor that cannot be excluded or limited by reason of law."

Add new Article 10 as follows:

*Article 10

The Contractor's total liability, whether in relation to design or otherwise, for waking or walking watch costs, loss of use, loss of profit, loss of rent, loss of production, loss of contracts, costs of decamping or rehousing, economic loss, indirect or consequential loss shall be limited to £10 million in the aggregate; but such limitation shall not apply to or be affected by any liability for liquidated damages under clause 2.13.3.

The Contractor's total liability, whether in relation to design or otherwise for waking or walking watch costs, loss of use, loss of profit, loss of rent, loss of production, loss of contracts, costs of decamping or rehousing, economic loss, indirect or consequential loss in respect of Fire Safety Liability shall be limited to the amount of ONE MILLION POUNDS (£1,000,000); but such limitation shall not apply to or be affected by any liability for compensation under clause 2.13.3.

Nothing in Article 10 shall exclude or limit any liability of the Contractor that cannot be excluded or limited by reason of law.

Clause 1.1 – Definitions

In clause 1.1, insert, delete and/or amend the following definitions:

- Agreement: add the words "(incorporating the Schedule of Amendments)" in the left-hand column, and add to the end of the definition, before the full stop ", each as amended by the Schedule of Amendments".
- Conditions: add to the end of the definition, before the full stop ", as amended by the Schedule of Amendments".
- Insert new definitions as follows:

"Continuing Works: see clause 8.12.

Framework Agreement: any framework agreement which establishes the terms (in particular the terms as

to price and, where appropriate, quantity) under which the Contractor may enter into one or more contracts with the Employer."

- Replace definition for Contract Documents with new definition as follows:

"Contract Documents: the Agreement, these Conditions (as amended by the Fusion21 Standard Schedule Of Amendments), the Schedule of Rates, Annex A Part 1 & 2 Supplementary Terms and Conditions covering the General Data Protection Regulations (GDPR) and (where applicable) the BIM Protocol."

- Insert new definitions as follows:

"Fire Safety Liability means any liability directly or indirectly arising out of or in any way connected to:

- (i) the combustibility, fire safety requirements or fire protection performance of any façade materials, roof materials, cladding, core, filler, composite, insulation, glazing, balconies, terraces, doors, hatches, signage, decorative panels, roof voids, roof cavities, chimneys, flues, external wall system and/or internal wall system of the Works, external roof system and/or internal roof system above the ceiling level of the upper-most storey of any building or structure forming part of the Works, including but not limited to any component or material used for the external cladding or façades or roofs of any such building or structure, insulation, and signage, and the manufacture, assembly, fixing or construction thereof;
- (ii) any aspects of fire safety or fire performance of the Works; including but not limited to warning of fire, escape from a building or structure in the event of fire, fire spread, structural integrity, the provision of access and facilities to the emergency services and/or the provision of premises not fit for habitation;
- (iii) any aspects of fire safety or fire performance of the Works not falling within (i) or (ii) above.

Order Completion Certificate: see clause 2.13.

Property: each individual dwelling or other property to which the works described in the Order are to be executed by the Contractor.

Relevant Event: see clause 2.10.3.

Resident: the occupier of a Property.

Schedule of Amendments: the document entitled as such and attached to the Contract and which forms part of this Contract.

Section: each and any individual Property.

Section Completion Certificate: see clause 2.13.

Section Completion Date: see clause 2.11.

Specification: the document named as such under item 1.2 of the Contract Particulars describing the works to be executed by the Contractor and the standards applying to the execution and completion of the works.

Statutory Undertaker: any local authority or statutory undertaker when executing work solely in pursuance of its statutory obligations, including any persons employed, and engaged or authorised by it upon or in connection with that work.

Terminated Works: see clause 8.12."

B. Clause 2.1 – Contractor's Obligations

Insert the words "to the reasonable satisfaction of the Contract Administrator" after the word "manner" in the first line.

C. Clause 2.2.1

Delete the words "Schedule of Rates" in the second line and replace with "Specification".

D. Clause 2.2.4

Add new clauses 2.2.4.4 and 2.2.4.5 as follows:

"2.2.4.4 "notwithstanding anything else in this Contract, use best endeavours to start works before 31st Dec 2022 at each house that has a completed PAS2035 Design before 31st December 2022;

2.2.4.5 "immediately upon receipt of payment from the Employer in respect of clause 4.8, place an order for materials for each Order;"

E. Clause 2.3.5

Delete this clause and renumber clause 2.3.6 as 2.3.5.

F. Clause 2.6

Renumber clause 2.6 as clause 2.6.1 and delete the word "reasonable" in the second line. Add a new clause 2.6.2 as follows:

"2.6.2 If the Contract Particulars state that clause 2.6.2 applies in respect of any Order and/or any Section, the Employer may defer the giving of possession of the Contract Area or any part of it and/or any Section for a period not exceeding 6 weeks or such lesser period stated in the Contract Particulars, calculated from the relevant commencement date stated in the Order."

G. Clause 2.10.2

Delete the words "for reasons beyond his control (including compliance with any instruction of the Contract Administrator that does not arise from the Contractor's default)" and replace with "due to the occurrence of a Relevant Event listed in clause 2.10.3".

H. Insert new clause 2.10.3

"2.10.3 The following are the Relevant Events referred to in clause 2.10.2"(if and to the extent that they are not in any way due to or consequent upon any negligence, omission, default, breach of contract or breach of statutory duty of the Contractor or the Contractor's Persons and/or any Sub-contractor or supplier or their servants or agents):

- .1 Variations;
- .2 instructions of the Contract Administrator for the opening up for inspection or testing of any work, materials or goods, unless the inspection or test shows that the work, materials or goods are not in accordance with this Contract;
- .3 deferment of the giving of possession of the Site under clause 2.6.2;
- .4 any impediment, prevention or default, whether by act or omission, by the Employer, the Contract Administrator or any persons engaged by the Employer.
- .5 The carrying out by a Statutory Undertaker of work in pursuance of its statutory obligations in relation to the Works, or the failure to carry out such work.
- .6 Exceptionally adverse weather conditions.
- .7 Loss or damage occasioned by any of the Specified Perils.
- .8 The exercise after the date of this Contract by the United Kingdom Government of any statutory power which directly affects the execution of the Orders."

I. Add new clause 2.10.4

- "2.10.4 In respect of any Relevant Event which occurs the Contractor shall, as a condition of claiming an extension of time arising therefrom:
- .1 constantly use his best endeavours to prevent delay and shall do all that may reasonably be required to the satisfaction of the Contract Administrator to proceed with the completion of an Order; and
 - .2 provide such information required by the Contract Administrator as is reasonably necessary for the purposes of ascertaining the extension of time, if any, due.

In this clause 2.10 and, so far as relevant, in the other clauses of these Conditions, any reference to delay or extension of time includes any further delay or further extension of time."

J. Clause 2.11 - Order Completion Date

Delete clause 2.11 in its entirety and substitute the following:

- "2.11.1 The Contractor shall notify the Contract Administrator in writing of the date when in his opinion an Order or a Section has been completed and/or supplied in accordance with this Contract. If the Contract Administrator does not dissent by notice, giving reasons, within 14 days of receipt of the Contractor's notice, the Contract Administrator shall comply with his obligations pursuant to clause 2.13 and the date so notified shall for all purposes of this Contract be specified in the Order Completion Certificate or Section Completion Certificate as may be appropriate.
- 2.11.2 If the Contract Administrator dissents, then as soon as he is satisfied that the Order or the Section has been duly completed and/or supplied, he shall as soon as reasonably practicable notify the Contractor and, unless otherwise agreed or determined in accordance with the dispute resolution procedures of this Contract, the Order Completion Date or the Section Completion Date shall be the date stated in the Contract Administrator's certificate issued in accordance with clause 2.13."

K. Existing clause 2.12 – Defects

This clause is to be amended as follows:

Delete the number "6" in the first line and replace with the number "12".

After the words "Order Completion Date" in the first line add the words "or Section Completion Date".

L. Add new clause 2.13 - Practical completion and Certificate of non-completion

- "2.13.1 When in the opinion of the Contract Administrator completion of an Order or any Section is achieved then:
1. in the case of the Order, the Contract Administrator shall forthwith issue the Order Completion Certificate; and
 - .2 in the case of a Section, he shall forthwith issue the Section Completion Certificate

and completion of the Order or Section shall be deemed for all the purposes of this Contract to have taken place on the date stated in such Certificate.

- 2.13.2 If the Contractor fails to complete the Order and/or any Section by the relevant Order Completion Date or Section Completion Date as may be appropriate, the Contract Administrator shall issue a non-completion certificate in relation to the Order or Section to that effect. If an extension of time is made after the issue of such a certificate, the

extension of time shall cancel that non-completion certificate and the Contract Administrator shall where necessary issue a further non-completion certificate where any revised Order Completion Date or Section Completion Date is not satisfied.

2133 Where any Order Completion Date or Section Completion Date falls after 31st March 2023 the Contractor shall be obliged to pay to the Employer compensation for the delay at a rate of £200 per incomplete house. The Employer shall be entitled to deduct from any monies due to the Contractor the amount of compensation payable, or may recover such compensation from the Contractor as a debt payable on demand."

M. Insert new clause 2.14- Possession of the Contract Area

"2.14 The Contractor does not have exclusive possession of the Contract Area or any Section and must share the Contract Area and any Section with others including the Employer and the Residents. The Contractor shall conduct the execution of the works comprised in an Order so as not to cause any unnecessary inconvenience or disruption to the Residents of any Properties."

N. Clause 3.2

Renumber this clause as 3.2.1.

O. Add new clauses 3.2.2 and 3.2.3

"3.2.2 The Contractor shall inform the Contract Administrator of the names, addresses and legal representatives of his proposed Sub-Contractors when seeking the Contract Administrator's written consent, and shall also state the nature and extent of the work to be sub-let to each proposed Sub-Contractor and shall fully describe the work involved.

323 The Contractor shall remain wholly responsible for carrying out and completing all work to be executed under this Contract notwithstanding any such sub-letting and the Contractor shall remain liable under the Contract for all work sub-contracted and for all acts, defaults or neglect of any Sub-Contractor or supplier or their agents, servants or work people.

324 The Contractor shall contract with any and all Sub-Contractors on payment terms that are no less favourable than those set out in the Contract. The Contractor shall impose cascading obligations to the same effect as those required by paragraph 3.2 in any Sub-Contract.

P. Clause 3.5.2 – Variations

Delete the last sentence of this clause.

Q. Clause 3.6.2.2

Delete and substitute the following:

"3.6.2.2 the Employer shall reimburse the Contractor up to the date of cancellation of the Order such direct costs reasonably and properly incurred by the Contractor in anticipation of completion of the Order including (but only to the extent the following is not already included in any valuation under clause 3.6.2.1 and only to the extent such costs are not recovered through reimbursement through the Schedule of Rates or any other term in this Contract):

.1 the reasonably and properly incurred cost of all materials and goods reasonably ordered and paid for or for which the Contractor is obliged to pay (provided that title in and possession of such goods passes to the Employer upon payment being made and the Contractor provides evidence in advance of such payment by way of vesting certificates that title does not remain with

any third party) and

- .2 the reasonably and properly incurred demobilisation costs and
- .3 reasonably and properly incurred costs in respect of leaving the Site clean and tidy."

R. Add new clause 3.6.2.3

"3.6.2.3 The rights of the Contractor under clause 3.6.2.2 do not apply to situations or circumstances where the Employer has the right to determine the employment of the Contractor under the Contract or the Contractor's employment has been determined under clauses 8.4, 8.5 or 8.6 of this Contract and the Contractor hereby acknowledges and accepts that his full entitlement upon cancellation of an Order under clause 3.6 is set out in clause 3.6.2.2 and that the Contractor shall have no claim for any other costs, losses, expenses or damages that may be incurred including but not limited to loss of site overheads, head office overheads, and profit."

S. Clause 3.7

Add after the word "thereon" the words "and the Contractor shall immediately exclude that person from the Site".

T. Clause 4.3A

Add new Clause 4.3A as follows:

"Clause 4.3A **Materials**

- 4.3A.1 Upon receiving each Order, the Contractor will provide, as soon as reasonably practicable, a quote which shall set out (amongst other things) the costs for the works to each house included in each Order together with any mobilisation costs and/or material costs that are required to be paid in advance, provided that:
 - 4.3A.1.1 for any house with an EPC rating of E, any such quote is limited to £12,000 + VAT; and
 - 4.3A.1.2 for any house with an EPC rating of F or G, any such quote is limited to £16,000 + VAT.
- 4.3A.2 Where any such quote is made, the Contract Administrator shall not later than 5 days after the date of such quote issue a certificate stating the sum that he considers to be due to the Contractor for advanced mobilisation costs and material costs for each house in the Order. The due date in respect of any such quote shall be 7 days after the issue of the certificate from the Contract Administrator stating the sum that he considers to be due to the Contractor, and the final date for payment 14 days from its due date.
- 4.3A.3 For the avoidance of doubt, the issue by the Contract Administrator of the certificate in Clause 4.8.2 shall be a condition precedent to payment under this clause 4.8.
- 4.3A.4 Where any materials have been purchased by the Employer in accordance with this Clause 4.8, they shall upon such payment become the Employer's property, but the Contractor shall remain responsible for loss or damage to them and for the cost of their storage, handling and insurance until and the Contractor shall not, except for use in the Works, remove or cause or permit them to be moved or removed from the premises where they are.

U. Clause 4.6.1

Add at the end of the clause "or, if later, 14 days after the date of receipt by the Employer of a valid invoice in accordance with clause 4.6.2"

V. Clause 4.6.2

Add after the words "Subject to any notice given by the Employer under clause 4.6.5" the words "and the Contractor submitting a valid invoice corresponding to the relevant certificate via the Employer's stated electronic procedure or to the Employer's nominated address within 10 days of the relevant certificate having been issued".

W. Section 5 – Measurement and Valuation

Clause 5.3.1

Add a "The value of an Order shall be equal to the quote required by clause 4.3A of this Contract, unless otherwise agreed by the Contract Administrator."

X. Section 6– Injury, Damage and Insurance

Delete the entirety of Section 6 and substitute with the following.

"6.1 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of an Order, except to the extent that the same is due to any act or neglect of the Employer, of any of the Employer's Persons or of any Statutory Undertaker.

6.2 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of an Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor or of any of the Contractor's Persons. This liability and indemnity is subject to clause 6.3 and excludes loss or damage to any property required to be insured under clause 6.7.1 caused by a Specified Peril.

6.3 The reference in clause 6.2 to 'property real or personal' does not include the work comprised in an Order, work executed and/or Site Materials up to and including whichever is the earlier of:

- .1 the Order Completion Date; or
- .2 the date of termination of the Contractor's employment.

6.4.1 Without prejudice to his obligation to indemnify the Employer under clauses 6.1 and 6.2, the Contractor shall take out and maintain insurance in respect of claims arising out of his liability referred to in clauses 6.1 and 6.2 which:

- .1 in respect of claims for personal injury to or the death of any employee of the Contractor arising out of and in the course of such person's employment, shall comply with all relevant legislation; and
- 2 for all other claims to which clause 6.4.1 applies, shall indemnify the Employer in like manner to the Contractor (but only to the extent that the Contractor may be liable to indemnify the Employer under the terms of this Contract) and shall be in a sum not less than that stated in the Contract Particulars (item 15.1) for any one occurrence or series of occurrences arising out of one event.

6.4.2 As and when reasonably required to do so by the Employer, the Contractor shall send to the Contract Administrator for inspection by the Employer documentary evidence that the insurances required by clause 6.4.1 have been taken out and are being maintained, and at any time the Employer may (but shall not unreasonably or vexatiously) require that the relevant policy or policies and related premium receipts be sent to the Contract Administrator for such inspection.

6.4.3 If the Contractor defaults in taking out or in maintaining insurance in accordance with clause 6.4.1 the Employer may himself insure against any liability or expense which he may incur as a result of such default and the amount paid or payable by him in respect of premiums therefor may be deducted from any sums due or to become due to the

Contractor under this Contract or shall be recoverable from the Contractor as a debt.

6-5 Notwithstanding clauses 6-1, 6-2 and 6-4-1, the Contractor shall not be liable either to indemnify the Employer or to insure against any personal injury to or the death of any person or any damage, loss or injury to work or supply comprised in an Order, Site Materials, work executed, the Site or any other property, caused by the effect of an Excepted Risk.

6-6 In these Conditions the following phrases shall have the meanings given below:

All Risks Insurance: insurance which provides cover against any physical loss or damage to work executed or supplies made pursuant to an Order and Site Materials (whether supplied by the Employer or by the Contractor) and against the reasonable cost of the removal and disposal of debris and of any shoring and propping which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

- (a) property which is defective due to:
 - (i) wear and tear,
 - (ii) obsolescence, or
 - (iii) deterioration, rust or mildew;
- (b) any work executed or supplies made or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective;
- (c) loss or damage caused by or arising from:
 - (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government de jure or de facto or public, municipal or local authority,
 - (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
 - (iii) an Excepted Risk.

Excepted Risks: the risks comprise:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof (other than such risk insofar, but only insofar, as it is included in the Terrorism Cover from time to time required to be taken out and maintained under this Contract);
- (b) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds; and
- (c) any act of terrorism that is not within the Terrorism Cover from time to time required to be taken out and maintained under this Contract.

~~Joint Names Policy: a policy of insurance which includes the Employer and the Contractor as composite insured and under which the insurers have no right of recourse against any person named as an insured, or recognised as an insured thereunder.~~

Pool Re Cover: such insurance against loss or damage to work executed and Site Materials caused by or resulting from terrorism as is from time to time generally available from insurers who are members of the Pool Reinsurance Company Limited scheme or of any similar successor scheme.

Specified Perils: fire, lightning, explosion, storm, flood, escape of water from any water tank, apparatus or pipe, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion, but excluding Excepted Risks.

Terrorism Cover: Pool Re Cover or other insurance against loss or damage to work executed or supplies made pursuant to an Order and Site Materials (and/or, for the purposes of clause 6.15.1, to an existing structure and/or its contents) caused by or resulting from terrorism.

- 6.7.1 The Employer shall take out (unless he has already done so) and shall maintain a policy of insurance in respect of the existing structures for which Orders may be issued, together with the contents thereof owned by him or for which he is responsible, for the full cost of reinstatement, repair or replacement of loss or damage due to any of the Specified Perils up to and including:
- .1 the end of the Contract Period (or up to the Order Completion Date of any Order which either pursuant to clause 2.10 or by agreement pursuant to clause 2.4 occurs after the end of the Contract Period); or
 - .2 (if earlier) the date of termination of the Contractor's employment under this Contract (whether or not the validity of that termination is contested).
- 6.7.2 The policy referred to in clause 6.7.1 shall either be a Joint Names Policy or shall include a waiver by the relevant insurers of any right of subrogation they may have against the Contractor. ~~Where the policy is a Joint Names Policy the Contractor shall authorise the insurer to pay all monies from such insurance to the Employer.~~
- 6.7.3 In respect of the insurance referred to in clause 6.7.1 the Employer shall notify his insurer of the identity of the properties in respect of which Orders may be issued and the Contract Period (but with the proviso that work or supply in respect of such properties may continue to be carried out or made by the Contractor until any later Order Completion Date).
- 6.8.1 Except where the Employer is a Local Authority:
- .1 the Employer shall, as and when reasonably required by the Contractor, produce documentary evidence and receipts showing that the insurance required by clause 6.7.1 has been taken out and is being maintained; and
 - .2 if the Employer defaults in taking out or in maintaining such insurance, the Contractor may himself take out and maintain a policy of insurance with the Employer as a joint insured against any risk in respect of which the default has occurred and for that purpose shall have such right of entry and inspection as may be required to make a survey and inventory of the existing structures and the relevant contents. The amount paid or payable by the Contractor in respect of the premiums pursuant to clause 6.8.1 shall be reimbursed to him by the Employer and shall be recoverable from the Employer as a debt.

- 6.8.2 Where the Employer is a Local Authority, the Employer shall, as and when reasonably required by the Contractor, produce to the Contractor documentary evidence showing that the insurance required by clause 6.7.1 has been taken out and is being maintained together with a copy of the cover certificate issued by the insurer named in the policy referred to in clause 6.7, certifying that Terrorism Cover is being provided under that policy.
- 6.9 The Contractor shall take out (unless he has already done so) and shall maintain with insurers approved by the Employer an All Risks Insurance or a Contract Works Construction policy of insurance which shall include a waiver by the relevant insurers of any right of subrogation they may have against the Employer with cover no less than that specified in clause 6.6 for the full reinstatement value of each and every Order (plus the percentage, if any, stated in the Contract Particulars (item 15.2) to cover professional fees) up to and including the Order Completion Date for that Order and shall maintain such ~~Joint Names Policy~~ or a policy which otherwise complies with this clause up to and including:
- .1 the end of the Contract Period or (if later) the last Order Completion Date; or
 - .2 (if earlier) the date of termination of the Contractor's employment (whether or not the validity of that termination is contested).
- 6.10 The Contractor shall send to the Contract Administrator for inspection by the Employer the ~~Joint Names Policy~~ or other Policy if applicable referred to in clause 6.9, each premium receipt for it and any relevant endorsements of it. If the Contractor defaults in taking out or in maintaining the ~~Joint Names Policy~~ or other Policy as required by clause 6.9 (or fails to maintain a policy in accordance with clause 6.11), the Employer may himself take out and maintain a ~~Joint Names~~ Policy against any risk in respect of which the default shall have occurred and the amount paid or payable by him in respect of premiums may be deducted by him from any monies due or to become due to the Contractor under this Contract or shall be recoverable from the Contractor as a debt.
- 6.11 If and so long as the Contractor independently of this Contract maintains an insurance policy which in respect of the work or supplies comprised in Orders:
- .1 provides (inter alia) All Risks Insurance with cover and in amounts no less than those specified in clause 6.9; and/or
 - .2 is a Contract Works Construction Insurance policy
- such policy shall satisfy the Contractor's obligations under clause 6.9. The Employer may at any reasonable time inspect the policy and premium receipts for it or require that they be sent to the Contract Administrator for such inspection. The annual renewal date of the policy, as supplied by the Contractor, is stated in the Contract Particulars (item 15.3).
- 6.12 The Contractor shall before commencing to carry out the first Order under this Contract notify the insurer of the ~~Joint Names Policy~~ or other Policy if applicable to which clause 6.9 refers that the Employer may have occupation and use of any property in respect of which Orders may be issued, and shall obtain the agreement of the insurer that any exclusion in the policy relating to such occupation and use shall not apply.
- 6.13.1 If loss or damage affecting any executed work, Site Materials or other supplies made pursuant to an Order is occasioned by any risk covered by the ~~Joint Names Policy~~ or other Policy if applicable to which clause 6.9 refers, then, upon its occurrence or later discovery, the Contractor shall forthwith give notice both to the Contract Administrator and to the Employer of its extent, nature and location.

- 6.13.2 Subject to clauses 6.13.4 and 6.15.5.2, the occurrence of such loss or damage shall be disregarded in computing any amounts payable to the Contractor under this Contract.
- 6.13.3 After any inspection required by the insurers in respect of a claim under the Joint Names Policy or other Policy if applicable to which clause 6.9 refers has been completed, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials or supplies made, remove and dispose of any debris and proceed with the carrying out and completion of the Order(s).
- 6.13.4 The Contractor shall authorise the insurers to pay all monies from such insurance to the Employer. Unless the Employer cancels the Order affected by the loss or damage, the Employer shall pay all such amounts to the Contractor (less only the amount stated in clause 6.13.5) under Contract Administrator's certificates.
- 6.13.5 The Employer may retain from the monies paid by the insurers the amount properly incurred by the Employer in respect of professional fees up to an amount which shall not exceed the amount of the additional percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees.
- 6.13.6 In respect of the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris, the Contractor shall not be entitled to any payment other than amounts received under the Joint Names Policy or other Policy if applicable to which clause 6.9 refers. Where loss or damage is caused by an Excepted Risk, reinstatement work shall be treated as a Variation subject always to reasonable mitigations being used by the Contractor.
- 6.141 To the extent that the Joint Names Policy to be effected under clause 6.9 or other policy if applicable to which clause 6.9 refers excludes (or would otherwise exclude) loss or damage caused by terrorism, the Contractor shall unless otherwise agreed take out and maintain, either as an extension to the Joint Names Policy, or other policy if applicable to which clause 6.9 refers, or as a separate Joint Names Policy, in the same amount and for the required period of the Joint Names Policy or other policy if applicable to which clause 6.9 refers, such Terrorism Cover as is specified in or by the Contract Particulars (item 15.4), subject to clauses 6.14.4 and 6.15.
- 6.142 Where the Contractor is required to take out and maintain Pool Re Cover, the cost of that cover and its renewal shall be deemed to be included in the Contractor's rates and prices save that, if at any renewal of the cover there is a variation in the rate on which the premium is based, the amounts payable to the Contractor shall be adjusted by the net amount of the difference between the premium paid by the Contractor and the premium that would have been paid but for the change in rate.
- 6.143 Where Terrorism Cover other than Pool Re Cover is specified as required, the cost of such other cover and of its renewal shall be added to the amounts payable to the Contractor.
- 6.144 Where the Employer is a Local Authority, if at any renewal of the Terrorism Cover (of any type) there is an increase in the rate on which the premium is based, he may instruct the Contractor not to renew the Terrorism Cover. If he so instructs, the provisions of clauses 6.15.5.1 and 6.15.5.2 shall apply with effect from the renewal date.
- 6.15.1 If the insurers named in any Joint Names Policy notify either Party that, with effect from a specified date (the 'cessation date'), Terrorism Cover will cease and will no longer be available or will only continue to be available with a reduction in the scope or level of such cover, the recipient shall immediately notify the other Party.
- 6.152 The Employer, after receipt of such notification but before the cessation date, shall give notice to the Contractor:

- 1 that, notwithstanding the cessation or reduction in scope or level of Terrorism Cover, the Employer requires that the work comprised in all or certain specified Orders continue to be carried out; and/or
- 2 that on the date stated in the Employer's notice (which shall be a date after the date of the insurers' notification but no later than the cessation date) work on all or certain specified Orders shall terminate.

6.153 Where the Contractor is required to take out and maintain Terrorism Cover and the Employer gives notice under clause 6.15.2 requiring continuation of the work comprised in any Orders, he may instruct the Contractor to effect and maintain any alternative or additional form of Terrorism Cover then reasonably obtainable by the Contractor; the net additional cost to the Contractor of any such cover and its renewal shall be added to the amounts payable to the Contractor.

6.154 If the Employer gives notice of termination under clause 6.15.2 in respect of any Orders, a valuation of work completed (or of labour, materials and/or plant supplied) that has not been valued and certified before such termination shall be made and certified in respect of those Orders in accordance with sections 4 and 5 and the Employer shall pay the certified amount in accordance with clause 4.6.

6.155 In the case of any Orders in respect of which notice of termination is not given under clause 6.15.2.2 and there is no requirement for cover under clause 6.15.3:

- .1 if work executed and/or Site Materials under any such Order suffer physical loss or damage caused by terrorism, the Contractor shall with due diligence restore the damaged work, replace or repair any lost or damaged Site Materials, remove and dispose of any debris and proceed with the carrying out of the Order;
- .2 the restoration, replacement or repair of such loss or damage and (when required) the removal and disposal of debris shall be treated as a Variation with no reduction in any amount payable to the Contractor pursuant to this clause 6.15.5.2 by reason of any act or neglect of the Contractor or of any sub-contractor which may have contributed to the physical loss or damage; and
- .3 the requirement that Orders continue to be carried out shall not be affected by any loss or damage to any existing structures and/or their contents caused by terrorism but not so as thereby to impose any obligation on the Employer to reinstate the existing structures."

Insert a new clause 6.16 as follows:

"6.16 The Contractor shall take out and maintain product liability insurance for a period of 12 years following practical completion of the works and in the amount of FIVE MILLION POUNDS (£5,000,000) for any one occurrence and shall provide evidence of such insurance upon request by the Employer and/or the Contract Administrator."

Y. Clause 7.3

Insert a new clause as follows:

"7.3.1 Valuation of payment to Contractor

Where the employment of the Contractor is determined in accordance with clause 7.1 the Employer shall pay the Contractor (in so far as such amounts or items have not already been covered by payments on account made to the Contractor) the value of all work carried out prior to the date of determination (as valued in accordance with Section 5) and in addition (but only to the extent the following is not already included in any valuation carried out in accordance with Section 5 or in payments made on account):

- .1 the amounts payable in respect of any preliminary items so far as the work or service comprised therein has been properly carried out or performed in accordance with this Contract or a proper proportion of any such items has been properly partially carried out or performed
- .2 the reasonably and properly incurred cost of all materials and goods reasonably ordered and paid for or for which the Contractor is obliged to pay and which are not free issue materials and goods supplied by the Employer (provided that title in and possession of such goods passes to the Employer upon payment being made and the Contractor provides evidence in advance of such payment by way of vesting certificates that title does not remain with any third party)
- .3 a sum being the amount of any expenditure reasonably incurred by the Contractor in the expectation of completing the whole of the works insofar as such expenditure has not been recovered by any other payments referred to in this sub-clause and
- .4 the reasonably and properly incurred demobilisation costs.

7.3.2 The Contractor hereby acknowledges and accepts that his full entitlement upon determination under clause 7.1 is set out in clause 7.3.1 and that the Contractor shall have no claim for any other costs, losses, expenses or damages that may be incurred including but not limited to loss of site overheads, head office overheads, and profit."

Z. Clauses 8.2.2 and 8.2.3

Delete clauses 8.2.2 and 8.2.3 and substitute as follows:

"8.2.2 Such termination shall take effect in connection with the Terminated Works identified under clause 8.11 on receipt of the relevant notice.

8.2.3 Each notice referred to in this section shall be in writing and sent by Recorded Signed for or Special Delivery post and shall identify the Terminated Works in connection with which it is given as required by clause 8.11. Where sent by post in that manner it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting."

AA. Clause 8.4.1

Add new clauses 8.4.1.3 and 8.4.1.4 as follows:

"8.4.1.3 breaches clause 3.1; or
8.4.1.4 breaches clause 3.2,"

BB. New Clause 8.4.4

Insert new clause 8.4.4 as follows:

"8.4.4 If the Contractor is in breach of clause 3.1 or 3.2 the Employer may forthwith determine the employment of the Contractor under the Contract by notice sent by Recorded Signed for or Special Delivery post. Where sent by post in that manner it shall, subject to proof to the contrary, be deemed to have been received on the second Business Day after the date of posting."

CC. Clause 8.6

In clause 8.6, after "acting or his behalf", insert "or associated with him".

At the end of the clause, after the full stop, insert:

"For the purpose of this clause 8.6, whether a person is associated with another person shall be determined in accordance with section 8 of the Bribery Act 2010 and a person associated with the Contractor includes, but is not limited to, any Contractor's Person, Sub-contractor, or supplier to the Contractor. In addition to the termination rights linked to regulation 73(1) of the PC Regulations, the Employer shall further be entitled to terminate the Contractor's employment by notice to the Contractor if in relation to this Contract or any other such contract the Contractor should have been excluded from participation in any procurement process or at the time of the award or thereafter the Contractor has been involved with any circumstances described in regulations 57(3), 57(4), 57(8), 57(9), 57(10) of the PC Regulations. Supplemental Provision 8 of this Contract applies."

DD. Clauses 8.7.2

Delete this clause in its entirety and insert "Number not used."

EE. Clause 8.7.3

In clause 8.7.3 delete the words "the Contractor for any reason does not give the further notice referred to in clause 8.7.2 but" in the first line.

Insert after "a reasonable time after such repetition" insert the words "being a period of not less than 28 days".

Insert after the words "the Contractor may by" in the penultimate line the words "14 days written".

AA. Clause 8.12

Insert new clause 8.12.1 as follows:

"8.12 Termination – Multiple Framework Agreements

8.121 Where the Contractor or the Employer wishes to serve notice to terminate the Contractor's employment under this Contract pursuant to this clause 8, such notice must specify whether it is given in relation to:

- .1 all types of work; and/or
- .2 specific types of work; and/or
- .3 works at specific Properties

which are to be supplied to the Employer pursuant to this Contract whether under any single Framework Agreement or a combination of multiple Framework Agreements.

8.122 A notice served in connection with this clause 8.12 shall be deemed given only in relation to the types of work specified therein namely the Terminated Works, as required under clause 8.12.1 above. The Contractor or Employer shall not be deemed to have served notice to terminate any other types of work, namely the Continuing Works, which are not identified in the notice served under clause 8.12.1 above and the provisions of this Contract shall continue in full force and effect in connection with those Continuing Works.

8.123 Where the Contractors' employment is terminated in connection with specified Terminated Works only and the Contractor remains employed to perform Continuing Works, then the provisions of clauses 8.10 and 8.11 (and any other terms of this Contract which relate to termination) shall apply in relation to the Terminated Works only.

BB. Clause 9 – Settlement of Disputes

Insert a new clause 9.1A as follows before existing clause 9.1:

"9.1A Internal Dispute Resolution

9.1A.1 Subject to Article 6, in the event that any dispute or difference should arise between the parties it shall first be referred to the Contract Administrator for determination. The Contract Administrator shall give his decision within 7 days of the dispute or difference being referred to him.

9.1A.2 Should either party be dissatisfied with the determination of the Contract Administrator then they shall refer the dispute to Fusion21's Framework Manager as notified to the parties from time to time who shall act as an independent facilitator. The Framework Manager shall be permitted 21 days from the dispute being referred to him to give his recommendation in order to facilitate the parties to resolve the dispute. The role of the independent facilitator is one of informal and any outcome from the process shall be non-binding.

9.1A.3 Should either party disagree with the recommendation of the Framework Manager they may refer the dispute to adjudication or arbitration in accordance with clauses 9.3 and 9.4."

BB. Clause 10 – Data Protection

Insert a new clause 10 as follows:

"10.1 The Contractor warrants to the Employer that it shall comply with all obligations under the EU General Data Protection Regulations in association with information relating to the Employer or this Contract."

CC. Clause 11 – Anti-Slavery and Human Trafficking

Insert a new clause 11 as follows:

"11.1 In performing its obligations under this Contract and any Framework Agreement, the Contractor shall:

11.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and

11.1.2 have and maintain throughout the term of this Contract and any Framework Agreement its own policies and procedures to ensure its compliance; and

11.1.3 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and

11.1.4 include in its contracts with its Sub-contractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 11 and require each of its Sub-contractors and suppliers to comply with the anti-slavery policy and with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

11.2 The Contractor shall:

11.2.1 maintain a complete set of records to trace the supply chain of all goods and services provided to the Employer in connection with this Contract and any Framework Agreement; and

11.2.2 permit the Employer and its third-party representatives, on reasonable notice during normal business hours to have access to and take copies of the Contractor's records and any other information and to meet with the Contractor's personnel to audit the Contractor's compliance with its obligations this clause."

DD Insert Supplemental Provisions Schedule 9 - Social Value

1. Fusion21 and its Members wish to encourage, promote and develop working with local communities in accordance with Fusion21's Procurement Policy. This includes but is not restricted to Employment, Training and Education Opportunities or bespoke community support.
2. For the purposes of this Schedule 9 "Social Value" is defined as "the additional benefit to a community from a procurement process over and above the direct purchasing of goods, services and outcomes".
3. The Contractor shall deliver Social Value outcomes for each Call-Off. The Contractor will agree the actual social value outcomes to be delivered with the Member and using a template provided by Fusion21 formulate this in to a Social Value Delivery Plan at the start of each call-off contract, a copy of which will be provided to Fusion21. This will ensure that Social Value outcomes are tailored to the specific Social Value needs of the Member.
4. The Contractor agrees to offer a minimum of ten (10) Service Credits for every one hundred thousand pounds (£100k) of works/services provided (being the aggregated sum of the Contractor's live Call-off Contracts under this Framework). This can be through a combination of items to provide a flexible model to the Member, however for projects with a value higher than £500k it is anticipated that employment and apprenticeship opportunities will be the main priority when delivering against credit value requirements. The basket of Service Credit items and their associated credit value are detailed as follows:

Theme	Output	Value / Unit of Measure	Credits
Career advice and mentoring	Mentoring at school	Time - 1 day	5
Career advice and mentoring	Careers advice / presentation / workshop	Time - 1 day	5
Career advice and mentoring	Workplace visit	Time - 1 day	5

Education	Work Experience	1 person - 30 hours per week	10
Education	Entering further education	1 person - 30 hours per week	10
Employment	Job created - full time	1 person	50
Employment	Job created - part time	1 person	Proportionate
Employment	Job sustained - full time	1 person	25
Employment	Job sustained - part time	1 person	Proportionate
Employment	Apprenticeship created	1 person	50
Employment	Apprenticeship sustained	1 person	25
Enterprise Support & Business Start-up	Businesses receiving Support	1 day	This could include support to individual businesses (such as advice on marketing/other functions) or group support such as a meet the buyer event (support to access supply chain opportunities)
Local Economy	Number of contractor operatives from within 40 miles of the project site	85% within 40 miles of project site	5
Training	Accredited training	1 person	10
Training	Non-accredited training	1 person	5
Wider Social Value Support to Local Community	Donation (money)	£500	5
Wider Social Value Support to Local Community	Value of materials / equipment donation	£500	5
Wider Social Value Support to Local Community	Donation of time	1 day	5
Support and capacity building (individual/family)	Receiving employability advice	1 day	5
Support and capacity building (individual/family)	Soft skills training	1 day	5

5. The Contractor shall positively evidence how it has secured economic, social or environmental gains within the communities the Services are being provided, providing details of outcomes delivered in accordance with the agreed Social Value Delivery Plan on a quarterly basis.

6. Fusion21 will collaborate with its Members and the Contractor in order to produce annual Social Value Benefit Reports outlining the cashable efficiency savings, the Social Outcomes and the Social Return on Investment for the Member which will be calculated using a recognised Social Value calculator such as the HACT Social Value Calculator or other agreed method. Fusion21 will provide the Contractor with this efficiency report.
7. Employment opportunities can be short or long term and should where possible incorporate trade, administration and professional roles either with a lead contractor, sub-contractor, supply chain partner or Contractor. Employment opportunities should be from a selection or combination of newly created full time, part time, temporary or paid work experience opportunities. The Contractor shall offer appropriate training to the new employee pursuant to this Clause and shall ensure that any training provided by it shall be of an appropriate type and level to enable them to achieve completion of a recognised qualification (as agreed and approved by Fusion21).
8. If the Contractor cannot retain the employee following the completion of the full time opportunity, the Contractor shall, throughout and following the end of the operative's employment with the Contractor, support and assist them in securing alternative employment, such support and assistance to include, without limitation: assisting the operative with updating their CV, assisting them to enhance their employability:
 - 81 Training opportunities includes, but shall not be limited to a selection or combination of existing and new apprentice on site experience, workshops, short courses, or industry recognized accredited training schemes for operatives and/or local community; and
 - 82 Educational opportunities include, but shall not be limited to, a selection or combination of unpaid work experience, traineeships, volunteers, School, College and University placements.
9. For the avoidance of doubt, the Contractor shall be responsible for paying all employment and training costs pursuant to this Schedule 9 .

FUSION²¹

SPECIFICATION

for

LOT 1 – WHOLE HOUSE DECARBONISATION

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1. Introduction

1.1. Objectives

This document sets out the performance and minimum standards that must be achieved under this Framework Agreement. This specification also sets the minimum standards that must be priced for in the pricing document.

In some instances, Fusion21 Members may go beyond the requirements detailed in this specification and in this instance this performance specification will be reissued with the Members specific requirements. This is to promote and enable innovation over the term of this Framework Agreement.

1.2. Purpose

This Framework provides Fusion21 Members who are working towards Net Zero Carbon by 2050 to their housing stock with access to a qualified supply chain. The Framework can also be accessed for the delivery of private sector schemes that are facilitated by a Fusion21 Member.

This Performance Specification is to be used in conjunction with existing standards for the delivery of 'whole house' retrofit measures. By 'whole house' this means in accordance with the approach set out in PAS2035:2019. A holistic approach where each individual dwelling is subject to its own assessment for the installation of the most suitable energy efficiency measures (EEM) to reduce energy consumption and carbon emissions for the homeowner.

The purpose of the specification is to set minimum standards and is for the design, planning, works, testing, and commissioning of energy retrofit measures to domestic dwellings. These standards must be adhered to whilst undertaking framework activities for Fusion21 through this Framework.

1.3. Scope

The scope of the Framework covers all the requirements set out in PAS2035:2019 for the design, supply, installation and commissioning of retrofit measures to domestic dwellings, this includes but is not limited to fabric measures (EWI, CWI, Loft insulation, UFI and air tightness) ventilation, renewable technologies, (ASHP, GSHP, Solar Thermal, Solar PV & Battery Storage) and electrical heating systems, including metering and monitoring where necessary.

In addition to PAS2035, the Framework scope includes general building improvement works that may be required as part of the energy efficiency project. This includes but is not limited to roofing (pitched and flat), structural repairs, component replacements (windows & doors, kitchens, and bathrooms) rewiring and external improvements such as ground works and landscaping.

In addition to PAS2035 Fusion21 members may wish to utilise other Retrofit Standards and modelling such as EnerPhit, CarbonLite or Energisprong or equally approved models under this Framework.

A detailed step by step guide to undertaking these works is not detailed within this specification. Suppliers must undertake design services with reasonable skill and care, specify materials and undertake workmanship that is 'fit for purpose'.

1.4. Legislation, Regulations and Standards

All works must adhere to all relevant statutory legislation, regulations and codes of practice that apply to the geographical regions covered in this Framework.

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- The Building Act 1984 C.55
- The Building Regulations 2015 A - R
- Town and Country Planning Act 1990 C.8
- The Public Contract Regulations 2015 No.102
- England and Wales – The Building Regulations (England and Wales)
- Scotland – The Building (Scotland) Regulations 2004
- Northern Ireland – The Building Regulations (Northern Ireland) 2012

Health and Safety

- The Control of Asbestos Regulations 2012 No.632
- The Construction (Design and Management) Regulations 2015, No. 51
- The Electricity at Work Act 1987 No.635
- The Work at Height Regulations 2005 No.735
- Water Industry Act 1991 and the Water Supply (water fittings) Regulations 1999

Environmental Standards

- The Waste (England and Wales) Regulations 2011 No. 988
- Control of Pollution Act 1974 c.44
- Social Value Act 2012 c. 3
- Health & Social Care Act 2008
- Health and Social Care Act (Regulated Activities) Regulations 2010
- Care Quality Commission (Registration) Regulations 2009
- Health and Social Care Act 2002 (Regulated Activities) Regulations 2010 and the essential standards of Quality & Safety as specified in the Outcomes and Prompts 10 & 11
- The Regulated Services (Wales) Regulations 2017
- Public Services Reform (Scotland) Act 2010
- National Care Standards Care Homes for Older People
- The Social Care and Social Work Improvement Scotland (Registration) Regulation 2001
- The Social Work and Social Care Improvement (Requirements for Care Services) Regulation 2011
- Disability Discrimination Act 1995
- Environmental Protection Act 1990

Suppliers are required to adhere to the current latest version of the approved documents and technical standards for the regions that are applicable at the time of works over the term of this Framework Agreement. All works shall be carried out in accordance with British Standards specification and Codes of Practice, or equivalent ISO or EN Standard, current at the time of installation. All proposed retrofit works will need to be checked with Local Planning Authority and BS7913: Guide to the Conservation of Historic Buildings.

1.5. Omissions and Errors

Whilst every effort has been made to ensure the contents within this document are accurate and correct. If any anomalies or conflicts are found within, please revert to the statutory standards and/or PAS2035:2019 as these will take precedent over this performance specification.

Any obsolete standards (i.e. following Brexit) do not apply and/or any superseded standards, the current version will take precedence during the term of this framework.

1.6. PAS2035:2019

This specification is based upon appointed conformance with PAS2035:2019. The core principles being,

- Professional Accountability
- 'Whole House'
- Bespoke Projects
- Build Tight, Ventilate Right
- Quality, Quality, Quality
- Fabric First Retrofit

Options under this Framework enable the appointment of a supplier by either.

- Contractor led design, installation and commissioning (Design & Build).
- Client led design via 'in house' retrofit coordinator, assessor and designer or 3rd party representative (consultant) via a traditional procurement route.

The specific roles and responsibilities for a Retrofit project will be agreed at the outset of a project. This may include the client (Fusion21 Member) undertaking some of the retrofit roles and responsibilities for a project.

1.7. Surveying

All surveying activities must carry out by suitably qualified and competent persons and in accordance with relevant bodies requirements e.g., RIBA, RICS, CIOB, CIBSE or other equally recognised industry organisation.

1.8. Property Types (Archetypes)

The Framework scope covers all types on domestic dwellings in UK built environment. This includes all forms of construction methods. These may be defined as follows...

Traditional Construction – built in-situ, brick solid wall or hard to treat cavity walled properties, including but not limited to terrace properties, mid/end or back-to-back styles or other forms of traditionally constructed properties.

Non-Traditional Construction – Prefabricated, built off-site properties which do not conform to current Building standards for energy performance. This includes but is not limited to, No-Fines, Airey Houses, BSIF or other alternative forms of construction.

Multiple Occupancy Dwellings - Maisonettes or other similar type communal buildings (including high rise). Where required must undertake appropriate fire risk assessments for fire safety.

1.9. Funding

This Framework permits the inclusion of funding and both Fusion21 Members and suppliers are encouraged to access funding where applicable. The types of funding to be used under this Framework includes but is not limited to Government schemes, such as ECO, LAD, SHDF, HUG, RHI and/or 3rd party of other relevant funding streams available over the duration of this Framework. This includes funding which is specific Framework regions Wales, Scotland, or NI.

1.10. Compliance & Monitoring

Appointed suppliers will be expected to comply with all necessary requirements of any funding streams accessed for the delivery of retrofit works under this Framework. This included all the necessary reporting and monitoring and providing all required documentation for handover and audit purposes.

Lot 1– WHOLE HOUSE DECARBONISATION**1.11. Private Sector Housing**

The challenge of meeting Net Zero Carbon by 2050 extends way beyond the social housing sector. Therefore, the Framework is accessible for private sector schemes which are being run by a contracting authority such as a Local Council or Housing Association or a collaboration of Members within a specific region. Marketing of private sector schemes is included within the pricing of this Framework Agreement.

1.12. Marketing

As part of the marketing activities suppliers may be required to collaborate with the Fusion21 Member to identify private sector properties. This will include providing marketing literature, written communication and where deemed applicable additional support staff to manage the marketing process and customer engagement. This may include ensuring any eligibility criteria is met by the customer as part of the funding requirements.

1.13. Pricing

This specification is to be used in conjunction with the pricing schedule. This specification is to be used in accordance with PAS2035:2019. Bidders are required to complete the pricing in accordance with instructions. All pricing is to include for consumable items and those required for a fully functioning compliant retrofit measure.

Framework prices will be fixed for the first 12 months in accordance with Clause 22 of the Framework Agreement. Should there be a significant change in the market within the first 6 months of the Framework then Fusion21 will consider an evidence-based cost review after the first 6 months.

1.14. Innovation

During the term of this Framework suppliers are encouraged to provide innovative solutions to the challenges faced with Retrofitting the UK's housing stock, in turn creating efficiencies and cost savings for Fusion21 Members and that benefits their residents.

1.15. Sustainability

Appointed suppliers will be expected to adhere to current best practice for sustainability. This includes responsible and ethical sourcing of both materials and labour over the term of this Framework.

1.16. Collaboration

Appointed suppliers to this Framework will be expected to work with Fusion21 Members collaboratively. This will include aiding assisting Members in achieving the best possible outcomes for the works delivered through this Framework

1.17. Subcontracting

Subcontracting is permitted under this Framework. Where possible, Fusion21 encourages suppliers to engage and work with the local supply chain within the geographical region of Member activity. . In some instances, suppliers will be required to hold 'meet the buyer' events as part of this engagement process.

1.18. Training and Employment

Under this Framework agreement appointed suppliers are required to deliver social value outcomes, this includes creating employment and training opportunities in order to stimulate and grow the green economy. Under each individual call-off supplier's will be required complete a social value delivery plan based upon the criteria set out in the Framework Agreement.

1.19. Case Studies

To promote and report on innovation and best practice, suppliers may be required to collate and form a case study for the Members project. This should be agreed at the outset, but suppliers are encouraged to undertake this activity on every project delivered through this Framework.

2. Design & Planning

The design and planning of any retrofit measures must be done in accordance with PAS2035. This is to include the appointment of a Retrofit coordinator to manage and coordinate the process.

Each dwelling will be subject to an assessment and retrofit plan. This plan will dictate which measures are required to be undertaken at each dwelling, this will also be driven by the Members budget and measures will be delivered on a 'fabric first' approach in order to reduce the heat load for each dwelling. The retrofit plan will provide the Members with trigger points for additional measures to be undertaken delivered in the future.

When deemed suitable Members may wish to utilise the RIBA plan of works stages 1 to 4 as part of the retrofit project.

2.1. Design at Call-off Stage

Appointed suppliers may be required to undertake some pre-construction activities for design and planning. In this instance the call off contract will be pre-construction services agreement (e.g., JCT PCSA), with the purpose of surveying properties, designing solutions, preparing specifications and providing costs for the works in order for Members to optimise their budget ahead of the project.

This approach is intended to provide Members with detailed accurate information of the dwellings prior to entering a main building contract. Any information or services paid for by the Fusion21 Member for these services will be transferred to the ownership of the Fusion21 member for them to retain and use this information as they see fit.

To the extent that the standard of any Works has not been specified in this Contract, agree the relevant standard for the Works with the Member before their execution. Where particular Works or working methods are to be "Approved by" "Agreed with" or are indicated to be "subject to the Approval of" the Member, give the Member adequate notice when such Approval or Agreement is needed and retain evidence of all Approvals given, and items that have been Agreed, by the Member.

2.2. Surveying

Suppliers may be required to undertake a varied range of surveying activities that are associated and required as part of a domestic retrofit project. The survey elements contained within the pricing schedule relate to typical surveying activities that may be carried out on a typical domestic dwelling. These should be priced accordingly.

2.3. British Standards and Codes of Practice

- 2.3.1. Ensure all Works undertaken, and all Materials used in those Works comply with all applicable British Standards and Codes of Practice and the Member's Codes of Practice that are current at the time of their use. This includes ensuring compliance with the relevant Building Standards (i.e. Building Regulations) to the specific region of the Fusion21 Member (i.e. England & Wales, Northern Ireland, Scotland).
- 2.3.2. Ensure all materials and systems specified are compliant and qualify for ECO funding, hold relevant certification, approvals and warranties as required under this scheme as set out by OFGEM.
- 2.3.3. Ensure compliance with the standards set out by any given funding provider (e.g., BEIS) or Government backed, 3rd party funding provider.

- 2.3.4. References in this Specification of Workmanship and Materials to any International, European and/or British Standard or Code of Practice are to be construed as references to the version current at the time the order is undertaken.
- 2.3.5. Where a specific British Standard or a Code of Practice is referred to, this sets out the minimum acceptable standard of Materials or Workmanship.
- 2.3.6. A Service Provider offering a product based on compliance with any such approval shall notify the Member of all such substitutions in advance of placing any order and will be required to provide, in English, technical or other details of the approval and its qualifying tests.
- 2.3.7. The Retrofit Coordinator must ensure all works are designed in accordance with ALL relevant legislation and standards. The design and application of any system must be in accordance with the manufacturers (i.e., system providers) instructions, and all relevant applicable standards.
- 2.3.8. The supplier must appoint a structural engineer where the retrofit measure or associated works represent a significant change to the structure of the property.
- 2.3.9. The design must ensure any unintended consequences are avoided through cold bridging and therefore must consider as part of the design, window reveals, roofline external services (gas or electric meter cupboards) and below DPC are factored into the design.
- 2.3.10. The supplier must ensure the design of any insulation system does not impair the performance, operation or reduce the lifespan of any other building component or present a health and safety risk to the occupants. (i.e. fire, electrical fixtures, boiler flues or ACM's).
- 2.3.11. Any external wall insulation system and all associated products must be an External Thermal Insulation Composite System certified by the BBA (or equivalent) and must meet all current Building Regulations as a minimum.
- 2.3.12. The BBA (or equivalent) certificate must confirm that any insulation system is fit for its intended purpose, having been tested for the following:
 - A) Technical Specification
 - B) Manufacture
 - C) Delivery and Site Handling
 - D) General Design Considerations
 - E) Practicability of Installation
 - F) Thermal Performance
 - G) Strength and Stability – wind loading, impact resistance
 - H) Behaviour in Relation to Fire
 - I) Proximity of Flues and Appliances
 - J) Water Resistance
 - K) Risk of Condensation – surface and interstitial
 - L) Maintenance and Repair
 - M) Durability
 - N) Installation

3. Preliminaries and General Matters

3.1. General

Suppliers are required and expected to provide all necessary resource and management for the successful delivery of a retrofit project. This is to include all necessary roles for compliance with PAS2035:2019 and include a retrofit coordinator, retrofit assessor, retrofit designer and other experience and appropriately qualified construction staff.

3.2. PAS2035:2019

Appointed suppliers must adhere to PAS2035:2019. This includes ensuring the required roles for the coordination, assessment, and design of a retrofit project.

It is envisaged all the projects delivered under this Framework will be categorised as 'high risk' under PAS235:2019, however a formal risk assessment will identify the project risk band.

As part of the retrofit design process, a robust quality and risk management process must be implemented by the appointed supplier.

3.3. PAS2030:2019

The installation of a retrofit measure must conform with PAS2030:2019. This relates to the following retrofit activities:

- Installation
- Testing
- Commissioning
- Handover

3.4. Resident Liaison

Appointed suppliers must provide a Resident Liaison Officer (RLO) for any retrofit project to undertake resident engagement and communication. This will be for the term of the project.

3.5. Statutory Approvals

The Contractor has the overall responsibility to obtain the necessary Statutory Approvals for all proposed works. They are responsible for determining the Members obligations in relation to Planning Approval in each council area, for submitting the appropriate application forms and fees for both Planning (where necessary) and Building Regulations approval, and for allowing a reasonable period of time for these processes in their delivery programme.

3.6. Health and Safety (CDM)

Under this Framework Agreement and pricing schedule the appointed supplier is to include for undertaking the role of Principal Designer in accordance with the Construction, (Design & Management) Regulations 2015.

This is to include for the preparation of a pre-construction (direct award only) and construction phase plan and oversee the project health & safety in accordance with CDM 2015.

Where suppliers do not employ CDM Principal Designers 'in house' the supplier will be required to outsource this service as part of the project. When outsourcing this service, this must be to suitably qualified and competent person. Fusion21 Members have the right to request information, qualifications, and insurances of the proposed organisation/person to undertake this function/role.

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The Supplier must have and follow robust health and safety policies in line with industry standards, to account for the works or services it is providing.

The Supplier shall act as the Principal Contractor unless otherwise agreed and shall compile a Pre-Construction Phase Health and Safety Plan detailing how health and safety will be managed on site. The Supplier may also be required to act as the Principal Designer.

The Supplier must provide its health and safety policy when requested and be willing to show evidence of how this policy is applied to its business and demonstrate how staff are appropriately trained to ensure the policy is put into practice at all times. The Supplier must also be able to demonstrate its compliance with, or willingness to adopt, the Member's health and safety policies.

The Supplier shall prepare and maintain suitable and sufficient written method statements and corresponding risk assessments. These shall be provided to the Member on request. The Supplier shall review and approve the Risk Assessments and Method Statements for its sub-contractors. The Supplier shall ensure sub-contractors place these same obligations on its own sub-contractors ad infinitum.

The Supplier shall ensure suitable welfare facilities are available prior to commencement and throughout the contract.

Where joint Health & Safety matters arise the Supplier and the Member shall work together to review the risk implement appropriate control measures.

3.7. Hours of Work

Whenever possible, activity should be restricted to normal working hours or when necessary, due notice must be given to building users and neighbours of work necessary during unsociable times.

Normal working hours will be between the hours of 08:00 and 18:00, Monday to Friday. The Supplier is to note that this may vary by Member organisation during Call-Off Contracts.

Out of hours will be between the hours of 18:00 and 08:00 Monday to Friday and all-day Saturday and Sunday. Sunday working will only be allowed in exceptional circumstances and with prior written permission from the Contract Administrator.

3.8. Call off Contracts

Fusion21 Members may opt for various forms of call-off contract in accordance with Schedule 3 of the Framework Agreement.

Members may wish to utilise a JCT 2016 Pre-Construction Services Agreement (or equivalent services agreement) where deemed appropriate in order to finalise the retrofit measures, technical standards and design ahead of a retrofit project. In this instance suppliers may enter into a pre-construction services agreement to determine what applicable measures are to be carried out and undertake design and costings prior to entering a main call-off contract (e.g., JCT IFC).

For the purposes of this pricing document bidders are to price based upon a JCT 2016 Intermediate form with contractor's design, standard form of Contract (unamended).

The applied commercial model will be subject to Fusion21 Members call off method. A further competition call-off will be a bespoke pricing matrix.

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For a direct award appointed suppliers there will be an expectation that Framework rates are adhered too. Where the Members scope varies from the rates within the Framework, appointed suppliers will be expected to demonstrate 'value for money' through an open book cost model.

3.9. Social Value Reporting

The Supplier is required to monitor and report to Fusion21 the social benefit or Social Return on Investment as a result of services or works provided by the Supplier as stated in the Framework Agreement.

3.10. Insurance

Under this Framework Fusion21 supplier will be required to hold as a minimum the following level of insurance.

- Public Liability £5M
- Employers' liability £10M
- Product Liability £10M
- PI insurance £1M

The level of PI cover required is from the aggregate for any one period of insurance.

Where a Fusion21 Member dictates that a higher level of insurance is required, this will be communicated via Fusion21 on a project-by-project basis. For the purposes of this ITT bidders must adhere to insurance levels above.

3.11. Limitation of Liability

Under this Framework, where appointed suppliers wishing to limit their liability on a call off contract must seek approval to do so from the Fusion21 Member. As a minimum, this must not be less than the call off contract value, but this will ultimately be the Members decision when accessing the Framework.

3.12. Accreditations

The Framework requires appointed supplier to hold the following accreditations for undertaking energy efficient measures.

- TrustMark
- PAS2035:2019
- Microgeneration Certification Scheme ("MCS") for Heat Pumps.
- Microgeneration Certification Scheme ("MCS") for Solar Photovoltaic Systems
- Microgeneration Certification Scheme (MCS) – Solar Thermal
- Part P Electrical Safety Scheme
- Gas Safe
- OFTEC
- WRAS Accreditation

It is the appointed supplier's responsibility to ensure these accreditations are maintained and kept over the term of this Framework and any new standards over the term are met. Suppliers may be required to evidence these accreditations to Fusion21 Members upon request.

3.13. Guarantees

All installations and works carried out by the Supplier under a Call-Off Contract shall be guaranteed from the date of installation, completion or removal for a period of twelve months up to and after the end of the Framework Agreement or Call-Off Contract period, whichever is sooner.

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The guarantee on installations, which will be provided by Supplier without additional cost to the Member, shall cover all costs inclusive of transport, labour, materials and parts to allow systems to become fully operational and safe.

3.14. Warranties

All works installed under this Framework must provide the Fusion21 Member with an appropriate warranty. This includes:

- 3.14.1. Solid Wall Insulation Guarantee (SWIGA)
- 3.14.2. Cavity Wall Insulation Guarantee (CIGA)
- 3.14.3. Microgeneration Certification Scheme (“MCS certificate”)

3.15. Performance Monitoring

Appointed supplier must adhere to the Key performance indicators set out in Appendix 2 of the ITT.

Appointed Suppliers may also be required to provide performance and monitoring information during and upon completion of the specified works. The supplier must also adhere to the requirements set out in any 3rd party funding agreement and provide the relevant bodies with the required information in the specified format.

The Supplier, with contribution from the Member, shall continually monitor performance of the works against the key performance indicators (KPIs) to ensure performance to required target levels with provision for continued improvement. The KPIs shall be outlined within the ‘Employer’s Requirements’.

The performance of the Supplier shall be kept under continual review by the Member to monitor continuous improvement by reference to the KPIs.

Where problems are identified in achievement of KPIs at any time the party identifying such problem shall immediately notify such problems to the other parties in writing with constructive proposals for their resolution and the parties shall consider such proposals through regular review meetings.

Where problems cannot be resolved through the a review procedure and particularly where there is a persistent failure to achieve any one or more of the agreed Key Performance Indicators, then the parties shall meet to review their position and establish such alternative arrangements as may be necessary to meet their reasonable joint and individual requirements.

The Supplier shall maintain and keep detailed documentation to evidence how they have been calculated.

3.16. Waste Management & Recycling

All site waste must be disposed of in a safe and compliant manner. Where possible waste must be recycled to minimise waste to landfill. A site waste management plan must be provided when requested by the Fusion21 Member.

Any residual scarp value from materials removed from site must be notified to the Fusion21 Member and recorded within the site waste management plan. This includes waste generated from the decommissioning of any gas, oil, or electrical heating systems.

Upon completion of any operation or at the end of each working day, whichever is the sooner, the Supplier shall remove from site all rubbish and waste materials. All waste material shall be taken only to authorised disposal, treatment and whenever possible, recycling facilities, at the expense of the Supplier. All unwanted materials removed from site shall become the property of the Supplier unless otherwise specified.

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Fusion21 is committed to the provision of services that adopt good practice in terms of environmental sustainability. The Supplier shall therefore be required to make every effort to apply the waste hierarchy to prevent waste and to apply the hierarchy as a priority order when transferring waste. The waste hierarchy is set out at Article 4 of the revised Waste Framework (Directive 2008/98/EC).

3.17. Other Hazardous Materials

The Supplier shall comply with the Member's policies with regard to the use of certain chemicals, materials and hazardous substances which may be inspected upon application to the Member. The Supplier will be expected to carry out all works according to these policies, current legislation and Codes of Practice with regards to the Safe Use of Chemicals and Hazardous Substances. The COSHH Regulations of 1990 and the Health and Safety at Work Act 1974 shall apply at all times.

4. Fabric Measures**4.1. External Wall Insulation ("EWI")****4.2. General Requirements**

The application of an EWI system is likely to make the dwelling more air-tight, effecting its ventilation, air quality, humidity and comfort levels. When considering proposals for solid wall insulation, in accordance with PAS2035 the retrofit designer must also assess the current ventilation provision in accordance with Building Regulations (for the relevant region) and the ventilation section of this specification. The retrofit designer must make recommendations for any additional measures necessary. All proposed designs must be approved by the Retrofit designer.

The scope of an EWI installation may include for the removal and reinstatement but is not limited to roofing and roofline, rainwater goods, soil stack, structural repairs, window and door replacements, canopy/balcony repairs, mechanical and electrical works, decoration, and associated improvement works.

4.3. Workmanship and Specification**4.4. Standards of Workmanship and Materials**

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- In accordance with PAS2035:2019

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- In accordance with Good Industry Practice;
- in accordance with the applicable statutory Regulations; (for applicable region)
- in accordance with the Member's Policies;
- in accordance with the Member's Codes of Practice; in accordance with any specific requirements for those Works in this specification; and to the satisfaction of the Member (acting reasonably).

- Certified by the British Board of Agrément (BBA) or BRE or equivalent UKAS accredited certification body.

- In accordance with any funding providers requirements BS EN ISO 13788 - Hygrothermal performance of building components and building elements. Internal surface temperature to avoid critical surface humidity and interstitial condensation.

- BS EN ISO 10211 - Thermal bridges in building construction. Heat flows and surface temperatures.

- BS EN ISO 13789 - Thermal performance of buildings. Transmission and ventilation heat transfer coefficients.
- BRE BR 262 – Thermal Insulation: avoiding risks.

- BS 5250 – Code of Practice for the Control of Condensation in Buildings. BS EN 13162 2012+A1:2015- Thermal insulation products for buildings. Factory made mineral wool (MW) products.

- BS EN 13163:2012+A2:2016 Thermal insulation products for buildings. Factory made products of expanded polystyrene (EPS). Specification

- BS EN 13164:2008 Thermal insulation products for buildings. Factory made products of extruded polystyrene foam (XPS) - Specification.

- BS EN 13165:2008- Thermal insulation products for buildings. Factory made rigid polyurethane foam (PUR) products. Specification

- BS EN 13166:2008 - Thermal insulation products for buildings. Factory made products of phenolic foam (PF). BS EN 13167:2001 - Thermal insulation products for buildings. Factory made cellular glass (CG) products. Specification

- BS EN 13166:2012+A2:2016- Thermal insulation products for buildings. Factory made products manufactured from wood fibre (WF) products. Specification

- BS EN 13499:2003 - Thermal insulation products for buildings. External Thermal insulation composite systems (ETICS) based on expanded polystyrene. Specification

- BS EN 13500:2003 - Thermal insulation products for buildings. External Thermal insulation composite systems (ETICS) based on mineral wool Specification

4.5. Fabric Measures Cavity Wall (CWI) and Loft Insulation**4.6. General Requirements**

The Supplier will be responsible for the design, supply and installation of all materials and components for the specified CWI or Loft insulation systems, including but not limited to; surveying, ordering, delivery and payment. All orders are to be placed and managed to ensure that all materials are available for supply and installation in accordance with the supplier's programme of works and to consider all material lead times.

4.7. Workmanship and Specification

4.8. Standards of Workmanship and Materials

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- In accordance with PAS 2035:2019
- In accordance with any funding providers requirements
- in accordance with Good Industry Practice.
- in accordance with the applicable statutory Regulations; (for applicable region)
- in accordance with the Member's Policies.
- in accordance with the Member's Codes of Practice.
- in accordance with any specific requirements for those Works in this specification; and
- To the satisfaction of the Member (acting reasonably).

- Be certified by BBA ((British Board of Agrément), BRE or equivalent UKAS accredited certification body for compliance with current Building regulations plus all relevant British Standards and Code of Practices relating to mechanical resistance and stability, determination of density, thermal performance, properties in relation to fire, vapor transmission, moisture penetration, risk of interstitial condensation, etc.

- BS EN 12664:2001- Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods - Dry and moist products of medium and low thermal resistance; or

- BS EN 12667:2001 - Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods - Products of high and medium thermal resistance; or

- BS EN 12939:2001 - Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods. Thick products of high and medium thermal resistance; or alternatively BS EN ISO 8990:1996 - Thermal insulation - Determination of steady-state thermal transmission properties - Calibrated and guarded hot box.

- BS 5803-2:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for man-made mineral fibre thermal insulation in pellet or granular form for application by blowing.

- BS 5803-3:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for cellulose fibre

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thermal insulation for application by blowing.

- BS 5803-5:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for installation of man-made mineral fibre and cellulose fibre insulation.
- BS 4841-3:2006 Rigid polyisocyanurate (PIR) and polyurethane (PUR) products for building end-use applications. Specification for laminated boards (roofboards) with auto-adhesively or separately bonded facings for use as roof board thermal insulation under built up bituminous roofing membranes
- BS 4841-4:2006 Rigid polyurethane (PUR) and polyisocyanurate (PIR) products for building end-use applications. Specification for laminated insulation boards (roof boards) with auto-adhesively or separately bonded facings for use as roof board thermal insulation under non-bituminous single-ply roofing membranes
- BS 4841-5:2006 Rigid polyisocyanurate (PIR) and polyurethane (PUR) products for building end-use applications. Specification for laminated boards (roof boards) with auto-adhesively or separately bonded facings for use as thermal insulation boards for pitched roofs
- BS EN 13162:2012+A1:2015. Thermal insulation products for buildings. Factory made mineral wool (MW) products. Specification
- BS EN 13163:2012+A2:2016. Thermal insulation products for buildings. Factory made products of expanded polystyrene (EPS). Specification.
- BS EN 13164:2012+A1:2015. Thermal insulation products for buildings. Factory made products of extruded polystyrene foam (XPS) - Specification.
- BS EN 13165:2012+A2:2016. Thermal insulation products for buildings. Factory made rigid polyurethane foam (PUR) products. Specification
- BS EN 13166:2012+A2:2016. Thermal insulation products for buildings. Factory made products of phenolic foam (PF). BS EN 13167:2001 - Thermal insulation products for buildings. Factory made cellular glass (CG) products. Specification
- BS EN 13171:2012+A1:2015. Thermal insulation products for buildings. Factory made products manufactured from wood fibre (WF) products. Specification.
- Be HCFC and HFC free, plus have a global warming potential (GWP) of less than 5
- Be biodegradable and/or recyclable at the end of their life and must not have any special end of life disposal requirements, such as incineration.

4.9. Fabric Measures Internal Wall Insulation (IWI)**4.10. General Requirements**

The Supplier will be responsible for the design, supply and installation of all materials and components for the specified internal wall insulation system, including but not limited to; surveying, ordering, delivery and payment. All orders are to be placed and managed to ensure that all materials are available for supply and installation in accordance with the supplier's programme of works and to consider all material lead times.

4.11. Workmanship and Specification

4.12. Standards of Workmanship and Materials

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- In accordance with PAS2035:2019 (or current version)
- In accordance with any funding providers requirements
- in accordance with Good Industry Practice.
- in accordance with the applicable statutory Regulations; (for applicable region)
- in accordance with the Member’s Policies.
- in accordance with the Member’s Codes of Practice.
- in accordance with any specific requirements for those Works in this specification; and
- To the satisfaction of the Member (acting reasonably).

- Be certified by BBA ((British Board of Agrément), BRE or equivalent UKAS accredited certification body for compliance with current Building regulations plus all relevant British Standards and Code of Practices relating to mechanical resistance and stability, determination of density, thermal performance, properties in relation to fire, vapor transmission, moisture penetration, risk of interstitial condensation, etc.

- BS EN 12664:2001- Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods - Dry and moist products of medium and low thermal resistance; or

- BS EN 12667:2001 - Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods - Products of high and medium thermal resistance; or

- BS EN 12939:2001 - Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods. Thick products of high and medium thermal resistance; or alternatively BS EN ISO 8990:1996 - Thermal insulation - Determination of steady-state thermal transmission properties - Calibrated and guarded hot box

- BS 5803-2:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for man-made mineral fibre thermal insulation in pellet or granular form for application by blowing.

- BS 5803-3:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for cellulose

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fibre thermal insulation for application by blowing.

- BS 5803-5:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for installation of man-made mineral fibre and cellulose fibre insulation.
- BS 4841-3:2006 Rigid polyisocyanurate (PIR) and polyurethane (PUR) products for building end-use applications. Specification for laminated boards (roofboards) with auto-adhesively or separately bonded facings for use as roof board thermal insulation under built up bituminous roofing membranes
- BS 4841-4:2006 Rigid polyurethane (PUR) and polyisocyanurate (PIR) products for building end-use applications. Specification for laminated insulation boards (roof boards) with auto-adhesively or separately bonded facings for use as roof board thermal insulation under non-bituminous single-ply roofing membranes
- BS 4841-5:2006 Rigid polyisocyanurate (PIR) and polyurethane (PUR) products for building end-use applications. Specification for laminated boards (roof boards) with auto-adhesively or separately bonded facings for use as thermal insulation boards for pitched roofs
- BS EN 13162:2012+A1:2015. Thermal insulation products for buildings. Factory made mineral wool (MW) products. Specification
- BS EN 13163:2012+A2:2016. Thermal insulation products for buildings. Factory made products of expanded polystyrene (EPS). Specification.
- BS EN 13164:2012+A1:2015. Thermal insulation products for buildings. Factory made products of extruded polystyrene foam (XPS) - Specification.
- BS EN 13165:2012+A2:2016. Thermal insulation products for buildings. Factory made rigid polyurethane foam (PUR) products. Specification
- BS EN 13166:2012+A2:2016. Thermal insulation products for buildings. Factory made products of phenolic foam (PF). BS EN 13167:2001 - Thermal insulation products for buildings. Factory made cellular glass (CG) products. Specification
- BS EN 13171:2012+A1:2015. Thermal insulation products for buildings. Factory made products manufactured from wood fibre (WF) products. Specification.
- Be HCFC and HFC free, plus have a global warming potential (GWP) of less than 5
- Be biodegradable and/or recyclable at the end of their life and must not have any special end of life disposal requirements, such as incineration.

4.13. Fabric Measures Underfloor Insulation (UFI)**4.14. General Requirements**

The Supplier will be responsible for the design, supply and installation of all materials and components for the specified internal wall insulation system, including but not limited to; surveying, ordering, delivery and payment. All orders are to be placed and managed to ensure that all materials are available for supply and installation in accordance with the supplier's programme of works and to consider all material lead times.

4.15. Workmanship and Specification

4.16. Standards of Workmanship and Materials

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- In accordance with PAS2035:2019 (or current version)
- In accordance with any funding providers requirements
- in accordance with Good Industry Practice.
- in accordance with the applicable statutory Regulations; (for applicable region)
- in accordance with the Member’s Policies.
- in accordance with the Member’s Codes of Practice.
- in accordance with any specific requirements for those Works in this specification; and
- To the satisfaction of the Member (acting reasonably).
- Be certified by BBA ((British Board of Agrément), BRE or equivalent UKAS accredited certification body for compliance with current Building regulations plus all relevant British Standards and Code of Practices relating to mechanical resistance and stability, determination of density, thermal performance, properties in relation to fire, vapor transmission, moisture penetration, risk of interstitial condensation, etc.

- BS EN 12664:2001- Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods - Dry and moist products of medium and low thermal resistance; or

- BS EN 12667:2001 - Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods - Products of high and medium thermal resistance; or

- BS EN 12939:2001 - Thermal performance of building materials and products - Determination of thermal resistance by means of guarded hot plate and heat flow meter methods. Thick products of high and medium thermal resistance; or alternatively BS EN ISO 8990:1996 - Thermal insulation - Determination of steady-state thermal transmission properties - Calibrated and guarded hot box

- BS 5803-2:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for man-made mineral fibre thermal insulation in pellet or granular form for application by blowing.

- BS 5803-3:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for cellulose fibre thermal insulation for application by blowing.

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- BS 5803-5:1985 Thermal insulation for use in pitched roof spaces in dwellings. Specification for installation of man-made mineral fibre and cellulose fibre insulation.
- BS 4841-3:2006 Rigid polyisocyanurate (PIR) and polyurethane (PUR) products for building end-use applications. Specification for laminated boards (roofboards) with auto-adhesively or separately bonded facings for use as roof board thermal insulation under built up bituminous roofing membranes
- BS 4841-4:2006 Rigid polyurethane (PUR) and polyisocyanurate (PIR) products for building end-use applications. Specification for laminated insulation boards (roof boards) with auto-adhesively or separately bonded facings for use as roof board thermal insulation under non-bituminous single-ply roofing membranes
- BS 4841-5:2006 Rigid polyisocyanurate (PIR) and polyurethane (PUR) products for building end-use applications. Specification for laminated boards (roof boards) with auto-adhesively or separately bonded facings for use as thermal insulation boards for pitched roofs
- BS EN 13162:2012+A1:2015. Thermal insulation products for buildings. Factory made mineral wool (MW) products. Specification
- BS EN 13163:2012+A2:2016. Thermal insulation products for buildings. Factory made products of expanded polystyrene (EPS). Specification.
- BS EN 13164:2012+A1:2015. Thermal insulation products for buildings. Factory made products of extruded polystyrene foam (XPS) - Specification.
- BS EN 13165:2012+A2:2016. Thermal insulation products for buildings. Factory made rigid polyurethane foam (PUR) products. Specification
- BS EN 13166:2012+A2:2016. Thermal insulation products for buildings. Factory made products of phenolic foam (PF). BS EN 13167:2001 - Thermal insulation products for buildings. Factory made cellular glass (CG) products. Specification
- BS EN 13171:2012+A1:2015. Thermal insulation products for buildings. Factory made products manufactured from wood fibre (WF) products. Specification.
- Be HCFC and HFC free, plus have a global warming potential (GWP) of less than 5
- Be biodegradable and/or recyclable at the end of their life and must not have any special end of life disposal requirements, such as incineration.

5. Ventilation Systems**5.1. General Requirements**

Consideration to ventilation will be required when undertaking retrofit measures. There are various forms of ventilation systems. The type of ventilation will be dependent upon the measures installed, but may include, but is not limited to the following...

- Continuous Extraction fans
- Intermediate Extract Fans
- Mechanical ventilation Heat recovery systems (MVHR)
- Positive input ventilation systems

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- Trickle ventilation to windows
- Soffit or roof tile vents
- Underfloor ventilation
- Wall ventilation

5.2. The supplier will be required to provide the best solution for the archetype in accordance with the requirements set out in PAS2035:2019.

5.3. The Supplier will be responsible for the design, supply and installation of all materials and components for the specified ventilation systems, including but not limited to; surveying, ordering, delivery and payment. All orders are to be placed and managed to ensure that all materials are available for supply and installation in accordance with the supplier's programme of works and to consider all material lead times.

5.4. The supplier will be required to provide the best solution for the archetype in accordance with the requirements set out in PAS2035:2019.

5.5. Workmanship and Specification**5.6. Standards of Workmanship and Materials**

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- In accordance with PAS 2035:2019
- BBA approved materials.
- In accordance with any funding providers requirements
- in accordance with current Industry Practice.
- in accordance with the applicable statutory Regulations; (for applicable region)
- in accordance with the Member's Policies.
- in accordance with the Member's Codes of Practice.
- in accordance with any specific requirements for those Works in this specification; and
- To the satisfaction of the Member (acting reasonably).

6. Renewable Heating Systems

6.1. Air/Ground Source and High Efficiency Electric Heating

6.2. General Requirements

6.3. As part of any retrofit plan there may be a requirement to renew the existing heating system with a new low carbon heating system. This may include the following types of heating systems.

- Air Source Heat Pump (ASHP)
- Ground Source Heat Pump (GSHP)
- High Efficiency Electrical Heating
- Solar Thermal (Hot water heating)

6.4. The retrofit designer will need to consider any thermal fabric improvements when selecting and sizing the appropriate form of heating system for the dwelling.

6.5. The supplier must ensure that any renewable air/ground source heating system is designed in accordance with the Microgeneration certification (MCS) scheme and all applicable regulations and standards associated with the design, installation and commissioning of a renewable heating system.

6.6. High efficiency electrical heating systems is defined as electrical heating that has sufficient controls to operate efficiently and at lower running cost to the resident than the previous heating system.

6.7. The Supplier will be responsible for the design, supply and installation of all materials and components for the specified heating system, including but not limited to; surveying, ordering, delivery and payment. All orders are to be placed and managed to ensure that all materials are available for supply and installation in accordance with the supplier's programme of works and to consider all material lead times.

6.8. Workmanship and Specification

6.9. Standards of Workmanship and Materials

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- In accordance with PAS 2035:2019 (or current version)
- BBA approved materials.
- CIBSE Design guide for Domestic Heating Systems

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- In accordance with any funding providers requirements
- In accordance with BS7671:2018 Wiring Regulations
- in accordance with Good Industry Practice.
- in accordance with the applicable statutory Regulations; (for applicable region)
- in accordance with the Member's Policies.
- in accordance with the Member's Codes of Practice.
- in accordance with any specific requirements for those Works in this specification; and
- To the satisfaction of the Member (acting reasonably).

Air Source

- Carry the CE Mark of European Conformity, to confirm compliance with EU consumer safety, health and environmental requirements.
- Consist of a single factory-built unit (or, for split systems, consist of a matched pair of 'indoor' and 'outdoor' units from the same manufacturer, designed to work together) incorporating an electrically driven refrigeration system.
- Incorporate refrigerant with zero Ozone Depletion Potential (ODP) (i.e. R407C) in accordance with BS EN 378.
- Incorporate insulation on refrigerant pipework in accordance with the manufacturers' instructions and recommendations
- Comply with BS EN 14511-4: 2007 – Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling. Requirements.
- Comply with BS EN 14511-2: 2007 – Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling. Test conditions.
- Comply with BS EN 378-2: 2008 +A1: 2009 – Refrigerating systems and heat pumps. Safety and environmental requirements. Design, construction, testing, marking and documentation.
- Be designed for, and include fittings for, permanent installation.
- Be capable of supplying domestic hot water (if used for this purpose) in the range 60oC to 65oC.
- Have manufacturers rated heating Coefficients of Performance (CoP), measured in accordance with BS EN 14511, at 100% (full) load.
- Incorporate control of: room air temperature (if not provided separately); outdoor fan operation; defrosting of external evaporator units; protection against high refrigerant pressure and indoor or outdoor air flow failure.
- External heat exchangers must:
 - Be sized to suit the heat pump, taking account of the intended output of the system and the local microclimatic conditions (especially winter temperatures).
 - Be located not less than 600 mm from any building or obstruction that would restrict the flow of air through the unit.

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- Incorporate external pipework insulation in accordance with TIMSA guidance.
- Be securely fixed in place (not to the walls of a building) and provided with all necessary safety guards and barriers to prevent interference and damage by people or vehicles.
- Product standards – exhaust air heat pumps
- Exhaust air heat pump units must:
- Carry the CE Mark of European Conformity, to confirm compliance with EU consumer safety, health and environmental requirements.
- Consist of a single factory-built unit incorporating an electrically driven refrigeration system.
- Incorporate refrigerant with zero Ozone Depletion Potential (ODP) (i.e. R407C) in accordance with BS EN 378 and EU Directive 2037: 2000.
- Incorporate insulation on refrigerant pipework in accordance with the manufacturers' instructions and recommendations.
- Comply with BS EN 14511-4: 2007 – Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling. Requirements.
- Comply with BS EN 14511-2: 2007 – Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling. Test conditions.
- Comply with BS EN 378-2: 2008 +A1: 2009 – Refrigerating systems and heat pumps. Safety and environmental requirements. Design, construction, testing, marking and documentation.
- Be designed for, and include fittings for, permanent installation.
- Be capable of supplying domestic hot water (if used for this purpose) in the range 60oC to 65oC.
- Incorporate control of: room air temperature (if not provided separately); and protection against high refrigerant pressure and indoor air flow failure.
- Have manufacturers rated heating Coefficients of Performance (CoP), measured in accordance with BS EN 14511, at 100% (full) load.
- Have manufacturers' rated Energy Efficiency Ratios (EERs), if used in cooling mode, at 100% (full) load, as set out in the table below.
- VRF = variable refrigerant flow

Ground source

- Carry the CE Mark of European Conformity, to confirm compliance with EU consumer safety, health and environmental requirements.
- Consist of single factory-built units incorporating electrically driven refrigeration systems, for connection to separate indirect, closed-loop ground heat exchangers.
- Incorporate refrigerant with zero Ozone Depletion Potential (ODP) (i.e. R407C) in accordance with BS

- Comply with ISO 13256-1:1998 – Water source heat pumps – Testing and rating for performance – Part 1: Water-to-air and brine-to-air
 - Comply with ISO 13256-1:1998 – Water source heat pumps – Testing and rating for performance – Part 2: Water-to-water and brine-to-water.
 - Comply with BS EN 14511-4: 2007 – Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling. Requirements.
 - Comply with BS EN 14511-2: 2007 – Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling. Test conditions.
 - Comply with BS EN 378-2: 2008 +A1: 2009 – Refrigerating systems and heat pumps. Safety and environmental requirements. Design, construction, testing, marking and documentation.
 - Have a manufacturer’s rated minimum heating Coefficient of Performance (CoP) not less than 4.2, measured in accordance with BS EN 14511, with output temp at 35°C1.
 - Have manufacturers’ rated Energy Efficiency Ratios (EERs), if used in cooling mode, not less than 3.2 at 100% (full) load.
 - Be designed for, and include fittings for, permanent installation.
 - Provide supply water temperatures for under-floor heating in the range 30oC to 40oC for installations in new buildings, or 30oC to 55oC installations in existing buildings; or for radiators in the range 40oC to 55oC.
 - Be capable of supplying domestic hot water (if used for this purpose) in the range 60oC to 65oC.
 - Ground heat exchangers must:
 - Consist of water or brine circulated by electric pumps either through pipes in vertical boreholes or through horizontal pipes buried in trenches.
 - Be sized to suit the heat pump and the ground conditions²; boreholes may be single or multiple, but no borehole may be less than 65 m deep, and single boreholes must not be less than 100 m deep; multiple boreholes must be spaced apart at least 10% of their depth or at least 7 m (whichever is the greater); horizontal loops must be in ‘snake’ layout (not ‘slinky’ layout), with pipes buried at least 2 m below the surface of the ground and spaced at least 1 m apart³.
 - Incorporate insulation on external pipework between the dwelling and heat exchanger, in accordance with TIMSA guidance.
 - Be cleaned with cleaning fluid and biocide as part of the commissioning process; and during operation be protected with anti-freeze solution and inhibitor as recommended by the heat pump manufacturer.
-

7. Solar Photovoltaic Systems**7.1. General Requirements**

As part of any retrofit plan there may be a requirement to install a solar photovoltaic system (solar PV) to the dwelling. This will may include above roof mounted panels or integrated panels as part of a roof replacement.

7.2. The installation of solar PV will be subject to the size and orientation of the dwelling roof. The design, installation must be carried out in accordance with the applicable standards and regulations as detailed within.

7.3. The Supplier must be a registered Microgeneration Certification Scheme (“MCS”) Installer for solar photovoltaic systems. The supplier must keep this in place for the term of the Framework.

7.4. The Supplier will be responsible for the design, supply and installation of all materials and components for the specified solar PV system, including but not limited to; surveying, ordering, delivery and payment. All orders are to be placed and managed to ensure that all materials are available for supply and installation in accordance with the supplier’s programme of works and to consider all material lead times.

7.5. Standards of Workmanship and Materials

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- IET wiring regulations, BS7671:2018 requirements for Electrical Installations.
- In accordance with PAS 2035:2019
- BBA approved materials.
- in accordance with Good Industry Practice.
- in accordance with the applicable statutory Regulations; (for applicable region)
- in accordance with the Member’s Policies.
- in accordance with the Member’s Codes of Practice.
- in accordance with any specific requirements for those Works in this specification; and
- To the satisfaction of the Member (acting reasonably)
- BRE Digest 346 and BS EN 1991-1-1:2002

- All Electrical Installations must be designed in accordance with the District Network Operators (DNO) grid connection requirements, as set out in the engineering requirements G98.

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- BS EN 62446-1:2016 Photovoltaic (PV) Systems.
- Installation must comply with Building Regulations, Approved document A (Structure) Roof Loading and Wind lift as BRE Digest 346 and BS EN 1991-1-1:2002.
- In accordance with the IET Code of Practice for Grid Connected Solar Photovoltaic Systems: Design, specification, Installation, Commissioning, operation and maintenance.
- The Installation must comply with BS EN 62446-1:2016 Photovoltaic (PV) Systems.
- Installation must comply with Building Regulations, Approved document A (Structure) Roof Loading and Wind lift as BRE Digest 346 and BS EN 1991-1-1:2002.
- The Installation must comply with BS EN 62446-1:2016 Photovoltaic (PV) Systems.
- Installation must comply with Building Regulations, Approved document A (Structure) Roof Loading and Wind lift as BRE Digest 346 and BS EN 1991-1-1:2002.
- The fixing system must be designed in accordance with MCS 012 Product certification Scheme Requirements: Pitched Roof installation kits, issue 1.1
- MCS:005 Product Certification Scheme Requirements: Solar Photovoltaic Modules, issue 2.3.
- Carry the CE Mark of European Conformity, to confirm compliance with EU consumer safety, health and environmental requirements.
- Carry the BSI Kitemark.
- Comply with BS EN 61215-1:2016. Terrestrial photovoltaic (PV) modules. Design qualification and type approval. Test requirements
- Comply with BS EN 61215-1-3:2017– Terrestrial photovoltaic (PV) modules. Design qualification and type approval. Special requirements for testing of thin-film amorphous silicon based photovoltaic (PV) modules
- Be safety tested to BS EN IEC 61730-1:2018-Photovoltaic (PV) module safety qualification. Requirements for construction

8. Improvement Works**8.1. General Requirements**

- 8.2.** As part of any retrofit plan there may be a requirement to undertake improvement works to a dwelling as part of the energy efficiency measures. These improvement works may include both internal and external refurbishment works that includes but is not limited to roofing (flat and pitched), kitchens and bathroom replacements, electrical rewiring and inspection and testing and structural alterations.
- 8.3.** The Supplier will be responsible for the design, supply and installation of all materials and components for the specified solar PV system, including but not limited to, surveying, ordering, delivery and payment. All orders are to be placed and managed to ensure that all materials are available for supply and installation in accordance with the supplier's programme of works and to consider all material lead times.

8.4. Standards of Workmanship and Materials

- Carry out and complete all Works:
- In accordance with the applicable statutory Regulations; (for applicable region)
- Approved Document 7: Materials and Workmanship
- Approved Document A: Structure
- Approved Document B: Fire Safety
- Approved Document C: Site Preparation and Resistance to Contaminates and Moisture
- Approved Document D: Toxic Substances
- Approved Document E: Resistance to Sound
- Approved Document F: Ventilation
- Approved Document G: Sanitation, Hot Water Safety and Water Efficiency
- Approved Document H: Drainage and Waste Disposal
- Approved Document J: Combustion Appliances and Fuel Storage Systems
- Approved Document K: Protection from Falling, Collision and Impact
- Approved Document L1B: Conservation of Fuel and Power
- Approved Document M: Access and Use of Buildings
- Approved Document P: Electrical Safety
- Approved Document Q: Security in Dwellings
- IET wiring regulations, BS7671:2018 requirements for Electrical Installations.
- BBA approved materials.

END OF DOCUMENT

Fusion21 – Decarbonisation Framework Agreement –(Extract)

SCHEDULE 13

Direct Call-Off and Placing of Orders

- 1.1. A Member/Fusion21 may instruct provision of Services and/or the carrying out of Works without reopening competition by applying the terms of the Call-Off Contract, the Supplier's prices contained in its Pricing Schedule(s), the Brief/Specification (as may be tailored more particularly to the requirements for the Call-Off Contract to be used) to select a Supplier having regard to one or more of the following:
- 1.1.1 The Member's requirements and business needs by reference to the Brief/Specification for the provision of Services and/or carrying out Works; and/or
 - 1.1.2 Where the Member can evidence value for money based on a Total Cost of Ownership approach; and/or
 - 1.1.3 Where relevant to the ranking of the Supplier in the procurement exercise the subject matter of the Invitation to Tender; and/or
 - 1.1.4 The geographical location in which those Works and Services are to be performed; and/or
 - 1.1.5 The number of Call-Off Contracts currently awarded and to which organisation; and/or
 - 1.1.6 The poor performance of the Supplier under any Call-Off Contracts currently awarded to it.
- 1.2. The Direct Selection process will be undertaken using one of the following methods:

1.	Direct Award	Selecting a supplier, without reopening competition, based on the terms of the Framework Agreement utilizing the costs and rates provided within the framework for the completion of specific items of work
2.	Direct Award with Negotiation	Selecting a supplier, without reopening competition, based on the terms of the Framework Agreement utilizing fixed cost elements; including overhead, profit, preliminaries, design fees and pre-construction services. Through early engagement the Supplier and Member will then agree the variable costs for the project specific works

- 1.3. As part of the procedure referred to in paragraph 1.1 and 1.2 above the Supplier will agree the scope of the Services and/or Works, the Plans and Proposals as they apply and its prices (using the Pricing Schedule(s)) in respect of the Works and Services and its acceptance of the terms of the Call-Off Contract.

- 1.4. A Member may not award a Call-Off Contract to the Supplier using Direct Selection if:
- 1.4.1 The Supplier confirms in writing that it does not have the capacity to carry out the Call-Off Contract offered; and/or
 - 1.4.2 The Supplier is unable to agree with the Member/Fusion21 the scope of the Services or Works, the plans and proposals or the pricing; and/or
 - 1.4.3 The Supplier has failed to achieve Key Performance Indicators set out in any previous Call-Off Contract and the Member has confirmed to the Supplier that the relevant remedy or measure is to postpone the award of future Call-Off Contracts until the performance failures have been remedied and/or the aggregated value of Works and Services awarded by the Supplier (pursuant all Call-Off Contracts or otherwise) has reduced to a level which, in the reasonable opinion of the Member, is sufficient to address the performance failures and protect the Member's interests; and/or
 - 1.4.4 The Supplier's financial circumstances have changed to an extent which, in the opinion of the Member (acting reasonably), may adversely affect the ability of the Supplier to carry out the Call-Off Contract; and/or
 - 1.4.5 The Supplier has failed to maintain the professional skills, expertise and knowledge of its staff and personnel; and/or
 - 1.4.6 The Supplier has failed to maintain the requisite level of cover for or any of its insurances required under this Framework Agreement or any Call-Off Contract; and/or
 - 1.4.7 The Supplier no longer meets, or can demonstrate adherence to, the Pass/Fail requirements that were set for the evaluation of the initial Framework procurement.
- 1.5. Fusion21 may refresh the scores awarded to Suppliers on a frequency no greater than every 12 months (or six months in Framework Year 1 to align with the price mechanism review Clause **Error! Reference source not found.**) for the purpose of re-ranking the framework order. Such re-ranking will be undertaken based on the initial Framework award criteria. On rescoring Supplier Fusion21 will provide all Suppliers with their organisation(s) latest ranking.
- 1.6. The process for Direct Award will be between the Suppliers on the relevant Lot covered by the scope of works / services required. However, for a Direct Award where the scope of the Contract is covered in more than one Lot, only the Suppliers that have a position on ALL of the selected Lots will be considered to ensure the Call-off is undertaken based on the terms of the Framework.
- 1.7. In the event that the scope of the Contract covers multiple Lots, the Suppliers who have a position on all of the relevant Lots will be ranked for the purposes of the Direct Award as follows:
- 1.7.1. The Member shall establish which Suppliers have a position on all of the relevant Lots for the Contract (the **Relevant Suppliers**);
 - 1.7.2. The Relevant Suppliers' scores received for each of the relevant Lots at framework level will be added together to provide an adjusted combined score (the **Adjusted Score**);
 - 1.7.3. The Relevant Suppliers will be ranked, with the Relevant Supplier with the highest Adjusted Score being identified as the First-Ranked Supplier, and the Relevant Supplier with the second highest Adjusted Score being identified as the Second-Ranked Supplier, and so on; and
 - 1.7.4. The Member will apply the criteria for selection of Direct Award as detailed in Clause 1.1 of this Schedule 13.

- 1.8. In the event that the First-Ranked Supplier cannot enter into the Contract, or the Member has identified a conflict of interest, the Member may offer the Contract to the Second-Ranked Supplier, and so on.

FUSION21

Project Details

1	Fusion 21 Reference	
2	Member	
3	Project Description	
4	Supplier	

Social Value Compliance

5	Anticipated Contract Sum	
6	Anticipated Minimum Social Value Credit Requirement	
7	Proposed Social Value Credits	
8	Compliance with Terms of Framework Agreement	

Notes

Item	Description
9	The contractual obligation in accordance with Clause 24 of the Framework Agreement is that appointed Suppliers will create social value equivalent to at least 10 credits for every £100k of contract value; this being the actual value of the call-off contract between the appointed Supplier and the Member.
10	Where any project value is higher than £500k it is anticipated that employment and apprenticeship opportunities are the main priority in delivering against the credit value requirements. However specific outcomes may be tailored to the individual requirements of the member, if they are known and have been identified in advance of the call-off. Specific details and guidance on the members social value objectives can be found in the Member Specific Outcomes box below.
11	The Supplier will agree the actual social value outcomes to be delivered with the Member and using a template provided in section 2 of this document and formulate this into a Social Value Delivery Plan at the start of the call-off contract, a copy of which will be provided to Fusion21 prior to works commencing as part of the call-off process.
12	The aim of this model, in section 2, is to ensure that a minimum requirement for social value is created but it provides a flexible model for the specific outcomes to be agreed between the Supplier and Member, therefore the basket of Items provided in this document can be used to create the most effective social outcomes as desired by the Member.
13	Section 3 of this document provides details of each outcome that can be achieved with the value / unit of measure, guidance against each outcome as well as the associated credit value.
14	Suppliers are to ensure that their proposed Social Value Delivery Plan is compliant with the terms of Clause 24 of the Framework Agreement and that the proposed total value of credits meets the minimum of 10 per £100,000 of contract value.

Member Specific Outcomes

15	
16	
17	
18	
19	

Completing the Delivery Plan

20	All guidance in this section relates to the completion of the Delivery Plan in section 2 of this document; "2. SV Delivery Plan".
21	Suppliers are to select a theme from the drop down menu in column A and an outcome from column B. The outcome options are predetermined based on the selection made in column A.
22	The unit of measure field will automatically populate based on the selections made for the theme and outcome.
23	Supplier are then to enter a quantity/value into column D, which is the intended or planned amount that will be delivered across the life of the contract. This will automatically calculate the number of associated Social Value Credits.

24	Detail on the themes, outcomes, unit of measure and definitions of each activity can be found in section 3 of this document; "3. Definitions".
25	Once information has been entered into the plan the number of proposed credits will show in the Social Value Compliance table within this sheet. This will also be compared to the anticipated number required in accordance with the framework agreement, which is calculated from the anticipated contract value.

Theme	Output	UOM	Definition	Credits
Career advice and mentoring	Mentoring at school	Days	1:1 or group mentoring/careers coaching of young people	5
Career advice and mentoring	Careers advice / presentation / workshop	Days	Group session designed to inform children and young people of careers/skills/other educational message	5
Career advice and mentoring	Work Place visit	Days	Short duration visit designed to enhance knowledge of careers/sectors	5
Education	Work Experience	People	Short term unpaid work placement	10
Education	Entering further education	People	Enrolment on an FE (level 3 or above) qualification	10
Employment	Job created - full time	People	Full time job created - new jobs created as a result of this project	50
Employment	Job created - part time	People	Part time job created - new jobs created as a result of this project	25
Employment	Job sustained - full time	People	Full time job sustained - existing jobs safeguarded by this project; or a year 2 continuation of a job created in year 1	25
Employment	Job sustained - part time	People	Part time job sustained - existing jobs safeguarded by this project; or a year 2 continuation of a job created in year 1	12.5
Employment	Apprenticeship created	People	Created - new apprenticeship created as a result of this project	50
Employment	Apprenticeship sustained	People	Sustained - apprenticeship safeguarded by this project; or year 2/3/4 continuation of an apprenticeship created in year 1	25
Enterprise support and start-up	Businesses receiving support	Number	Support given to SME's/social enterprise relating to business development. Includes Meet the Buyer events and associated follow up advice	5
Local Economy	Number of contractor operatives from within local authority area	People	Operatives residing with the local authority area where the works are being carried out	5
Support and capacity building Individual/Family	Receiving employability advice	People	Advice to adults on accessing jobs/career progression such as help with CV/interview skills	10
Support and capacity building Individual/Family	Soft skills training	People	training delivered informally to enhance soft skills such as leadership/communication/teamwork or practical skills such as DIY	5
Wider Social Value Support To Local Community	Donation (money)	£	Donation made to charity/other beneficiaries	5
Wider Social Value Support To Local Community	Value of materials / equipment donation	£	Donation of materials or equipment. New, used or scrap.	5
Wider Social Value Support To Local Community	Donation of time	Days	Support to community/charity projects through staff volunteering.	5
Training	Accredited training	people	Training leading to a formal qualification such as a Certificate, Diploma or Advanced Diploma.	5
Training	Non-accredited training	People	Training delivered formally but not affiliated to a registered accredited body eg. Mentoring; hobby courses; project specific H&S; tool box talks;	5

**Annex A - Part 1 – Supplementary Terms and Conditions
(DPA 2018 and UK GDPR)**

~~{Note: This Annex is based on the Procurement Policy Note PPN 02/18 produced by the Crown Commercial Service in June 2018.}~~

STANDARD DEFINITIONS

Employer, Party, Agreement: as defined in Section 1 Definitions and Interpretations in the Conditions of contract.

Law: means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;

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

UK GDPR CLAUSE DEFINITIONS:

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

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

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

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

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

DPA 2018: Data Protection Act 2018

UK GDPR: derived from the General Data Protection Regulation (*Regulation (EU) 2016/679*)

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

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

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

effectiveness of the such measures adopted by it including those outlined in Annex A – Part 2 (Security).

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

1. DATA PROTECTION

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Employer is the Controller and the Contractor is the Processor unless otherwise specified in Annex A – Part 2. The only processing that the Processor is authorised to do is listed in Annex A – Part 2 by the Controller and may not be determined by the Processor.
- 1.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 1.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
 - (a) process that Personal Data only in accordance with Annex A – Part 2, 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 are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Annex A – Part 2);

- (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; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK 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;
- (di) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

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

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

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

- 1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 1.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 1.11 Before allowing any 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 [Annex A – Part 2] 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.
- 1.12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.

- 1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

ID	Task Name	No of Homes	Resource Names	Duration	Start	Finish	Predecessors	Qtr 3, 2022					Qtr 4, 2022				Qtr 1, 2023					
								Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May				
1	Folkestone & Hythe - SHDF Programme Wave 1			30.2 wks	Fri 22/07/22	Tue 28/02/23		Folkestone & Hythe -														
2	Mobilisation			8.2 wks	Fri 22/07/22	Mon 19/09/22		Mobilisation														
3	Agree Project Team Appointments etc			1 wk	Fri 22/07/22	Thu 28/07/22		Agree Project Team Appointments etc														
4	Design Team Mobilisation & Lead in			2 wks	Fri 22/07/22	Thu 04/08/22	355	Design Team Mobilisation & Lead in														
5	Measured Survey Mobilisation			3 wks	Tue 30/08/22	Mon 19/09/22	3	Measured Survey Mobilisation														
6	Design Period	50		17.2 wks	Fri 05/08/22	Mon 05/12/22		Design Period														
7	Phase 1 - 19 Properties	19		12.2 wks	Fri 05/08/22	Mon 31/10/22		Phase 1 - 19 Properties														
8	Retrofit Assessments		ECDA	3.2 wks	Fri 05/08/22	Fri 26/08/22		Retrofit Assessments														
9	Site Visits - assuming access to 6 properties per day in each phase			1 wk	Fri 05/08/22	Thu 11/08/22	4	Site Visits - assuming access to 6 properties per day in each phase														
10	Write-up assessments/recommendations and issue to RC			2.2 wks	Fri 12/08/22	Fri 26/08/22	9	Write-up assessments/recommendations and issue to RC														
11	Retrofit Coordinator Review		F&H / RC Role	3 wks	Tue 30/08/22	Mon 19/09/22		Retrofit Coordinator Review														
12	Risk path gradings + IOE/SAP calcs/MITP etc for each phase.			2 wks	Tue 30/08/22	Mon 12/09/22	10	Risk path gradings + IOE/SAP calcs/MITP etc for each phase.														
13	Dialogue - RC/RD review/liaison to agree package of measures			1 wk	Tue 13/09/22	Mon 19/09/22	12	Dialogue - RC/RD review/liaison to agree package of measures														
14	Measured Surveys		ECDA	3 wks	Tue 20/09/22	Mon 10/10/22		Measured Surveys														
15	Site work/process files/issue to Retrofit Designer			3 wks	Tue 20/09/22	Mon 10/10/22	5	Site work/process files/issue to Retrofit Designer														
16	Air Testing (if Required)			3 wks	Tue 20/09/22	Mon 10/10/22	1555	Air Testing (if Required)														
17	Retrofit Designer		ECDA	3 wks	Tue 11/10/22	Mon 31/10/22		Retrofit Designer														
18	Create typical details and specifications for each Archetype			3 wks	Tue 11/10/22	Mon 31/10/22	13,15,16	Create typical details and specifications for each Arch														
19	Target Design Freeze			0 days	Mon 31/10/22	Mon 31/10/22	18	Target Design Freeze														
20	Phase 2 - 31 Properties	31		13.8 wks	Wed 31/08/22	Mon 05/12/22		Phase 2 - 31 Properties														
21	Retrofit Assessments		ECDA	3 wks	Wed 31/08/22	Tue 20/09/22		Retrofit Assessments														
22	Site Visits - assuming access to 6 properties per day in each phase			1 wk	Wed 31/08/22	Tue 06/09/22	9FS+2 wks	Site Visits - assuming access to 6 properties per day in each phase														
23	Write-up assessments/recommendations and issue to RC			2 wks	Wed 07/09/22	Tue 20/09/22	22	Write-up assessments/recommendations and issue to RC														
24	Retrofit Coordinator Review		F&H / RC Role	4 wks	Wed 21/09/22	Tue 18/10/22		Retrofit Coordinator Review														
25	Risk path gradings + IOE/SAP calcs/MITP etc for each phase.			2.4 wks	Wed 21/09/22	Thu 06/10/22	23	Risk path gradings + IOE/SAP calcs/MITP etc for each phase.														
26	Dialogue - RC/RD review/liaison to agree package of measures			1.6 wks	Fri 07/10/22	Tue 18/10/22	25	Dialogue - RC/RD review/liaison to agree package of me														
27	Measured Surveys		ECDA	4 wks	Tue 11/10/22	Mon 07/11/22		Measured Surveys														
28	Site work/process files/issue to Retrofit Designer			4 wks	Tue 11/10/22	Mon 07/11/22	15	Site work/process files/issue to Retrofit Designer														
29	Air Testing (if Required)			4 wks	Tue 11/10/22	Mon 07/11/22	2855	Air Testing (if Required)														
30	Retrofit Designer		ECDA	4 wks	Tue 08/11/22	Mon 05/12/22		Retrofit Designer														
31	Create typical details and specifications for each Archetype			4 wks	Tue 08/11/22	Mon 05/12/22	26,28,29	Create typical details and specifications for e														
32	Target Design Freeze			0 days	Mon 05/12/22	Mon 05/12/22	31	Target Design Freeze														
33	Construction Period	50		16 wks	Tue 01/11/22	Tue 28/02/23		Construction Period														
34	Phase 1 - 18 Properties	19		6 wks	Tue 01/11/22	Mon 12/12/22		Phase 1 - 18 Properties														
35	Indicative Construction Period			6 wks	Tue 01/11/22	Mon 12/12/22	19	Indicative Construction Period														
36	Phase 2 - 31 Properties	31		10 wks	Tue 13/12/22	Tue 28/02/23		Phase 2 - 31 Propertie														
37	Indicative Construction Period			10 wks	Tue 13/12/22	Tue 28/02/23	32,35	Indicative Construction														

Project: 00a - Folkestone & Hyc
Date: Mon 22/08/22

Task: Milestone: Project Summary: Critical Split:
Split: Summary: Critical: Progress: