



DATE 12 July 2022

The District Council of Folkestone and Hythe

-AND-

Legrand Electric Ltd

CALL-OFF CONTRACT

for Equipment and Associated Services – Lot 1A

CONTRACT ("this Contract")

BETWEEN

- (1) The organisation listed as the Customer in the Contract Particulars (the "**Customer**"); and
- (2) The organisation listed as the Supplier in the Contract Particulars (the "**Supplier**").

INTRODUCTION

- (A) Procurement for Housing ("**PfH**") is a contracting authority under Regulation 2 of the Public Contracts Regulations 2015 ("**PCR 2015**") and a central purchasing body under Regulation 37 of the PCR 2015.
- (B) PfH placed the contract notice referred to in the Contract Particulars ("**the OJEU Notice**") inviting tenders for the provision of works, services and/or supplies as set out in the OJEU notice to contracting authorities named in that OJEU notice ("**PfH Members**") under a framework comprised of a number of framework agreements with suppliers ("**the Framework**").
- (C) On the basis of the Supplier's tender submitted in response to the OJEU notice, PfH awarded the Supplier a place on the Framework. The Supplier therefore entered into the framework agreement specified in the Contract Particulars ("**the Framework Agreement**") with PfH and Inprova Limited ("**the Procurement Agent**") under which PfH Members can call-off contracts for the Services.
- (D) Pursuant to a services concession contract PfH has granted HouseMark Ltd, a company registered in England and Wales with company number 03822761, ("**HouseMark**") the exclusive right as concessionaire to operate and manage a purchasing consortium on behalf of PfH for the benefit of the PfH Members.
- (E) The Procurement Agent has been appointed by HouseMark as its sub-contractor to provide services in connection with the administration of the Framework Agreement on behalf of PfH for the benefit of PfH and the PfH Members ("**the Framework Services**").
- (F) The Customer is a PfH Member (and therefore "**a Customer**" as defined in the Framework Agreement) and has called off this contract from the Framework. As such this Contract establishes a direct contractual relationship between the Customer and the Supplier under which the Supplier will provide the Services in accordance with this Contract.

IT IS AGREED THAT:

1 INTERPRETATION AND INCORPORATION OF CALL-OFF CONDITIONS

1.1 In this Contract terms defined in the Introduction have the meanings given in the Introduction. In addition, the following words and expressions have the following meanings:

"Call-Off Conditions"	means the terms set out in the document entitled "Call-Off Conditions" being the version of those terms published alongside the OJEU Notice;
"Contract Particulars"	means the terms set out in Schedule 1 <i>Contract Particulars</i> ;
"Estimated Annual Value"	means the estimated monetary value of this Contract per annum;
"OJEU Notice"	means the OJEU notice referred to in the Contract Particulars being the OJEU Notice for the Framework from which this Contract is being called-off; and
"Services"	means the Services the Supplier is to provide under this Contract, being works, services and/or supplies described in the OJEU notice.

1.2 Any further terms defined in the Contract Particulars are to have the meanings given to them in the Contract Particulars.

1.3 In this Call-Off Contract references to Clauses, Schedules and Paragraphs are (unless stated otherwise) references to Clauses, Schedules and Paragraphs of this Call-Off Contract.

1.4 The Schedules to this Call-Off Contract are an integral part of this Contract and are to have effect as it set out in full in the body of this Contract. References to this Contract include the Schedules to this Call-Off Contract.

1.5 The Call-Off Conditions will be incorporated into this Contract as though they were set out in full in it and on the basis that they are completed in accordance with the Contract Particulars.

1.6 The Call-Off Conditions will incorporate the amendments to them set out in the Contract Particulars.

2 PROVISION OF THE SERVICES

Subject to Clause 3 *Order Procedure* of this Contract the Supplier will provide the Services set out in Schedule 2 *Specification* in accordance with the Method Statements set out in Schedule 4 *Method Statements* on the Call-Off Conditions completed in accordance with the Contract Particulars and in return for the Price set out in Schedule 3 *Payment*.

3 ORDER PROCEDURE

- 3.1 The Contract Particulars state whether or not Services are to be instructed through the issue of Orders.
- 3.2 Where the Contract Particulars provide that:
 - 3.2.1 Services are not to be instructed through the issue of Orders, the Supplier will carry out those Services without the need for any further instruction from the Customer; or
 - 3.2.2 Services are to be instructed through the issue of Orders, the Supplier will carry out such Services as are instructed through Orders issued by the Customer under this Contract.

4 FORMATION OF THIS CONTRACT

- 4.1 This Contract will come into effect on the date of the last signature to be added.
- 4.2 Where the signature blocks state that this Contract is signed and delivered as a deed it will be a deed. If the Contract is not signed and delivered as a deed by both parties it will not be a deed.

IN WITNESS of this both parties have signed this Contract on the dates stated next to their signatures.

SCHEDULE 1

Contract Particulars

CALL-OFF CONTRACT

The Contract is completed in accordance with the following particulars:

Customer: **The District Council of Folkestone and Hythe** whose principal office is at Civic Centre, Castle Hill Avenue, Folkestone, Kent, CT20 2QY

Supplier: **Legrand Electric Ltd** (company number 00115834) whose registered office is at 20 Great King Street North, Birmingham B19 2LF

Services the Supplier is to deliver generally:

National geographical coverage to supply, install, upgrade, repair and maintain products &/or services &/or works to a potential 900 plus PfH members (including those with multiple sites) in England, Wales, Scotland, and Northern Ireland.

Services to be supplied specifically to this Call off Contract:

To supply a Primary and Secondary SaaS Platform with concurrent user licences allowing access to the platform from any PC, Laptop or Tablet via an HTML5 compatible web browser. Our costs also include the migration of the current Database into our platform which is a tried and tested process which we have had in place for many years with a great degree of accuracy and success.

The OJEU Notice: the contract notice with reference number 2019/S 087-209333 dated 06/05/2019 published in the Official Journal of the European Union.

Date of the Framework Agreement: 16th June 2019

Clause 1.2: Additional defined terms:

"Delivery Note"	means a Delivery Note provided by the Supplier accompanying the delivery of goods & Services to the Customer showing the Order number (if any), the type and quantity of the goods (including the code number of the goods, where applicable), any special storage instructions, a statement detailing how to return any packaging materials to the Supplier (where applicable), and, if Specification allows for delivery by instalments, the remainder of the goods still to be delivered;
"Management Information"	means information the Supplier must provide to the Customer free of charge and on a monthly basis relating to the KPI's and KPI Targets as set out in the Specification for measurement of the Supplier's performance under this Contract;

Clause 1.6: Amendments to Call-Off Conditions:

Yes 18.1

"Pandemic" added as a Force Majeure event to clause 18.1

Clause 18.1 to read:

- "Neither Party is to be liable to the other for any failure or delay in performing its obligations under this Contract due to any cause beyond its reasonable control ("Force Majeure") including governmental actions, war, riots, civil commotion, fire, flood, epidemic, pandemic, labour disputes (other than labour disputes involving employees of that Party or its subcontractor's employees), currency restrictions and Act of God"

Yes, New Clause 32

32. Precedence

32.1 To the extent of any inconsistency between the provisions of the body of this Contract and any other terms and conditions that have been submitted to the Customer by the Supplier before, during or after the commencement date of this Contract, the provisions of this Contract shall take precedent

Clause 3: Services are to be instructed by Orders:

- Yes

CONDITIONS OF CONTRACT

The Conditions of Contract are completed in accordance with the following particulars:

Condition 1 Definitions:

"Contract Year"	One-off project; period of 12 Months during the Contract Period:
	<ul style="list-style-type: none"> • 1st August to 31st July following
"Defect Rectification Period"	Where the Services include works to be undertaken by the Supplier, the Defects Rectification Period is 30 calendar days
"Defects Liability Period"	Where the Services include works to be undertaken by the Supplier, the Defects Liability period is 12 months from the Completion Date of the Services, or where the Services are to be undertaken to more than one Property, from the Completion Date for the Services to each Property
"Delivery Date"	Where the Services include goods to be provided by the Supplier the Delivery Date is the date specified in the Order
"Delivery Location"	Where the Services include goods to be provided by the Supplier the Delivery Location is the location specified in the Order
"Estimated Annual Value"	<p>Fixed pricing Initial Period: Year 1: 2022 - £28,622.04 Year 2: 2023 - £29,480.70 Year 3: 2024 - £30,365.12 Year 4: 2025 - £31,276.08</p> <p>Fixed pricing for any extension period applied: Year 5: 2026 - £32,214.36 Year 6: 2027 - £33,180.79 Year 7: 2028 - £34,176.21</p>
"Expiry Date"	31st July 2026 with the option to extend on a year-by-year basis for a further 36 months (3 years) at the discretion of the customer
"Initial Period"	The Initial Period within which the Contract may not be terminated by a break notice is the period from the Starting Date to midnight on the 1st anniversary of the Starting Date
"Installation Date"	Where the Services include goods to be installed by the Supplier the Installation Date is the date specified in the Order

“Installation Location” Where the Services include goods to be installed by the Supplier the Installation Location is the location specified in the Order

“Interest Rate” The Interest Rate on late payments is the statutory interest set in accordance with Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998

“Order” Each Order must include the following:

- a description of the Services in the Order;
- the Price payable for the Services comprised in the Order, calculated by reference to the Payment Mechanism;
- the Starting Date for the Services (if different from the date of issue of the Order);
- the Completion Deadline for the Services in the Order;
- the Customers purchase order number;
- the Customers job number;

“Review Date” The date on which the Review is to be effective is:

- During the contract period;

“Starting Date” 1st August 2022

Condition 2.1: Purchases may be made via Account Cards:

- No

Condition 2.2: Any member of the Customer’s Group is entitled to receive Services or place Orders under the Contract:

- No

Condition 3.1: Liaison with Residents to obtain access to their Properties to provide the Services is to be the responsibility of:

- The Customer
- if the Supplier is unable to obtain a DBS Check, the Supplier must have sufficiently robust procedures to minimise the risk of operatives working on their behalf in providing the services to the Customer whom could pose a risk to Residents

Condition 3.2.8: The Customer’s policies the Supplier must follow in delivering the Services are:

- DPA Agreement
- Anti-virus and VPN Agreement including 3rd Parties

Condition 3.8: The Supplier is to deliver the following minimum requirements each Contract Year in accordance with this Condition:

- Not applicable

Conditions 3.9.6: Apprenticeships must be:

- Not applicable

Conditions 3.11.1: The duration of Work Placements is to be

- Not applicable

Conditions 3.13: The Supplier must notify the following agencies of vacancies relating to the Contract in accordance with this Condition:

- *None*

Conditions 3.14: The Supplier will provide the Customer a statement in accordance with this Condition:

- Not applicable

Condition 4.1: Delivery: The Services include the delivery of goods to the Customer:

- Yes

Conditions 4.3: Installation: The Services include the installation of goods by the Supplier:

- Yes

Conditions 5.1 to 5.4 inclusive: Acceptance Tests:

- Apply

Conditions 5.6: The period after the Supplier has notified completion of the Services within which the Customer can post-inspect them is:

- 14 Calendar Days

Condition 6.3: Monitoring of the supplier's performance through KPIs:

- Applies

Condition 7.2: Service Credits may be deducted from the Price:

- No

Condition 7.9: The Prices are to be adjusted for Review on the Review Date:

- Not applicable – Fixed for the duration of the Contract

Condition 12.4: The subject-matter, nature and purpose and the duration of Processing and the types of Personal Data and categories of Data Subject in relation to which Personal Data may be Processed under this Contract are set out in the table below:

	Personal Data of which the Customer is Data Controller	Personal Data of which the Supplier is Data Controller
Data Processor:	Supplier	Customer
Categories of Data Subject:	Residents and the Customer's Staff	The Supplier's Staff, Apprentices, Trainees and persons undertaking Training Programmes and Work Placements.
Subject matter of Processing (including types of Personal Data that may be Processed):	Personal Data concerning: Residents including names, addresses and contact details, Property access requirements or special requirements due to vulnerabilities; and contact details of Customer's	Personal Data concerning: contact details of Supplier's Staff; and the names, address and postcodes, age and ethnic background of Apprentices, Trainees and persons undertaking Training

	Staff.	Programmes and Work Placements.
Nature and purpose of Processing:	Processing: Residents' Personal Data for the purposes of carrying out the Services, including arranging appointments and access, ensuring the safety of both Residents and the Supplier's Staff carrying out the Services, monitoring Resident satisfaction and correcting any Personal Data found to be incorrect whilst carrying out the Services; and Customer's Staffs' contact details to enable the Parties to carry out their obligations under this Contract.	Disclosure of Personal Data concerning Supplier's Staff: to identify which Staff are undertaking the Services and monitor and manage their performance of this Contract; and to enable the Parties to carry out their obligations under this Contract. Disclosure of Personal Data concerning Apprentices, Trainees and persons undertaking Training Programmes and Work Placements to enable the monitoring of training opportunities provided by the Contract.
Duration of Processing:	During the Contract Period and for the period which the Supplier is required to maintain a record of any of this documentation under clause 10.4. Following which it is to be returned or destroyed.	During the Contract Period.

Condition 13.8: Terrorism Prevention:

- Applies

Condition 14.5: The Supplier bears the risk that TUPE will apply on termination and indemnifies the Customer against this risk:

- Does not apply

Condition 14.7 to 14.10: The Customer takes the risk that that TUPE will apply on termination and the Supplier provides TUPE information:

- Does not apply

Condition 15.1: The Customer is:

- A local authority

Condition 16.3: The Supplier's Liabilities under the Contract are limited in accordance with Condition 16.3 to the following extent:

- to the minimum required Insurances level for public liability insurance

Condition 17.1: The Insurances required to be maintained by the Supplier are:

- Public liability cover - £10 million for any one event or series of claims arising from the same event;
- Professional indemnity cover - £5 million for the duration of the Contract with run-off cover for 6 years thereafter;
- Employer's liability and motor insurance - as required by Law; and
- Product liability cover – £ 5 million for the duration of the Contract and run off cover for 3 years thereafter

Condition 20.3: The period of notice for the Customer to end the Contract (after the end of the Initial Period) on a "no fault" basis is:

- 6 (six) Months

Condition 20.4: The period of notice for the Supplier to end the Contract (after the end of the Initial Period) on a "no fault" basis is:

- 9 (nine) Months

Condition 25.3: The Customer is:

- not an ALMO

Condition 27.3: The Parties' nominated representatives and their email addresses are:

- for the Customer: **Mhairi Richards**, email address Mhairi.Richards@folkestone-hythe.gov.uk
- for the Supplier: **Wendy Kendall**, email address Wendy.Kendall@legrand.co.uk

Condition 29.2: Where this Contract is a construction contract under the Construction Act the body responsible for the appointment of the Adjudicator if not agreed is:

- The Law Society of England and Wales

Condition 30.1: The governing Law for this Contract is the law of:

- England and Wales

SCHEDULE 2

Specification

Services the Supplier is to deliver generally:

National geographical coverage to supply, install, upgrade, repair and maintain products &/or services &/or works to a potential 900 plus PfH members (including those with multiple sites) in England, Wales, Scotland, and Northern Ireland.

Services to be supplied specifically to this Call off Contract:

To supply a Primary and Secondary SaaS Platform with concurrent user licences allowing access to the platform from any PC, Laptop or Tablet via an HTML5 compatible web browser. Our costs also include the migration of the current Database into our platform which is a tried and tested process which we have had in place for many years with a great degree of accuracy and success.

Delivered in line with the Call off Conditions of Contract and as fully detailed within the proposal:



And;

In agreement with both the Data Processing Agreement (above) and corresponding commitment to Anti-virus and VPN directly or via 3rd party (to be obtained and mutually agreed as soon as possible from implementation of this Agreement)

And;

In line with Framework KPI:

KPIs	Minimum Acceptable Service Level %
<p>Respond to all Operational Enquiries and requests within 24 (twenty-four) working hours.</p> <p>N.B. The time at which "Operational Enquiries" are recorded shall be based on the date & time a written/electronic operational enquiry is sent to the Supplier.</p> <p>The Supplier's response should be constituted as a substantive response.</p> <p>The time at which the Supplier's response given is recorded shall be based on the date & time a written/electronic response is sent to the Customer.</p> <p>The KPI will be measured monthly as a percentage of the total number of Operational Enquiries made within the measurement period.</p>	<p>95%</p>

<p>Delivery on time and in full.</p> <p>The Supplier must deliver the Services in full to the Delivery Location on the relevant Delivery Date in accordance with the Order and Specification.</p> <p>The KPI will be measured monthly as a percentage of the quantity of goods &/or Services the Supplier was able to supply as specified in the Order.</p>	<p>98%</p>
<p>Acceptance Tests & Defects Rectification Period.</p> <p>Where the Supplier fails to pass the Acceptance Tests due to goods &/or Services missing from the Order as per the Specification or Defect (damaged) goods &/or Services, the Supplier will deliver the missing goods &/or Services and replace Defect (damaged) goods &/or Services within 1 (one) Working Day as per the Defects Rectification Period.</p> <p>The KPI will be measured monthly as a percentage of missing &/or Defect (damaged) goods &/or Services that were rectified by the Supplier within the specified Defect Rectification Period.</p>	<p>95%</p>
<p>[Recycling & environmental waste.]</p> <p>The Supplier must comply with WEEE Regulation to be reported and evidenced to the Customer on an annual basis that demonstrates the Suppliers ability to provide a sustainable service.</p> <p>The KPI will be measured annually as confirmation of receipt of the Suppliers WEEE certification and supporting reports as evidence.</p>	<p>100%</p>
<p>Provide Management Information reports detailing the KPI's for the Contract as outlined in the Specification.</p>	<p>100%</p>



CALL-OFF CONDITIONS

for Telecare and Telehealth Services

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CALL-OFF CONDITIONS

1 INTERPRETATION

1.1 In the Contract the following words and expressions have the following meanings:

“Acceptance Certificate”	means the certificate to be signed by the Customer under Condition Error! Reference source not found. <i>Acceptance, Completion and Defects;</i>
“Acceptance Date”	means the date on which the Services pass the Acceptance Tests (where applicable);
“Acceptance Tests”	means the tests of the Services set out in the Specification and carried out by or on behalf of the Customer in accordance with Condition 5 <i>Acceptance, Completion and Defects;</i>
“Account Card”	means a card issued by PfH or the Supplier to an employee or agent of the Customer that evidences that person's right to make purchases (with an Order) under this Contract;
“Account Card Terms”	means the terms applying to the use of Account Cards set out on the Procurement Agent's website or where the card is issued by the Supplier as provided by the Supplier at the time of each purchase that is evidenced by an Account Card (which are based on, and do not include any substantial modifications from those applying when the Framework Agreement was tendered);
“Agreed”	means agreed in writing by both Parties and “agree” will be construed accordingly;
“Apprentice”	means a person registered as an apprentice with an industry recognised body;
“Call-Off Conditions”	means these terms and conditions of contract (which are incorporated in the Contract);
“CDM Regulations”	means the Construction (Design and Management) Regulations 2015;
“CIS”	means the Construction Industry Scheme administered by HM Revenue and Customs;

"Completion Date"	means the date when the Services, or the Services comprised in an Order (as applicable) are accepted by the Customer as having been completed in accordance with this Contract;
"Completion Deadline"	means the date under the Specification or set out in an Order as the date by which the Services, or the Services comprised in that Order, must be completed in accordance with this Contract (as varied under Condition 2.14 <i>Supplier's obligations</i> where applicable);
"Confidential Information"	means any information communicated by either Party to the other on the basis that it is confidential;
"Construction Act"	means the Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009;
"Construction Phase Plan"	means any construction phase plan (as defined in the CDM Regulations) prepared for any Services to which the CDM Regulations apply and setting out the health and safety arrangements and site rules applicable to those Services;
"Contract"	means the contract the terms of which are set out in the Call-Off Contract document and into which these Call-Off Conditions are incorporated;
"Contract Particulars"	means the details of this Contract set out at Schedule 1 <i>Contract Particulars</i> to the Call-Off Contract;
"Contract Period"	means the period set out in Condition 1.6 during which Orders may be issued and/or the Services are to be supplied;
"Contract Year"	means the period set out in the Contract Particulars as a contract year;
"Customer's Staff"	means all persons employed or used by the Customer under this Contract;
"Data Controller"	has the meaning given under Data Protection Law;
"Data Processor"	has the meaning given under Data Protection Law;

“Data Protection Law”	all Law relating to privacy and the processing of personal data, including all applicable guidance and codes of practice issued by the Information Commissioner’s Office or any replacement EU or UK data protection or related privacy Law in force in England and Wales;
“Data Subject”	has the meaning given under Data Protection Law;
“Data Subject Access Request”	a request by a Data Subject under Data Protection Law to access their Personal Data;
“DBS Check”	means a check with the Disclosure and Barring Service (or any statutory successor) of the most extensive kind available (if any) in relation to any (actual or prospective) member of the Supplier’s Staff having regard to the Services they are to undertake including any update to that check (at a frequency in line with Good Industry Practice);
“Defect”	means any Services not complying with the requirements for those Services as set out in the Specification;
“Defect Rectification Period”	means the period stated in the Contract Particulars within which a Defect must be rectified;
“Defects Liability Period”	means the period stated in the Contract Particulars within which the Supplier must rectify any Defects arising in the Services irrespective of whether there is any fault or breach of contract by the Supplier;
“Delivery Date”	means, where the Services include the supply of goods, the date specified in the Contract Particulars for delivery of those goods in accordance with Condition 4 <i>Delivery and Risk</i> ;
“Delivery Location”	means, where the Services include the supply of goods, the address in the Contract Particulars for their delivery;
“Dispute”	means either a dispute concerning this Contract or an allegation by a Party that the other has committed a breach of this Contract;

"Dispute Resolution Procedure"	means the procedure set out in Conditions 28 <i>Informal Dispute Resolution</i> to 30 <i>Governing Law and Enforcement</i> ;
"Documents and Data"	means all relevant customer documents, data, information, drawings, diagrams, images and records created in connection with this Contract or the Services
"EIR"	means the Environmental Information Regulations 2004;
"Employee Liability Information"	means information reasonably requested by the Customer, including information which a transferor must notify to a transferee under Regulation 11 (2) of TUPE, regarding any person employed by the Supplier or a Subcontractor who is assigned to the organised grouping of resources or employees which is or may be on or around the Termination Date the subject of a Relevant Transfer and regarding any employee within Regulation 11 (4) of TUPE;
"Equality and Diversity Law"	means all Law preventing unlawful discrimination including unlawful discrimination on the basis of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, paternity, race, religion or belief, sex or sexual orientation or part time or temporary status or any other protected status;
"Expiry Date"	means the date (if any) stated in the Contract Particulars as the date on which this Contract will expire;
"Extremist"	means a person who is vocally or actively opposed to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs and including a person who calls for the death of members of the British armed forces whether in this country or overseas;
"FOIA"	means the Freedom of Information Act 2000;
"Force Majeure"	has the meaning given in Condition 18 <i>Force Majeure</i> ;
"Framework Agreement"	means the framework agreement referred

	to in the Contract Particulars;
"Framework Services Fees"	has the meaning given in the Framework Agreement, being those fees payable by the Supplier to the Procurement Agent under Schedule 6 <i>Framework Services</i> of the Framework Agreement and Condition 7.12 <i>Payment</i> of this Contract;
"General Principles of Risk Prevention"	means the general principles of risk prevention referred to in the CDM Regulations 2015 as set out in Schedule 1 to the Management of Health and Safety at Work Regulations 1999;
"Good Industry Practice"	means that degree of skill, care, prudence and workmanship which would reasonably and ordinarily be expected from a skilled and experienced Supplier carrying out the Services;
"Group"	<p>means in relation to a company or a co-operative and community benefit society:</p> <ul style="list-style-type: none"> • that company or society; • all of its subsidiaries, holding companies or companies or societies of which it is a subsidiary; and • all subsidiaries of its holding company or of companies or societies of which it is a subsidiary, <p>(in each case as defined in section 1159 of the Companies Act 2006 or sections 100 or 101 of the Co-operatives and Community Benefit Societies Act 2014);</p>
"Health and Safety Law"	means all Law related to the protection of health and safety including the protection of the environment, the prevention of disease and the avoidance of industrial accidents;
"Initial Period"	means the initial period of the Contract as specified in the Contract Particulars, being a period in which the Parties cannot terminate the Contract on a no-fault basis under Conditions 20.3 or 20.4 <i>Termination</i> ;
"Installation Date"	means the date specified for installation in the Contract Particulars in accordance with Condition 4.3 <i>Delivery and Risk</i> ;
"Installation Location"	means the address for installation as set out in the Contract Particulars;
"Insurances"	means the insurances at the minimum levels of insurances set out in the Contract Particulars that the Supplier is required to

	maintain under Condition 17 <i>Insurance</i> ;
"Intellectual Property Rights"	means all patents, copyrights and design rights (whether registered or not and all applications for any of them) and all rights of confidence in any Documents and Data (whenever and however arising) for their full term and all renewals and extensions of such rights;
"Interest Rate"	means the interest rate specified in the Contract Particulars;
"KPI"	means a key performance indicator for measurement of the Supplier's performance under this Contract as set out in the Specification;
"KPI Target"	means a target for a KPI such if the Supplier fails to meet it then Service Credits may be deducted from the Price in accordance with the Payment Mechanism;
"Law"	means: <ul style="list-style-type: none"> • any Act of Parliament; • any subordinate legislation (as defined in section 21(1) of the Interpretation Act 1978); • any exercise of the royal prerogative; • until the repeal of the European Communities Act 1972, any enforceable community rights (as defined in Section 2 of that Act); and • any determinations directions or statutory guidance having the force of law;
"Liabilities"	means all demands, actions, claims, proceedings, liabilities, losses, judgements, costs (including legal costs), charges, taxes, duties, payments and expenses on a full indemnity basis;
"Method Statements"	means the Supplier's Method Statements as set out in Schedule 4 <i>Method Statements</i> to this Contract;
"NVQ"	means a National Vocational Qualification;
"Order"	means an order for Services and containing the matters listed in the Contract Particulars;

"Parties"	means the Parties to this Contract and their successors and permitted assignees and "Party" means either of them;
"Payment Mechanism"	means the basis on which the Price is to be calculated and paid as set out in Schedule 3 <i>Payment</i> to this Contract;
"Person-week"	means the equivalent of one person being employed for one normal working week providing the Services under the Contract;
"Personal Data"	personal data, within the meaning given by Data Protection Law, concerning Residents, Apprentices, Trainees, persons undertaking Work Placements and Training Programmes and employees or workers of the Customer, Supplier and Subcontractor which is obtained or Processed in connection with the Services or this Contract;
"Personal Data Breach"	any event that results or may result in any unauthorised or unlawful access to, Processing, loss and/or destruction of Personal Data in breach of this Contract including any personal data breach (as defined under Data Protection Law);
"Pre-construction Information"	means pre-construction information (as defined in the CDM Regulations) provided to the Supplier in relation to any Services that are subject to the CDM Regulations;
"Price"	means the price(s) payable by the Customer for the Services as set out in Schedule 3 <i>Payment</i> to this Contract;
"Probity Policy"	means the Customer's policy (whatever it is called) governing payments to third parties in which board members, former board members and employees and their close relatives have an interest;
"Processing"	has the meaning given under Data Protection Law and "Process" and "Processed" shall be construed accordingly;
"Procurement Agent"	means the person named as the procurement agent under the Framework Agreement and their successors and assignees;
"Prohibited Materials"	means goods, materials, substances or

products which are generally accepted or (having regard to Good Industry Practice) are reasonably suspected of:

- being harmful in themselves;
- being harmful when used in a particular situation or in combination with other materials;
- becoming harmful with the passage of time; or
- being damaged by or causing damage to the structure in which they are to be affixed.

Goods, materials, substances or products are to be regarded as harmful if, in the context of their use in the Services (whether alone or in combination with other materials) they:

- are prejudiced to health and safety;
- pose a threat to the structural stability or the physical integrity of any Property; or
- could materially reduce the normal life expectancy of any part of any Property;

"Property"	means a property owned or managed by the Customer or owner occupied at which any Services are to be provided;
"Radicalisation"	means the process by which a person comes to support terrorism and Extremist ideologies associated with terrorist groups;
"Regulatory Requirements"	means the requirements of the Law and of all statutory authorities in relation to the Services including the requirements of any regulatory body to which the Customer is subject;
"Relevant Employee"	means any employees who are or are likely to be the subject of a Relevant Transfer to the Customer or a Successor Supplier on or around the Termination Date;
"Relevant Transfer"	means a relevant transfer for the purposes of TUPE;
"Request for Information"	means a request for information made under EIR or, where it applies, FOIA;
"Resident"	means a tenant or occupier of a Property;
"Review"	means the change in Price and/or Services agreed by the Parties and Procurement Agent with effect from the

	Review Date specified in the Contract Particulars and as set out in the Schedule 3 Payment to this Contract;
"Review Date"	means the date or dates set out in the Contract Particulars on which the Review is to be effective;
"Scheme"	means the Scheme for Construction Contracts under the Construction Act;
"Sensitive Personal Data"	is "sensitive personal data" within the meaning given under Data Protection Law or Personal Data within one of the special categories of data as defined under Data Protection Law;
"Service Credits"	means any credit to be deducted from the Price in accordance with the Payment Mechanism;
"Services"	means works to be undertaken, services to be performed or supplies to be provided by the Supplier under this Contract as set out in the Contract Particulars or, where the Contract Particulars provide for work to be instructed by Orders, as set out in an Order;
"Specification"	means any instructions set out in an Order, the brief for the Services as set out in Schedule 2 <i>Specification</i> to this Contract and/or any reasonable instruction given to the Supplier in writing by the Customer as to the Services to be provided or how they are to be provided under this Contract;
"Starting Date"	means the date on which this Contract starts as set out at Schedule 1 <i>Contract Particulars</i> to this Contract;
"Statutory Permissions"	means those permissions, consents, approvals, licences, certificates and permits (if any) in legally effective form that are necessary from any statutory authority lawfully to commence, carry out and complete the Services in accordance with this Contract including: <ul style="list-style-type: none"> • any planning permission and/or reserved matters approval; and • building regulations consents and/or bye-laws approvals;

"Subcontract"	means a contract between the Supplier and a Subcontractor or between a Subcontractor and another Subcontractor at the next tier below in the supply chain (at any stage of remoteness from the Customer in the supply chain) made in connection with the Services;
"Subcontractor"	means a subcontractor or supplier to the Supplier or subcontractor or supplier such subcontractor or supplier (at any stage of remoteness from the Customer in the supply chain);
"Successor Supplier"	means any organisation, body or service provider including the Customer, which undertakes to provide all or part of the services to the customer equivalent to the Services under this Contract after the Termination Date
"Supplier Default"	means any of the circumstances set out in Condition 20.1 <i>Termination</i> ;
"Supplier's Staff"	means all persons employed or used by the Supplier and/or any Subcontractors in carrying out the Supplier's obligations under this Contract;
"Termination Date"	means the date on which the Services are completed, the Expiry Date or the date on which this Contract is terminated under Condition 20 <i>Termination</i> ;
"Terrorism Prevent Programme"	means the "Prevent" programme as set out in the Prevent Strategy presented to Parliament by the Secretary of State for the Home Department in June 2011, being part of the UK Government's wider counter-terrorism strategy;
"Terrorism Prevention Duty"	means the duty to have due regard to the need to prevent people from being drawn into terrorism under section 26 of the Counter Terrorism and Security Act 2015;
"Trainee"	means a person who is not an Apprentice but who: <ul style="list-style-type: none"> • is leaving an educational establishment or a training provider; • is not employed but who is seeking employment that includes training towards a qualification recognised in the construction industry; or • otherwise has a contract of

	employment or is self-employed and who is undergoing work-related training as a result;
"Training Programme"	means an accredited or non-accredited training event providing opportunities for Residents and members of the community to gain skills in for example CSCS, health and safety, skills and careers workshops;
"Transferring Employee"	means an employee or worker who is the subject of a Relevant Transfer on or around the Starting Date;
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended);
"VAT"	means value added tax payable under the Value Added Tax Act 1994 or any tax which is substituted for it;
"Working Day"	means any day other than a Saturday, Sunday or a bank or local government or public holiday in England; and
"Work Placement"	means a period of unpaid work experience as required by Condition 3.8 <i>Supplier's Staff</i> ;

1.2 In the Contract and these Conditions:

- 1.2.1 References to Conditions are (unless stated otherwise) references to Conditions in these Call-Off Conditions;
- 1.2.2 the index, headings and references to them are not to affect its interpretation;
- 1.2.3 references to the masculine include the feminine and neuter and to the singular include the plural and vice versa;
- 1.2.4 any references to Law, will be construed as references to that Law as amended, replaced, consolidated or re-enacted and in relation to Acts of Parliament will include all regulations, determinations, directions and statutory guidance having the force of Law made or given under it;
- 1.2.5 references to "consent" or "approval" are to the prior written consent of the consenting or approving Party and any breach of the terms of any consent given is to be a breach of this Contract;
- 1.2.6 the terms "including" and "in particular" are illustrative only and are not intended to limit the meaning of the words which precede them and neither the ejusdem generis rule of construction nor any similar rule or approach will apply to the construction of this Contract;

- 1.2.7 references to "persons" include individuals, firms, partnerships, companies, industrial and provident societies, corporations, associations, organisations, governments, states, agencies, foundations, trusts, unincorporated bodies of persons and any organisations having legal capacity (in each case whether or not having separate legal personality) and their successors, permitted assignees and transferees;
- 1.2.8 references to any document are (unless specified) references to such document as amended or supplemented from time to time; and
- 1.2.9 where a Party consists of more than one person the obligations of each of them are joint and several. The other Party may release or compromise the liability of any of them without affecting that of the others.
- 1.3 The Schedules to this Contract are an integral part of this Contract and are to have effect as if set out in full in the body of this Contract. References to this Contract include the Schedules.
- 1.4 Where this Contract requires something to be done:
 - 1.4.1 it must be done in accordance with this Contract;
 - 1.4.2 if it is to be done within a period after an action is taken, the day on which that action is taken does not count in the calculation of that period; and
 - 1.4.3 if the last day of the period within which it must be done is not a Working Day, the period will be extended to include the following Working Day.
- 1.5 All obligations, duties and responsibilities of the Supplier under this Contract are separate obligations, duties and responsibilities owed to the Customer.
- 1.6 The Contract Period will commence on the Starting Date (or will be deemed to have done so). Unless this Contract is terminated earlier under Condition 20 *Termination*, where the Contract Particulars:
 - 1.6.1 specify an Expiry Date, the Contract Period will end at midnight on the Expiry Date;
 - 1.6.2 do not specify an Expiry Date, the Contract Period will end on completion of the Services.
- 1.7 These Call-Off Conditions shall be amended as regards an individual Contract as set out in the Contract Particulars for that Contract.

2 SUPPLIER'S OBLIGATIONS.

- 2.1 In consideration of the Price, the Supplier agrees to deliver the Services from the Starting Date or, where Services are to be instructed through Orders, from the date of each Order in accordance with that Contract. Where the Contract Particulars so provide, Account Cards may be used for individual employees and/or agents of the Customer to make purchases under this Contract. Each purchase via an Account Card must be accompanied by an Order. Where Account Cards are used in conjunction with an Order, the Account Card Terms will apply to that Order in addition to these Call-Off Conditions and those Account Card Terms shall be deemed to be included in the Call-Off Contract in relation to such purchases. If there is any discrepancy between the Call-Off Conditions and the Account Card Terms, the Account Card Terms are to prevail in relation to any purchases via an Account Card.
- 2.2 Where the Contract Particulars so provide, the Services may be provided to any member of the Group and any such member of the Group may place Orders for Services under the Contract.
- 2.3 The Customer may obtain or deliver services similar to the Services through using either its own employees or by engaging other suppliers to deliver such services. Where Services are instructed through the issue of Orders, the Customer gives no guarantee as to the volume of Orders the Customer will instruct the Supplier to do under this Contract or that it will instruct any Orders at all. The Supplier is not entitled to claim for any loss of profit, loss of business or otherwise if the volume or timing of Services under this Contract is different in amount, value or scope than anticipated.
- 2.4 The Customer may cancel an Order in respect of Services at any time before the Services comprised in that Order have been started. Where the Customer cancels such an Order, the Customer must pay the Supplier the Supplier's reasonable out-of-pocket costs for the cancelled Order.
- 2.5 The Supplier must undertake the Services:
- 2.5.1 using reasonable skill, care and diligence;
 - 2.5.2 in accordance with all applicable Law, Regulatory Requirements and Statutory Permissions;
 - 2.5.3 in accordance with this Contract (including the Specification and the Method Statements);
 - 2.5.4 in accordance with all applicable European or British Standards;
 - 2.5.5 in accordance with Good Industry Practice;
 - 2.5.6 without the use of any Prohibited Materials;
 - 2.5.7 by any Completion Deadline set out in the Specification, in the Order or, where neither of these applies, as agreed with the Customer;
 - 2.5.8 in a manner that causes the minimum inconvenience and nuisance from obstruction, dust, noise etc; and
 - 2.5.9 within a culture and working environment in which health and safety is paramount to everybody involved with the Services.
- 2.6 The Supplier warrants that:

- 2.6.1 it has the competence, resources and capacity to comply with, and will comply with any Code of Practice approved by the Health and Safety Executive under the Health and Safety at Work etc Act 1974;
 - 2.6.2 it will provide all information which might reasonably affect the health and safety of the Supplier's Staff involved in any Services to all those responsible for the design of any aspect of those Services;
 - 2.6.3 if it is undertaking Services involving asbestos which are required to be undertaken by a licensed contractor it is itself so licensed or will employ an appropriately licensed Subcontractor for those Services;
 - 2.6.4 if it is undertaking Services that comprise gas works either it is Gas Safe registered and will use only Supplier's Staff that are Gas Safe registered or will use a Subcontractor that is Gas Safe registered for those Services;
 - 2.6.5 if it is undertaking Services that comprise electrical works it is a member of the NIC EIC or ECA or will use a Subcontractor that is a member of the NIC EIC or ECA for those Services; and
 - 2.6.6 in relation to any Services subject to the CDM Regulations, has the skills, knowledge, experience and organisational capability to act as a contractor under the CDM Regulations for the Services in a manner that secures the health and safety of any person affected by those Services.
- 2.7 Where any Services include works, the Supplier must ensure that:
- 2.7.1 at all times safe systems of work are adopted and all appropriate risk assessments are available;
 - 2.7.2 those Services have been planned in accordance with the General Principles of Risk Prevention and by reference to any Pre-construction Information provided to the Supplier in accordance with the CDM Regulations;
 - 2.7.3 any Construction Phase Plan applicable to the Services is complied with and, if no Construction Phase Plan has been prepared, that the Supplier prepares one before starting work on site;
 - 2.7.4 all appropriate safety signs are used and safety precautions are taken;
 - 2.7.5 any inconveniences and disturbances that are unavoidable are discussed fully in advance with the Resident and any other persons who are likely to be affected and all necessary precautions to be taken are agreed with them in advance;
 - 2.7.6 nothing is done that may injure the stability of any Property, or any other building, boundary wall, fence or railings;
 - 2.7.7 no permanent damage is caused to lawns, flower beds, plants, trees or paving during the Services and any damage caused is rectified to the satisfaction of the Customer and, where applicable, the Resident;
 - 2.7.8 to the extent that the Services require the Supplier to disconnect any facilities for lighting, heating, power, drinking water, sanitation, washing and cooking, the Residents have those full facilities restored to them at the end of each Working Day either through the Supplier reconnecting any facility it has disconnected or providing the Resident with appropriate alternative facilities; and

- 2.7.9 where a Property is unoccupied on completion of the Services or at the end of each Working Day, that Property is secured, all doors and windows are locked and any temporary door and window coverings are reinstated as necessary.
- 2.8 All goods provided in delivering the Services must:
- 2.8.1 conform to the Specification;
 - 2.8.2 be of sound design, materials and workmanship;
 - 2.8.3 be free from defects and remain so for the Defects Liability Period
 - 2.8.4 be fit for purpose
 - 2.8.5 be new (unless the Specification states otherwise);
 - 2.8.6 be supplied to the Customer with all relevant operating manuals and other documentation necessary for the satisfactory operation of the goods or as specified in the Specification including updates to such manuals and documents where applicable; and
 - 2.8.7 comply with all Regulatory Requirements relating to their manufacture, labelling, packaging, storage, handling and delivery.
- 2.9 The Supplier must:
- 2.9.1 obtain all Statutory Permissions necessary to undertake the Services.
 - 2.9.2 immediately notify the Customer in writing of any divergence the Supplier discovers between the Regulatory Requirements and its obligations under this Contract and comply with any direction of the Customer following such notification.
- 2.10 The Supplier must comply with any reasonable direction that the Customer gives in relation to the Services in order to:
- 2.10.1 enable the Customer to comply with the Human Rights Act 1998;
 - 2.10.2 prevent a breach of Health and Safety Law; or
 - 2.10.3 secure that the Services are provided in accordance with the Contract.
- 2.11 The Supplier must notify the Customer immediately of any incident that occurs in providing the Services that causes personal injury or damage to the property of any third party.
- 2.12 The Supplier must provide such information, co-operation and assistance as the Customer reasonably requests to comply with its obligations to consult tenant associations, and Residents (including leaseholders) who pay variable service charges in relation to the Services. This assistance must be provided in sufficient time to enable the Customer to comply with those obligations.
- 2.13 The Supplier must give written notice to the Customer of any matter beyond the reasonable control of the Supplier which causes or is likely to cause a delay in the completion of the Services beyond their Completion Deadline within 20 (twenty) Working Days of that matter first occurring or becoming known to the Supplier. The Supplier must provide such further information as the Customer reasonably requires in order to assess the effect of that matter on the Completion Deadline.

- 2.14 Subject to the Supplier giving notice to the Customer in accordance with Condition 2.13, the Customer will, by agreement, fix such later Completion Deadline for those Services as may be fair and reasonable.

3 SUPPLIER'S STAFF

- 3.1 Subject to the consent of the Resident, the Customer licenses the Supplier and the Supplier's Staff to go into the Properties in order to deliver the Services as set out in this Contract. Except where the Contract Particulars state that the Customer is to be responsible for resident liaison, the Supplier will be responsible for all liaison with the Residents of any occupied Property to which Services are to be undertaken. The Supplier must notify the Customer if the Supplier is unable to gain access to a Property after having made reasonable attempts to do so.
- 3.2 The Supplier must ensure all the Supplier's Staff providing the Services:
- 3.2.1 have (or are in the course of obtaining) the necessary skills, knowledge, training and experience to carry out the tasks allocated to them in relation to the Services in a manner that secures the health and safety of any person working at or present at the Property whilst the Services are being undertaken;
 - 3.2.2 are provided with appropriate supervision, instructions and information including in relation to health and safety, so that the Services can be carried out, so far as reasonably practicable, without risks to health and safety;
 - 3.2.3 have, to the extent that the Supplier is lawfully able to undertake one, been the subject of a DBS Check of the most extensive kind available for that member of Supplier Staff in light of the Services they will undertake under this Contract which discloses that there are no concerns in relation to their working alongside children or vulnerable adults;
 - 3.2.4 are given suitable induction training including information on the procedures to be followed in the event of a serious and imminent danger to health and safety, information on health and safety risks that have been identified in relation to the Services and information necessary for them to be able to comply with Health and Safety Law;
 - 3.2.5 act in the best interests of the Customer;
 - 3.2.6 comply with all applicable Health and Safety Law;
 - 3.2.7 comply with Equality and Diversity Law;
 - 3.2.8 comply with the Customer's applicable policies as set out in the Contract Particulars;
 - 3.2.9 comply with any reasonable direction given by the Customer in accordance with this Contract;
 - 3.2.10 are properly and presentably dressed;
 - 3.2.11 use appropriate personal protective equipment;
 - 3.2.12 maintain the highest standards of hygiene and courtesy; and
 - 3.2.13 carry out the Services in as orderly and quiet a manner as is reasonable and practicable having regard to the nature of the duties being performed by them.

- 3.3 The Supplier must not employ any person who is or has in the 12 months immediately preceding the date of the Contract been a shareholder or company member (as applicable), board member or elected member (as applicable) or employee of the Customer or is a close relative of any such person without the written consent of the Customer to the extent that this is prohibited by the Customer's Probity Policy or the Law.
- 3.4 The Customer may require the Supplier to remove any member of the Supplier's Staff from the Properties if the Customer is not satisfied, acting reasonably, in any way with that Supplier's Staff member's clothing, conduct, manner, workmanship, professionalism, ability, safety procedures and observance or DBS Check (when available).
- 3.5 The Supplier must appoint a senior employee who is empowered to act on behalf of the Supplier and act as the Customer's primary point of contact in relation to the Contract.
- 3.6 The Supplier must ensure that the person appointed under Condition 3.4 or a nominated deputy whose name and contact details have been notified to the Customer in writing is contactable by the Customer at all times 24 hours a day throughout the duration of this Contract.
- 3.7 The Supplier warrants that neither the Supplier nor any of its officers or the Supplier's Staff:
- 3.7.1 have been convicted of any offence involving slavery or human trafficking; or
- 3.7.2 have, to the best of the Supplier's knowledge, been the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of, or in connection with, slavery or human trafficking.
- 3.8 The Supplier must deliver (either itself or through its Subcontractors) each Contract Year, a minimum of the requirements for Training Programmes, Work Placements, Apprentices and Trainees set out in the Contract Particulars.
- 3.9 In relation to Apprentices:
- 3.9.1 the Supplier must ensure that all Apprentices and Trainees are paid at least the appropriate minimum wage as required by Law and have terms and conditions of employment that are equivalent to those provided to the Supplier's Staff that have equivalent skills and experience;
- 3.9.2 the Supplier must prepare a full training framework for each Apprentice which is to include functional skills, NVQ and literacy and numeracy qualifications;
- 3.9.3 each Apprentice must (subject to their not leaving) be employed for at least 2 (two) years by the Supplier or a Subcontractor;
- 3.9.4 the Supplier must ensure that each Apprentice is offered the opportunity to achieve a minimum qualification of NVQ level 2;
- 3.9.5 the Supplier must ensure that Apprentices, where recruited, are recruited and supported through Shared Apprenticeship Schemes and are placed with a number of providers for the period of their training. Time with the Supplier can count towards the number of Person-weeks training required under Condition 3.8 (if any); and
- 3.9.6 the Supplier must ensure that all Apprentices' apprenticeships are planned for completion and/or sustained as set out in the Contract Particulars.
- 3.10 In relation to Trainees:
- 3.10.1 the Supplier must recruit Trainees in accordance with a process approved by the Customer; and

- 3.10.2 the Supplier must ensure that Trainees undertake a recognised training course in their discipline approved by the Customer.
- 3.11 In relation to Work Placements:
- 3.11.1 all Work Placement opportunities are to be created in line with the Customer's Work Placement and Volunteering Policy and Procedures where provided to the Supplier by the Customer and are to be of the duration specified in the Contract Particulars; and
- 3.11.2 all Work Placements are to be unpaid, but the Supplier must reimburse all travel and subsistence (including lunch) costs.
- 3.12 Training Programmes required under Condition 3.8 can be accredited or non-accredited but must provide opportunities for Trainees to gain skills.
- 3.13 The Supplier must notify every vacancy in relation to the Contract, including those with Subcontractors, to the Customer and to the agencies set out in the Contract Particulars.
- 3.14 Within the period set out in the Contract Particulars, the Supplier must provide the Customer with a written statement setting out both for that period and cumulatively for the Contract up to the end of that period each of the following where provision of each is a requirement under Condition 3.8:
- 3.14.1 the number of Person-weeks of employment provided to each Apprentice and the dates of those Person-weeks;
- 3.14.2 the number of Person-weeks of employment provided to each Trainees and the dates of those Person-weeks;
- 3.14.3 the number of Person-weeks made available as Work Placements and the dates of those Person-weeks;
- 3.14.4 the number of Training Programmes made available and the dates of those Training Programmes;
- 3.14.5 for the Supplier and each Subcontractor:
- a. the number of personnel starting on site during that period and cumulatively for the Contract up to the end of that period;
- b. the number of vacancies notified to the Customer and each of the agencies named under Condition 3.13; and
- c. the number of candidates referred by the Customer or those agencies that were recruited into those vacancies; and
- 3.14.6 subject to complying with Data Protection Law in relation to the disclosure of Personal Data, provide the Customer with detailed information on individuals who have taken up the opportunities required to be created under Condition 3.8 and their achievements including:
- a. name;
- b. address and postcode;
- c. age; and
- d. ethnic background.

- 3.15 The Supplier must take reasonable steps to encourage applications from individuals from groups that are under-represented in the Supplier's workforce in relation to employment opportunities relating to the Services.

4 DELIVERY AND RISK

- 4.1 Where the Contract Particulars state that the Services include the delivery of goods to the Customer, the Supplier must deliver the Services to the Delivery Location on the relevant Delivery Date in accordance with the Specification. The Supplier will not be liable for any failure to deliver those goods to the extent that this is due to the Customer's failure to specify the Delivery Location.
- 4.2 When the Services involve the delivery of goods to the Customer, the Supplier must ensure that:
- 4.2.1 each delivery is accompanied by a delivery note showing the Order number (if any), the type and quantity of the goods (including the code number of the goods, where applicable), any special storage instructions and, if Specification allows for delivery by instalments, the remainder of the goods still to be delivered; and
 - 4.2.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact must be clearly stated on the delivery note. The Customer will make any such packaging materials available for collection at such times as the Supplier reasonably requests. Returns of packaging materials will be at the Supplier's expense.
- 4.3 Where the Contract Particulars state that the Services include the installation of goods, the Supplier must install the goods at the Installation Location on the relevant Installation Date in accordance with the Specification. The Supplier is not to be liable for any failure to install goods forming part of the Services to the extent that this is due to the Customer's failure to give the Supplier adequate access to the Installation Location.
- 4.4 The Customer relies on the skill and judgement of the Supplier in installation undertaken in accordance with Condition 4.3.
- 4.5 Where the Services include the supply of goods:
- 4.5.1 risk in such goods will pass to the Customer on the Completion Date for those goods; but
 - 4.5.2 title to such goods will only pass to the Customer once the Supplier receives payment in full (in cleared funds) for them or the Supplier transfer title under Condition 4.8.
- 4.6 Until title has passed to the Customer in accordance with Condition 4.5, the Customer must:
- 4.6.1 store the relevant goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - 4.6.2 not remove, deface or obscure any identifying mark or packaging on or relating to the goods;
 - 4.6.3 maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and
 - 4.6.4 give the Supplier such information relating to the goods as the Supplier may require from time to time.

- 4.7 The Supplier may recover goods it has delivered to the Customer in accordance with this Condition 4 in which title has not passed to the Customer. The Customer licenses the Supplier, its employees and agents, to enter any premises of the Customer (including with vehicles) but subject to the consent of any Resident in occupation of those premises, in order to satisfy itself that the Customer is complying with its obligations in this Condition 4, or to recover any goods in which title has not passed to the Customer.
- 4.8 The Supplier may at any time after delivery elect to transfer title in the goods to the Customer.

5 ACCEPTANCE, COMPLETION AND DEFECTS

- 5.1 Where the Contract Particulars state that Acceptance Tests apply, Acceptance Tests will be carried out by the Customer in accordance with the Specification. The Customer must give the Supplier at least 24 hours' notice of the start of each Acceptance Test and permit the Supplier to observe the test.
- 5.2 If the Services fail to pass the Acceptance Tests, the Customer may, by written notice to the Supplier (at the Customer's sole discretion):
- 5.2.1 (without prejudice to the Customer's other rights and remedies) set a new date for repeating the Acceptance Tests on the same basis. If the Services fail such further Acceptance Tests then the Customer may request a further repeat of the Acceptance Test under this Condition 5.2.1 or proceed under Condition 5.2.2 or Condition 5.2.3;
 - 5.2.2 accept the Services (or part of them) subject to such change of any acceptance criteria set out in the Specification and such reduction in the Price as, after taking into account all the relevant circumstances, is reasonable; or
 - 5.2.3 if the Supplier is unable to correct the deficiencies to the Customer's satisfaction within a period of 2 (two) months from the date of the relevant Acceptance Test, reject the relevant Services as not conforming to this Contract and terminate this Contract for Supplier Default under Condition 20.1 *Termination*.
- 5.3 Where Acceptance Tests apply, the Acceptance Date will be the earlier of the date of the signing by the Customer of an Acceptance Certificate for the Services or a phase or part of them confirming that they have passed the Acceptance Tests or the expiry of five days after the completion of all the Acceptance Tests, unless the Customer has given any written notice to the Supplier of any Defects in the Services or the phase or part of them being accepted..
- 5.4 If, before or on the Acceptance Date, the Customer notifies any Defects in the Services or the phase or part of them being accepted which on the Acceptance Date have not had permanent correction or resolution (not a workaround) (but despite this the Customer is still prepared to issue an Acceptance Certificate), the Supplier must as a condition of acceptance resolve such Defects within such period as the Customer reasonably requires.
- 5.5 The Supplier must notify the Customer in writing when the Supplier considers that the Services or the Services in each Order (as applicable) have been completed and/or supplied in accordance with this Contract.
- 5.6 If the Customer wishes to post-inspect the Services the Customer must do so within the deadline specified in the Contract Particulars.
- 5.7 The Completion Date will be the date 5 (five) Working Days from the later of:
- 5.7.1 the date specified under Condition 5.6;

- 5.7.2 where the Customer carries out an inspection before the deadline under Condition 5.6, the date on which the Customer notifies the Supplier that the Customer is satisfied that the Services (or the Services comprised in an Order) are complete (other than for minor Defects that the Customer considers will not impact on the beneficial use of and acceptance of the Property to which the Services are undertaken); and
- 5.7.3 the date on which the Customer notifies the Supplier that the Customer is satisfied that any Defects notified to the Supplier following any inspection carried out before the date specified in Condition 5.6 have been rectified to the Customer's satisfaction (other than any minor Defects as referred to in Condition 5.7.2).
- 5.8 Any Disputes over whether or not the Services or the Services comprised in an Order, are complete or over the Completion Date are to be dealt with under the Dispute Resolution Procedure. Any Completion Date agreed or determined under the Dispute Resolution Procedure will override any Completion Date determined under Condition 5.7.
- 5.9 The Supplier must rectify all Defects notified to the Supplier by the Customer during the Defects Liability Period within their Defect Rectification Period, such rectification is to be to the reasonable satisfaction of and at no cost to the Customer.

6 MONITORING, KPIS, OPENING UP AND COMPLAINTS

- 6.1 The Customer may monitor the performance of the Services and any activities undertaken by the Supplier in connection with this Contract. The Supplier must grant access to the Customer to any premises from which the Contract is undertaken or administered. The Customer may "shadow" the Supplier at any time and for any Services. This may entail a surprise visit by the Customer to accompany the Supplier's Staff to any Property, or meet them at a Property, to watch the Services being undertaken. The Customer may undertake an audit of the Supplier's procedures in relation to the Contract either annually or at any time.
- 6.2 The Customer may require the opening up for inspection of any completed or part-completed Services at any time. On request from the Customer the Supplier must open up such Services and will notify the Customer when the opened-up Services are ready for inspection. If the Services are satisfactory and in accordance with this Contract, the Supplier will be paid its reasonable out-of-pocket costs for the opening up and making good. If the Services or materials are not in accordance with this Contract, all costs incurred in replacing the unsatisfactory Services, including all costs of "opening up" and "inspection," are to be borne by the Supplier.
- 6.3 Where the Contract Particulars specify, the Supplier's delivery of the Services under this Contract will also be monitored through the KPIs in accordance with the Specification.
- 6.4 If the Customer is concerned about the accuracy of any KPI monitoring data the Customer may arrange for independent monitoring or verification of such data. If monitoring data obtained by the Supplier is found to have been inaccurate the Customer may recover from the Supplier the costs of the independent monitoring.
- 6.5 If there is any Dispute over the data collected to monitor the Supplier's KPI performance or any discrepancy between the KPI data collected by the Customer and that collected by the Supplier the decision of the Customer over which data is valid is to be final and binding, subject to proof of validity.
- 6.6 The Supplier must:
- 6.6.1 deal with any complaints received in connection with the Services in a prompt, courteous and efficient manner;

- 6.6.2 keep written records of all complaints received and of the action taken in relation to each of them;
- 6.6.3 Keep those records available for inspection by the Customer at any reasonable time, on giving reasonable notice and in adherence to the Suppliers safety and security procedures.
- 6.6.4 promptly provide all information the Customer reasonably requires in order to deal with any complaints the Customer receives in connection with the Services or the Supplier; and
- 6.6.5 co-operate with the Customer in responding to Ombudsman enquiries in relation to the Services and reimburse the Customer any compensation recommended to be paid as a result of the Supplier's default.

7 PAYMENT

- 7.1 The Price payable for the Services (or for the Services in each Order, as applicable) will be calculated in accordance with Schedule 3 *Payment to this Contract*.
- 7.2 Where the Contract Particulars so specify, the Customer may deduct Service Credits from the Price in accordance with the Payment Mechanism.
- 7.3 Amounts payable under this Contract are subject to the addition of VAT at the applicable rate.
- 7.4 The Supplier must submit a consolidated VAT invoice to the Customer for the Services monthly in arrears within 7 (seven) calendar days of the end of each month . Each invoice must state the Price payable in respect of all Services completed (where their Completion Dates have occurred). The Supplier must include such supporting information reasonably required by the Customer to verify the accuracy of the invoice, including any relevant Order numbers. No sums will be due under this Contract in respect of any invoice unless that invoice is accompanied by such information as the Customer has specified that it requires. If an invoice is submitted late, no sums will be due in respect of that invoice until after the end of the month in which it is submitted.
- 7.5 Provided Goods and/or Services have been received and comply with the requirements of the Contract and have been accepted by the Client in accordance with the Contract, the Contractor shall be entitled to claim payment of the Price, as agreed and detailed on the Purchase Order. Payment 30 days following the date of invoice provided always that the Goods and/or Services have been properly delivered in accordance with the Contract
- 7.6 The Customer may set off any money it is owed by the Supplier against any amounts due to the Supplier under this Contract subject, where the Construction Act applies to the Services, to the Customer serving a notice of intention to pay less at least 3 (three) calendar days before the final date for payment of the amount due.
- 7.7 The final date for payment of the amount due under each invoice is the date 30 (thirty) calendar days from the date of the invoice being regarded as valid and undisputed (which shall be regarded as the earlier of the date of the Customer's notification under Condition 7.4 or the date 7 (seven) days after the date of the invoice). Interest is payable on any amounts which are not paid by that date at the Interest Rate from the final date for payment to the actual date of payment (inclusive of both dates).
- 7.8 The Price is paid for the performance of all the Supplier's obligations under this Contract and no additional payment or reimbursement of expenses is to be made by the Customer other than as set out in the Order.

- 7.9 Where the Contract Particulars provide for the Prices to be adjusted by Review on the Review Date at the start of each Contract Year, monetary amounts set out in the Payment Mechanism are to be varied in line with the Review as set out in Schedule 3 Payment to this Contract as agreed by the Parties and the Procurement Agent, and the revised amounts will apply to all Orders issued after that date.
- 7.10 Where at any time the Customer is a 'contractor' under the CIS:
- 7.10.1 any obligation of the Customer to make any payment under this Contract is subject to the CIS;
- 7.10.2 the Supplier must provide such information as the Customer requires from time to time to verify the deduction status of the Supplier; and
- 7.10.3 the Supplier must notify the Customer in writing if at any time its CIS status changes.
- 7.11 Where the Price includes a refundable deposit on a container or other packaging, the Supplier must collect the container or packaging from the Customer at its own cost when requested to do so by the Customer. The Supplier must also refund the deposit to the Customer within 5 (five) Working Days of the date on which the Customer authorises the Supplier to collect the container or packaging.
- 7.12 The Supplier must pay to the Procurement Agent the Framework Services Fees (as defined in the Framework Agreement) payable under Schedule 6 Framework Services of the Framework Agreement (including after any expiry or termination of the Framework Agreement) for the full period from the Starting Date until the Termination Date, whether or not the Termination Date of this Contract is later than the date the Framework Agreement terminates.
- 7.13 The Supplier shall not claim or seek to enforce any lien, charge or other encumbrance over any property of any nature owned by the Customer which is for the time being in the provision of the Supplier in connection with providing the Services.

8 SUBCONTRACTING, ASSIGNMENT AND PAYMENTS TO SUBCONTRACTORS

- 8.1 The Supplier must not subcontract or assign any of its obligations under this Contract or assign or transfer the benefit of its rights under this Contract, or any part, share or interest in this Contract without the written consent of the Customer.
- 8.2 Where the Supplier subcontracts any of its obligations in accordance with Condition 8.1, the Supplier is to remain liable for the performance of its Subcontractors.
- 8.3 Where the Customer so requires when approving a subcontract under Condition 8.1, the Supplier must procure that its Subcontractor provides a collateral warranty satisfactory to the Customer within 10 (ten) Working Days of the date of the subcontract.
- 8.4 The Customer may assign or transfer the benefit of any or all of its rights under this Contract, or any part, share or interest in the Contract to any successor in title of the Customer with the prior written consent of the Supplier (such consent not unreasonably to be withheld or delayed). This assignment will be effective when written notice of the assignment is served on the Supplier.
- 8.5 The Customer may require the Supplier agree to enter into a deed of novation to transfer both the Customer's rights and obligations under this Contract to any public or local authority, or to any other PfH Member which is a contracting authority, through a deed of novation in such form as the Customer reasonably requires and agreement from the Supplier will not be unreasonably withheld.

- 8.6 The Supplier assigns to the Customer the benefit of all product warranties given by Subcontractors in connection with the Services or any materials provided in connection with them.
- 8.7 Where the Supplier enters into a Subcontract, the Supplier must include in that subcontract provisions:
- 8.7.1 requiring invoices to be considered and verified in a timely fashion;
 - 8.7.2 requiring the payment of undisputed valid and undisputed invoices within 30 (thirty) calendar days of receipt;
 - 8.7.3 providing that where there is an undue delay in considering and verifying an invoice, that invoice is to be regarded as valid and undisputed after a reasonable time has passed; and
 - 8.7.4 requiring the Subcontractor to include provisions having the same effect as this Condition 8.7 in any Subcontract (of any tier in the supply chain) relating to the Services.
- 8.8 Within 5 (five) Working Days of the Starting Date the Supplier must notify to the Customer in writing the names, contact details and (if known) details of legal representatives of each of its proposed Subcontractors. The Supplier must notify the Customer within 5 (five) Working Days of:
- 8.8.1 any change to that information; and
 - 8.8.2 the name, contact details and (if known) details of legal representatives of any new Subcontractors.
- 8.9 The Supplier must take appropriate steps to ensure that there is no slavery or human trafficking in its supply chain and in connection with this the Supplier must:
- 8.9.1 implement due diligence procedures for its Subcontractors;
 - 8.9.2 require all Subcontractors to warrant that, neither the Subcontractor nor any of the Subcontractor's officers or employees:
 - a. have been convicted of any offence involving slavery or human trafficking; or
 - b. have, to the best of the Subcontractor's knowledge, been the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking; and
 - 8.9.3 require all Subcontractors to include provisions having the same effect as in this Condition 8.9 in all Subcontracts (at any stage of remoteness from the Customer in the supply chain) relating to the services.
- 8.10 The Supplier must take reasonable steps to promote the use of small and medium enterprises within its supply chain for delivery of the Services.
- 8.11 The Supplier shall not allow a Subcontractor to Process any Personal Data of which the Customer is Data Controller without the prior written consent of the Customer to that Subcontractor doing so. Where the Supplier wishes a Subcontractor to be able to do so the Supplier shall provide the Customer with such evidence as the Customer requires in order to be satisfied that the proposed Subcontractor is capable of complying with the Supplier's obligations under this Contract and under Data Protection Law in relation to that Personal Data.

- 8.12 Where the Customer allows a Subcontractor to Process Personal Data in accordance with clause 8.11, the Supplier shall:
- 8.12.1 include provisions substantially the same as those in clause 8.11, this clause 8.12 and clause 12 in the subcontract with that Subcontractor; and
 - 8.12.2 provide in the subcontract that the Customer may enforce such obligations directly against the Subcontractor under the Contracts (Rights of Third Parties) Act 1999.
- 8.13 The appointment of a Subcontractor shall not relieve the Supplier from any of its obligations under this Contract and the Supplier shall be liable to the Customer for the performance of the Subcontractor's obligations in relation to Personal Data under this Contract.

9 INTELLECTUAL PROPERTY AND IT SYSTEM

- 9.1 Each Party grants to the other Party an irrevocable, non-exclusive, royalty free licence to copy and use in connection with the project all Documents and Data in which it has Intellectual Property Rights but this licence is not to extend to:
- 9.1.1 copying or using those Documents and Data other than in connection with the Services;
 - 9.1.2 granting any other person, the right to copy or to use those Documents and Data; or
 - 9.1.3 selling, transferring or otherwise disposing of or granting rights in those Documents and Data.
- 9.2 All Intellectual Property Rights in any Documents and Data or any other materials which are produced or developed for or in connection with the Services are to belong to the Party which developed them, notwithstanding any Documents and Data or any other materials which are produced or developed for or in connection with the Services and which use or contain any Background Intellectual Property (whether in whole or in part) shall belong to the owner of that Background Intellectual Property.
- 9.3 The Supplier warrants that all Documents and Data the Supplier makes available to the Customer in connection with this Contract are either its own original property or that the Supplier has the right to licence them to the Customer under Condition 9.1.
- 9.4 To the extent that the Supplier is required to maintain Documents and Data about Residents and/or Properties on the Supplier's ICT system, the Supplier must store such Documents and Data on its ICT system safely and separately from any data not relating to Customer or this Contract.
- 9.5 Both parties warrant that they will:
- 9.5.1 not introduce any virus, Trojan horse, malware, keylogger or other harmful software into the Customer's information technology system; and
 - 9.5.2 regularly check all software and transfer media used in connection with this Contract with an up-to-date virus checker.
- 9.6 The Supplier must notify the Customer promptly and, in any event, within 2 (two) Working Days if it becomes aware of any actual, potential or threatened breach of this Condition 9 or any warranty given in it and indemnify the Customer in respect of all Liabilities the Customer incurs as a result of such breach.

10 CONFIDENTIALITY AND SECURITY OF INFORMATION

- 10.1 Subject to Condition 10.2 each Party will keep confidential any Confidential Information communicated to it by the other on the basis that it is confidential.
- 10.2 Condition 10.1 will not apply to:
- 10.2.1 any disclosure of information that is reasonably required by either Party to perform its obligations under this Contract to persons performing those obligations;
 - 10.2.2 any Confidential Information which is in the public domain other than as a result of a breach of this Condition 10;
 - 10.2.3 any disclosure required by any court order or statutory, legal or parliamentary obligation of the Party making the disclosure or the rules of any government or regulatory authority having the force of Law, including the Information Commissioner or the Information Tribunal (as defined in the FOIA);
 - 10.2.4 any disclosure of Confidential Information which is already lawfully in the possession of the receiving Party, before its disclosure by the disclosing Party;
 - 10.2.5 any disclosure under the Dispute Resolution Procedure; and
 - 10.2.6 any disclosure by either Party for the purpose of the examination, certification and/or audit of that Party's accounts.
- 10.3 Where a disclosure of Confidential Information is made under Condition 10.2 (other than under Conditions 10.2.2, 10.2.3 or 10.2.4) the Party disclosing the Confidential Information will use reasonable endeavours to impose a similar duty of confidentiality on the recipient of the information as that contained in this Condition 10.
- 10.4 For a period of 12 (twelve) years after termination of the Contract the Supplier must maintain full records of:
- 10.4.1 this Contract;
 - 10.4.2 the Services provided under it;
 - 10.4.3 all payments made by the Customer; and
 - 10.4.4 any expenditure of the Supplier that the Customer has reimbursed.
- 10.5 Whenever requested by the Customer the Supplier must make any records it maintains under Condition 10.4 available for inspection and analysis by the Customer's internal or external auditors or representatives of any regulatory body to which the Customer is subject.

11 PUBLICITY

- 11.1 The Supplier must not advertise, publicly announce or undertake any publicity activity that it is undertaking work for the Customer without the prior written consent of the Customer on each occasion. All press releases relating to any contract with the Customer must be approved by the Customer's Communications Team and the Customer given the opportunity to provide a quote in any press release.

12 DATA PROTECTION

- 12.1 Each Party shall comply with Data Protection Law in connection with this Contract. In particular each Party shall Process Personal Data of which the other is Data Controller only in accordance with Data Protection Law and this Contract.
- 12.2 Personal Data shall be treated as Confidential Information under this Contract.
- 12.3 Depending on the factual situation and the Personal Data concerned the Customer and the Supplier may each act as either Data Controller or Data Processor in relation to Personal Data under this Contract. In particular:
- 12.3.1 the Customer is the Data Controller of Personal Data concerning Residents and the Customer's Staff; and
 - 12.3.2 the Supplier is the Data Controller of Personal Data concerning the Supplier's Staff including Apprentices, Trainees and persons undertaking Training Programmes and Work Placements.
- 12.4 The subject-matter, nature and purpose and the duration of Processing and the types of Personal Data and categories of Data Subject in relation to which Personal Data may be Processed under this Contract are set out in the table in the Call-Off Contract.
- 12.5 Where either Party is the Data Processor of Personal Data of which the other Party is the Data Controller the Processing Party shall:
- 12.5.1 do so only on written instructions from the Data Controller (the first such instructions being those set out in this Contract) as revised by the Data Controller from time to time (where applicable) in accordance with clause 12.13;
 - 12.5.2 promptly comply with the Data Controller's written instructions and requirements from time to time, including any requests to amend, delete or transfer Personal Data;
 - 12.5.3 immediately inform the Data Controller if the Data Processor thinks that it has been given an instruction which does not comply with Data Protection Law;
 - 12.5.4 take all reasonable steps to ensure the reliability and integrity of all persons (including Customer Staff and Supplier Staff) whom that Party authorises to Process the Personal Data and ensure that those persons:
 - a. have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - b. do not Process, publish, disclose or divulge any of the Personal Data other than in accordance with this Contract or the written instructions of the Data Controller; and

- c. undergo adequate training in Data Protection Law, the confidentiality, security, use, care, protection and handling of Personal Data and the Data Processor's obligations under this Contract.
- 12.5.5 Fully cooperate with and assist the Data Controller, by having appropriate technical and organisational procedures and measures in place, to give effect to the rights of Data Subjects and, respond to reasonable requests for exercising the Data Subject's rights including Data Subject Access Requests.
- 12.5.6 Process the Personal Data in such a manner that ensures that at all times the Data Controller complies with Data Protection Law;
- 12.5.7 promptly forward any complaint, request (including a Data Subject Access Request), notice or other communication which relates directly or indirectly to the Personal Data or to either Party's compliance with Data Protection Law (including any request from the Information Commissioner), to the Data Controller and not respond to or otherwise deal with such communication except as instructed by the Data Controller or as required by Data Protection Law;
- 12.5.8 keep records of any Processing of Personal Data it carries out on behalf of the Data Controller which are sufficient to demonstrate compliance by the Data Controller and the Data Processor with Data Protection Law;
- 12.5.9 On request, provide the Data Controller promptly with reasonable information that the Data Controller needs to show that both the Data Controller and Data Processor have complied with their data protection obligations under this Contract; and
- 12.5.10 At the option of the Data Controller, which must be made in writing, either irretrievably delete or return all Personal Data of which the other Party is Data Controller, by the date set out in the table in the Call-Off Contract (unless the Data Processor is required by Law to retain that Personal Data) or communicates in writing to the Data Controller that it is required to retain that Personal Data in order to continue to provide services to the Customer. Where, subsequently, the Customer communicates in writing to the Data Processor that it is required to irretrievably delete or return all Personal Data of which the Customer is the Data Controller, the Customer will indemnify the Supplier against performance under this contract associated with Personal Data which is amended or deleted either at the request of the Data Controller or as defined in clause 12.4 of the call-off contract.
- 12.5.11 Subject to clause 12.5.10, The Customer acknowledges that the Supplier may be unable to provide all or any of the Goods and /or Services without access to and processing of Personal Data and accordingly the Customer agrees that it will indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct or indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier arising from the inability of the Supplier to provide (or adequately provide) Goods or Services in accordance with the terms of the contract following an instruction to amend, delete, transfer or return Personal Data or the withdrawal of consent to the processing by the Supplier of any Personal Data
- 12.6 A Party that Processes Personal Data shall maintain appropriate technical and organisational measures to protect that Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction or damage having regard to:

- 12.6.1 the state of technological development;
 - 12.6.2 the cost of implementing any measures;
 - 12.6.3 the nature, scope, context and purpose of the Processing of the Personal Data; and
 - 12.6.4 the harm that might result from any Personal Data Breach including the risk (which may be of varying likelihood and severity) for the rights and freedoms of natural persons.
- 12.7 Security measures maintained under clause 12.6 shall:
- 12.7.1 to the greatest extent possible involve pseudonymisation and encryption of Personal Data;
 - 12.7.2 ensure the ongoing confidentiality, integrity, availability and resilience of the Data Processor's technical and IT systems;
 - 12.7.3 ensure that the availability of and access to Personal Data can be restored promptly following a physical or technical incident; and
 - 12.7.4 include regular testing, assessing and evaluating of the effectiveness of the technical and organisational measures to ensure the security of Processing.
- 12.8 Neither Party shall transfer any Personal Data of which the other is Data Controller outside of the European Union without the prior written consent of the Data Controller. Where the Data Controller consents to such a transfer, the Data Processor shall ensure there is adequate protection, as approved by the Data Controller, for such Personal Data in accordance with Data Protection Law.
- 12.9 A Party acting as Data Processor shall notify the Data Controller immediately if it becomes aware of any Personal Data Breach (however caused). Such notification must:
- 12.9.1 describe the nature of the breach including the categories and number of Data Subjects and records concerned;
 - 12.9.2 communicate the name and contact details of all persons from whom more information can be obtained about the breach;
 - 12.9.3 describe the likely consequences of the breach; and
 - 12.9.4 describe the measures taken by Data Processor and the measures which the Data Processor wishes the Data Controller (at the expense of the Data Processor) to take to address the breach and mitigate its possible adverse effects.
- 12.10 The Data Processor shall give the Data Controller immediate and full co-operation and assistance in relation to any such Personal Data Breach including:
- 12.10.1 taking all reasonable steps, the Data Controller requires to assist in the containment, mitigation, remediation and investigation of such breach;
 - 12.10.2 providing assistance with notifying the Information Commissioner's Office or affected Data Subjects of any breach of Data Protection Law; and
 - 12.10.3 providing the Data Controller promptly with all relevant information in the Data Processor's possession.

- 12.11 A Party that Processes Personal Data as Data Processor shall provide reasonable assistance to the Data Controller where the Data Controller is required by Data Protection Law to carry out any privacy impact assessment or data protection impact assessment in relation to Processing Personal Data.
- 12.12 A Party that is a Data Controller may inspect and audit the other Party's facilities for Processing the Personal Data of which it is Data Controller to ensure they comply with this Contract and Data Protection Law.
- 12.13 A Party that is a Data Controller may revise their instructions to the Data Processor on the Processing of Personal Data at any time if this is necessary or desirable to comply with Data Protection Law. Such revision shall not entitle either Party to any additional payment, lead to any paid or unpaid extension of time or be treated as a variation to this Contract. The Data Controller shall use reasonable endeavours to give the Data Processor as much notice of the revision as possible, consistent with their obligation to comply with Data Protection Law and protect against any Personal Data Breach.
- 12.14 Nothing in this Contract requires either Party to disclose any information to the other Party or any third party if to do so would breach Data Protection Law. If any part of this clause 12 does not comply with Data Protection Law, the Customer and Supplier shall seek direction from the Procurement Agent as to the minimum amendments necessary to ensure compliance. The Parties agree that such amendment shall not be regarded as a variation to this Contract.
- 12.15 Where the Procurement Agent directs and agreement with all parties, the Parties shall replace this clause with any applicable Data Controller to Data Processor standard clauses forming part of an applicable certification scheme (as defined under Data Protection Law). The Parties agree that such amendment shall not be regarded as a variation to this Contract.

13 EQUALITY AND DIVERSITY

- 13.1 The Supplier must adopt policies to comply with its obligations under Equality and Diversity Law.
- 13.2 The Supplier must set out its policy on equality and diversity:
- 13.2.1 in instructions to those concerned with recruitment, training and promotion;
 - 13.2.2 in documents available to the Supplier's Staff, recognised trade unions or other representative groups; and
 - 13.2.3 in recruitment advertisements or other literature.
- 13.3 The Supplier must, on request, provide the Customer with examples of the instructions and other documents, recruitment advertisements or other literature.
- 13.4 The Supplier must, as far as possible comply with all applicable guidance issued by the Equalities and Human Rights Commission and its predecessors.
- 13.5 The Supplier must comply with the Equality Act 2010 on the basis that the Supplier is providing services and exercising public functions under that Act. The Supplier must use all reasonable endeavours to assist the Customer to fulfil its duties under the Equality Act 2010 in relation to the delivery of the Services.
- 13.6 If a finding of unlawful discrimination is made against the Supplier concerning the Services by any court or employment tribunal, or an adverse finding is made in any formal investigation under any body responsible for enforcing Equality and Diversity Law the Supplier must take appropriate steps to prevent repetition of the unlawful discrimination.

- 13.7 The Supplier must, on request, provide the Customer with details of any steps taken under Condition 13.6.
- 13.8 Where the Contract Particulars specify, the Supplier:
- 13.8.1 must not engage in any Extremist activities or espouse Extremist views;
- 13.8.2 must ensure that the Supplier's Staff:
- a. are trained to recognise a person's vulnerability to being drawn into terrorism;
 - b. are aware of available programmes to deal with Extremist activity and Radicalisation; and
 - c. have a good understanding of the Terrorism Prevent Programme.
- 13.8.3 must not do or omit to do anything or cause anything to be done that would cause the Customer or its holding company (if any) to contravene the Terrorism Prevention Duty or incur any liability in relation to the Terrorism Prevention Duty.
- 13.9 The Customer may from time to time require the Supplier to cooperate with its nominated representative in monitoring the Supplier's workforce according to such categories as the Customer specifies in writing to the Supplier.

14 TUPE

- 14.1 Where TUPE applies on the commencement of this Contract, subject to the Contract Particulars, and details of Schedule 2 of the Call-Off Contract 'Specification', which may vary these terms as agreed between the Customer and Supplier, the Supplier must indemnify the Customer and, at the Customer's request, any previous supplier of the Services against all Liability (arising before or after the Starting Date):
- 14.1.1 to any person who is or has been employed or engaged by the Supplier or any Subcontractor as a result of any act, fault or omission of the Supplier and/or any Subcontractor after the Starting Date;
- 14.1.2 to a Transferring Employee, trade union or staff association of employee representative arising from any failure by the Supplier and/or Subcontractor to comply with any legal obligation under any of Regulations 13, 14 or 15 of TUPE;
- 14.1.3 arising from any claim that the change of identity of employer occurring under TUPE to the Supplier or the relevant Subcontractor is significant and detrimental to any Transferring Employee or to any person who would have been a Transferring Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of TUPE) on or before the Starting Date as a result of the change in employer;
- 14.1.4 arising from the Supplier's or a Subcontractor's proposed or actual change to a Transferring Employee's working conditions, terms or conditions or any measures proposed by the Supplier or the relevant Subcontractor which are to the material detriment of any Transferring Employee or any person who would have been a Transferring Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of TUPE) on or before the Commencement Date or date of issue of the Order (as applicable) as a result of any such proposed changes or measures; or
- 14.1.5 arising out of any negligent or other misrepresentation or mis-statement, made by the Supplier or any Subcontractor to the Transferring Employees or their representatives.

- 14.2 Within 3 (three) weeks of a request of the Customer, the Supplier must provide full and accurate Employee Liability Information about all personnel the Supplier and its Subcontractors employ in carrying out aspects of the Services, including all persons who are anticipated will be Returning Employees on the Termination Date.
- 14.3 The Supplier authorises the Customer to use any of the Employee Liability Information as the Customer considers necessary for the purposes of its business or for informing any Successor Supplier or tenderer for any services which are similar to those which may form part of the Services under this Contract.
- 14.4 The Supplier must indemnify the Customer and at the Customer's request any Successor Supplier against all Liabilities arising from any claim by any person as a result of the Supplier or Subcontractor failing to provide or promptly to provide the Customer with any Employee Liability Information or as a result of any material inaccuracy in or omission from the Employee Liability Information.
- 14.5 Where the Contract Particulars state that the Supplier is to bear the risk of any transfers under TUPE, on or around the Termination Date, the Supplier warrants that there will be no Supplier's Staff who transfer to the Customer or any Successor Supplier under TUPE from the Supplier or any Subcontractor on or around the Termination Date, or as defined within the Contract Particulars, or Schedule 2 of the Call-off Contract. If any such Supplier's Staff do transfer, the Supplier must indemnify the Customer and at the Customer's request any Successor Supplier against all Liabilities arising from:
- 14.5.1 any costs of dismissing any such person (whether fairly or unfairly) at any time within the 3 (three) months following the Termination Date or, if later, from the date on which it was discovered they transferred to the Customer or Successor Supplier under TUPE;
- 14.5.2 all costs of the Customer or Successor Supplier employing such person up to the point of their dismissal; and
- 14.5.3 where the Employment Tribunal orders the reinstatement of any such person, all costs of the Customer or Successor Supplier employing them for a period of 18 (eighteen) months from the Termination Date.
- 14.6 The Customer must take and must require a Successor Supplier to take reasonable steps to mitigate any Liabilities under Condition 14.5 but the Liabilities for which the Customer or such Successor Supplier are to be indemnified under Condition 14.5 are not to be reduced for any failure to mitigate to the extent that they have taken reasonable steps to do so.
- 14.7 Where the Contract Particulars specify that the Customer is to bear the risk of any transfers under TUPE, Conditions 14.8 to 14.10 below will apply.
- 14.8 During the 13 (thirteen) weeks before the Expiry Date or after either Party has notified the other that it is terminating this Contract;
- 14.8.1 the Supplier must allow the Customer to communicate with and meet the Relevant Employees and their trade union or employee representatives as the Customer requests;
- 14.8.2 the Provider must not and must procure that Subcontractors do not (in each case) without the prior consent of the Customer, or unless defined within the Contract Particulars or Schedule 2 of the Call-off Contract:
- a. vary or purport to promise to vary the terms and conditions of employment of any employee employed in carrying out any aspect of the Services under the Contract;

- b. increase or decrease the number of employees employed in carrying out any aspect of the Services under the Contract;
 - c. assign, replace or redeploy any employee used in carrying out any aspect of the Services under the Contract to other duties unconnected with the Contract; or
 - d. terminate or give notice to terminate the employment of any employee employed in carrying out any aspect of the Services under the Contract other than for gross misconduct or retirement; and
- 14.8.3 the Supplier must notify the Customer immediately if any employee employed in carrying out any aspect of the Services under the Contract:
- a. is dismissed for gross misconduct;
 - b. gives notice to terminate their employment;
 - c. has their employment terminated for any reason; or
 - d. has a material change to their terms and conditions of employment.
- 14.9 The Supplier must pay all remuneration, benefits, entitlements and outgoings for the Relevant Employees who are the subject of a Relevant Transfer on or around the Termination Date up to the Termination Date. This includes all wages, holiday pay, bonuses, commission, PAYE payments, national insurance contributions, pension contributions and any claims made by those Relevant Employees.
- 14.10 The Supplier will be liable for, and must indemnify the Customer against, any Liability incurred by the Customer or any Successor Supplier due to the employment or termination of employment of any employee of the Supplier or a Subcontractor (including any Relevant Employee) incurred during or relating to any period before the Termination Date.
- 14.11 The Supplier must impose in each contract with all Subcontractors the same terms (or terms materially to the same effect) in relation to Relevant Employees as those imposed on it under this Contract, unless otherwise defined within the Contract Particulars or Schedule 2 of the Call-off Contract, and use all reasonable endeavours to procure that the Subcontractor complies with those terms. The Supplier will be liable for, and must indemnify the Customer against any Liability incurred by the Customer or any Successor Supplier due to any failure by the Subcontractor to comply with those terms.

15 EXTENT OF OBLIGATIONS AND FURTHER ASSURANCE

- 15.1 Nothing in this Contract requires:
- 15.1.1 any Customer to act in any way which is inconsistent with its obligations under PCR 2015 or the Law generally;
 - 15.1.2 any Customer which is a registered provider or registered social landlord (as stated in the Contract Particulars) to act in any way which is inconsistent with its obligations as such;
 - 15.1.3 any Customer which is a charity (as stated in the Contract Particulars) to act in any way which is inconsistent with its charitable status; or
 - 15.1.4 any Customer which is a local authority (as stated in the Contract Particulars) to act in any way which is outside its legal powers or inconsistent with its legal obligations as a local authority.

- 15.2 Subject to Condition 15.1, each Party undertakes) to do all things and execute all further documents that the other may reasonably require to give effect to this Contract.

16 INDEMNITY AND LIABILITY

- 16.1 Without prejudice to the rights of either Party against the other, each Party must indemnify the other against any Liabilities that the other Party incurs arising out of the indemnifying Party's breach of this Contract.
- 16.2 The Supplier must indemnify the Customer against:
- 16.2.1 liability for the death of or personal injury to any person arising out of or in the course of the Services unless it was due to the negligence or default of the Customer;
 - 16.2.2 loss or damage to property including any Property and/or any adjoining property where the Services are to be carried out due to any negligence, default or breach of Law in carrying out the Services or any breach of this Contract. Such loss or damage includes any contamination or pollution caused by the Supplier and any Liability for trespass or nuisance caused by the Supplier's Staff; and
 - 16.2.3 loss or damage to a Property arising from negligence of the supplier due to vandalism or theft and other loss or damage either whilst the Supplier is in possession of a key to that Property or which is caused by the Supplier's Staff or any Subcontractor.
- 16.3 Except for Liability for death and/or personal injury, the Liability of each Party to the other Party for loss or damage under this Contract (including following a breach) will be limited to 125% of the fees due under this contract within the Contract Year in which the claim arose.

17 INSURANCE

- 17.1 Subject to such insurance being available in the market place at commercially reasonable rates and on commercially reasonable terms the Supplier must maintain insurance cover at the levels of the Insurances set out in the Contract Particulars. Such Insurances must be maintained with a substantial and reputable insurance company.
- 17.2 Whenever required to do so by the Customer, and on an annual basis following each renewal, the Supplier must provide the Customer with documentary evidence that the insurances referred to in Condition 17.1 are being properly maintained and that premium payments are up to date.
- 17.3 If any of the Insurances required by this Contract cease to be available at commercially reasonable rates and on commercially reasonable terms, the Supplier must notify the Customer immediately and the Parties will discuss the best way to protect their respective positions. In these circumstances the Customer may terminate this Contract by notice to the Supplier from the point at which the Supplier ceases to be covered as required by Condition 17.1.
- 17.4 If the Supplier fails to maintain any of the Insurances, the Customer may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- 17.5 Each Party agrees not to do anything or omit to do anything, which could make the policies for any of the Insurances referred to in Condition 17.1 void or voidable.

18 FORCE MAJEURE

- 18.1 Neither Party is to be liable to the other for any failure or delay in performing its obligations under this Contract due to any cause beyond its reasonable control ("Force Majeure") including governmental actions, war, riots, civil commotion, fire, flood, epidemic, labour disputes (other than labour disputes involving employees of that Party or its subcontractor's employees), currency restrictions and Act of God.
- 18.2 The date for performance of an obligation which has been delayed by Force Majeure is to be suspended only for the period of delay caused by Force Majeure.
- 18.3 The Party seeking to exempt itself from liability because of this Condition 18 must give written notice to the other Party within 5 (five) Working Days of becoming aware of Force Majeure and must use all reasonable endeavours to mitigate its severity.
- 18.4 The Party seeking to exempt itself from liability because of this Condition 18 is not entitled to payment from the other Party for extra costs and expenses incurred because of Force Majeure.
- 18.5 Either Party may terminate this Contract by giving immediate notice to the other Party if Force Majeure continues for a period of 2 (two) months or more.

19 CORRUPTION, BRIBERY AND CONFLICTS

- 19.1 The Customer may terminate this Contract for Supplier Default immediately by written notice and recover from the Supplier the amount of any loss resulting from such termination if:
- 19.1.1 the Supplier has offered or given or agreed to give the Customer, or any person connected with any gift or consideration of any kind as an inducement or reward for:
- a. doing or not doing or having done or not having done any action in relation to the obtaining or execution of this Contract or any other contract with the Customer; or
 - b. showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Customer;
- 19.1.2 the Supplier has committed any offence under the Bribery Act 2010 or, where the Customer is a local authority, the Supplier has offered or given any fee or reward the receipt of which is an offence under the Local Government Act 1972; or
- 19.1.3 the acts referred to in Condition 19.1.1 or Condition 19.1.2 have been done by any person employed by the Supplier or acting on the Supplier's behalf (whether without or with the Supplier's knowledge).
- 19.2 Where the Customer is a registered provider or a registered social landlord, the Supplier must not do anything which would place the Customer in breach of the prohibition in Section 122 of the Housing and Regeneration Act 2008 or the Customer's Probity Policy provided that a copy has been supplied to the Supplier.
- 19.3 The Supplier must take appropriate steps to ensure that neither the Supplier nor any of the Supplier's Staff are placed in a position where (in the reasonable opinion of the Customer) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or the Supplier's Staff and the obligations owed to the Customer under this Contract.
- 19.4 The Supplier must promptly notify and provide full particulars to the Customer if any conflict referred to in Condition 19.3 above arises or is reasonably foreseeable to arise.
- 19.5 The Customer reserves the right to terminate this Contract immediately by giving notice in writing to the Supplier and/or to take such other steps it deems necessary where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Customer under the provisions of this Contract. The action of the Customer pursuant to this Condition will not prejudice or affect any right of action or remedy which will have accrued or will thereafter accrue to the Customer.

20 TERMINATION

- 20.1 The Customer may terminate this Contract for Supplier Default by written notice to the Supplier with immediate effect if:
- 20.1.1 the Supplier commits a material breach of this Contract which is not remedied to the satisfaction of the Customer within 10 (ten) Working Days of written notice from the Customer notifying the Supplier of the breach and stating that if it is not remedied this Contract will be terminated;

- 20.1.2 the Supplier or anyone for whom the Supplier is responsible has acted fraudulently or made a fraudulent misrepresentation in connection with the Services;
- 20.1.3 the Supplier or anyone for whom the Supplier is responsible has offered or agreed to give any person working for or engaged by the Customer any gift or consideration in relation to this Contract or any other contract between the Supplier and the Customer as set out in Condition 19 *Corruption, Bribery and Conflict*;
- 20.1.4 the Supplier:
- a. enters into any composition or arrangement with its creditors or ceases or threatens to cease to pay a material part of its debts;
 - b. becomes the subject of a voluntary arrangement under Section 1 of the Insolvency Act 1986;
 - c. is unable to pay its debts as defined in Section 123 of the Insolvency Act 1986 (omitting the words, "it is proved to the satisfaction of the Court that");
 - d. passes a resolution to wind up;
 - e. has a petition presented to Court or an order made for its winding up;
 - f. suffers any distraint, execution, attachment or other legal process being levied or enforced on any of its property which is not paid out, withdrawn or discharged within 14 (fourteen) days;
 - g. has a petition presented for an administration order;
 - h. has an encumbrancer take possession of or a receiver, manager, administrator or administrative receiver appointed over or a secured creditor seek to enforce its security over any of its property;
 - i. fails to honour any guarantee or indemnity it has given of any loans or debts of a third party which has become due and called upon and steps have been taken to enforce it; or
 - j. is subject to an equivalent insolvency related procedure in any part of the world;
- 20.1.5 the Supplier is found to have committed any of the offences listed in Regulation 57(1) of the Public Contracts Regulations 2015;
- 20.1.6 the Supplier or any of the Supplier's Staff are found to have committed any offence involving slavery or human trafficking; or
- 20.1.7 the failure of the Services to pass the Acceptance Tests has given rise to the Customer's right to terminate under Condition 5 *Acceptance Tests*.
- 20.2 The Supplier may terminate this Contract for default by the Customer by written notice to the Customer with immediate effect if:
- 20.2.1 the Customer commits a material breach of this Contract which either deprives the Supplier of the majority of the Supplier's benefits under this Contract or makes it impossible or particularly onerous for the Supplier to perform the Supplier's obligations under it and which is not remedied to the satisfaction of the Supplier within 10 (ten) Working Days of written notice from the Supplier notifying the Customer of the breach and stating that if it is not remedied this Contract will be terminated;

20.2.2 the Customer fails to pay any undisputed amount that is due and payable to the Supplier under this Contract by a date 30 (thirty) calendar days from the date of a notice of non-payment (which may not be the Supplier's invoice) from the Supplier served on the Customer stating:

- a. that it is a notice of non-payment under this Condition 20.2.2;
- b. the amount outstanding, how it is calculated and the date on which it was invoiced to the Customer;
- c. what that amount relates to (in terms of specific Orders or Services);
- d. when that amount became due; and
- e. that if such amount is not paid within 30 (thirty) days of the notice this Contract will be terminated by the Supplier for default by the Customer; or

20.2.3 the Customer:

- a. enters into any composition or arrangement with its creditors or ceases or threatens to cease to pay a material part of its debts;
- b. becomes the subject of a voluntary arrangement under Section 1 of the Insolvency Act 1986;
- c. is unable to pay its debts as defined in Section 123 of the Insolvency Act 1986 (omitting the words, "it is proved to the satisfaction of the Court that");
- d. passes a resolution to wind up;
- e. has a petition presented to Court or an order made for its winding up;
- f. suffers any distraint, execution, attachment or other legal process being levied or enforced on any of its property which is not paid out, withdrawn or discharged within 14 (fourteen) days;
- g. has a petition presented for an administration order;
- h. has an encumbrancer take possession of or a receiver, manager, administrator or administrative receiver appointed over or a secured creditor seek to enforce its security over any of its property;
- i. fails to honour any guarantee or indemnity it has given of any loans or debts of a third party which has become due and called upon and steps have been taken to enforce it; or
- j. is subject to an equivalent insolvency related procedure in any part of the world;

20.3 The Customer may terminate this Contract at any time after the Initial Period by giving the Supplier not less than the period of notice set out in the Contract Particulars to do so. Notice may be given during the Initial Period to expire after it has ended. Notice to terminate under this Condition will be valid only if given in writing.

20.4 The Supplier may terminate this Contract at any time after the Initial Period by giving the Customer not less than the period of notice set out in the Contract Particulars to do so. Notice may be given during the Initial Period to expire after it has ended. Notice to terminate under this Condition will be valid only if given in writing.

- 20.5 Either Party may terminate this Contract with immediate effect by giving the other Party written notice if:
- 20.5.1 any of the Insurances the Supplier is required to maintain under Condition 17 Insurance ceases to be available at commercially reasonable rates;
 - 20.5.2 the European Court of Justice orders that this Contract is set aside because of a serious infringement of the EU Treaty or a court orders that this Contract is set aside because of a substantial modification; or
 - 20.5.3 Force Majeure occurs for a period of more than 2(two) months or more and that Party wishes to terminate this Contract under Condition 18.5.
- 20.6 Termination of this Contract is without prejudice to the rights and duties of either Party accrued due before termination or to any provisions which are intended to survive termination.
- 20.7 Condition 28 *Informal Dispute Resolution* will not apply to any issues concerning termination of this Contract.

21 CONSEQUENCES OF TERMINATION

- 21.1 On termination of this Contract the Supplier must co-operate fully with the Customer and/or any Successor Supplier in relation to the legal and operational handover of responsibilities between the Supplier and the Customer or the Successor Supplier.
- 21.2 The Supplier must use all reasonable endeavours to procure that the benefit of any guarantees and warranties relating to the Services that are in force on the Termination Date are assigned to the Customer or as the Customer may instruct and the Supplier must provide details of all such guarantees and warranties.
- 21.3 Within 5 (five) Working Days of the Termination Date, the Supplier must:
- 21.3.1 return all Documents and Data provided by the Customer;
 - 21.3.2 provide copies of all other Documents and Data used in connection with the Services to the Customer; and
 - 21.3.3 return all keys, passes, door entry codes and other information relating to the Properties.
- 21.4 The Supplier must deliver all materials and equipment paid for by the Customer to the Customer or as the Customer directs within 10 (ten) Working Days of:
- 21.4.1 the Termination Date, where the reason for termination is any reason other than breach of this Contract by the Customer; or
 - 21.4.2 the date on which the Supplier receives payment for those materials and equipment where termination is affected by the Customer under Condition 20.2 *Customer's Breach*.
- 21.5 Where the Contract has been terminated for Supplier Default in accordance with Condition 20.1 *Termination* no further payments will become due following the Termination Date until the earlier of:
- 21.5.1 the date 6 (six) months from the Termination Date; or
 - 21.5.2 the date when the Customer has quantified its costs relating to termination (which the Customer may deduct from any sums due to the Supplier), including:

- a. the cost to the Customer of the time spent by its officers in connection with such termination and in making alternative arrangements for the Services; and
- b. any additional costs (including retendering costs) incurred by the Customer in arranging for a Successor Supplier to provide the Services or, where the Services are instructed through Orders, the Services that the Customer would have been reasonably likely to instruct through Orders, up to the date which would have been the Expiry Date or, if earlier, the first date on which the Supplier could have terminated this Contract under Condition 20.4 Termination through serving a break notice on the Customer had it not been terminated for Supplier Default.

22 WAIVER AND SEVERABILITY

- 22.1 A failure or delay in exercising any rights, powers or privileges under this contract will not operate as a waiver of them.
- 22.2 The single or partial exercise of any right, power or privilege does not prevent any other exercise of that right, power or privilege or the exercise of any other right, power or privilege (whether arising out of the same factual situation or otherwise).
- 22.3 Any waiver of a breach of this Contract is not to be effective unless given in writing signed by the Party waiving its entitlement.
- 22.4 No waiver is to be deemed a waiver of any subsequent breach or default nor is it to affect the other terms of this Contract.
- 22.5 The receipt of money does not prevent the Party receiving it questioning the correctness of the amount or any other statement in respect of money.
- 22.6 If any term of this Contract is illegal, void or unenforceable the remainder of this Contract will continue in force as though that term had not been included in it.

23 VARIATIONS

- 23.1 No variation of this Contract is to bind either Party and no person has authority on behalf of either Party to agree to any variations to this Contract except where the amendment is agreed to in writing by both Parties.
- 23.2 No consents to any variation to this Contract are required from any person who is not a Party.

24 ENTIRE AGREEMENT

- 24.1 This Contract and any Orders issued under it set out the whole agreement between the Parties in relation to the Services. This Contract supersedes and invalidates all other commitments, representations and warranties relating to its subject matter which either Party has made orally or in writing.
- 24.2 Each Party warrants that it has not entered into this Contract on the basis of any representation made by the other except to the extent that such representation is expressly included in it (but nothing in this Condition 24.2 excludes any liability for fraudulent misrepresentation).

25 THIRD PARTIES

- 25.1 The Procurement Agent may enforce Condition 7.12 *Payment* requiring the Supplier to pay sums due under Schedule 6 *Framework Services* of the Framework Agreement in accordance with the Contracts (Rights of Third Parties) Act 1999 even though the Framework Agreement may have been terminated.
- 25.2 Any member of the Customer's Group for whose benefit any Services are provided, or who issues an Order for Services under Condition 2.2 *Supplier's Obligations* may enforce the Supplier's obligations in relation to the provision of those Services.
- 25.3 Where the Customer is an arm's length management organisation ("ALMO") of a local authority, the provisions of this Contract shall be deemed to be for the benefit of the local authority specified in the Contract Particulars of which it is an ALMO, and that local authority may enforce this Contract in accordance with the Contracts (Rights of Third Parties) Act 1999.
- 25.4 Other than in relation to the rights referred to in Conditions 25.1, and 25.2 and 25.3 nothing in this Contract will confer any benefit on a person who is not a Party to it or give any such third party a right to enforce any of its terms.

26 NO PARTNERSHIP OR AGENCY

- 26.1 Nothing in this Contract is to constitute or be deemed a partnership within the meaning of the Partnership Act 1890, the Limited Partnerships Act 1907, the Limited Liability Partnerships Act 2000 or any other law concerning partnerships or limited liability partnerships.
- 26.2 Neither Party will hold itself out as the agent of the other or have any authority to bind the other except to the extent that this Contract expressly provides otherwise.

27 NOTICES

- 27.1 Notices or other communications under this Contract will be duly served if given by and sent to the nominated representative of the Party to be served in accordance with the following table with the date of service and method of proof being as set out in it:

Method of service	Date of service	Proof of service
Personal delivery of a letter addressed to the Party to be served at the address for service.	Day of delivery if before 16.00 on a Working Day otherwise 10.00 on the next Working Day thereafter.	Proof of delivery.
First class letter addressed to the Party to be served at its address for service.	48 hours after posting if that is a Working Day otherwise 10.00 on the next Working Day thereafter.	Proof of posting unless returned through the Post Office undelivered service within 21 days of posting.
Email to the Party at the email address for service set out below.	Day of transmission if before 16.00 on a Working Day otherwise 10.00 on the next Working Day thereafter.	Transmission report showing a successful transmission to the correct email address and evidence of the email having been opened.

- 27.2 Each Party's address for service is its registered office where it has one. Where the Supplier does not have a registered office the Supplier's address for service is the address set out at the start of this Contract or such other address as it notifies to the Customer in writing.
- 27.3 The nominated representatives of the Parties for the service of formal notices under this Contract and their email addresses are as set out in the Contract Particulars.
- 27.4 Notices under Condition 20 *Termination* or 28 *Informal Dispute Resolution* may not be served by email.

28 INFORMAL DISPUTE RESOLUTION

- 28.1 Each Party agrees to attempt to resolve any Disputes which it has with the other amicably but nothing in this Condition 28 is to prevent the exercise by a Party of its other rights under this Contract or to apply to termination of this Contract.
- 28.2 If a Party considers that a Dispute has arisen it may write a letter to the other Party specifying:
- 28.2.1 what the Dispute is alleged to be;
 - 28.2.2 what steps should be taken to resolve the Dispute; and
 - 28.2.3 within what reasonable period such steps should be taken.

- 28.3 If the Dispute is not resolved within the period set out in the letter then representatives of the Parties must meet within a further period of 10 (ten) Working Days to discuss the Dispute.
- 28.4 If the Dispute is still not resolved within 10 (ten) Working Days of the date of the meeting at which the Dispute is considered then the Chief Executive/Managing Director of each Party must meet within a further 10 (ten) Working Days to seek to resolve it.

29 ADJUDICATION

- 29.1 If the Contract is a construction contract to which the Construction Act applies and a Dispute arises which either Party wishes to refer to adjudication the Scheme will apply, subject to the following:
- 29.1.1 the adjudicator may decide upon his/her own substantive jurisdiction and the scope of the adjudication;
 - 29.1.2 the adjudicator must provide reasons for the decision unless both Parties agree otherwise; and
 - 29.1.3 the adjudicator may correct any clerical error or mistake arising from an accidental slip or omission in a decision within 10 (ten) Working Days of the date of the decision or such shorter period as the adjudicator specifies in the decision.
- 29.2 If the Parties cannot agree the identity of the adjudicator in accordance with the Scheme, the adjudicator is to be nominated by the body stated in the Contract Particulars on the application of either Party.

30 GOVERNING LAW AND ENFORCEMENT

- 30.1 The formation, construction, performance, validity and all aspects of this Contract are to be governed by the laws of the jurisdiction set out in the Contract Particulars.
- 30.2 The Parties agree to submit to the exclusive jurisdiction of the courts of the jurisdiction set out in the Contract Particulars in relation to any Dispute under this Agreement.

31 COUNTERPARTS

- 31.1 This Contract may be executed in two or more counterparts each of which will be deemed to be an original but the counterparts will together constitute one and the same contract.

[REDACTED]
Control Centre & Resilience Lead
Folkestone & Hythe District Council
Civic Centre
Castle Hill Avenue
Folkestone
Kent
CT20 2QY

05/04/2022

Our Ref: THNB/6409c

Dear [REDACTED]

Legrand Care Answerlink SaaS ARC Platform Costs

Further to our meeting and subsequent discussions, I have pleasure in offering you the following costs quotation for your approval.

The costs are based on the information provided so far and include a Primary SaaS platform replicated to an identical Secondary SaaS Platform for built-in resilience and business continuity.

The minimum term of the contract will be set at 4 Years with the option to extend by 1 year up to a total of 7 Years (4+1+1+1).

If you have any further questions, please do not hesitate to contact me.

Kind Regards,

[REDACTED]
Technical Sales Consultant
[REDACTED]

Proposal

To supply a Primary and Secondary SaaS Platform with concurrent user licences allowing access to the platform from any PC, Laptop or Tablet via an HTML5 compatible web browser. Our costs also include the migration of the current Database into our platform which is a tried and tested process which we have had in place for many years with a great degree of accuracy and success.

Legrand Care Answerlink SaaS Solution, Business Continuity and Disaster Recovery

Resilience

Legrand Care Support Teams provide support for the Answerlink SaaS platform 24 hours per day 365 days per year. In the event of an issue with you accessing the SaaS Platform, or the SaaS platform is unavailable, as part of an effective business continuity and disaster recovery solution, Legrand Care will provide a DR Secondary SaaS with full Call Handling capacity to ensure continued delivery of service. Real-time bi-directional data replication between the Primary SaaS and Secondary SaaS platforms also ensures that data is kept in sync on both platforms should disaster recovery processes be initiated.

Answerlink automatically alerts users at both sites if data connectivity for replication is lost. For minor issues, the system has been designed to self-heal. In the case of a call handling computer failing, any calls in progress are automatically re-queued and can be picked up from another terminal. In addition, we configure the system to automatically generate encrypted backups of data. These full back ups are normally scheduled every 24 hours. We have attempted to automate all system maintenance tasks including database optimisation and backup.

Answerlink SaaS Platform

The Answerlink SaaS platform is hosted in an ISO27001 Certified Secure Data Centre in the UK whereby the Answerlink platform Servers/Telecoms architecture and client application are hosted by Legrand Care, allowing you to remotely connect to the platform to access and administer your client data as well as handle alarm and voice calls.

This negates the need for you to physically host and support this IT architecture on your premises or supply the required telephone lines for handling the alarm and voice calls. You simply subscribe to this service, where Legrand Care provide the SaaS solution rather than supply and support it on-premise which is in line with your 'Cloud First' corporate IT strategy. All support for any servers and infrastructure in the SaaS environment will be fully supported by Legrand Care.

Answerlink Secondary SaaS (DR)

The design of the solution has ensured 100% availability of monitoring services for our entire customer base. Availability is defined to mean that the service is functioning at least at one site (Primary or Secondary SaaS).

As part of the service provided by Legrand Care, there will be a separate dedicate Secondary SaaS (DR) platform to replicate the existing infrastructure of the Primary SaaS. Therefore, in the event of you being

unable to access the Primary SaaS platform or should there be an infrastructure or resource failure of the SaaS platform, your alarm and voice calls will be routed to the Secondary SaaS.

Real-time data replication operates between the Primary SaaS platform and the Secondary SaaS platform ensuring that any data updates are replicated in real-time between both platforms and in both directions. Therefore, client record changes and call logs are replicated on both platforms in real-time regardless of which platform is handling calls at the time.

In the event of a loss of network connectivity between the Primary and Secondary SaaS platform, all site systems remain live and in use for call handling and data editing etc. It simply means that any data changes are no longer being replicated to the other system. In this case, any changes are stored and sent as soon as connectivity is restored.

Telephony

Included within our solution is the provision of the Telephony connections for the Primary and Secondary SaaS platforms to allow the receiving and handling of the customers alarm and voice calls.

This includes the provision of ISDN30/SIP circuits (for handling analogue alarm calls and voice calls) and BOVPN's (for the handling of IP alarm calls). The Answerlink platform therefore supports the seamless monitoring of analogue and digital (IP) alarm calls.

The platform is supplied fully enabled to handle your IP switchover; however, it is your responsibility to switch out alarm equipment from Analogue Alarms to IP Alarms. As you start to switch out the Analogue alarm equipment for IP enabled equipment, the platform is ready to accept these alarms without any changes required to the platform, thus providing you with a seamless transition to IP monitoring.

Analogue Alarm Call Routing

The emergency telephone number programmed in the alarm units which you monitor should be a non-geographic telephone number or SmartNumber belonging to you.

You will then have access to an on-line web portal to control which landline number the NGN/SmartNumber forwards calls on to. Ordinarily, this will be the Primary SaaS platform telephone lines (DDI's), but if calls need to be routed to the Secondary SaaS platform, you can use the web portal to immediately change the call routing to the telephone lines (DDI's) at the Secondary SaaS site.

If you do not currently have or own a non-geographic telephone number or SmartNumber for alarm call routing, please request further details.

IP Alarm Call Routing

TS50134-9 (SCAIP) Dispersed Alarms

SCAIP IP Dispersed alarms are fitted with Voice & Data SIM cards. SCAIP alarm messages are sent as SIP data messages to the Answerlink platform over a secure VPN between the SIM provider and the Answerlink Primary SaaS and Secondary SaaS platforms. The SaaS platform is connected to the major

Telecare SIM provider such as 'CSL' or 'Mobiuss' to allow the monitoring of a range of SCAIP alarm units. Secure VPN connectivity to other SCAIP Telecare SIM providers can be configured as needed.

BS8521-2 (NowIP) Grouped Living Alarms

A BOVPN is required between each NowIP Grouped Living Alarm system (Warden Call system) and the SaaS platform. This can be established as and when a NowIP Grouped Living Alarm system is commissioned and requires monitoring. With the NowIP alarm protocol, the call audio is streamed to the Answerlink platform using 'Voice over IP' (VoIP).

Call Handling Capacity

ISDN30/SIP

Analogue alarm calls, the Voice path of SCAIP calls and general voice calls are all handled on the ISDN30 or SIP circuit (whichever is configured for use). The ISDN30/SIP channels are then split into two groups by the Answerlink platform, these groups are 'Alarm call handling channels' and 'Non-alarm call handling channels' (e.g. voice calls, Lone worker calls Login etc). The number of ISDN30/SIP channels enabled on the Primary SaaS and Secondary SaaS platform will be scaled sufficiently to meet your need.

IP Alarm channels

IP Alarm channels are used to monitor NowIP Grouped Living Alarms. The number of IP Alarm channels enabled on the Primary SaaS and Secondary SaaS platform will be scaled sufficiently to meet your need.

Operator Call Handling Operator Stations

The softphone application will be installed on the corporate Laptops/PC's to be used for Call Handling and deployed by your IT team. It can also be deployed to an unlimited amount of end user devices, however the maximum amount of call handling operators who can be logged on simultaneously is restricted to the number of Operator Call Handling Station licences provided. We have matched this to your existing licences.

Voice Recording

All calls handled on the SaaS platform are voice recorded allowing users to playback voice recordings via the Answerlink application call history section within the client record (providing they have been assigned playback security permissions). Voice Recording is enabled on both the Primary SaaS and Secondary SaaS platform.

Call Charges

Included within the annual subscription charges of the SaaS platform is a call plan that includes free calls to 01, 02 and 03 landline telephone numbers and UK mobile telephone numbers. Any call charges incurred outside of the call plan will be charged in arrears at the prevailing rate plus a 15% admin fee.

Operator Call Handling Experience

The Legrand Care solution uses the Answerlink client application to display and accept assistive technology calls via an HTML5 compatible Web Browser. Client information is held in the Answerlink database (Microsoft SQL) and is maintained and displayed by the Answerlink client application. The

platform processes incoming assistive technology calls and uses SIP to route calls to the operators' headset via the 3CX softphone installed on to the corporate PC, Laptop or Tablet.

When the operator accepts the assistive call, it is routed to their softphone in less than a second. If during this time (sub second) the operator's extension is not available, the Answerlink system prevents queuing of the assistive call by automatically detecting the busy signal from the operator's extension, the alarm call is then automatically re-presented on the Answerlink calls waiting screen and is immediately available to be accepted by the next available operator.

Application and Data Security

SaaS Platform Security

The Answerlink SaaS platform is hosted in two separate ISO27001 Certified Secure Data Centres in the UK.

The SaaS platform is installed with market leading Anti-virus software, Firewalls, Intrusion Detection Systems and is subject to annual external (3rd party) Security Penetration Testing. A dedicated SaaS environment is setup for each customer ensuring that there is no possibility of data cross over between other customers using our SaaS platform.

The Answerlink software is built on Microsoft .Net Framework and the Database hosted on Microsoft SQL Server.

In line with best practice, Microsoft security patches are applied on a monthly basis.

SaaS Platform connectivity

In line with best practice for data security, we recommend that our customers establish a secure Site to Site VPN connection (Virtual Private Network) between the customer network and the Answerlink SaaS platform. This will allow users to access the Answerlink platform securely and remotely from any device (PC, Laptop, Tablet etc) on their corporate network. It is also possible to set up and utilise Two Factor Authentication (2FA) in place of a Site to Site VPN if this is the preferred method of connectivity.

Users will simply open a HTML5 web browser (such as Internet Explorer, Edge, Chrome, Firefox etc) to access the Answerlink application. Users will then be prompted to login to the Answerlink Application and input the extension number of the phone that they require their calls to be routed to.

To allow calls to be routed to users (operators), Legrand Care will supply a 3rd party softphone application (3CX) for end user devices (PC's, Laptops, Tablets etc) which will be used for handling calls. The call audio will be routed using Voice over IP (VoIP) from the SaaS platform to the operator softphone and the supplied USB Headset/Mics.

Remote Workers

To best protect the integrity of the Answerlink platform and to best secure your client data, we recommend the SaaS platform is not directly exposed to the public Internet. We therefore recommend that all connectivity into the platform is via Branch Office (Site to Site) VPN.

The BOVPN to the customer network ensures that only users authenticated on the customers corporate network (via Active Directory user management) can physically access the Answerlink SaaS platform, as this is managed by the corporate IT team. This can include Remote Workers too who would remotely connect and authenticate into the corporate network via the existing corporate SSL client or Remote Access Gateway.

This method of connectivity to the SaaS platform is not only the most secure and easy to manage from a corporate IT team perspective, but also means no dedicated SSL VPN client is required with Two Factor Authentication (2FA) for each user requiring access to the SaaS platform. We can however provide this solution if this is your preferred option for remote workers or all office workers too.

Application Security

The management of User Permissions within the Answerlink application is as defined by the customers' nominated 'Answerlink Administrators' and is set within the 'Security Module' of the Answerlink application. Permissions are assigned to named 'Groups' of users, then Users are assigned into each user group. We therefore recommend that the 'Answerlink Administrators' also manage User Accounts for the Answerlink application.

Annual Costs Over a 4 Year Term

Annual SaaS Subscription Fee (payable annual in advance)

Year 1: 2022 - £28,622.04
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Total 4 Year Cost **£119,743.94**

Option to extend

Year 5: 2026 - £32,214.36
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 Year 7: 2028 - £34,176.21

Total 7 Year Cost **£219,315.30**

(The annual SaaS subscription fee is fully inclusive of 24/7/365 support, maintenance and Software Assurance ensuring you will always be operating from the latest version of the Answerlink software)

PLEASE NOTE

Due to Legrand Care's Policy of continuous development, we reserve the right to submit another product of equal or similar specification. Any additional work required will be charged for separately.

This quotation is valid for a period of 30 days and if is accepted is made strictly subject to our standard terms and conditions and software support agreement as amended from time to time.

Payment Profile

Orders over £10,000 will be subject to the following payment profile:

- Delivery 40%
- Installation 40%
- Go-live 20%

E&OE

All prices exclude VAT

Acceptance by customer

We the undersigned accept that a Purchase Order for the stated annual cost + VAT will be issued per annum in advanced for a period of 4 years unless extended in 1 Year increments up to a total of 7 years for the services stated within this quotation.

Signed on behalf of Folkestone & Hythe District Council:

Signature:

Name:

Position:

Date:

Data Processing Addendum

**In relation to: Jontek Maintenance and Support
Agreement**

**Between
Folkestone & Hythe District Council**

**And
Jontek – a business unit of Legrand Electric
Limited**

This Data Protection Addendum ("**Addendum**") forms part of the "Agreement for the Maintenance of the Answerlink Assisted Living Monitoring Platform" ("**Principal Agreement**")

Between:

- I. Legrand Electric Limited a UK Company with its principal place of business at Great King Street North, Birmingham B19 2LF. ("**Jontek**")

And

- II. Folkestone & Hythe District Council ("**The Customer**" and together with Jontek, the "**Parties**").

The terms used in this Addendum shall have the meanings set forth in this Addendum. Capitalised terms not otherwise defined herein shall have the meaning given to them in the Principal Agreement. Except as modified below, the terms of the Principal Agreement shall remain in full force and effect.

In consideration of the mutual obligations set out herein, the parties hereby agree that the terms and conditions set out below shall be added as an Addendum to the Principal Agreement. Except where the context requires otherwise, references in this Addendum to the Principal Agreement are to the Principal Agreement as amended by, and including, this Addendum.

1. Definitions

- 1.1 In this Addendum, the following terms shall have the meanings set out below, and cognate terms shall be construed accordingly:
 - 1.1.1 "**Applicable Laws**" means (a) UK laws with respect to any Company Personal Data in respect of which The Customer is subject to UK Data Protection Laws; and (b) any other applicable law with respect to any of The Customer's Personal Data in respect of which The Customer is subject to any other Data Protection Laws.
 - 1.1.2 "**The Customer's Personal Data**" means any Personal Data Processed by a Contracted Processor on behalf of The Customer, pursuant to or in connection with the Principal Agreement.
 - 1.1.3 "**Contracted Processor**" means Jontek.
 - 1.1.4 "**Data Protection Laws**" means UK Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country.
 - 1.1.5 "**EEA**" means the European Economic Area.
 - 1.1.6 "**UK Data Protection Laws**" means the UK GDPR as supplemented by terms in the Data Protection Act 2018.
 - 1.1.7 "**GDPR**" means the UK General Data Protection Regulation.
 - 1.1.8 "**Services**" means the services and other activities to be supplied to or carried out by Jontek for The Customer pursuant to the Principal Agreement.
 - 1.1.9 The terms, "**Commission**", "**(sub)process/(sub)processing**", "**(Sub)processors**", "**Controller**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**", "**Processing**" and "**Supervisory Authority**" shall have the same meaning as in the UK GDPR, and
 - 1.1.10 their cognate terms shall be construed accordingly.
 - 1.1.11 The word "**include**" shall be construed to mean include without limitation, and cognate terms shall be construed accordingly.

2. Authority

Jontek warrants and represents that before we process any of The Customer's personal data on behalf of The Customer, Jontek's entry into this Addendum will have been duly and effectively authorised.

3. Processing of the Customer's Personal Data

- 3.1 Jontek shall:
 - 3.1.1 Process Personal Data for the purposes of the Principal Agreement and for the specific purposes in each case as set out in Annex 1 (Details of Processing of Personal Data) and as otherwise directed by The Customer in writing.
 - 3.1.2 Comply with all applicable Data Protection Laws in the Processing of The Customer's Personal Data.

- 3.2 Jontek will not:
 - 3.2.1 Transfer The Customer’s personal data out of the EEA.
- 3.3 The Customer hereby instructs Jontek to process The Customer’s Personal Data as reasonably necessary for the provision of the Services and consistent with the Principal Agreement.
- 3.4 Warrants and represents that it is and will at all relevant times remain duly and effectively authorised to give the instruction set out in section 3.3.
- 3.5 Annex 1 to this Addendum sets out certain information regarding the Contracted Processors’ Processing of The Customer’s Personal Data as required by article 28(3) of the UK GDPR (and possibly equivalent requirements of other Data Protection Laws). The Customer’s may make reasonable amendments to Annex 1 by written notice to Jontek from time to time as Company reasonably considers necessary to meet those requirements. Nothing in Annex 1 (including as amended pursuant to this section 3.5) confers any right or imposes any obligation on any party to this Addendum.

4. Subprocessing

- 4.1 Customer hereby authorises Jontek to subcontract the any processing of Personal Data to Subprocessors.
- 4.2 Jontek will inform Customer of any intended changes concerning the addition or replacement of Subprocessors in writing and thereby gives Customer the opportunity to object to such changes. If Customer does not object in writing within 5 business days of receipt of the notice, Customer is deemed to have accepted the new Subprocessor.
- 4.3 Third-Party Subprocessors authorised under this agreement are:-

5.

Legal Entity	Services	Processing Location
SVL Business Solutions, 2 Orbital Court, Peel Park, East Kilbride, Glasgow G74 5PH	Support of Nice Voice Records. SVL may require access to Voice Recorder database to resolve support issues.	UK
SysGroup PLC Walker House, Exchange Flags Liverpool L2 3YL	Support of Jontek managed Firewall.	UK
FluidOne 5 Hatfields London SE1 9PG	Support of Jontek managed Firewall.	UK
Hyve Managed Hosting, Studio 5 & 6 The Colour Rooms, 12 Richmond Parade, Brighton, BN2 9QD	Service Cloud	UK
Salesforce UK Ltd, 110 Bishopgate, London, EC2N 4AY	Service Cloud – used to aid the resolution to customers technical fault’s via ‘cases’	UK
Microsoft	Office 365 & Teams	Legrand France
Legrand France	Management of Legrand UK’s IT Infrastructure	France

6. Jontek personnel

Jontek shall take reasonable steps to ensure the reliability of any employee who may have access to The Customer's Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know/access the relevant Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

7. Security

- 7.1 Without prejudice to any other security standards agreed upon by the Parties, Jontek shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including, as appropriate, the measures referred to in Article 32(1) of the UK GDPR, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing of Personal Data as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons.
- 7.2 In assessing the appropriate level of security, Jontek shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

8. Data Subject Rights

- 8.1 Jontek shall promptly, and in any case within 10 business days, notify The Customer if it receives a request from a data subject under any Data Protection Laws in respect of Personal Data, including requests by a data subject to exercise rights in Chapter III UK GDPR, and shall provide full details of that request.
- 8.2 Jontek shall co-operate as requested by The Customer to enable The Customer to comply with any exercise of rights by a data subject under Chapter III UK GDPR in respect of Personal Data.

9. Personal Data Breach

Without prejudice to any other incident response requirements agreed upon by the Parties, Jontek shall notify The Customer immediately of, and in any case within 48 hours upon becoming aware of a Data Breach, providing The Customer with sufficient information to enable The Customer to meet its obligations to report a Data Breach in accordance with the Data Protection Laws, including Article 33 and 34 UK GDPR.

10. Data Protection Impact Assessment and Prior Consultation

Jontek shall provide reasonable assistance to The Customer with relevant data protection impact assessments that are required under Article 35 of UK GDPR and with any prior consultations to any Supervisory Authority of Customer or any of its affiliates that are required under Article 36 UK GDPR, in each case in relation to processing of Personal Data by Jontek on behalf of The Customer and taking into account the nature of the processing and information available to Jontek.

11. Deletion or return of The Customer's Personal Data

- 11.1 Upon Jontek no longer providing the Products and Services that involve the processing of Personal Data, Jontek shall promptly, and in any event within any period required under the Principal Agreement, either (i) return a copy of the Personal Data to Customer and delete any other copies of Personal Data processed by Jontek; or (ii) delete Personal Data processed by Jontek, unless, in either case, UK law requires retention of the Personal Data.
- 11.2 Jontek will delete Personal Data as soon as it is no longer required to fulfil the services provided under the Principal Agreement.

12. Audit Rights

- 12.1 Without prejudice to any other provisions of this Addendum, Jontek will, on The Customer's reasonable request and at The Customer's expense, provide to The Customer relevant and reasonable information, and/or contribute to inspections and audits by Customer, to demonstrate compliance with Jontek's obligations hereunder.
- 12.2 The Customer will give Jontek reasonable notice of any audit or inspection and shall avoid causing any damage, injury or disruption to Jontek's equipment, personnel and business in the course of such an audit or inspection. Further, the audit or inspection must be

conducted during regular business hours, no more than once per calendar year (unless required or requested by a Supervisory Authority) and in conformity with Jontek's policies. Reports following from the audit or inspection will be treated as Jontek's confidential information and subject to the confidentiality obligations of the Principle Agreement.

- 12.3 Jontek need not give access to its premises for an Audit or inspection:
 - 12.3.1 To any individual unless he or she produces reasonable evidence of identity and authority.
 - 12.3.2 Outside normal business hours at those premises, unless the audit or inspection needs to be conducted on an emergency basis and The Customer undertaking an audit has given notice to Jontek that this is the case before attendance outside those hours begins.

13. General Terms

- 13.1 With regard to the subject matter of this Addendum, in the event of inconsistencies between the provisions of this Addendum and any other agreements between the Parties, including but not limited to the Principle Agreement, the provisions of this Addendum shall prevail with regard to the Parties' data protection obligations with respect to Personal Data.

IN WITNESS WHEREOF, this Addendum is entered into and becomes a binding part of the Principal Agreement with effect from the date first set out above.

[The Customer]	[Jontek]
Signature _____	Signature 
Name _____	Name: 
Title _____	Title: Commercial Operations Director
Date Signed _____	Date Signed: 11 th May 2022

14. ANNEX 1: DETAILS OF PROCESSING OF COMPANY PERSONAL DATA

This Annex 1 includes certain details of the Processing of Company Personal Data as required by Article 28(3) UK GDPR.

The nature and purpose of the processing

Jontek will process Personal Data that The Customer hold's in their Answerlink system for the purposes of providing Support Services as specified in the Principle Agreement. The processing will be carried out in response to support request from The Customer in line with the Principle Agreement, this Addendum and any written instructions given by The Customer.

In particular, Jontek may process Personal Data and Sensitive Data on your behalf as part of the support and maintenance service Jontek provide. The types of processing we carry out on your behalf will be:

- A) Having accesses to the data held in The Customers Answerlink system to facilitate the investigation of problems with the system, as reported by The Customer. For this propose we may access the data remotely or require an on-premises copy on your Answerlink database.
- B) Correct and/or amend the data to resolve issues with the system.
- C) Following Customer approval, use The Customer's system data to validate/test upgrades, patches and data archiving process before carrying out said activities on the live system.
- D) Removal of Archived data and deleted data in support The Customer's data retention policy.
- E) Carry out system Maintenance activities in line with the Principle Agreement, this Addendum and any written instructions given by The Customer.

Duration of the processing

The duration of the processing will be for the timeframe required to complete the requested support activity. All processing will stop at the end of the Principle Agreement unless otherwise agreed in writing.

Types of Personal Data

Customer may process Personal Data on the Jontek Products supported under the Principle Agreement, the extent of which is determined and controlled by Customer in its sole discretion.

Depending on the use case, this may include, but is not limited to, the following categories of Personal Data and Sensitive data:-

- Forename, Middle name and surname
- Title
- Date of Birth
- Gender
- Also Known As
- Risk
- Religion
- Pictures
- Ethnic Origin
- Identification numbers for other systems, e.g. NHS number etc.
- Marital Status
- Data Started (on The Customers service)
- Address information
- Key safe codes
- Telephone numbers
- Email address
- User definable characteristics (the extent of which is determined and controlled by Customer in its sole discretion)
- Details of incidents
- Details of personal contacts, next of kin and key holders
- Details of professionals that are involved in the care of the service users
- Medical notes (the extent of which is determined and controlled by Customer in its sole discretion)
- Notes (the extent of which is determined and controlled by Customer in its sole discretion)
- Details of calls made and received including voice recordings

- Documents held within the system (the extent of which is determined and controlled by Customer in its sole discretion)
- Details of alarm equipment
- Details of Referrals and Assessments
- Telecare care plans
- User login credentials
- User login ID
- IP addresses for users
- User activity log (audit)
- Car registration details
- Geolocation

Categories of data subjects

Customer may process Personal Data to the Jontek Products supported under the Principle Agreement, the extent of which is determined and controlled by Customer in its sole discretion.

Depending on the use case, this may include, but is not limited to, Personal Data relating to the following categories of data subjects:

- Individuals who receive care services from The Customer
- Individuals who are referred to The Customer for assessment
- Employees, agents, contractors of Customer
- Employees, agents, contractors of Customer's business partners or customers

SCHEDULE 3

Payment

Fixed Price Contract as per proposal



Folkestone SaaS
THNB6409c.pdf

NOTE: ANY ADDITIONAL TERMS AND CONDITIONS STATED WITHIN THE ABOVE DOCUMENT ARE NOT SUPPLEMENTARY TO THIS AGREEMENT – PFH TERMS AND CONDITIONS ARE OVERARCHING – REFER TO NEW CLAUSE 32 PRECEDENCE

[REDACTED]
Control Centre & Resilience Lead
Folkestone & Hythe District Council
Civic Centre
Castle Hill Avenue
Folkestone
Kent
CT20 2QY

05/04/2022

Our Ref: THNB/6409c

Dear [REDACTED]

Legrand Care Answerlink SaaS ARC Platform Costs

Further to our meeting and subsequent discussions, I have pleasure in offering you the following costs quotation for your approval.

The costs are based on the information provided so far and include a Primary SaaS platform replicated to an identical Secondary SaaS Platform for built-in resilience and business continuity.

The minimum term of the contract will be set at 4 Years with the option to extend by 1 year up to a total of 7 Years (4+1+1+1).

If you have any further questions, please do not hesitate to contact me.

Kind Regards,

[REDACTED]
Technical Sales Consultant
[REDACTED]

Proposal

To supply a Primary and Secondary SaaS Platform with concurrent user licences allowing access to the platform from any PC, Laptop or Tablet via an HTML5 compatible web browser. Our costs also include the migration of the current Database into our platform which is a tried and tested process which we have had in place for many years with a great degree of accuracy and success.

Legrand Care Answerlink SaaS Solution, Business Continuity and Disaster Recovery

Resilience

Legrand Care Support Teams provide support for the Answerlink SaaS platform 24 hours per day 365 days per year. In the event of an issue with you accessing the SaaS Platform, or the SaaS platform is unavailable, as part of an effective business continuity and disaster recovery solution, Legrand Care will provide a DR Secondary SaaS with full Call Handling capacity to ensure continued delivery of service. Real-time bi-directional data replication between the Primary SaaS and Secondary SaaS platforms also ensures that data is kept in sync on both platforms should disaster recovery processes be initiated.

Answerlink automatically alerts users at both sites if data connectivity for replication is lost. For minor issues, the system has been designed to self-heal. In the case of a call handling computer failing, any calls in progress are automatically re-queued and can be picked up from another terminal. In addition, we configure the system to automatically generate encrypted backups of data. These full back ups are normally scheduled every 24 hours. We have attempted to automate all system maintenance tasks including database optimisation and backup.

Answerlink SaaS Platform

The Answerlink SaaS platform is hosted in an ISO27001 Certified Secure Data Centre in the UK whereby the Answerlink platform Servers/Telecoms architecture and client application are hosted by Legrand Care, allowing you to remotely connect to the platform to access and administer your client data as well as handle alarm and voice calls.

This negates the need for you to physically host and support this IT architecture on your premises or supply the required telephone lines for handling the alarm and voice calls. You simply subscribe to this service, where Legrand Care provide the SaaS solution rather than supply and support it on-premise which is in line with your 'Cloud First' corporate IT strategy. All support for any servers and infrastructure in the SaaS environment will be fully supported by Legrand Care.

Answerlink Secondary SaaS (DR)

The design of the solution has ensured 100% availability of monitoring services for our entire customer base. Availability is defined to mean that the service is functioning at least at one site (Primary or Secondary SaaS).

As part of the service provided by Legrand Care, there will be a separate dedicate Secondary SaaS (DR) platform to replicate the existing infrastructure of the Primary SaaS. Therefore, in the event of you being

unable to access the Primary SaaS platform or should there be an infrastructure or resource failure of the SaaS platform, your alarm and voice calls will be routed to the Secondary SaaS.

Real-time data replication operates between the Primary SaaS platform and the Secondary SaaS platform ensuring that any data updates are replicated in real-time between both platforms and in both directions. Therefore, client record changes and call logs are replicated on both platforms in real-time regardless of which platform is handling calls at the time.

In the event of a loss of network connectivity between the Primary and Secondary SaaS platform, all site systems remain live and in use for call handling and data editing etc. It simply means that any data changes are no longer being replicated to the other system. In this case, any changes are stored and sent as soon as connectivity is restored.

Telephony

Included within our solution is the provision of the Telephony connections for the Primary and Secondary SaaS platforms to allow the receiving and handling of the customers alarm and voice calls.

This includes the provision of ISDN30/SIP circuits (for handling analogue alarm calls and voice calls) and BOVPN's (for the handling of IP alarm calls). The Answerlink platform therefore supports the seamless monitoring of analogue and digital (IP) alarm calls.

The platform is supplied fully enabled to handle your IP switchover; however, it is your responsibility to switch out alarm equipment from Analogue Alarms to IP Alarms. As you start to switch out the Analogue alarm equipment for IP enabled equipment, the platform is ready to accept these alarms without any changes required to the platform, thus providing you with a seamless transition to IP monitoring.

Analogue Alarm Call Routing

The emergency telephone number programmed in the alarm units which you monitor should be a non-geographic telephone number or SmartNumber belonging to you.

You will then have access to an on-line web portal to control which landline number the NGN/SmartNumber forwards calls on to. Ordinarily, this will be the Primary SaaS platform telephone lines (DDI's), but if calls need to be routed to the Secondary SaaS platform, you can use the web portal to immediately change the call routing to the telephone lines (DDI's) at the Secondary SaaS site.

If you do not currently have or own a non-geographic telephone number or SmartNumber for alarm call routing, please request further details.

IP Alarm Call Routing

TS50134-9 (SCAIP) Dispersed Alarms

SCAIP IP Dispersed alarms are fitted with Voice & Data SIM cards. SCAIP alarm messages are sent as SIP data messages to the Answerlink platform over a secure VPN between the SIM provider and the Answerlink Primary SaaS and Secondary SaaS platforms. The SaaS platform is connected to the major

Telecare SIM provider such as 'CSL' or 'Mobius' to allow the monitoring of a range of SCAIP alarm units. Secure VPN connectivity to other SCAIP Telecare SIM providers can be configured as needed.

BS8521-2 (NowIP) Grouped Living Alarms

A BOVPN is required between each NowIP Grouped Living Alarm system (Warden Call system) and the SaaS platform. This can be established as and when a NowIP Grouped Living Alarm system is commissioned and requires monitoring. With the NowIP alarm protocol, the call audio is streamed to the Answerlink platform using 'Voice over IP' (VoIP).

Call Handling Capacity

ISDN30/SIP

Analogue alarm calls, the Voice path of SCAIP calls and general voice calls are all handled on the ISDN30 or SIP circuit (whichever is configured for use). The ISDN30/SIP channels are then split into two groups by the Answerlink platform, these groups are 'Alarm call handling channels' and 'Non-alarm call handling channels' (e.g. voice calls, Lone worker calls Login etc). The number of ISDN30/SIP channels enabled on the Primary SaaS and Secondary SaaS platform will be scaled sufficiently to meet your need.

IP Alarm channels

IP Alarm channels are used to monitor NowIP Grouped Living Alarms. The number of IP Alarm channels enabled on the Primary SaaS and Secondary SaaS platform will be scaled sufficiently to meet your need.

Operator Call Handling Operator Stations

The softphone application will be installed on the corporate Laptops/PC's to be used for Call Handling and deployed by your IT team. It can also be deployed to an unlimited amount of end user devices, however the maximum amount of call handling operators who can be logged on simultaneously is restricted to the number of Operator Call Handling Station licences provided. We have matched this to your existing licences.

Voice Recording

All calls handled on the SaaS platform are voice recorded allowing users to playback voice recordings via the Answerlink application call history section within the client record (providing they have been assigned playback security permissions). Voice Recording is enabled on both the Primary SaaS and Secondary SaaS platform.

Call Charges

Included within the annual subscription charges of the SaaS platform is a call plan that includes free calls to 01, 02 and 03 landline telephone numbers and UK mobile telephone numbers. Any call charges incurred outside of the call plan will be charged in arrears at the prevailing rate plus a 15% admin fee.

Operator Call Handling Experience

The Legrand Care solution uses the Answerlink client application to display and accept assistive technology calls via an HTML5 compatible Web Browser. Client information is held in the Answerlink database (Microsoft SQL) and is maintained and displayed by the Answerlink client application. The

platform processes incoming assistive technology calls and uses SIP to route calls to the operators' headset via the 3CX softphone installed on to the corporate PC, Laptop or Tablet.

When the operator accepts the assistive call, it is routed to their softphone in less than a second. If during this time (sub second) the operator's extension is not available, the Answerlink system prevents queuing of the assistive call by automatically detecting the busy signal from the operator's extension, the alarm call is then automatically re-presented on the Answerlink calls waiting screen and is immediately available to be accepted by the next available operator.

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In line with best practice, Microsoft security patches are applied on a monthly basis.

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In line with best practice for data security, we recommend that our customers establish a secure Site to Site VPN connection (Virtual Private Network) between the customer network and the Answerlink SaaS platform. This will allow users to access the Answerlink platform securely and remotely from any device (PC, Laptop, Tablet etc) on their corporate network. It is also possible to set up and utilise Two Factor Authentication (2FA) in place of a Site to Site VPN if this is the preferred method of connectivity.

Users will simply open a HTML5 web browser (such as Internet Explorer, Edge, Chrome, Firefox etc) to access the Answerlink application. Users will then be prompted to login to the Answerlink Application and input the extension number of the phone that they require their calls to be routed to.

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The BOVPN to the customer network ensures that only users authenticated on the customers corporate network (via Active Directory user management) can physically access the Answerlink SaaS platform, as this is managed by the corporate IT team. This can include Remote Workers too who would remotely connect and authenticate into the corporate network via the existing corporate SSL client or Remote Access Gateway.

This method of connectivity to the SaaS platform is not only the most secure and easy to manage from a corporate IT team perspective, but also means no dedicated SSL VPN client is required with Two Factor Authentication (2FA) for each user requiring access to the SaaS platform. We can however provide this solution if this is your preferred option for remote workers or all office workers too.

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PLEASE NOTE

Due to Legrand Care's Policy of continuous development, we reserve the right to submit another product of equal or similar specification. Any additional work required will be charged for separately.

This quotation is valid for a period of 30 days and if is accepted is made strictly subject to our standard terms and conditions and software support agreement as amended from time to time.

Payment Profile

Orders over £10,000 will be subject to the following payment profile:

- Delivery 40%
- Installation 40%
- Go-live 20%

E&OE

All prices exclude VAT

Acceptance by customer

We the undersigned accept that a Purchase Order for the stated annual cost + VAT will be issued per annum in advanced for a period of 4 years unless extended in 1 Year increments up to a total of 7 years for the services stated within this quotation.

Signed on behalf of Folkestone & Hythe District Council:

Signature:

Name:

Position:

Date:

SCHEDULE 4


Method Statements

None

THE COMMON SEAL of The District Council of Folkestone and Hythe:

was affixed to this **DEED** in the presence of

Contact Name of Authorised Signatory	[REDACTED]
Role in organisation	[REDACTED]
Signature (electronic is acceptable)	[REDACTED]
Date	[REDACTED]
Witness' Contact Name	[REDACTED]
Role in organisation	[REDACTED]
Witness' Address	[REDACTED]
Signature (electronic is acceptable)	[REDACTED]
Date	[REDACTED]



9604

EXECUTED AS A DEED BY THE SUPPLIER: Legrand Electric Ltd:

by witnessed signature of a single Director of the Supplier:

Contact Name of Director	[REDACTED]
Role in organisation	COMMERCIAL DIRECTOR
Signature (electronic is acceptable)	[REDACTED]
Date	4/7/2022

Witness' Contact Name	[REDACTED]
Role in organisation	INTERNAL SALES SUPERVISOR
Witness' Address	Innovation House, Silverton Court, Northumberland Business Park, Cramlington, NE23 7RY
Signature (electronic is acceptable)	[REDACTED]
Date	4/7/2022