

Dated

2014

**KINGSTON-UPON-HULL CITY COUNCIL
RIVERSIDE CARE AND SUPPORT LIMITED**

**SCHEDULES
to the
PROJECT AGREEMENT
Private Finance Initiative relating to
the provision of extra care housing
in the City of Hull**

ADDLESHAW GODDARD

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Schedule 1

Output Specification

Schedule 2

Contractor's Proposals



Schedule 3

Not Used

Schedule 4

Payment Mechanism

Schedule 5

Collateral Warranties

Part 1 - Building Contractor

Part 2 - Principal Building Sub-Contractor

Part 3 - Professional Team Member

Part 4 - Responsive Repairs and Cyclical Maintenance and Renewal Contractor

Part 5 - Housing Management Contractor

Schedule 6

Review Procedure

1 REVIEW PROCEDURE

1.1 The provisions of this schedule 6 (Review Procedure) shall apply whenever any relevant item, document or course of action is required by the provisions of this Agreement to be reviewed, approved or otherwise processed in accordance with the Review Procedure.

1.2 Each submission under the Review Procedure shall be accompanied by a copy of the proposed document to be reviewed (including, where appropriate, any Reviewable Design Data) or a statement of the proposed course of action (the entire contents of a submission being referred to in this schedule 6 (Review Procedure) as a **Submitted Item**). In relation to each Submitted Item, the following procedure in this schedule 6 (Review Procedure) shall apply:

1.2.1 As soon as possible and, if the Submitted Item comprises:

- (a) an item of Reviewable Design Data;
- (b) a revised Construction Programme; or
- (c) a document or proposed course of action submitted in the case of an emergency,

within ten (10) Business Days of the date of receipt of a submission (or re-submission, as the case may be) of the Submitted Item to the Authority's Representative (or such other period as the Parties may agree), the Authority's Representative shall return one (1) copy of the relevant Submitted Item to the Contractor endorsed "no comment" or (subject to and in accordance with paragraph 3 (Objections) or "objections" or "comments" as appropriate; and

1.2.2 if the Authority's Representative fails to return a copy of any of the Submitted Items referred to at paragraphs 1.2.1 (a) to (c) (including any re-submitted Submitted Item referred to at paragraphs 1.2.1 (a) to (c)) duly endorsed in accordance with paragraph 1.2.1, within ten (10) Business Days (or within such other period as the parties may agree in writing) of the date of its submission to the Authority's Representative, then the Authority's Representative shall be deemed to have returned the Submitted Item to the Contractor endorsed "no comment".

1.3 If the Authority's Representative raises comments on any Submitted Item in accordance with paragraph 3 (Objections) he shall state the ground upon which such comments are based and the evidence or other information necessary to substantiate that ground. To the extent that the Authority's Representative comments on a Submitted Item other than on the basis set out in paragraph 3 (Objections), or fails to comply with the provisions of this paragraph 1.3 (Review Procedure), the Contractor may, in its discretion, either:

1.3.1 request written clarification of the basis for such comments and, if clarification is not received within five (5) Business Days of such request by the Contractor, refer the matter for determination in accordance with the Disputes Resolution Procedure; or

1.3.2 at its own risk, and without prejudice to clause 3.4, proceed with further design or construction disregarding such comments.

2 FURTHER INFORMATION

2.1 The Contractor shall submit any further or other information, data and documents that the Authority's Representative reasonably requires in order to determine whether he has a basis for raising comments or making objections to any Submitted Item in accordance with paragraph 3 (Objections). If the Contractor does not submit any such information, data and documents, the Authority's Representative shall be entitled to:

2.1.1 comment on the Submitted Item in accordance with paragraph 3 (Objections) on the basis of the information, data and documents which have been provided; or

2.1.2 object to the Submitted Item on the grounds that insufficient information, data and documents have been provided to enable the Authority's Representative to determine whether he has a legitimate basis for commenting or objecting in accordance with paragraph 3 (Objections).

3 OBJECTIONS

3.1 The expression "raise comments" in this paragraph shall be construed to mean "raise comments or make objections" unless the contrary appears from the context. The Authority's Representative may raise comments in relation to any Submitted Item on the grounds set out in the paragraph above or on the grounds that:

3.1.1 implementation of the Submitted Items would breach any Legislation or not be in accordance with any Consent;

3.1.2 implementation of the Submitted Item would (on the balance of probabilities) adversely affect the Contractor's performance of its obligations under this Agreement; or

3.1.3 implementation of the Submitted Item would adversely affect any right of the Authority under the Agreement or its ability to enforce any such right;

3.1.4 implementation of the Submitted Item would cause an increase in any amount payable by the Authority pursuant to this Agreement (in which case schedule 25 (Change Protocol) shall apply and this Schedule 6 shall not apply); or

3.1.5 implementation of the Submitted Item would cause a material decrease in the Contractor's costs of delivering the Works and/or Services (in which case Schedule 25 (Change Protocol) and/or clause 35 (Best Value), as the Authority may direct, shall apply).

3.2 Subject to paragraph 3.1, the Authority may raise comments in relation to any Submitted Item which comprises a revised Project Document on the grounds that:

3.2.1 the proposed revision would (on the balance of probabilities) result in the Additional Permitted Borrowing Limit being exceeded or any other increase in the Authority's contractual liabilities (whether actual, potential or contingent);

3.2.2 the proposed revision would adversely affect the Authority's performance of its obligations under this Agreement;

- 3.2.3 the proposed revision would (on the balance of probabilities) reduce the direct or indirect liabilities of a Sub-Contractor; or
- 3.2.4 the proposed course of action would reduce any cap on any indemnity in any Sub-Contract;
- 3.3 The Authority may raise comments in relation to any Submitted Item which comprises a revised Works Delivery Plan, Contractor's Contractual Method Statements, Service Delivery Plan, Cyclical Maintenance and Replacement Programme, Design and Construction Plan and Planned Maintenance Programme or Reviewable Design Data on the grounds that:
 - 3.3.1 the proposed revision is not in accordance with Good Industry Practice;
 - 3.3.2 the performance of the relevant Works or Service in accordance with the proposed revision would (on the balance of probabilities):
 - (a) mean that compliance with relevant parts of the Output Specification will not occur;
 - (b) not (on the balance of probabilities) enable the Works to be completed by the Planned Services Commencement Date;
 - (c) cause the Authority to incur additional cost or expense;
 - (d) not pay due and reasonable regard to the needs of Tenants in a frail or vulnerable condition;
 - (e) materially increase disruption to or have an adverse effect on the health and safety of Tenants;
 - (f) result in an inferior quality of components within the Works;
 - (g) result in the period for carrying out any Works being extended beyond the period reasonably required for those Works.
- 3.4 The agreement or deemed agreement by the Authority to a Submitted Item in accordance with this schedule shall not:
 - 3.4.1 relieve the Contractor of its obligations to comply with any provisions of this Agreement; or
 - 3.4.2 constitute an acknowledgement or Agreement by the Authority that the Contractor has complied with such obligations.

4 EFFECT OF REVIEW

- 4.1 Any Submitted Item which is returned or deemed to have been returned by the Authority's Representative endorsed "no comment" may be implemented by the Contractor in accordance with its terms.
- 4.2 In the case of any Submitted Item, if the Authority's Representative returns the Submitted Item to the Contractor endorsed "comments", the Contractor shall comply with such Submitted Item after amendment in accordance with the objections unless the Contractor disputes that any such objection is on grounds permitted by this Agreement, in which case the

Contractor or the Authority may refer the matter for determination under the Disputes Resolution Procedure.

- 4.3 In the case of any Submitted Item, if the Authority's Representative returns the Submitted Item to the Contractor endorsed "comments", the Contractor shall give due and proper consideration to those comments.

5 DOCUMENTATION MANAGEMENT

- 5.1 The Contractor shall compile and maintain a register of the date and contents of the submission of all Submitted Items.
- 5.2 The Contractor shall compile and maintain a register of the date of receipt and content of all Submitted Items that are returned or deemed to be returned by the Authority's Representative.
- 5.3 No review, comment or approval by the Authority shall operate to exclude or limit the Contractor's obligations or liabilities under this Agreement (or the Authority's rights under the Agreement).

6 VARIATIONS

- 6.1 No approval or comment or any failure to give or make an approval or comment under this schedule 6 (Review Procedure) shall constitute an Authority Change save to the extent provided in paragraph 6.2.
- 6.2 If, having received comments from the Authority's Representative, the Contractor considers that compliance with those comments would amount to an Authority Change, the Contractor shall notify the Authority of the same and, if it is agreed by the parties or determined pursuant to the Disputes Resolution Procedure that an Authority Change would arise if the comments were complied with, the Authority may, if it wishes, implement the Authority Change and it shall be dealt with in accordance with the Change Protocol.
- 6.3 No alteration or modification to the design, quality and quantity of the Works arising from the development of detailed design or from the co-ordination of the design shall be construed or regarded as an Authority Change.

Schedule 7

Prohibited Materials

There shall not be used in connection with the Works any materials or substances for the time being not approved or not recommended by the current British Standards and Codes of Practice (so far as applicable to the Works) as being of deleterious, unsatisfactory or unsuitable quality including (but without limitation) the following:

- 1 high alumina cement or concrete;
- 2 wood wool slabs in permanent formwork to concrete or in structural elements;
- 3 calcium chloride in admixtures for use in mortar or reinforced concrete;
- 4 aggregates for use in reinforced concrete which do not comply with British Standard requirements;
- 5 crocidolite, calcium silicate bricks or tiles;
- 6 asbestos or asbestos based products or asbestos in any other form including vermiculite containing asbestiform fibrous dust;
- 7 lead or any materials containing lead which may be ingested, inhaled or absorbed except where copper alloy fittings containing lead are specifically required in drinking water pipework by any relevant statutory requirements;
- 8 any insulation product containing urea formaldehyde or cellulose fibre;
- 9 slipbricks;
- 10 vermiculite plaster;
- 11 lightweight or air entrained concrete blocks;
- 12 sand and gravels for use in cement based products from a source not certified as lignite free;
- 13 materials containing fibres either man made or naturally occurring which have a diameter of 3 microns or less and a length of 200 microns or less or materials containing any fibres larger than 3 microns in diameter not sealed or otherwise stabilised to ensure that fibre migration is prevented;
- 14 all tropical hardwoods and plywoods formed from tropical hardwood or any species of unknown origin unless from a demonstrably replenishable or sustainable source;
- 15 products or manufacturing processes which cause the emission of pollutants, harmful radiation or ozone layer depleting chemicals as identified in the Montreal Protocol, or substances that deplete the ozone layer issued by the United Nations Development Programme
- 16 polyisocyanurate or polyurethane foam;
- 17 any substances generally known (or which exercising the degree of skill and care which the Contractor is obliged to exercise in accordance with the Building Contract ought to be known to the Contractor) to be deleterious at the time of use including without limitation substances

which have been publicised in the Building Research Establishment Digest as being deleterious to health and safety or to the durability of the works in the particular circumstances in which they are used;

- 18 colliery waste as fill material;
- 19 concrete that may be susceptible to alkali/silica reaction;
- 20 proprietary open-web lattice joists or beams (nailable type);
- 21 resin coated blocks;
- 22 PTFE fabrics (the use of PTFE as jointing tape in plumbing installation is permitted);
- 23 spectra glaze or similar pre-finished block;
- 24 bitumen coated polythene for use as a damp proof course;
- 25 substances not in accordance with British Standards and Codes of Practice at the time of specification and/or incorporation within the Works;
- 26 plastics for water storage and delivery that release toxic materials;
- 27 materials containing vinyl chloride unless risk from carcinogen is shown to be negligible;
- 26 plywood with glues, resins and surface treatments that produce irritant volatiles;
- 29 decorative finishes containing lead;
- 30 paints and wood preservatives containing pentachlorophenols (PCP's), tributyl tin oxide (TBTO) or Lindane;
- 31 perforated bricks in manholes and hollow walling blocks in the Apartments or Common Parts;
- 32 peat unless from a known source other than SSSI or Eire;
- 33 construction techniques that accumulate rather than dissipate radon contamination;
- 34 any treatment of materials either before or after installation which give rise to toxic or hazardous emissions or particles;
- 35 products and materials that are referred to as being hazardous to health and/or safety in "The Control of Substances Hazardous to Health Regulations" 2002 (as amended);
- 36 Concealed galvanised wall ties fixings angle brackets and supports where used in external elements. Including any other deleterious materials known before the start on site;
- 37 Noxious substances, especially "RED LIST" published by the Department of Environment in 1989 and EC "LIST 1" substances without the prior written consent of the Authority;
- 38 Products or manufacturing processes which cause the emission of pollutants, harmful radiation or ozone layer depleting chemicals as identified in the Montreal Protocol, or substances that deplete the ozone layer issued by the United Nations Development Programme;

- 39 Other substances or materials not in accordance with or against British Standards and/or Codes of Practice for the time being in force or other substances or materials generally known in the industry at the time of design, manufacture and construction or installation to be deleterious or which are not in accordance with the “state of the art” for this type of work; and
- 40 Any substances generally known (or which exercising the degree of skill and care which the Contractor is obliged to exercise in accordance with this Agreement ought to be known to the Contractor) to be deleterious at the time of use including without limitation substances which have been publicised in the Building Research Establishment Digest as being deleterious to health and safety or to the durability of the property in the particular circumstances in which they are used, or those identified as potentially hazardous in or not in conformity with:
- The report entitled “Good Practice In the Selection of Construction Materials (2011, published by the British Council for Offices) other than the recommendations for good practice contained in that report;
 - Relevant British or European Standards or Codes of Practice.

Schedule 8

Liaison Procedure

7 PROJECT LIAISON GROUP

- 7.1 The Authority and the Contractor shall establish and maintain throughout the Contract Period a project liaison group (**Project Liaison Group**), consisting of two (2) officers from the Authority, three (3) members from the Contractor, two (2) Tenant representatives, a chairperson (**Chairperson**), and, where a majority of the Project Liaison Group so determines, additional members being properly qualified to participate in discussions relating to any particular matter, these members having no voting rights, which shall have the functions described below. The Authority and/or the Contractor may request that the Catering Provider or the Care Provider attend meetings of the Project Liaison Group, but neither the Catering Provider nor the Care Provider shall have any voting rights.
- 7.2 The Contractor and the Authority agree that for the duration of the Works the Contractor shall procure the attendance of the Building Contractor during such parts of meetings of the Project Liaison Group as the parties shall agree. The Contractor and the Authority agree that the Contractor shall procure the attendance of the Housing Management Contractor during such parts of meetings of the Project Liaison Group as the parties shall agree.
- 7.3 Each party will have the right to make reasonable objections to the other party's proposed members or the Chairperson but not so as to frustrate the rotation of the chairmanship.
- 7.4 Should the Authority and the Contractor agree that the best interests of the Project would be served by the removal of one or more members of the Project Liaison Group, they may so direct in writing and the Authority or the Contractor, as the case may be, will put forward to the Authority and Contractor the name of a substitute member of the Project Liaison Group.
- 7.5 The relevant person shall with the consent of the other party, such consent not to be unreasonably withheld or delayed, become a member of the Project Liaison Group as from the date of its next meeting.

8 FUNCTIONS

The functions of the Project Liaison Group shall be:

- 8.1 to provide a means for the joint review of all aspects of the performance of this Agreement;
- 8.2 to provide a forum for joint strategic discussion and consideration of all aspects with regard to this Agreement including ensuring dissemination of information and consideration of the views of all the stakeholders connected with the Project; and
- 8.3 consideration of issues relating to:
- 8.3.1 Consents;
 - 8.3.2 provision of the Works and Services, including transition between the Phases;
 - 8.3.3 Authority Changes;
 - 8.3.4 the Works Delivery Plan;
 - 8.3.5 the Services Delivery Plan;

- 8.3.6 Allocation Protocol;
- 8.3.7 Tenancy Agreement:
- 8.3.8 Service interfaces; and
- 8.3.9 Events management.

9 ROLE

The role of the Project Liaison Group is to make recommendations to the Authority and to the Contractor, which the Authority and the Contractor may accept or reject at their complete discretion. Neither the Project Liaison Group itself, nor its members acting in that capacity, shall have any authority to vary any of the provisions of this Agreement or to make any decision binding on the parties. The Authority and the Contractor shall not rely on any act or omission of the Project Liaison Group, or any members of the Project Liaison Group acting in that capacity, so as to give rise to any waiver or personal bar in respect of any right, benefit or obligation of the Authority or of the Contractor under this Agreement. No discussion, review or recommendation by the Project Liaison Group shall relieve the Authority or the Contractor of any liability or vary any such liability or any right or benefit.

10 REPRESENTATIVES

The Authority and the Contractor may appoint their representatives on the Project Liaison Group and remove those representatives and appoint replacements, by written notice delivered to the other at any time. A representative on the Project Liaison Group may appoint and remove an alternate (who may be another representative of that party) in the same manner. If a representative is unavailable (and the other parties' representative may rely on the alternate's statement that the representative is unavailable) his alternate shall have the same rights and powers as the representative.

11 PRACTICES AND PROCEDURES

Subject to the provisions of this schedule 8 (Liaison Procedure), the members of the Project Liaison Group may adopt such procedures and practices for the conduct of the activities of the Project Liaison Group as they consider appropriate, from time to time, provided that the quorum for a meeting of the Project Liaison Group shall be four (with at least two members of the Authority and two members of the Contractor present).

12 RECOMMENDATIONS

Recommendations and other decisions of the Project Liaison Group must have the affirmative vote of all those voting on the matter, which must include not less than one representative of the Authority and not less than one representative of the Contractor.

13 VOTING

Each member of the Project Liaison Group shall have one vote.

14 CHAIRPERSON

The Chairperson of the Project Liaison Group shall be nominated by the Authority and by the Contractor alternately every six months during the Contract Period (commencing with the Authority). The Chairman shall be in addition to each party's representatives on the Project Liaison Group. The Chairman shall not have a vote.

15 FREQUENCY OF MEETINGS

The Project Liaison Group shall meet at least once every month during the Works Period and thereafter at least once every quarter.

16 CONVENING OF MEETINGS

Any member of the Project Liaison Group may convene a meeting of the Project Liaison Group at any time.

17 NOTICES OF MEETINGS

Not less than ten (10) Business Days notice (identifying the agenda items to be discussed at the meeting) shall be given to convene a meeting of the Project Liaison Group, except that in emergencies, a meeting may be called at any time on such notice as may be reasonable in the circumstances.

18 ATTENDANCE AT MEETINGS

Meetings of the Project Liaison Group should normally involve the attendance (in person or by alternative) of representatives at the meeting. Where the representatives of the Project Liaison Group consider it appropriate (by affirmative vote of all those voting on the matter which must include not less than one representative of the Authority and one representative of the Contractor) meetings may also be held by telephone or another form of telecommunication by which each participant can hear and speak to all other participants at the same time.

19 MINUTES

Minutes of all decisions (including those made by telephone or other telecommunication form) and meetings of the Project Liaison Group shall be kept by the Contractor and copies circulated promptly to the Authority, the Contractor and any other persons who attended the meeting, normally within ten (10) Business Days of the making of the decision or the holding of the meeting. A full set of minutes shall be kept by the Contractor and shall be open to inspection by the Authority, the Contractor or any other member of the Project Liaison Group at any time, upon request.

Schedule 9

Warranted Data

1. **Registered name of Contractor;**
Riverside Care and Support Limited
2. **Registered office of Contractor;**
2 Estuary Boulevard, Estuary Commerce Park, Liverpool L24 8RF
3. **Company registration number of Contractor;**
4025897
4. **Directors of Contractor;**
Ms Joy E Baggaley
Mr Jonathan C Dale
Mr Paul Forster-Jones
Mr Philip J Han
Mrs Susan Jee
Mr Michael Little
Ms Carol M Matthews
Mr Philip H Raw
Ms Sally Trueman
Mr Max Steinberg
Secretary: Mrs Lynn F McCracken*
5. **Shareholders of Contractor (with respective shareholdings);**
The Riverside Group Limited 100%

Schedule 10

Relevant Discharge Terms

1. The sums referred to in paragraph 2 and the adjustment between the parties of the rights and liabilities relating to the Assets referred to in paragraph 3 (and to the extent needed to give effect to paragraphs 2 and 3, the remainder of this schedule 10) shall be the relevant discharge terms in relation to this Agreement for the purposes of Section 6 of the Local Government (Contracts) Act 1997.
2. In the event of the making of a determination or order by a court of final jurisdiction on an application for judicial review or audit review (within the meaning of the Local Government (Contracts) Act 1997), the result of which is that this Agreement does not have effect or is otherwise unenforceable, then the Contractor shall be entitled to be paid by the Authority the sum equivalent to the amount of compensation payable by the Authority to the Contractor pursuant to clause 44 (Compensation on Termination for Authority Default/Voluntary Termination);
3. The Authority shall have the option to require the Contractor to transfer its right, title and interest in and to the Assets to the Authority or as directed by the Authority.
4. The compensation payable pursuant to paragraph 2 shall be paid in a lump sum within six months of the order of the court referred to in paragraph 2.
5. Any payment of compensation and adjustment of rights in accordance with this schedule 10 (Relevant Discharge Terms) shall be in full satisfaction of any claim of the Contractor in relation to the termination of this Agreement and shall be the sole remedy of the Contractor against the Authority in the circumstances contemplated by paragraph 2.

Schedule 11

Insurances

Schedule 12

Authority Policies

- 1 Equal Opportunities in Employment, Policy and Guidelines – Preferred Bidder- 13/11/14
- 2 Anti Fraud and Corruption - Preferred Bidder- 13/11/14
- 3 Multi Agency Policy, Procedure and Practice Guidelines Vulnerable Adults – Preferred Bidder- 14/11/14
- 4 Freedom of Information Policy – Preferred Bidder - 13/11/14
- 5 Well being Policy - Preferred Bidder - 13/11/14
- 6 Code of Conduct – Preferred Bidder - 13/11/14
- 7 Adult Services Complaints procedure – Preferred Bidder- 14/11/14
- 8 Whistleblowers - Preferred Bidder - 13/11/14
- 9 Dignity at Work - Preferred Bidder - 13/11/14
- 10 Data Protection - Preferred Bidder - 13/11/14
- 11 Guidance, Principles and Standards for Engagement, Research and Consultation – ISDS

Schedule 13

Initial Financing Agreements

Part 1 - Senior Financing Agreements

The Senior Credit Agreement and each of the documents listed below (each as defined in the Senior Credit Agreement):

Borrower Debenture

Account Bank Agreement

Joint Insurance Account Agreement

Direct Agreements

Lender's Collateral Warranties

Intercreditor Deed

Part 2 - Subordinated Financing Agreements

Subordinated Loan Agreement (as defined in the Senior Credit Agreement)

Share Charge (as defined in the Senior Credit Agreement)

Schedule 14

Project Documents

Document
(1) The Building Contract
(2) The Housing Management Agreement
(3) The Responsive Repairs and Cyclical Maintenance and Renewal Contract
(4) The Interface Agreement
(5) The Parent Company Guarantee in respect of document (1) above

Schedule 15

Not Used

Schedule 16

Not Used

Schedule 17

Not Used

Schedule 18

Not Used

Schedule 19

Not Used

Schedule 20

Not Used

Schedule 21

Equality Requirements

1 RACIAL DISCRIMINATION AND THE PROMOTION OF RACE EQUALITY AND EQUAL OPPORTUNITY

1.1 The Contractor (including its agents and employees) shall not, and shall procure that any Contractor Related Party shall not:

1.1.1 discriminate directly or indirectly, (and in relation to disability for a reason related to disability or by a failure to make reasonable adjustments) or by way of victimisation or harassment, against any person on Prohibited Employment Grounds; and/or

1.1.2 discriminate directly or indirectly or by way of victimisation or harassment against any person on Prohibited Grounds; and/or

1.1.3 contravene Sections 19, 39, 108, 109, 111, 112 of the Equality Act 2010 and Section 24A of the Equality Act 2006,

where appropriate.

1.2 The Contractor (including its agents and employees) shall, and shall procure that any Contractor Related Party shall, for purposes of ensuring compliance with paragraphs 1.1(a) to (c) above, in relation to staff engaged in the provision of Works or Services observe as far as possible the provisions of:

1.2.1 the Equality and Human Rights Commission's Equality Act 2010 Statutory Code of Practice on Employment;

1.2.2 the Equality and Human Rights Commission's Equality Act 2010 Statutory Code of Practice on Equal Pay; and

1.2.3 the Equality and Human Rights Commission's Equality Act 2010 Statutory Code of Practice on Services, Public Functions and Associations; and

1.2.4 any other relevant code of practice introduced by a commission or other body set up by Parliament to promote, monitor and enforce the Equalities Legislation,

including, but not limited to, those provisions recommending the adoption, implementation and monitoring of an equal opportunities policy.

1.3 The Contractor shall, and shall procure that any Contractor Related Party shall, in performing its/their obligations under this Agreement, comply (to the extent permitted by law) with the provisions of:

1.3.1 Section 149(1) of the Equality Act 2010, as if it/they were a body within the meaning of Schedule 19 of the Equality Act 2010 in relation to its/their public functions;

1.3.2 Section 189 and Schedule 21 of the Equality Act 2010, as if it/they were a body within the meaning of Schedule 19 of the Equality Act 2010 in relation to its public functions;

1.3.3 Section 149(2) of the Equality Act 2010.

- 1.4 The Contractor shall, and shall procure that any Contractor Related Party shall, notify the Authority's Representative forthwith in writing as soon as it becomes aware of any investigation of or proceedings brought against the Contractor or any Contractor Related Party under the Equalities Legislation.
- 1.5 Where any investigation is undertaken by a person or body empowered to conduct such investigation and/or proceedings are instituted in connection with any matter relating to the Contractor's performance of its obligations under this agreement being in contravention of the Equalities Legislation, the Contractor shall, and shall procure that any Contractor Related Party shall, free of charge:
 - 1.5.1 provide any information requested in the timescale allotted;
 - 1.5.2 attend any meetings as required and permit any of its staff to attend;
 - 1.5.3 promptly allow access to and investigation of any documents or data deemed to be relevant;
 - 1.5.4 allow itself and any of its staff to appear as witness in any ensuing proceedings; and
 - 1.5.5 co-operate fully and promptly in every way required by the person or body conducting such investigation during the course of that investigation.

Schedule 22

Commercially Sensitive Information

Schedule 23

Insurance Premium Risk Sharing

1 DEFINITIONS

1.1 For the purposes of this schedule, the following words and expressions shall bear the following meanings:

Actual Relevant Insurance Cost means the aggregate of the annual insurance premiums reasonably incurred by the Contractor to maintain the Relevant Insurance during the Insurance Review Period but excluding insurance premium tax and all broker's fees and commissions

Base Cost means fifty eight thousand and two hundred and sixty nine pounds (£58,269) being the amount as agreed at the Bid Date and set out in the Base Case which represents the insurance costs (which excludes amounts in respect of insurance premium tax and all brokers' fees and commissions) which are proposed to be incurred to maintain the Relevant Insurance in each year following the first Services Commencement Date, expressed in real terms as at the Bid Date

Base Relevant Insurance Cost means, the aggregate of the Base Costs which were (at Bid Date) projected to be incurred to maintain the Relevant Insurance during the Insurance Review Period indexed by actual RPIX from the Bid Date up to the dates on which the Relevant Insurance was placed or renewed either immediately before or during the Insurance Review Period (as applicable in respect of the year in question) less any Base Relevant Insurance Reduction

Base Relevant Insurance Reduction the reduction to be made to the Base Relevant Insurance Cost in respect of a risk which has become Uninsurable or a term or condition which is no longer available and shall be an amount that is either:

- a) the amount by which the Base Relevant Insurance Cost would have been a lesser amount had such a risk been Uninsurable or such a term or condition been unavailable at the Bid Date (which amount, for the avoidance of doubt, can be £0); or
- b) if it is impossible to determine an amount pursuant to paragraph a) above, an amount that is reasonable to be deducted from the Base Relevant Insurance Cost having due regard to:
 - i. the amount by which the Actual Relevant Insurance Cost is less than it would have been as a result of the risk becoming Uninsurable, or the term or condition becoming unavailable (**Actual Reduction**);
 - ii. the size of the Actual Reduction as a percentage of the Actual Relevant Insurance Cost immediately prior to the risk becoming Uninsurable, or the term or condition becoming available; and
 - iii. the effects of RPIX since the Bid Date

Bid Date means 19 December 2013

Business Interruption Insurance shall bear the meaning ascribed to it in schedule 11 (Insurances)

Construction Period Insurance means the Required Insurance in respect of the period from the date of this Agreement to the relevant Services Commencement Date

Exceptional Cost means, for an Insurance Review Period, the extent to which there is an Insurance Cost Increase which exceeds in amount 30% of the Base Relevant Insurance Cost for that Insurance Review Period

Exceptional Saving means, for an Insurance Review Period, the extent to which there is an Insurance Cost Decrease which exceeds in amount 30% of the Base Relevant Insurance Cost for that Insurance Review Period

First Insurance Review Date means the first Business Days following the first anniversary of the Relevant Insurance Inception Date

Insurance Cost Decrease means the Insurance Cost Differential if the value thereof is less than zero, multiplied by minus one

Insurance Cost Differential shall, subject to the Insurance Review Procedure, be determined as follows:

$$\text{Insurance Cost Differential} = (\text{ARIC} - \text{BRIC}) - (\text{PIC})$$

where:

ARIC is the Actual Relevant Insurance Cost

BRIC is the Base Relevant Insurance Cost

PIC is the Project Insurance Change

Insurance Cost Increase means the Insurance Cost Differential if the value thereof is greater than zero

Insurance Cost Index means any index introduced by the United Kingdom Government or the Office of National Statistics after the date of this Agreement and which is anticipated to be published annually to provide an independent and objective measure of changes in prevailing market insurance costs

Insurance Review Date means the First Insurance Review Date and, thereafter, each date falling on the second anniversary of the previous Insurance Review Date, except where such date lies beyond the end of the Contract Period, in which case the Insurance Review Date shall be the last renewal date of the Relevant Insurance prior to the end of the Contract Period

Insurance Review Procedure means the procedure set out in paragraph 2 of this schedule 23

Insurance Review Period means a two year period from the Relevant Insurance Inception Date and each subsequent two year period commencing on the second anniversary of the Relevant Insurance Inception Date except where the end of such period lies beyond the end of the Contract Period, in which case the Insurance Review Period shall be the period from the end of the penultimate Insurance Review Period to the last day of the Contract Period

Joint Insurance Cost Report shall bear the meaning ascribed to it in paragraph 2.2 of this schedule 23

Portfolio Cost Saving means any insurance cost saving which arises from the Contractor changing the placement of the Required Insurances from being on a stand-alone project-specific basis assumed at Financial Close and reflected in the Base Cost, to being on the basis of a policy (or policies) also covering risks on other projects or other matters which are outside the scope of the Project so as to benefit from portfolio savings. A Portfolio Cost Saving is defined to be a positive sum and cannot be less than zero.

Project Insurance Change means any net increase (which shall be expressed as a positive number) or net decrease (which shall be expressed as a negative number) in the Actual Relevant Insurance Cost relative to the Base Relevant Insurance Cost, arising from:

- a) the claims history or re-rating of the Contractor or any Contractor Related Party;
- b) the effect of any change in deductible unless the following applies:
 - i. such change is attributable to circumstances generally prevailing in the Relevant Insurance Market; and
 - ii. the deductible, further to such change, is either greater than or equal to the maximum in schedule 11 (Insurances);
- c) any other issue or factor other than circumstances generally prevailing in the Relevant Insurance Market, except for any Portfolio Cost Saving.

For the purpose of determining the Insurance Cost Differential, in the event that there is a net increase, the Project Insurance Change shall have a positive value. In the event that there is a net decrease the Project Insurance Change shall have a negative value.

Relevant Insurance means the Required Insurance and any other insurances as may be required by law other than:

- a) Construction Period Insurance; and
- b) Business Interruption Insurance except to the extent that it relates to Unavoidable Fixed Costs;

Relevant Insurance Inception Date means the date on which the Relevant Insurance is first providing active insurance cover to the Contractor, being a date no earlier than the first Services Commencement Date.

Relevant Insurance Market means the insurance market which insures the majority of all PFI projects across all of the PFI sectors (as determined by the number of PFI projects). At the date of this Agreement, the Relevant Insurance Market is in the United Kingdom.

2 INSURANCE REVIEW PROCEDURE

2.1 This procedure shall be used to determine whether the Authority shall bear any increase or benefit from any decrease in Relevant Insurance costs.

2.2 The Contractor's insurance broker shall prepare a report on behalf of both the Contractor and the Authority (**Joint Insurance Cost Report**). The Report is to be prepared at the Contractor's expense, and should, as a minimum, contain the following information for the relevant Insurance Review Period:

2.2.1 A full breakdown of the Actual Relevant Insurance Cost;

- 2.2.2 A full breakdown of the Base Relevant Insurance Cost;
 - 2.2.3 A spreadsheet (**Insurance Summary Sheet**) detailing separately:
 - 2.2.3.1 the sum(s) insured/limit of indemnity (ie rateable factor) for each of the Relevant Insurances;
 - 2.2.3.2 the premium rate for each of the Relevant Insurances;
 - 2.2.3.3 the net premium paid (or to be paid) for each of the Relevant Insurances (ie excluding both insurance premium tax and brokers fees and commissions);
 - 2.2.3.4 the deductible(s) for each Relevant Insurance;
 - 2.2.3.5 details of any claims (paid or reserved) (including incident date, type and quantum) in excess of twenty thousand pounds (£20,000), being the amount stated in clause 57.8 (Insurance);
 - 2.2.4 An assessment and quantification of each Project Insurance Change together with the reasons therefore;
 - 2.2.5 Full details of any Portfolio Cost Saving;
 - 2.2.6 Any other reasons that the Contractor believes may have caused a change (by way of increase or decrease relative to the Base Relevant Insurance Costs) in the Actual Relevant Insurance Cost;
 - 2.2.7 The opinion of the Contractor's insurance broker as to the reasons why the Actual Relevant Insurance Cost has varied from the Base Relevant Insurance cost, specifying the impact of each of the factors and quantifying the amount attributable to each factor specified above;
 - 2.2.8 The calculation of the Insurance Cost Differential and any Exceptional Cost or Exceptional Saving arising from this calculation; and
 - 2.2.9 Evidence satisfactory to the Authority (acting reasonably) of any changes to circumstances generally prevailing in the Relevant Insurance Market that are claimed to account for the Insurance Cost Differential;
 - 2.2.10 Details of movements in the CBS Private Capital non marine index plus, if available from other appropriate sources, details of changes in insurance cost across the PFI market as a whole.
- 2.3 The Contractor shall procure that the Broker, no later than the date which is ten (10) Business Days after the Insurance Review Date, delivers to the Authority, at the same time as it delivers to the Contractor, at least two copies of the Joint Insurance Cost Report. At the same time the Contractor should send a copy of the Insurance Summary Sheet to HM Treasury private finance unit or its nominee. Following receipt of the Joint Insurance Cost Report, the Authority shall notify the Contractor in writing within fifteen (15) Business Days whether or not it accepts the Joint Insurance Cost Report including full details of any disagreement. If the Authority does not provide such notification and/or details of any disagreement to the Contractor within fifteen (15) Business Days, the Authority shall be deemed to have accepted the Joint Insurance Cost Report. If the Authority disagrees with any item in the Joint Insurance Cost Report, the Parties shall use their respective reasonable endeavours acting in good faith to agree the contents of the Joint Insurance Cost Report. If

the Parties fail to agree the contents of the Joint Insurance Cost Report within thirty five (35) Business Days from the date it was delivered to the Authority, the matter shall be resolved pursuant to the Dispute Resolution Procedure, provided always that references to an expert shall be construed as references to an independent insurance expert agreed by the Parties or, in the absence of agreement, appointed by the President for the time being of the Chartered Institute of Arbitrators.

- 2.4 The Authority may make the Joint Insurance Cost Report available to any of its or HM Treasury's agents or advisers or other body or bodies nominated by HM Treasury for insurance cost verification, benchmarking or similar purpose.

3 SHARING OF EXCEPTIONAL COST AND EXCEPTIONAL SAVING

- 3.1 If, following the completion of the Insurance Review Procedure, it is agreed or determined that there is an Exceptional Cost, the Authority shall within thirty (30) days of completion of the Insurance Review Procedure make a one-off lump-sum payment to the Contractor equal to 85% of the Exceptional Cost.
- 3.2 If following the completion of the Insurance Review Procedure, it is agreed or determined that there is an Exceptional Saving, the Contractor shall within (30) days of completion of the Insurance Review Procedure make a one-off lump-sum payment to the Authority equal to 85% of the Exceptional Saving.
- 3.3 Following the completion of the Insurance Review Procedure, if it is agreed or determined that there is neither an Exceptional Cost nor an Exceptional Saving, any Insurance cost Differential shall be borne by or benefit the Contractor.

4 INSURANCE COST INDEX

If at any time an Insurance Cost Index is published and intended for use in PFI contracts of a similar nature to this Agreement, the parties shall meet with a view to agreeing:

- 4.1 its application to the Project, taking account any relevant guidance issued by HM Treasury; and
- 4.2 how a Portfolio Cost Saving may be accounted for when index is in use.

Schedule 24

Not Used

Schedule 25

Change Protocol

Part 1 - General Provisions

1 DEFINITIONS

In each Part of this schedule 25 the following expressions (in addition to those specified in clause 1 (Definitions and Interpretation)) shall, save where the context or the express provisions of this Agreement otherwise requires or admits, have the following meanings:

Agreed Abatement means:

- (a) in the case of a Low Value Change [REDACTED] indexed;
- (b) in the case of a Medium Value Change [REDACTED] indexed; and
- (c) in the case of a High Value Change [REDACTED] indexed

Alterations means any alteration, demolition, extension or addition to a Site in each case of a structural nature

Approval Criteria means the criteria against which any Contractor Stage 2 Response will be evaluated by the Authority and which will be specified by the Authority in the Authority Change Notice and which shall be based on:

- (a) compliance with the Authority's specifications for the Change;
- (b) evidencing value for money;
- (c) affordability to the Authority (in terms of developing a final price within the Contractor Stage 2 Response); and
- (d) compliance with all relevant Legislation, Guidance and Consents

and such Approval Criteria shall be reasonable and achievable taking into account Good Industry Practice and the scope and price of the required High Value Change.

Authority Change means a Change that is initiated by the Authority by submitting a Low Value Change Request or an Authority Change Notice to the Contractor

Authority Change Notice means a written notice submitted by the Authority requiring a Medium Value Change or a High Value Change and setting out the information specified in the relevant paragraph of this Change Protocol

Authority Initial Confirmation has the meaning given in paragraph 2.3 of Part 4 (High Value Change) of this Change Protocol

Authority Stage 1 Confirmation has the meaning given in paragraph 4.2(a) of Part 4 (High Value Changes) of this Change Protocol

Authority Stage 2 Confirmation has the meaning given in paragraph 7.1(a) of Part 4 (High Value Changes) of this Change Protocol

Benchmarking Process means the process set out in paragraph 9 of Part 4 (High Value Changes) of this Change Protocol

Benchmarking Report means the report produced by the Contractor in accordance with the requirements of paragraph 9 of Part 4 (High Value Changes) (which shall, for the avoidance of doubt, include the information required by paragraph 9.2 of Part 4 (High Value Change)) of this Change Protocol

Catalogue of Low Value Changes and **Catalogue** means the schedule setting out:

- (a) the prices and time periods for certain Low Value Changes;
- (b) the Small Works Rates

as is set out in Appendix 1 to this Change Protocol, as shall be amended from time to time in accordance with paragraph 6 of Part 2 (Low Value Changes) of this Change Protocol

Change means any change, variation, extension or reduction in the Works and/or the Sites and/or the Services

Change in Care Provision means the Authority not appointing or not continuing to appoint a Care Provider or varying the terms of the appointment of a Care Provider so that the Critical Services will not be delivered in accordance with statutory requirements and Good Industry Practice

Change Notice means an Authority Change Notice and/or a Low Value Change Request and/or Contractor Change Notice as the context shall require

Change in Project Costs means a fixed and final price for carrying out the relevant Change

Charitable Objects means the carrying on by the Landlord for the benefit of the community of the business of providing housing, accommodation, and assistance to help house people (including associated facilities and amenities) for poor people or for the relief of aged, disabled (whether physically or mentally) or chronically sick people

Competitive Tendering Process means the process set out in paragraph 8 of Part 4 (High Value Changes) of this Change Protocol

Comparable Market means local authority housing projects operated under PFI or other forms of PPP

Confirmation Notice means a written notice issued by the Authority pursuant to the relevant provision of this Change Protocol setting out the agreed details of the Change, including the agreed cost, method of payment and the times of its implementation (in a form to be agreed between the Parties acting reasonably from time to time)

Contractor Change means a Change that is initiated by the Contractor by submitting a Contractor Change Notice to the Authority

Contractor Change Notice means a written notice submitted by the Contractor requesting a change and setting out the information required by the relevant paragraph of this Change Protocol

Contractor Initial Response means the written response of the Contractor referred to in paragraph 2.1 of Part 4 (High Value Change) of this Change Protocol

Contractor Response means the written response of the Contractor to an Authority Change Notice or a Low Value Change Request which shall include the information listed in the relevant paragraph of this Change Protocol

Contractor Stage 1 Response shall have the meaning given in paragraph 3.1 of Part 4 (High Value Changes) of this Change Protocol

Contractor Stage 2 Response shall have the meaning given in paragraph 5.1 of Part 4 (High Value Changes) of this Change Protocol

Critical Procedures means those procedures detailed in the fire evacuation procedures prepared and agreed in compliance with paragraph 5.4.4 of the Output Specification, which are for each Site set out as Contractor's Proposals

Estimated Change in Project Costs means the aggregate of any estimated increased construction costs, operating costs, Whole Life Costs and financing costs less the aggregate of any estimated reduced construction costs, operating costs, Whole Life Costs and financing costs

High Value Changes means a Change, which is not a Low Value Change or a Medium Value Change, and which is likely to either cost more than [REDACTED] to implement, or require an adjustment to the Unitary Charge that is greater than [REDACTED] of the annual Unitary Charge in the relevant Contract Year (as the case may be)

Independent Technical Advisor means a person who is independent of the Authority or any Contractor Related Party who has not less than five (5) years experience in projects operated under PFI or other forms of PPP, has expertise in pricing works and/or services of the type required by the relevant High Value Change and has relevant experience in the housing sector

Low Value Change means:

- (a) works of a minor nature or the provision of plant or equipment, having a cost, not exceeding [REDACTED]; or
- (b) any change or amendment (whether temporary or permanent) of the Services or any of them where the cost, in the reasonable opinion of the Authority, of the implementation does not exceed [REDACTED] and does not require adjustment of the Unitary Charge and which does not effect achievement of any Planned Services Commencement Date; or
- (c) those items listed in the Catalogue of Low Value Changes; or
- (d) Adaptations Works undertaken at a Site prior to the issue of the relevant Certificate of Availability

Low Value Change Request means a request for a Low Value Change in the form set out in Appendix 3 to this Change Protocol

Low Value Change Threshold means where the Low Value Changes in any Contract Year exceeds 24 in number or cost in excess of the aggregate sum of [REDACTED]

Medium Value Change means a Change, which is not a Low Value Change, and which, in the reasonable opinion of the Authority, is likely to either cost less than [REDACTED] to

implement, or require an adjustment to the Unitary Charge that is less than 2% of the annual Unitary Charge in the relevant Contract Year (as the case may be)

Medium Value Change Threshold means where the Medium Value Changes in any Contract Year exceeds 12 in number or cost in excess of the aggregated sum of [REDACTED]

Original Sites means the Sites as at the relevant Services Commencement Date (including any Changes incorporated into the Works)

Project Management Fee means a fee in respect of project management services calculated in accordance with paragraph 2.4 of Part 4 (High Value Changes) of this Change Protocol

Reference Price means a high level price calculated by the Independent Technical Advisor which is his estimate of the cost of implementing a proposed High Value Change and which shall include and show separately the information specified in paragraph 10.3 of Part 4 (High Value Changes) of this Change Protocol

Small Works Rates means the hourly rates for specified categories of labour set out in the Catalogue

Tendering Report means a report prepared by the Contractor which shall include the information required by paragraph 8.5 of Part 4 (High Value Changes) of this Change Protocol

Third Party Costs means the costs incurred by a third party which shall include but not be limited to any sub-contractor, consultant or advisor which shall, wherever possible, be set out in, or based on rates set out, in the Catalogue

Whole Life Costs means, in relation to any Medium Value Change or High Value Change, the estimated and (to the extent that such information is available) the actual cost of operating and maintaining such Medium Value Change or High Value Change over its intended design life (consistent with the Contractor Response)

2 LIMITS ON CHANGES

2.1 Neither party may propose or implement a Change:

- (a) which requires the Services to be performed or a Change to be implemented in a way that infringes any Legislation or Guidance or is inconsistent with Good Industry Practice;
- (b) which would cause any Consent to be revoked (or a new Consent required to implement the relevant Change to be unobtainable);
- (c) which would materially and adversely affect the Contractor's ability to deliver the Services or the Works carried out (except for that Part of the Service or the Works which has been specified as requiring to be amended in the Change Notice) in a manner not compensated pursuant to this Change Protocol;
- (d) which would materially and adversely affect the health and safety of any person;
- (e) which would require the Contractor to implement the Change in an unreasonable period of time;

- (f) which would (if implemented) materially and adversely change the nature of the Project (including its risk profile);
- (g) to the permitted categories of Tenant (as set out in the Allocations Protocol) which would (if implemented) put the Landlord in breach of their Charitable Objects; and/or
- (h) whereby the Authority does not have the legal power or capacity to require the implementation of such Change.

2.2 The Contractor may, within ten (10) Business Days of receipt of an Authority Change Notice or a Low Value Change Request, state in writing whether it objects to the Authority Change Notice or Low Value Change Request on any of the grounds set out in paragraph 2.1. If the Change is required as a result of a Change in Law, the Contractor shall in its notice of objection, set out proposals for a Change which shall satisfy the Change in Law without, to the extent practicable, breaching any of the grounds set out in paragraph 2.1. The Authority shall, within ten (10) Business Days of receipt of such notice provide written confirmation that either:

- (a) the Authority Change Notice or Low Value Change Request is withdrawn (and where the Change was required as a result of a Change in Law, the Authority shall submit a new Authority Change Notice or Low Value Change Request); or
- (b) the objection by the Contractor shall be referred for determination in accordance with the Dispute Resolution Procedure.

2.3 The parties shall endeavour to make no Changes to the Works prior to the final Services Commencement Date. In the event that the Authority requires an Authority Change to the Works, then the Authority shall, with the Authority Change Notice or Low Value Change Request, submit a confirmation from the Authority's Representative that the Change required by the Authority is necessary and that, in the event that the Contractor cannot obtain funding pursuant to paragraph 4 of this Part 1, the Authority will fund such Change.

2.4 For the avoidance of doubt the Authority has an absolute discretion to accept or reject any Contractor Change unless such Change is required as a result of a Change in Law.

3 CHANGE PROCESS

3.1 Either party may serve a Change Notice proposing a Change and such Change Notice shall be processed in accordance with the following sections of this Change Protocol:

- (a) an Authority Change to the Works, the Services or the Sites which is a Low Value Change shall be processed in accordance with Part 2 (Low Value Change) of this Change Protocol;
- (b) an Authority Change to the Works, the Services or the Sites which is a Medium Value Change shall be processed in accordance with Part 3 (Medium Value Change) of this Change Protocol;
- (c) an Authority Change to the Works, the Services or the Sites which is a High Value Change shall be processed in accordance with Part 4 (High Value Change) of this Change Protocol; and
- (d) a Contractor Change to the Works, the Services or the Sites shall be processed in accordance with Part 5 (Contractor Change) of this Change Protocol.

- 3.2 If at any time the Authority wishes to implement a Change in Care Provision then the Authority shall issue an Authority Change Notice (which the Authority shall not be entitled to withdraw) inviting the Contractor to propose how the Critical Procedures can be delivered in accordance with statutory requirements and Good Industry Practice following the implementation of such Change in Care Provision. The Change Notice shall be processed as referred to in paragraph 3.1 above. Where a Confirmation Notice has not been issued in respect of the Authority Change Notice prior to the implementation of the Change in Care Provision then the Contractor or Contractor Related Party shall be entitled to take all reasonable steps to ensure the continued delivery of the Critical Procedures in accordance with statutory requirements and Good Industry Practice and the reasonable costs of such steps shall be included as part of the cost of implementing the Authority Change.

4 FUNDING

- 4.1 In the case of a Medium Value Change or a High Value Change, the Authority may request in the Authority Change Notice that the Contractor shall use its reasonable endeavours to obtain funding for the whole of the estimated Capital Expenditure, on terms reasonably satisfactory to the Authority and the Senior Lenders.
- 4.2 If the Contractor has used its reasonable endeavours to obtain funding for the whole of the estimated Capital Expenditure, but has been unable to do so within forty (40) Business Days of the date that the Authority issued an Authority Change Notice making such request the Contractor shall inform the Authority in writing of what funding (if any) it has managed to obtain. The Contractor shall have no obligation to carry out the Authority Change, which shall be deemed to be withdrawn, unless the Authority confirms in writing within twenty (20) Business Days of receipt of such notice by the Contractor, that it will pay the Capital Expenditure for which funding is not available.
- 4.3 The Authority may, at any time notify the Contractor in writing that it will meet all or, to the extent the Contractor has obtained funding for part of the Capital Expenditure, the remaining part of the Capital Expenditure.
- 4.4 For the avoidance of doubt, subject to clause 52 (Change in Law), the Authority shall pay the Capital Expenditure incurred in carrying out any Low Value Change required by the Authority.
- 4.5 In the case of a Contractor Change, any funding shall (unless otherwise agreed) be provided by the Contractor except to the extent a Qualifying Change of Law applies in which case the provisions of clause 52 (Change in Law) shall apply.

5 DUE DILIGENCE

- 5.1 The Senior Lender may carry out legal, financial, technical and insurance due diligence on any proposal for an Authority Change:
- (a) in the case of a Low Value Change, when the Low Value Change Threshold has been exceeded; or
 - (b) in the case of a Medium Value Change where the Medium Value Change Threshold has been exceeded; or
 - (c) in the case of a High Value Change, as required.
- 5.2 In the event that the Senior Lender needs to procure legal, technical, financial or insurance due diligence, the parties shall agree a budget and capped cost for the due diligence provided

that the costs for the due diligence shall not exceed [REDACTED] of the overall value of the relevant Authority Change.

5.3 The Contractor shall procure that:

- (a) the Senior Lenders shall promptly give any consents which are required pursuant to the Financing Agreements to any Change and shall only withhold its consent on one (or more) of the grounds set out in paragraph 2.1;
- (b) the Insurance Broker shall be notified by the Contractor promptly of any material Change (materiality being judged in relation to the size and nature of the scope of the Change and any necessary authorisation obtained).

6 IMPLEMENTATION

6.1 Where the Authority has issued a Confirmation Notice in respect of a Medium Value Change or a High Value Change:

- (a) where applicable, the parties shall execute any deed of amendment to this Agreement;
- (b) the Contractor shall promptly implement any Change within the timescales set out in the Confirmation Notice and shall do so in a manner which minimises any inconvenience to the Authority;
- (c) the Contractor shall notify the Authority when it believes the Change has been completed;
- (d) where applicable, the Unitary Charge shall be revised in accordance with clause 65 (Financial Adjustments).

6.2 No amendments of this Agreement shall be made as a result of a Low Value Change unless otherwise agreed between the parties.

6.3 If the Contractor does not:

- (a) respond to a Low Value Change Request or an Authority Change Notice (in the case of a High Value Change either at Stage 1 or Stage 2); or
- (b) complete or implement the Change within the specified timescales,

then the Unitary Charge shall be abated at the rate of the Agreed Abatement for every day of delay from the date the Contractor Response should have been submitted or the Change should have been completed or implemented until the date the Contractor Response is submitted or the Change is completed or implemented (as the case may be).

6.4 All Changes shall be implemented under the terms of this Agreement and in particular all provisions applying to the Works shall apply to the carrying out of any additional works or changes to the Works.

6.5 The Contractor shall keep a record of all Changes (both completed and outstanding) and provide the Authority with these records whenever reasonably required by the Authority.

7 IMPLEMENTATION OF A CHANGE BY THE AUTHORITY

7.1 The Authority may implement any Change itself pursuant to paragraph 4.5 (Implementation) of Part 2 (Low Value Changes), or paragraph 2.10 of Part 3 (Medium Value Changes) or paragraph 7.4 (Authority Stage 2 Confirmation) of Part 4 (High Value Changes) provided that:

- (a) where the Change is an Alteration it may only be implemented by the Authority if it comprises the provision of separate facilities at the relevant Sites and does not require any Alteration to any existing buildings or other facilities (other than any Alterations comprising connection into utilities or other service media at the relevant Sites necessary to implement the relevant Change); and
- (b) the Authority shall undertake the Change in accordance with Good Industry Practice and shall pay to the Contractor any Direct Losses incurred by the Contractor as a result of a failure to do so.

8 PAYMENT

8.1 The Authority shall pay the Contractor the agreed cost for carrying out or implementing any Authority Change:

- (a) which is a Low Value Change, in accordance with paragraph 5 (Payment) of Part 2 (Low Value Changes); or
- (b) which is a Medium Value Change or a High Value Change either by way of:
 - (i) an adjustment to the Unitary Charge, by incorporating the Change in Project Costs in accordance with clause 65 (Financial Adjustments); or
 - (ii) subject to paragraph 8.2, within twenty (20) Business Days of receipt of an invoice submitted by the Contractor for the agreed amount.

provided that in the case of paragraph 8.1(b)(i) no adjustment of the Unitary Charge shall take place until the aggregate value of the adjustment required exceeds the sum of [REDACTED] (indexed) or, once a year if the aggregate sum is not achieved in any Contract Year.

8.2 Where the Authority agrees to pay any Capital Expenditure incurred in carrying out a Change:

- (a) the Authority and Contractor shall agree:
 - (i) a payment schedule in respect of the payment of the Capital Expenditure reflecting the amount and timing of the costs to be incurred by the Contractor in carrying out the Authority Change, to the extent borne by the Authority; and
 - (ii) where payment for part of the Authority Change reflects the carrying out of, or specific progress towards, an element within the Authority Change, an objective means of providing evidence confirming that the part of the Authority Change corresponding to each occasion when payment is due under the payment schedule has been duly carried out,

and such payment schedule and evidence shall be determined in accordance with the Dispute Resolution Procedure in the event of the Authority and Contractor failing to agree as to its terms;

- (b) the Authority shall make a payment to the Contractor within twenty (20) Business Days of receipt by the Authority of invoices presented to the Authority (complete in all material respects) in accordance with the agreed payment schedule (as may be varied by agreement from time to time) accompanied by the relevant evidence (where applicable) that the relevant part of the Authority Change has been carried out; and
- (c) if payment is not made in accordance with paragraph 8.2(b), the Authority shall pay interest at the Prescribed Rate to the Contractor on the amount unpaid from the date twenty (20) Business Days after receipt of the relevant invoice until the date of payment.

8.3 Where, pursuant to paragraph 5.1, due diligence has been carried out by the Senior Lender, then the Authority shall reimburse the Contractor for the actual costs of the Senior Lender carrying out due diligence of a proposed Authority Change, provided that:

- (a) in the case of a Low Value Change, the Low Value Change Threshold has been exceeded; or
- (b) in the case of a Medium Value Change, the Medium Value Change Threshold has been exceeded; and
- (c) the sums due shall never exceed the lower of the cap set out in to paragraph 5.2 and the caps or fixed sum set out in the relevant Contractor Response

and, where the costs of the due diligence have not been included in the Change in Project Costs, the Authority shall pay such costs within twenty (20) Business Days of receipt of an invoice submitted by the Contractor for the agreed amount.

8.4 Notwithstanding any other provision of this Change Protocol the provisions of clause 52 (Change of Law) shall apply to the payment of any costs incurred or any savings made in carrying out or implementing any Change which is required as a result of a Qualifying Change in Law.

9 DISPUTES

Any dispute arising in respect of this Change Protocol will be resolved in accordance with the Dispute Resolution Procedure.

Part 2 - Low Value Changes

1 NOTIFICATION AND SPECIFICATION

- 1.1 Subject to paragraph 2.1 (Limits on Changes) of Part 1 (General Provisions), the Contractor shall carry out any Low Value Change requested by the Authority.
- 1.2 If a Low Value Change is required by the Authority, it shall submit to the Contractor a Low Value Change Request.

2 CONTRACTOR RESPONSE

- 2.1 Within five (5) Business Days of receipt of the Low Value Change Request, the Contractor shall in writing either:
- (a) where the Low Value Change is set out in the Catalogue, confirm the cost of implementing the required Low Value Change which shall not exceed the price specified in the Catalogue and the time period for completing or implementing the Low Value Change which shall not exceed the period specified in the Catalogue; or
 - (b) where the Low Value Change is not set out in the Catalogue, provide a fixed price for implementing the required Low Value Change which shall be calculated in accordance with paragraph 2.2 together with a period for completion or implementation.
- 2.2 The cost of implementing any Low Value Change which is not set out in the Catalogue shall be calculated on the basis that:
- (a) wherever practicable the Contractor shall procure that such works are carried out by an existing on-site and suitably qualified employee of a Sub-Contractor and no labour element shall be charged to the Authority in respect of such works. Where the Low Value Change can not be carried out by an existing on-site and suitably qualified employee of a Sub-Contractor, the cost of the labour element shall be calculated in accordance with the Small Works Rates or, where such rates are not applicable, in accordance with rates which are fair and reasonable; and
 - (b) the materials element shall be charged at the cost of materials to the Contractor or to the contractor carrying out the work (net of all discounts) and there shall be no management fee, margin, overhead, contingency or other cost applied to such costs.
- 2.3 The Contractor shall make no additional charge to the Authority for processing, implementing or managing a Low Value Change.
- 2.4 The Authority may, within five (5) Business Days of receipt, object in writing to the Contractor's response given pursuant to paragraph 2.1 and in such circumstances the parties shall act reasonably to agree, as soon as practicable, how the Low Value Change is to be priced and/or implemented. If the parties cannot agree the Low Value Change, the Authority may refer the matter to the Dispute Resolution Procedure or may withdraw the Low Value Change Request.

3 DUE DILIGENCE

- 3.1 The provisions of paragraph 5 (Due Diligence) of Part 1 (General Provisions) shall apply.

4 IMPLEMENTATION

- 4.1 If the Authority has not objected pursuant to paragraph 2.4, the Contractor shall, within twelve (12) Business Days of receipt of the Low Value Change Request, proceed to implement the required Change within the timescales specified in the Catalogue. Where no timescales are specified in the Catalogue, the Contractor shall implement the required Low Value Change within fifteen (15) Business Days of commencement of the Low Value Change or such other period as is specified in the Catalogue or agreed between the parties.
- 4.2 The Contractor shall implement the required Low Value Change so as to minimise any inconvenience to the Authority and shall notify the Authority when it believes the Low Value Change has been completed.
- 4.3 Paragraph 6.2 (Implementation), paragraph 6.3 (Implementation) and paragraph 6.4 (Implementation) of Part 1 shall apply and any dispute pursuant to this Part 2 may be referred by either party to the Dispute Resolution Procedure. Provided that the Contractor shall, where such dispute concerns the cost of the Low Value Change and if instructed so to do by the Authority, carry out or implement the Low Value Change within the prescribed timescales notwithstanding the dispute.
- 4.4 Not Used.
- 4.5 Where the Contractor has either:
- (a) failed to provide a response pursuant to paragraph 2.1 within fifteen (15) Business Days of the date of the Low Value Change Request; or
 - (b) provided a response pursuant to paragraph 2.1 but has failed to fully implement the Low Value Change within ten (10) Business Days of the date that has been determined or agreed in accordance with paragraph 2.4 or paragraph 4.1 as being the date on which the Low Value Change should have been implemented

then the Authority may notify the Contractor that the Low Value Change Notice is withdrawn and following such notification, the Authority may procure the implementation of the Low Value Change without further recourse to the Contractor and the provisions of paragraph 7 (Implementation of a Change by the Authority) of Part 1 (General Provisions) shall apply.

5 PAYMENT

- 5.1 Following the implementation of a Low Value Change, the Contractor shall include the agreed costs of any Low Value Change in the next report for that Payment Period submitted in accordance with clause 33.2 following completion or implementation of the relevant Low Value Change and the Authority shall pay such agreed costs as part of the following monthly Unitary Charge unless paragraph 5.2 of this Part 2 applies.
- 5.2 No adjustment of the Unitary Charge shall be made as a result of any Low Value Change unless agreed between the parties. Where it is agreed that an adjustment of the Unitary Charge is required, the Base Case shall be adjusted to give effect to such Low Value Changes once each Contract Year and all relevant Low Value Changes that have occurred in the preceding Contract Year shall be aggregated together into a single cumulative adjustment as set out in clause 65 (Financial Adjustments).

6 UPDATE OF CATALOGUE

- 6.1 From the Commencement Date the Catalogue shall be that set out in Appendix 1 to this Change Protocol and, subject to paragraph 6.2, the rates set out therein shall be indexed on each anniversary of the Commencement Date.
- 6.2 On the third anniversary of the Commencement Date and each third year thereafter, the parties shall review the Catalogue with the intention of:
- (a) including in the Catalogue unit prices for any Low Value Change or any Change which does not affect the risk profile of the Project which the parties anticipate could occur during the life of the Project;
 - (b) including time periods for the carrying out of any works or implementation of any Change for the matters referred to in paragraph 6.2(a);
 - (c) reviewing the unit pricing for the works and services specified in the Catalogue to ensure that unit rates continue to provide value for money with reference to prices prevailing for similar items in the market at the time;
 - (d) reviewing the rates for any administrative services required to process a Change;
 - (e) reviewing any labour rates included in the Catalogue;
 - (f) taking account of any Low Value Changes which took place in the preceding Contract Year and which may occur again and should properly be included in the Catalogue.
- 6.3 No later than February of each relevant Contract Year, the Contractor shall submit to the Authority any amendments to the Catalogue as required by the Authority or agreed by the parties pursuant to paragraph 6.2 together with evidence that the unit pricing set out in the Catalogue (or proposed as an amendment to the Catalogue) offers the Authority value for money.
- 6.4 The parties shall meet and endeavour, in good faith, to agree any amendments to the Catalogue. Any dispute shall be referred to the Dispute Resolution Procedure and any price determined as providing good value for money with reference to prices prevailing for similar items in the market at the time of determination shall be included in the Catalogue.
- 6.5 No later than March of each relevant Contract Year, the Contractor shall issue to the Authority an updated Catalogue which shall set out the agreed or determined amendments and shall constitute the Catalogue for the purposes of this Agreement.

Part 3 - Medium Value Changes

1 NOTIFICATION AND SPECIFICATION

- 1.1 If a Medium Value Change is required by the Authority, it shall serve an Authority Change Notice on the Contractor.
- 1.2 The Authority Change Notice shall, where applicable, include, but not be limited to, the following information:
- (a) a statement that it is a Medium Value Change and whether or not the Change is required as a result of a Change in Law;
 - (b) a description of any works (or change to the Works) required in sufficient detail to allow the design and pricing of the Medium Value Change by the Contractor;
 - (c) whether, in respect of any additional works, the Contractor is expected to provide maintenance and lifecycle services in respect of such additional works;
 - (d) the location for the works or services required;
 - (e) the timing of the works or services required together with any adjustments required to any Planned Services Commencement Dates;
 - (f) in respect of additional or varied services, a description of such service or variation to a Service together with the anticipated date of implementation of the variation or commencement of the new service in sufficient detail to allow the pricing of the Medium Value Change by the Contractor;
 - (g) whether any Consents are required in order to implement the Change;
 - (h) either confirmation that the Authority will fund the Medium Value Change itself and its proposals for payment (whether in stages or otherwise) or a request that the Contractor raises finance for the Authority Change as required by paragraph 8.1 (Payment) of Part 1 (General Provisions) of this Change Protocol;
 - (i) the date by which the Contractor shall provide the Contractor Response to the Authority (which shall be appropriate to the complexity of the Change required and shall not be less than ten (10) Business Days from the date of the Authority Change Notice) or forty (40) Business Days if the Authority requests that the Contractor obtain funding of the Capital Expenditure under paragraph 4.1 of Part 1.

2 CONTRACTOR RESPONSE

- 2.1 Subject to paragraph 2 (Limits on Changes) of Part 1 (General Provisions), within the period specified in the Authority Change Notice (or such other period as the parties may agree), the Contractor shall provide the Authority with a Contractor Response which shall include (where applicable) the following information:
- (a) a detailed programme for the design, Authority review of the design, construction and/or installation of the Medium Value Change (including the procuring of any Consents);
 - (b) a detailed programme for commissioning and implementing any change in, or addition to the Services, including the provision and/or training of any staff;

- (c) the proposed method of certification of any construction or operational aspects of the Medium Value Change if not covered by the procedures set out in this Agreement;
- (d) the proposed consultants, sub-contractors and suppliers the Contractor intends to appoint to process the Medium Value Change;
- (e) details of any impact of the Medium Value Change on the carrying out of the Works or the provision of the Services and in particular, details of any relief from compliance with any obligations of this Agreement required during the implementation of the Medium Value Change;
- (f) any Estimated Change in Project Costs that result from the Medium Value Change, taking into account any Capital Expenditure that is required or no longer required as a result of the Medium Value Change;
- (g) where the Authority has specified in the Authority Change Notice that the Contractor shall raise finance for the Authority Change, the steps the Contractor has or will take to secure such finance;
- (h) any loss of or increase in third-party revenue that may result from the Medium Value Change;
- (i) an estimate of any Third Party Costs and the details of the third-party activity that will be incurred in providing the Contractor Response including (where applicable pursuant to paragraph 5 (Due Diligence) of Part 1 (General Provisions) the anticipated cost of the Senior Lender carrying out due diligence (which shall be a capped sum) together with a proposed process for approval of such costs by the Authority before they are incurred;
- (j) any amendment to this Agreement or any Project Document or any Financing Agreement required as a result of the Medium Value Change.

2.2 In calculating the Estimated Change in Project Costs (including the Whole Life Costs) and/or Capital Expenditure the Contractor shall apply the following principles wherever applicable:

- (a) the unit cost of any construction or installation works (excluding any temporary or demolition works, professional fees, contingencies, overheads and profit margins) required to implement the Medium Value Change shall be the equivalent unit rates set out in Part 1 of Appendix 2 of this Change Protocol. If the Contractor can demonstrate to the reasonable satisfaction of the Authority that such works are designed to a higher quality as compared to the Works, then the unit rates shall be increased to reflect such increase in quality;
- (b) any lifecycle maintenance associated with additional works (or changes to the Works) shall be consistent with the maintenance profile of the Original Sites as such maintenance profile may be amended as a result of a Change (for example, but without limitation, in terms of the replacement cycles for equipment) and the Contractor shall reflect improvements in technology that can optimise Whole Life Costs for the Authority. The unit costs to be applied to the pricing of the lifecycle maintenance shall be the equivalent unit rates set out in Part 2 of Appendix 2 of this Change Protocol. If any additional works are designed to a higher quality as compared to the Works, then the unit lifecycle maintenance costs shall, where applicable, be (in real terms) lower;

- (c) any professional fees, contingencies, overheads and/or profit margins charged by the any consultant, sub-contractor or supplier in respect of construction and/or installation and/or lifecycle and/or service provision shall be the equivalent rates set out in Part 3 of Appendix 2 of this Change Protocol. If the Contractor can demonstrate to the reasonable satisfaction of the Authority that the fees, overheads and profit margins being charged by consultants, sub-contractors and/or suppliers in current market conditions have changed significantly from those set out in Part 3 of Appendix 2 of this Change Protocol, then the Authority shall agree to amend the rates set out in Part 3 of Appendix 2 of this Change Protocol to reflect current market rates;
- (d) the unit cost of any extension of, or change to, any Service (either in scope or area) shall be consistent with the equivalent unit rates set out in Part 4 of Appendix 2 of this Change Protocol. If the Contractor can demonstrate, to the reasonable satisfaction of the Authority, that as a result of the Medium Value Change, the relevant Service will be of a higher quality than required by the relevant Output Specification then the Authority shall agree to increase such rates to reflect any increase in quality;
- (e) the cost of Contractor time, reasonably incurred in preparing the estimate for the Medium Value Change (or proposed Medium Value Change) may be charged for at the rates set out in Part 4 of Appendix 2 of this Change Protocol (and no additional mark-up or management fee shall be charged by the Contractor over and above the costs it will be liable to pay its sub-contractors in carrying out the works and/or services (as the case may be));
- (f) where the parties agree that paragraph 2.2(a) to 2.2(e) are not applicable the value of any Medium Value Change shall be calculated in accordance with rates which are fair and reasonable and reflect market rates.

Agreement of Contractor Response

2.3 As soon as practicable, and in any event no later than ten(10) Business Days after the Authority receives the Contractor Response, the parties shall discuss and endeavour to agree the issues set out in the Contractor Response, and the Contractor shall:

- (a) provide evidence that the Contractor has used reasonable endeavours (including, where practicable, and without prejudice to the provisions of paragraph 8 (Competitive Tendering) of Part 4 (High Value Change), the use of competitive quotes) to oblige sub-contractors and suppliers to minimise any increase in costs and maximise any reduction in costs;
- (b) demonstrate how any Capital Expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred, foreseeable Changes in Law at that time would be taken into account by the Contractor; and
- (c) demonstrate that any expenditure that has been avoided, which was anticipated to be incurred that has been affected by the Authority Change, has been taken into account in the Estimated Change in Project Costs.

2.4 If the Contractor fails to provide the information required by paragraph 2.2 or satisfy the provisions of paragraphs 2.3(a) the Authority may (in writing) reject the Contractor Response, in which event the parties shall meet within ten (10) Business Days of the notice of rejection to discuss the reason for the Authority's rejection of the Contractor Response. The Contractor shall use all reasonable endeavours to address the Authority's concern about the

quality and content of the Contractor Response. In particular, the Contractor shall provide any additional information or documentation that the Authority shall reasonably require which relates to the contents of the Authority Change Notice and/or the Contractor Response and/or the information required by paragraphs 2.3(a). The Authority may require the Contractor to resubmit the Contractor Response amended to take account of, and address, the Authority's concerns and the Contractor shall submit such revised Contractor Response within twenty (20) Business Days of such request.

- 2.5 If the parties cannot agree on the contents of the Contractor Response (as may be amended pursuant to paragraph 2.4), then either party may refer the dispute to the Dispute Resolution Procedure, provided that no determination shall oblige the Authority to issue an Authority Confirmation in respect of the disputed Medium Value Change.

Authority Confirmation

- 2.6 The Authority shall, in writing, either confirm or withdraw the Authority Change Notice or reject the Contractor Response and in the event that the Authority:

- (a) confirms the Authority Change Notice then the Authority shall issue a Confirmation Notice which shall set out the Change in Project Costs and agreed timescales for implementation and attach the agreed Contractor Response amended as agreed; or
- (b) withdraws an Authority Change Notice, paragraph 2.8 shall apply; or
- (c) rejects the Contractor Response, paragraph 2.9 shall apply.

- 2.7 If the Authority does not issue a written notice pursuant to paragraph 2.6 within twenty (20) Business Days of the contents of the Contractor Response having been agreed in accordance with paragraph 2.4 or determined pursuant to paragraph 2.5 then the Authority Change Notice shall be deemed to have been withdrawn.

- 2.8 Where an Authority Change Notice is withdrawn pursuant to paragraph 2.6 or deemed to have been withdrawn pursuant to paragraph 2.7 or paragraph 4.2 (Funding) of Part 1 (General Provisions), the Authority shall pay to the Contractor the reasonable additional Third Party Costs incurred by the Contractor in preparing such Contractor Response provided that:

- (a) the Contractor has used all reasonable endeavours to submit a reasonably priced Contractor Response;
- (b) the Contractor included in the Contractor Response a cost breakdown of the estimate of Third Party Costs to be incurred by the Contractor in preparing the Contractor Response and the Authority has:
 - (i) acting reasonably, approved such estimate of Third Party Costs and the type of third-party prior to any Third Party Costs being incurred; and
 - (ii) agreed that, given the nature of the proposed Medium Value Change, it was reasonable for the relevant third-party to incur costs in preparing the Contractor Response on the basis of the extent of the proposed Medium Value Change and the work required in submitting an accurate Contractor Response in compliance with this Change Protocol;
 - (iii) been provided with such evidence as it may reasonably require in order to verify such Third Party Costs; and

- (iv) confirmed that no cap or fixed fee given by the Contractor (whether in the Contractor Response or otherwise) in respect of any Third Party Cost has been exceeded (or, where such cap or fixed fee has been exceeded such additional amounts are not being charged back to the Authority).

2.9 The Authority shall not be responsible for payment of any costs incurred by the Contractor in preparing the Contractor Response where the Authority has rejected the Contractor Response on the grounds of non-compliance with the requirements of this Protocol.

2.10 Where:

- (a) the Contractor has either:
 - (i) failed to provide a Contractor Response in accordance with paragraph 2 within the time period specified in the Authority Change Notice or such other time period as agreed between the parties; or
 - (ii) provided a Contractor Response in accordance with paragraph 2 but has failed to fully implement the Medium Value Change within ten (10) Business Days of the date set out in the Confirmation Notice referred to in paragraph 2.6(a) as being the date by which the Medium Value Change should have been implemented; or
 - (iii) it is determined pursuant to paragraph 2.5 that the Contractor has failed to submit a fair and reasonable Contractor Response

then the Authority may notify the Contractor that the Authority Change Notice is withdrawn and following such notification, may procure the implementation of the Medium Value Change without further recourse to the Contractor and the provisions of paragraph 7 (Implementation of a Change by the Authority) of Part 1 (General Provisions) shall apply.

3 DUE DILIGENCE

The provisions of paragraph 5 (Due Diligence) of Part 1 (General Provisions) shall apply.

4 IMPLEMENTATION

4.1 The provisions of paragraph 6 (Implementation) of Part 1 (General Provisions) shall apply.

4.2 Where the Medium Value Change:

- (a) is implemented at a Site before the Services Commencement Date, and constitutes additional or varied Works, the procedure set out at clause 20 (Certification of Services Availability) shall apply to the Works which are the subject of the Medium Value Change at the same time as the relevant Site is subject to that procedure;
- (b) is implemented at a Site after the Services Commencement Date for that Site and constitutes works, the procedure set out and agreed in the Contractor Response for certifying the completion of the Medium Value Change shall apply to determine whether the Medium Value Change has been completed appropriately.
- (c) constitutes additional or varied Services, the Payment Mechanism shall apply to determine whether the Medium Value Change has been properly implemented.

5 PAYMENT

5.1 The provisions of paragraph 8 (Payment) of Part 1 (General Provisions) shall apply.

Part 4 - High Value Changes

1 NOTIFICATION AND SPECIFICATION

- 1.1 The Authority and the Contractor shall co-operate and collaborate to ensure that each party has early notification of the prospect of a High Value Change. Without prejudice to paragraph 1.2, the Authority shall involve the Contractor as early as is practicable in the specification of the High Value Change to ensure that the developed specifications reflect input from the Contractor and/or the relevant Contractor Related Party.
- 1.2 The Authority may, at any time, issue a Authority Change Notice which shall state:
- (a) that it is a High Value Change and whether it is required as a result of a Change in Law; or
 - (b) that the High Value Change shall be valued either:
 - (i) by means of the Competitive Tendering Process or;
 - (ii) by means of the Benchmarking Process and whether input should be obtained from a reputable independent source or the Comparable Market; or
 - (iii) by means of valuation by an Independent Technical Adviser;
 - (c) if applicable, affordability thresholds for the proposed works or services comprising the relevant High Value Change;
 - (d) if applicable, a specification of any proposed works, in the same format and with similar detail as that provided in the Output Specification wherever possible, and where not possible, in sufficient detail to allow the design and pricing of a solution to the High Value Change;
 - (e) if applicable, a specification of the proposed services (or any change to the Services), in the same format with similar detail as that provided in the Service Specifications wherever possible and, where not possible, in sufficient detail to allow the pricing of any required works and/or additional services (or change to a Service);
 - (f) the location for the works or services required;
 - (g) the timing of the works or services required;
 - (h) whether the Contractor is expected to provide maintenance and/or lifecycle services in respect of any additional works;
 - (i) an outline risk allocation matrix setting out the Authority's preferred risk profile in respect of the High Value Change ;
 - (j) a time period for submission of the Contractor Stage 1 Response which shall be reasonable, taking into account the complexity of the High Value Change and, in any event, shall not be less than thirty (30) Business Days; and
 - (k) in the event that the Authority Change will require Capital Expenditure, whether the Authority intends to pay the Capital Expenditure involved in implementing the Change and its proposals for payment (whether in stages or otherwise) or whether the

Authority requires the Contractor to use its reasonable efforts to obtain funding in accordance with paragraph 4 (Funding) of Part 1 (General Provisions); and

- (l) the Approval Criteria.

2 CONTRACTOR INITIAL RESPONSE

2.1 Subject to paragraph 2 (Limits on Changes) of Part 1 (General Provisions), within ten (10) Business Days of receipt of the Authority Change Notice the Contractor shall provide the Authority with a Contractor Initial Response which shall comprise:

- (a) an indication of the Estimated Change in Project Costs that will result from the implementation of the Authority Change
- (b) the Third Party Costs as a firm or capped sum;
- (c) the details of the third-party activity that will be incurred in providing (and discussing with the Authority) the Contractor Stage 1 Response;
- (d) where applicable pursuant to paragraph 5 (Due Diligence) of Part 1 (General Provisions), the anticipated cost of carrying out due diligence (which shall be a capped or a firm sum); and
- (e) the Project Management Fee which shall be a capped sum, calculated in accordance with paragraph 2.4, that will be incurred in providing (and discussing with the Authority) the Contractor Stage 1 Response.

2.2 The Authority shall consider in good faith the Contractor Initial Response. If the Authority finds that any material aspects of the Contractor Initial Response are unsatisfactory, it shall notify the Contractor of the same, giving reasons, and offer reasonable assistance to the Contractor to enable it to address such deficiencies and resubmit the Contractor Initial Response as soon as reasonably practicable.

2.3 The Authority shall, within ten (10) Business Days of receipt of the Contractor Initial Response (as may be amended pursuant to paragraph 2.2), confirm in writing (**Authority Initial Confirmation**) to the Contractor that either:

- (a) the Contractor should proceed with developing a Contractor Stage 1 Response and the Authority shall confirm in the Authority Initial Confirmation:
 - (i) the agreed Project Management Fee in relation to the development of the Contractor Stage 1 Response and a reasonable period within which to discuss the same with the Authority pursuant to paragraph 3.1;
 - (ii) the agreed Third Party Costs in relation to the development of the Contractor Stage 1 Response and a reasonable period within which to discuss the same with the Authority pursuant to paragraph 3.1; and
 - (iii) the agreed date by which the Contractor Stage 1 Response shall be submitted which date shall reflect the complexity of the High Value Change and, where not agreed by the parties (each acting reasonably) shall be not more than sixty (60) Business Days from the date of the Authority Initial Confirmation; or
- (b) the Authority withdraws the Authority Change Notice.

- 2.4 The Contractor may charge a Project Management Fee for the time incurred by its employees in project managing the development, procurement and implementation of the High Value Change. The Project Management Fee shall:
- (a) be based on actual time spent (validated by timesheet records);
 - (b) be calculated at the daily rates as set out in Part 5 of Appendix 2 (Project Management Fee) of this Change Protocol but capped at the sum set out in the relevant stage of the Contractor Response;
 - (c) not include the time of any person who is not an employee of the Contractor;
 - (d) not include any mark-up or profit cost or additional overheads; and
 - (e) be paid in two stages as follows:
 - (i) on the Authority issuing an Authority Stage 1 Confirmation pursuant to paragraph 4.2 or (subject to paragraph 4.4) withdrawing the High Value Change pursuant to paragraph 4.2(b); and
 - (ii) on the Authority issuing an Authority Stage 2 Confirmation pursuant to paragraph 7.1(a) or withdrawing the High Value Change pursuant to paragraph 7.1(b).

and at each stage, the Contractor shall charge (subject to the applicable cap) only for the time incurred by its staff up to completion of that stage.

3 CONTRACTOR STAGE 1 RESPONSE

- 3.1 Subject to paragraph 2 (Limits on Changes) of Part 1 of this Change Protocol, within the agreed period specified in the Authority Initial Confirmation Notice (or if no time is specified within thirty (30) Business Days) the Contractor shall submit a report (**Contractor Stage 1 Response**), which shall (where applicable) include, but not be limited to, the following information which shall contain sufficient detail to enable the Authority to make an informed decision pursuant to paragraph 4 and shall take account of the Authority's affordability thresholds set out in the Authority Change Notice:
- (a) an outline programme for implementation of the Change including time periods for design development, Authority review of the design, anticipated dates of any applications for Consents (including planning applications) and time periods for the provision and training of staff;
 - (b) a broad indication of the impact of carrying out and implementing of the High Value Change on the provision of the Works and/or the Services and in particular whether relief from compliance with any obligations set out in this Agreement is likely to be required, including the obligations of the Contractor to meet the performance regime during the implementation of the High Value Change;
 - (c) an outline of the Estimated Change in Project Costs that will result from implementing the High Value Change, taking into account any Capital Expenditure that is required or no longer required as a result of the High Value Change;
 - (d) any Capital Expenditure that is required or no longer required as a result of the High Value Change and where the Authority has specified in the Authority Change Notice

that the Contractor shall use its reasonable endeavours to raise financing for the Authority Change, the steps the Contractor has or will take to secure such financing;

- (e) an estimate of any loss of, or increase in, third-party revenues that may result from the High Value Change;
- (f) the proposed Project Management Fee to develop a Contractor Stage 2 Response which shall be a capped fee calculated in accordance with paragraph 2.4;
- (g) a budget (or budgets) together with a capped or fixed fee for Third Party Costs and details of the third-party activity likely to be incurred by the Contractor, such as, third-party advice, the carrying out of surveys, obtaining Consents, the Senior Lender carrying out due diligence and independent certification that may be required to be completed prior to agreement of the High Value Change in relation to the development of a Contractor Stage 2 Response together with a proposed process for approval of such costs by the Authority before they are incurred;
- (h) a summary of any amendments required to this Agreement or any Project Document or the Financing Agreements as a result of the Change;
- (i) a value for money assessment explaining why the Contractor's proposals represent value for money taking into account both the proposed Capital Expenditure and Whole Life Costs; and
- (j) an estimate of the time period required by the Contractor to develop a Contractor Stage 2 Response for the High Value Change should the Authority notify the Contractor pursuant to paragraph 4.2(a) of its requirements for a Contractor Stage 2 Response.

3.2 In preparing the outline Estimated Change in Project Costs, including the calculation of any Capital Expenditure, the Contractor shall, as specified by the Authority in the Authority Change Notice) provide details of how the Contractor intends to comply with the:

- (a) provisions of paragraph 8 if the Competitive Tendering Process is to apply;
- (b) provisions of paragraph 9 if the Benchmarking Process is to apply; or
- (c) provisions of paragraph 10 if an Independent Technical Advisor has been or will be appointed.

3.3 The Contractor shall ensure that the performance risk involved in implementing the High Value Change and any interface risks involved in linking new facilities or services with the Sites and/or the Services are reflected (depending on the risk profile of the High Value Change) in the Estimated Change in Project Costs and not priced separately over and above the Estimated Change in Project Costs. The Contractor shall not include any separate charge or fee payable to the Contractor or any sub-contractor of the Contractor in the costs included in the Estimated Change in Project Costs.

3.4 In developing a Contractor Stage 1 Response the Contractor shall liaise with the Authority and relevant end users (being such persons or organisations as the Contractor in consultation with the Authority considers appropriate). The Authority shall provide to the Contractor such information as to its requirements as the Contractor may reasonably require and shall assist the Contractor in the review of any draft designs in relation to the Contractor Stage 1 Response. Any and all information and other input or feedback provided by the Authority to

the Contractor shall, unless expressly stated otherwise by the Authority, be provided without warranty and shall be without prejudice to the Authority's rights under this Change Protocol.

4 AUTHORITY STAGE 1 CONFIRMATION

4.1 The Authority shall consider in good faith, the Contractor Stage 1 Response. If the Authority finds that any material aspects of the Contractor Stage 1 Response are unsatisfactory to it, it shall notify the Contractor of the same and offer reasonable assistance to the Contractor to enable it to address such deficiencies and resubmit the Contractor Stage 1 Response as soon as reasonably practicable.

4.2 The Authority shall, within thirty (30) Business Days (or such longer period as the parties may agree) of receipt of the Contractor Stage 1 Response (as may be amended pursuant to paragraph 4.1), confirm in writing to the Contractor that either:

(a) the Contractor should proceed with developing a Contractor Stage 2 Response and shall confirm the agreed Project Management Fee, specify the Approval Criteria and set out the date by which the Contractor Stage 2 Response shall be submitted (which date shall reflect the complexity of the High Value Change and shall not be less than sixty (60) Business Days) (**Authority Stage 1 Confirmation**); or

(b) the Authority withdraws the Authority Change Notice.

and in the event the Authority does not give such written confirmation within the specified time period then the Authority Change Notice shall be deemed withdrawn and paragraph 4.3 shall apply.

4.3 The Authority shall pay the Contractor the Project Management Fee and the Third Party Costs set out in the Authority Initial Confirmation and due at Stage 1, within twenty (20) Business Days of receipt of an invoice for the agreed sum submitted by the Contractor.

4.4 Where paragraph 4.2 (Funding) of Part 1 (General Provisions) applies and the Authority Change Notice is deemed withdrawn, then no compensation (including payment of any part of the Project Management Fee) shall be paid to the Contractor by the Authority.

5 CONTRACTOR STAGE 2 RESPONSE

5.1 Within the time period specified in the Authority Stage 1 Confirmation (or if no time is specified within sixty (60) Business Days of receipt of the Authority Stage 1 Confirmation), the Contractor shall submit a report (**Contractor Stage 2 Response**) which shall where applicable, include but not be limited to the following information:

(a) (where applicable) a detailed design solution (at the minimum to RIBA Stage D);

(b) the proposed consultants, sub-contractors and suppliers which the Contractor intends to appoint to process the High Value Change;

(c) details of any Consents required in order to implement the High Value Change;

(d) details of any impact (stoppage or changes) on the carrying out of the Works and/or the provision of the Services and in particular whether (and what) relief from compliance with obligations set out in this Agreement is required, including the obligations to meet the performance regime during the implementation of the High Value Change and the duration of such relief;

- (e) the proposed method of certification of any construction or operational aspects of the High Value Change if not covered by the procedures in this Agreement;
- (f) a detailed timetable for implementation of the High Value Change;
- (g) any surveys and investigations and associated reports that are reasonably necessary to ascertain (in relation to a High Value Change which involves the construction of additional buildings) information as to the nature, location and condition of the relevant land (including hydrological, geological, geotechnical and sub-surface conditions) together with information relating to archaeological finds, areas of archaeological, scientific or natural interest and (in relation to the refurbishment of any existing buildings) information on the condition and quality of existing structures and, in particular, the presence of any latent defects;
- (h) a completed risk register showing the potential risks identified in relation to the delivery of the High Value Change the occurrence of which are capable of adversely affecting the time for completion, cost and/or quality of the Project, the probability of such risks occurring and a financial estimate of the most likely consequences of each risk occurring together with the prioritisation of all continuing risks and an action plan in respect of, and risk owners for, all risks prioritised as serious risks;
- (i) any approval required from the insurers and/or the Senior Lenders together with details of the fixed or capped sum for the due diligence costs incurred or to be incurred in obtaining the same;
- (j) details of any Third Party Costs incurred in preparing the Contractor Stage 2 Response and/or to be incurred in implementing the High Value Change together with details of Authority approvals given to sums already expended and confirmation that costs to be incurred are included in the Change in Project Costs;
- (k) a draft deed of amendment setting out any amendment(s) required to this Agreement and/or any Project Document and/or any Financing Agreement required as a result of the High Value Change;
- (l) the amount of any loss of or increase in third-party revenues that may result from the High Value Change and confirmation that the effect is included in the Change in Project Costs;
- (m) if requested by the Authority, details of any funding obtained and the adjustments required to the Unitary Charge together with a proposed revised financial model including the detailed price estimates;
- (n) a final Change in Project Costs that result from the High Value Change, taking into account any Capital Expenditure that is required or no longer required as a result of the High Value Change, all reasonable Third Party Costs incurred or likely to be incurred by the Contractor and any increase or decrease in operating costs and any loss of or increase in third-party revenue that results from the High Value Change;
- (o) evidence that the Contractor has used reasonable endeavours (including, where practicable and without prejudice to the provisions of paragraph 7.4, the use of competitive quotes) to oblige sub-contractors and suppliers to minimise any increase in costs and maximise any reduction in costs;

- (p) a demonstration of how any Capital Expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred, foreseeable Changes in Law at that time would be taken into account by the Contractor;
- (q) a demonstration that any expenditure that has been avoided, which was anticipated to be incurred that has been affected by the High Value Change, has been taken into account in the Capital Expenditure and/or Estimated Change in Project Costs;
- (r) a value for money assessment explaining why the Contractor's proposals represent value for money taking into account both the proposed Capital Expenditure and Whole Life Cost; and
- (s) an explanation (together with appropriate supporting evidence) as to why the Contractor Stage 2 Response meets the Approval Criteria.

5.2 The Contractor shall also include in the Contractor Stage 2 Response the following information:

- (a) if the Authority specified in the Authority Change Notice that paragraph 8 will apply, the Tendering Report;
- (b) if the Authority specified in the Authority Change Notice that paragraph 9 will apply, a Benchmarking Report demonstrating that the unit rates for construction, lifecycle and maintenance services used to calculate the Change in Project Costs fall within reasonable ranges compared to industry benchmarks obtained from the Comparable Market; or
- (c) if the Authority specified in the Authority Change Notice that paragraph 10 will apply, the Reference Price with details of how the Reference Price was used to calculate the Change in Project Costs and any comments made by the Independent Technical Adviser on the Change in Project Costs.

5.3 In developing a Contractor Stage 2 Response, the Contractor shall continue to liaise with the Authority and relevant end users (being such persons or organisations as the Authority in consultation with the Contractor considers appropriate).

5.4 Without prejudice to paragraph 5.3, the Authority shall co-operate with the Contractor in relation to any Contractor Stage 2 Response being developed by the Contractor, including (without limitation) promptly providing:

- (a) written confirmation of any change to the affordability thresholds and any amendment to the Authority's requirements both as set out in the Authority Change Notice;
- (b) changes to funding which the Authority receives or to the way in which funding may be applied, either or both of which may affect whether a High Value Change is affordable;
- (c) any information reasonably required by the Contractor to enable the Contractor to submit a full and complete Contractor Stage 2 Response and any such other information as the Contractor may reasonably require and shall assist the Contractor in the review of any draft designs and in the development of other aspects of the Contractor Stage 2 Response (but not where this would involve the Authority incurring additional material expense); and

- (d) reasonable assistance to the Contractor in relation to procurement by the Contractor of all relevant Consents

provided that any and all information and other input or feedback provided by the Authority to the Contractor shall be provided without warranty and shall be without prejudice to the Authority's rights under this Change Protocol.

- 5.5 The Contractor shall notify the Authority as soon as it becomes aware of any matter which may have a reasonably foreseeable material adverse effect on the viability of any High Value Change including any planning issues likely to cause a material delay in the anticipated programme for the High Value Change or material cost increases.

6 AGREEMENT OF CONTRACTOR STAGE 2 RESPONSE

- 6.1 As soon as practicable and in any event not more than twenty (20) Business Days after the Authority receives the Contractor Stage 2 Response, the parties shall discuss and endeavour to agree the issues set out in the Contractor Stage 2 Response. The Authority may require (and the Contractor shall provide) further information it reasonably requires to enable the Authority to evaluate the Contractor Stage 2 Response and, in particular, decide whether the Contractor Stage 2 Response meets the Approval Criteria. In particular, the Contractor shall:

- (a) provide evidence that the Contractor has used reasonable endeavours (including, where practicable (and without prejudice to the provisions of paragraph 7.4), the use of competitive quotes) to oblige sub-contractors and suppliers to minimise any increase in costs and maximise any reduction in costs;
- (b) demonstrate how any Capital Expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred, foreseeable Changes in Law at that time would be taken into account by the Contractor; and
- (c) demonstrate that any expenditure that has been avoided, which was anticipated to be incurred that has been affected by the High Value Change, has been taken into account in the Change in Project Costs,

and the Contractor shall reply promptly and fully to all requests by the Authority for further information.

- 6.2 The Authority may modify the Authority Change Notice (which modification shall be in writing). The Contractor shall, as soon as practicable and in any event not more than ten (10) Business Days or such other period as the parties may agree after receipt of such modification, notify the Authority of any consequential changes to the Contractor Stage 2 Response (which shall be deemed accordingly amended).
- 6.3 If acting reasonably, the Authority is of the view that any material aspect of the Stage 2 Response fails to meet the Approval Criteria and/or otherwise fails to satisfy any requirement of this Change Protocol the Authority shall notify the Contractor of the same and shall specify in writing and explain to the Contractor in what respects the Contractor Stage 2 Response does not meet the Approval Criteria and/or fails to comply any material requirement of this Change Protocol. The Contractor shall, within twenty (20) Business Days (or such other period as is agreed by the parties) of such notification, revise and re-submit the Contractor Stage 2 Response.

- 6.4 If the revised Contractor Stage 2 Response does not address the shortcomings notified by the Authority pursuant to paragraph 6.3 and the revised Contractor Stage 2 Response does not satisfy the Approval Criteria or other material requirement of this Change Protocol then paragraph 7.1(c) shall apply.
- 6.5 If the parties cannot agree on the contents of the Contractor Stage 2 Response, then either party may refer the dispute to the Dispute Resolution Procedure, provided that no determination shall oblige the Authority to issue a Stage 2 Confirmation in respect of the disputed High Value Change.

7 AUTHORITY STAGE 2 CONFIRMATION

- 7.1 As soon as reasonably practicable after the receipt of the Contractor Stage 2 Response or the revised Contractor Stage 2 Response (as the case may be) the Authority shall either:
- (a) issue written confirmation (**Authority Stage 2 Confirmation**) and shall pay the Contractor the Project Management Fee due at Stage 2 within twenty (20) Business Days of the date of issue of the Authority Stage 2 Confirmation or, if later, receipt of a valid invoice for the agreed amount; or
 - (b) issue a written notice withdrawing the Authority Change Notice in which case the provisions of clause 7.3 shall apply; or
 - (c) issue a written notice rejecting the Contractor Stage 2 Response in which case the Authority shall not be responsible for any costs incurred by the Contractor in preparing the Contractor Stage 2 Response (including any outstanding part of the Project Management Fee or any due diligence costs incurred by the Senior Lender), provided that the Authority may only reject the Contractor Stage 2 Response on the grounds that the Contractor Stage 2 Response has failed to meet one or more of the Approval Criteria or the Contractor has failed to comply with any material requirement of this Change Protocol.
- 7.2 If the Authority does not issue a written notice pursuant to paragraph 7.1 within twenty (20) Business Days of receipt of a written notice served by the Contractor (which notice may only be served after expiry of a period of three (3) months from the date the Authority receives the Contractor Stage 2 Response) requiring the Authority either to confirm the Contractor Stage 2 Response or withdraw the Authority Change Notice then the Authority Change Notice shall be deemed to have been withdrawn.
- 7.3 Where an Authority Change Notice is withdrawn pursuant to paragraph 7.1(b) or deemed to have been withdrawn pursuant to paragraph 7.2, the Authority shall pay to the Contractor within twenty (20) Business Days of receipt of an invoice for such amount, the reasonable Third Party Costs (including any costs incurred by the Senior Lender in carrying out due diligence) incurred by the Contractor in preparing the Contractor Stage 2 Response together with the outstanding balance of the Project Management Fee provided that:
- (a) the Contractor has satisfied the Approval Criteria and other requirements of this Change Protocol;
 - (b) the Contractor has included in the Contractor Stage 1 Response a cost breakdown of the estimate of Third Party Costs to be incurred by the Contractor in preparing the Contractor Stage 2 Response and the Authority has:

- (i) approved such estimate of Third Party Costs and the type of third-party prior to any Third Party Costs being incurred;
- (ii) agreed that, given the nature of the proposed High Value Change, it was reasonable for the relevant third-party to incur costs in preparing the Contractor Stage 2 Response on the basis of the extent of the proposed High Value Change and the work required in submitting an accurate Contractor Stage 2 Response in compliance with this Change Protocol;
- (iii) been provided with such evidence as it may reasonably require in order to verify such additional Third Party Costs; and
- (iv) no cap or fixed fee given by the Contractor (whether in the Contractor Stage 1 Response or otherwise) in respect of any Third Party Costs has been exceeded (or, where such cap or fixed fee has been exceeded such additional amounts are not being charged back to the Authority).

7.4 Where the Authority Change is either withdrawn or rejected, the Authority shall be entitled to procure the High Value Change outside the terms of the this Agreement and the provisions of paragraph 7 (Implementation of a Change by the Authority) of part 1 (General Provisions) shall apply.

8 COMPETITIVE TENDERING

8.1 Where this paragraph 8 applies, the Contractor shall, in preparing the Contractor Stage 2 Response, as far as practicable, structure the works and/or services required by the High Value Change into a number of discrete work packages (which may include the procurement of items of equipment only or be labour only package of works), and shall invite at least three (3) competitive tenders for each work package.

8.2 The Contractor and the Authority shall agree:

- (a) the work packages to be priced through competitive tendering based on what is judged to provide best value for money;
- (b) the evaluation criteria;
- (c) any additional interface risks between the carrying out of any additional works and/or services by a third party, and the Sites and/or carrying out of the Works and/or the delivery of the Services; and
- (d) that the preferred tenderer shall be selected on the basis of the most economically advantageous tender.

8.3 The Contractor shall be responsible for:

- (a) running the competition for the work packages;
- (b) evaluating and selecting the preferred tenderers;
- (c) negotiating and finalising appointment of the preferred tenderers; and
- (d) managing the implementation of the works and services required as part of the High Value Change,

provided that the Authority shall approve the preferred tenderer(s), acting reasonably within twenty (20) Business Days following the conclusion of the tendering process, either approve or object to the preferred tenderer(s) but no sub-contractor shall be appointed, until or unless, an Authority Stage 2 Confirmation is issued.

- 8.4 On conclusion of the tendering process, the Contractor shall submit with the Contractor Stage 2 Response a Tendering Report and the Change in Project Costs shall be based on the prices determined through the tendering process.
- 8.5 The Tendering Report shall include, but not be limited to, the following information.
- (a) details of the companies which were asked to tender for each work package, indicating whether a compliant bid was in fact submitted;
 - (b) the basis upon which each company was invited to tender including their appropriate experience and expertise;
 - (c) how details of how the evaluation process was carried out including the scoring for each tenderer;
 - (d) the basis of the recommendation of the successful tenderer for each work package;
 - (e) confirmation that the tendered price is a fixed price which includes all costs, overheads, risks and contingencies and will not be liable to change or adjustment; and
 - (f) any other relevant information.

9 BENCHMARKING PROCESS

- 9.1 Where this paragraph 9 applies, the Contractor shall benchmark all construction, facilities management and lifecycle costs (including professional fees, contingencies, overheads and profit margins) using benchmarks available from a reputable independent source that are generally recognised in the industry.
- 9.2 The Contractor shall submit with the Contractor Stage 2 Response a detailed Benchmarking Report which shall set out details of how the benchmarking exercise was carried out and providing evidence that the construction costs, operating costs and financing costs included in the Change in Project Costs are supported by actual input from a reputable independent source or the Comparable Market (as specified in the Authority Change Notice). In particular the Benchmarking Report shall include full supporting evidence of the assumptions, source of market price and information's and conclusions reached including:
- (a) the methodology and all assumptions by which the Estimated Change in Project Costs was determined;
 - (b) assumptions made in respect of the Comparable Market;
 - (c) full details of sources of the information used including evidence as to reputation and independence of such sources;
 - (d) such other details as the parties may agree.

10 INDEPENDENT TECHNICAL ADVISER

Joint Appointment of Independent Technical Adviser

- 10.1 Where this paragraph 10 applies, upon issue of an Authority Change Notice or the parties agreeing that an Authority Change Notice will shortly be issued in respect of a High Value Change, the Authority and the Contractor shall jointly appoint an Independent Technical Adviser to assist in the processing of the High Value Change. The terms of reference for the Independent Technical Adviser shall include:
- (a) developing a Reference Price; and
 - (b) commenting on the Estimated Change in Project Costs and the Change in Project Costs.
- 10.2 Upon appointment of the Independent Technical Advisor (or if later, upon service of the Authority Change Notice pursuant to paragraph 1.2), the Authority and the Contractor shall instruct the Independent Technical Adviser to develop a Reference Price.
- 10.3 The Independent Technical Adviser shall develop a Reference Price in consultation with the Contractor and the Authority. The Reference Price shall include (as applicable) all finance, design development, construction, lifecycle, maintenance and operating costs and savings (including professional fees and charges, overheads, profits and contingencies and explicitly including the pricing for any performance risks associated with implementing the change based on the outline risk allocation matrix included in the Authority Change Notice). The parties agree that the Reference Price shall include the pricing of performance risk and that no separate Contractor mark up should be included in the Estimated Change in Project Cost or the Change in Project Costs.
- 10.4 The Independent Technical Adviser shall provide to the Contractor and the Authority the Reference Price. The Contractor shall use the Reference Price to produce the Estimated Change in Project Costs and, subsequently, the Change in Project Costs. The Independent Technical Adviser shall comment on the Estimated Change in Project Costs and the Change in Project Costs within the time periods to be agreed by the Contractor and the Authority and specified in the appointment of the Independent Technical Adviser.
- 10.5 The Authority shall be responsible for the payment of all fees payable to the Independent Technical Advisor. For the avoidance of doubt, any costs incurred by the Contractor pursuant to this paragraph 10 shall form part of the Project Management Fee or Third-Party Costs and no additional sums shall be paid to the Contractor.

11 FUNDING

- 11.1 The provisions of paragraph 4 (Funding) of Part 1 (General Provisions) shall apply.

12 DUE DILIGENCE

- 12.1 The provisions of paragraph 5 (Due Diligence) of Part 1 (General Provisions) shall apply.

13 IMPLEMENTATION

- 13.1 The provisions of paragraph 6 (Implementation) of Part 1 (General Provisions) shall apply.

14 PAYMENT

14.1 The provisions of paragraph 8 (Payment) of Part 1 (General Provisions) shall apply.

Part 5 - Contractor Change

1. If the Contractor wishes to introduce a Contractor Change, it shall serve a Contractor Change Notice on the Authority.
2. The Contractor Change Notice shall:
 - (a) set out the proposed Contractor Change in sufficient detail to enable the Authority to evaluate it in full;
 - (b) specify whether the Contractor Change is equivalent to:
 - (i) a Low Value Change;
 - (ii) a Medium Value Change;
 - (iii) a High Value Change; and/or
 - (iv) is required as a result of a Change in Law;
 - (c) specify the Contractor's reasons for proposing the Contractor Change;
 - (d) indicate any implications of the Contractor Change;
 - (e) indicate what savings, if any, will be generated by the Contractor Change:
 - (i) whether a revision of the Unitary Charge is proposed (and, if so, give details of such proposed revision); or
 - (ii) whether such savings will be paid by a lump sum;
 - (f) if the Contractor Change is required as a result of a Qualifying Change of Law, what sums, if any, will be payable by the Authority;
 - (g) indicate if there are any critical dates by which a decision by the Authority is required;
 - (h) confirm all necessary consents have been obtained (or indicate the process for obtaining such consents) from the funders and the insurance brokers, to the extent required; and
 - (i) request the Authority to consult with the Contractor with a view to deciding whether to agree to the Contractor Change and, if so, what consequential changes the Authority requires as a result.
3. The Authority shall evaluate the Contractor Change Notice in good faith, taking into account all relevant issues, including whether:
 - (a) a revision of the Unitary Charge will occur;
 - (b) the Contractor Change may affect the quality of the Services and/or the Works or the likelihood of successful completion of the Works and/or delivery of the Services (or any of them);
 - (c) the Contractor Change may interfere with the relationship of the Authority with third parties;

- (d) the financial strength of the Contractor is sufficient to perform the Services after implementation of the Contractor Change;
 - (e) the value and/or life expectancy of any of the Apartment Areas and/or Assets is reduced; or
 - (f) the Contractor Change materially affects the risks or costs to which the Authority is exposed.
4. If the Contractor Change causes, or will cause, the Contractor's costs or those of a sub-contractor to decrease, there shall be a decrease in the Unitary Charge such that any cost savings (following deduction of costs reasonably incurred by the Contractor in implementing such Contractor Change) shall be shared on the basis of 50% of the saving being retained by the Contractor and 50% of the saving being paid to the Authority.
5. As soon as practicable after receiving the Contractor Change Notice, the parties shall meet and discuss the matters referred to in it. During discussions the Authority may propose modifications to, or accept or reject, the Contractor Change Notice.
6. If the Authority accepts the Contractor Change Notice (with or without modification) the parties shall consult and agree the remaining details as soon as practicable and upon agreement of the Contractor Change, the Authority shall issue an Authority Confirmation which shall set out the agreed Contractor Change and:
- (a) the parties shall enter into any documents to amend this Agreement or any relevant Project Document which are necessary to give effect to the Contractor Change;
 - (b) if applicable, the Unitary Charge shall be revised in accordance with clause 65 (Financial Adjustments);
 - (c) if applicable, and if agreed by the Parties, the Contractor shall pay to the Authority a sum equal to the amount calculated in accordance with paragraph 4 within twenty (20) Business Days of receipt of an invoice for such amount; and
 - (d) the Contractor Change shall be implemented within the period specified by the Authority in its notice of acceptance.
7. If the Authority rejects the Contractor Change Notice, it shall not be obliged to give its reasons for such a rejection and the Contractor shall not be entitled to reimbursement by the Authority of any of its costs.
8. Unless the Authority Confirmation expressly agrees to an increase in the Unitary Charge, there shall be no increase in the Unitary Charge as a result of a Contractor Change and, subject to clause 52 (Change in Law), any funding shall be provided by the Contractor.
9. The Authority shall not reject a Contractor Change which is required in order to conform to a Change in Law. The costs of introducing a Contractor Change resulting from a Qualifying Change in Law (including any resulting revision of the Unitary Charge) shall be dealt with in accordance with clause 52 (Change in Law) and to the extent not dealt with therein, all costs shall be borne by the Contractor.

Appendix 1 - Catalogue of Low Value Change

The parties have agreed unit prices (for purchase and installation), and standard timescales for implementation of Low Value Changes and other changes which do not affect the risk profile of the Project as set out in the tables below.

The first table of unit rates and timescales shall be applicable during the Works and the second shall apply during the Services Period.

Low Value Change Catalogue – applicable during the Works					
The following costs are for the item fixed in place during normal working hours					
Ref	Description	Unit	Building Contractor		Comment
			Rate £:p	Cut-Off (see note#1)	
A	Wall Fixtures				
a.1	Whiteboard 1800 x 1200				
a.2	Whiteboard 1200 x 1200				
a.3	Hessian covered notice board 1800 x 1200				
a.4	Hessian covered notice board 1200 x 1200				
a.5	Flame retardant display boards suitable for fixing to corridor walls, including glazed lockable doors (600 x 900mm)				
a.6	Ceramic wall tiles - coloured – matt or satin finish				
a.7	Adjustable shelving (per linear metre of 300mm x 25mm shelf including uprights and shelf brackets and 4nr tiers of shelving)				
a.8	Coat hooks (polished chrome finish)				
B	Signage (engraved SAA)				
b.1	Door sign				
b.2	Wall sign				
b.3	Tactile sign				
b.4	Mirror (600 x 400mm par)				
C	Curtains and Blinds				
	Pencil pleat curtains, lined with standard polyester lining and fitted to white alloy hand drawn contract curtain track				
c.1	<u>2-Bed Apartment</u>				
c.1.1	Patio/balcony door				
c.1.2	Lounge				
c.1.3	Bedroom 1				
c.1.4	Bedroom 2				
c.2	<u>1-Bed Apartment</u>				
c.2.1	Patio/balcony door				
c.2.2	Lounge				

c.2.3	Bedroom		
	Roller blind, group B, fr Aurora, or similar		
	<u>1 & 2 Bed Apartments</u>		
c.3	Kitchen		
d.1	Flooring		
d.1	Heavy duty loose laid barrier matting ("Duralbel" 900 x 1500mm)		
E	Keys/Fobs		
e.1	Dwelling keys		
e.2	Additional keys for Common Parts		
e.3	Access control additional fob		
F	Services		
f.1	Double switched socket outlet		Only instructable prior to the completion of the electrical 1st fix
f.2	Telephone connection		Only instructable prior to the completion of the electrical 1st fix
f.3	Fused spur		Only instructable prior to the completion of the electrical 1st fix
f.4	Digital terrestrial TV aerial connection		Only instructable prior to the completion of the electrical 1st fix
f.5	Digital satellite/cable TV connection		Only instructable prior to the completion of the electrical 1st fix
f.6	Cat5 Data connection		Only instructable

					prior to the completion of the electrical 1st fix
f.7	Standard corded telephone (BT "Décor 1100")				
f.8	Bionaire BAP9424 Room Air Purifier				
f.9	Provision of Energy Performance Certificate (EPC)				
G	Repeat Victimisation Standards				
g.1	Stop check door mirror				
g.2	Wide angle door viewer or a door scope				Only instructable prior to the completion of the joinery final fix
g.3	Key locking sash jammer				
g.4	Letterbox cowl				
g.5	Fire proof letter box				Only instructable prior to the completion of the joinery final fix
H	Miscellaneous				
h.1	Crockery/glasses & cutlery (cup, saucer, side plate, dinner plate, soup bowl, desert bowl, knife, fork, desert spoon, soup spoon, teaspoon, tumbler and wine glass)				
h.4	Portable reading lamp (floor standing, adjustable, stainless steel finish, mains voltage 40 watt halogen bulb)				
h.5	Replacement bulbs for portable reading lamp				
h.8	Kettle (1.7 litre 3Kw cordless jug kettle)				
h.9	Microwave (700 watt 0.67 cu.ft/19 litre capacity)				
h.10	Fridge (under counter 3.8 cu.ft gross capacity energy efficiency grade 'A' fridge with integral ice box)				
h.11	Toaster (2 slice, cool wall, variable browning)				
h.12	Waste bin (12 litre)				
h.13	13amp socket covers (Dementia) ("Insight Security" lockable socket pro safety cover)				
h.14	Toilet brush and holder (white plastic)				
Note #1	The "Cut-Off" is the minimum period, in weeks, before planned Certificate of Availability that the LVC item can be instructed for the Building Contractor to undertake. This does not abrogate the Building Contractor's right of refusal under the Change Protocol				

Low Value Change Catalogue – applicable during the Services Period				
The following costs are for the item fixed in place during normal working hours				
Ref	Description	Unit	Maintenance Contractor	Maintenance Contractor
			Rate £:p	Turnaround days from request to installation (business days)
A	Wall Fixtures			
a.1	Whiteboard 1800 x 1200			
a.2	Whiteboard 1200 x 1200			
a.3	Hessian covered notice board 1800 x 1200			
a.4	Hessian covered notice board 1200 x 1200			
a.5	Flame retardant display boards suitable for fixing to corridor walls, including glazed lockable doors (600 x 900mm)			
a.6	Adjustable shelving (per linear metre of 300mm x 25mm shelf including uprights and shelf brackets and 4nr tiers of shelving)			
a.7	Coat hooks (polished chrome finish)			
B	Signage (engraved SAA)			
b.1	Door sign			
b.2	Wall sign			
b.3	Tactile sign			
b.4	Mirror (600 x 400mm par) - Bathroom			
C.1	Flooring			
c.1	Heavy duty loose laid barrier matting ("Duralbel" 900 x 1500mm)			
D	Keys/Fobs			
d.1	Dwelling keys			
d.2	Additional keys for Common Parts			
d.3	Access control additional fob			
E	Services			
e.7	Standard corded telephone (BT "Décor 1100")			
e.8	Bionaire BAP9424 Room Air Purifier			
F	Repeat Victimisation Standards			
f.1	Stop check door mirror			
f.2	Wide angle door viewer or a door scope			

f.3	Key locking sash jammer	
f.4	Letterbox cowl	
f.5	Fire proof letter box	
G	Miscellaneous	
g.4	Portable reading lamp (floor standing, adjustable, stainless steel finish, mains voltage 40 watt halogen bulb)	
g.5	Replacement bulbs for portable reading lamp	
g.8	Kettle (1.7 litre 3Kw cordless jug kettle)	
g.9	Microwave (700 watt 0.67 cu.ft/19 litre capacity)	
g.10	Fridge (under counter 3.8 cu.ft gross capacity energy efficiency grade 'A' fridge with integral ice box)	
g.11	Toaster (2 slice, cool wall, variable browning)	
g.12	Waste bin (12 litre)	
g.13	13amp socket covers (Dementia) ("Insight Security" lockable socket pro safety cover)	
g.14	Toilet brush and holder (white plastic)	
g.15	Desktop PC with monitor (no Windows licence)	

The tables below set out the Small Works Rates which shall apply during the relevant time period in respect of the specialist services indicated in the tables and that may be required by the Contractor to process any Low Value Changes.

Small Works Rates – applicable during the Works

Base Date November 2014			
Construction	A	B	C
Trade			
Bricklayer			
Electrician			
Heating & Gas Engineer			
Plumber			
Refrigeration Engineer			
Control Systems Engineer			
Water Treatment Engineer			
Carpenter/Joiner			
Roofer			
Labourer			
Painter/Decorator			
Plasterer			
Groundworker			

*Day rate, or pro rata for part thereof.

Small Works Rates – applicable during the Services Period

Bricklayer			
Electrician			
Heating & Gas Engineer			
Plumber			
Carpenter/Joiner			
Roofer			
Labourer			
Painter/Decorator			
Plasterer			
Groundworker			

- All work carried out Monday to Thursday between 8:00am and 4:00pm will be charged at column "A" rates.
- All work carried out on Fridays between 8:00am and 3:00pm will be charged at column "A" rates.
- The first four (4) hours of any work carried out Monday to Thursday after 4:00pm and before 8:00am on the next day will be charged at column "B" rates, thereafter any further work during the period will be charged at column "C" rates.
- The first four (4) hours of any work carried out after 3.00pm on a Friday and up to 8am on a Saturday will be charged at column "B" rates, thereafter any further work carried out during the period will be charged at column "C" rates.
- The first four (4) hours of any work carried out after 8am on a Saturday will be charged at column "B" rates, thereafter any further work during the period will be charged at column "C" rates.
- All work works carried out on Sunday and before 8am on a Monday will be charged at column "C" rates.
- All work carried out on a Bank Holiday will be charged at column "C" rates.

Appendix 2 - Pricing Information

The Contractor shall, so far as is reasonably practicable, comply with the Authority's contract procedure rules current at the time of any tendering process pursuant to Appendix 2 of this Change Protocol.

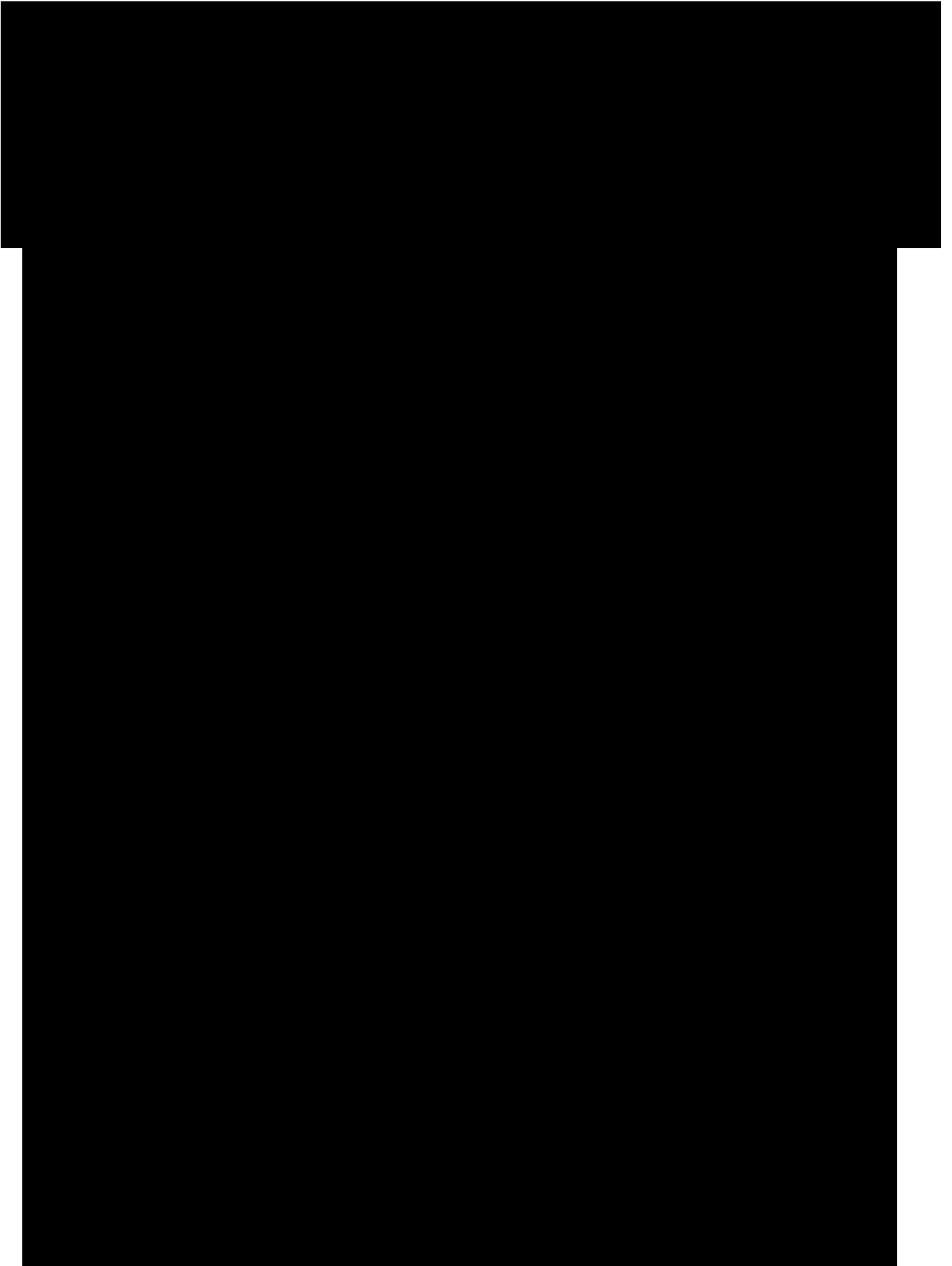
Part 1 - Construction Unit Rates

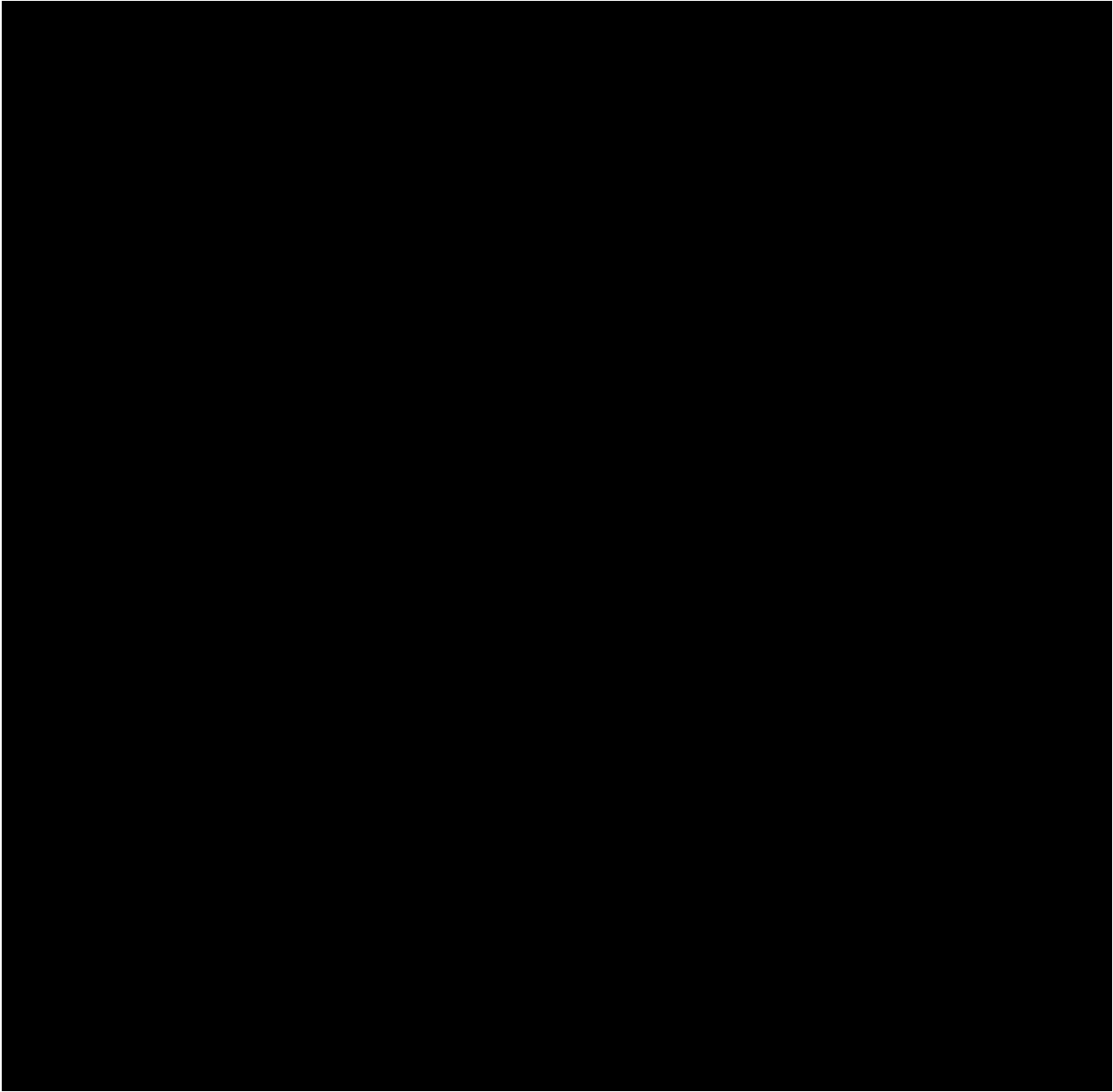
For the purposes of paragraph 2.2(a) of part 3 (Medium Value Changes) to schedule 25, the unit rates used in the calculation of the relevant Estimated Change in Project Costs shall be agreed at such time between the Contractor and the Authority and such rates shall reflect the applicable market rates at that time.

The Contractor shall provide the Authority with the basis for its pricing, including full disclosure of any tendering or procurement process it has entered into for the purposes of pricing the works.

Appendix 2 - Pricing Information

Part 2 - Lifecycle Maintenance Unit Rates



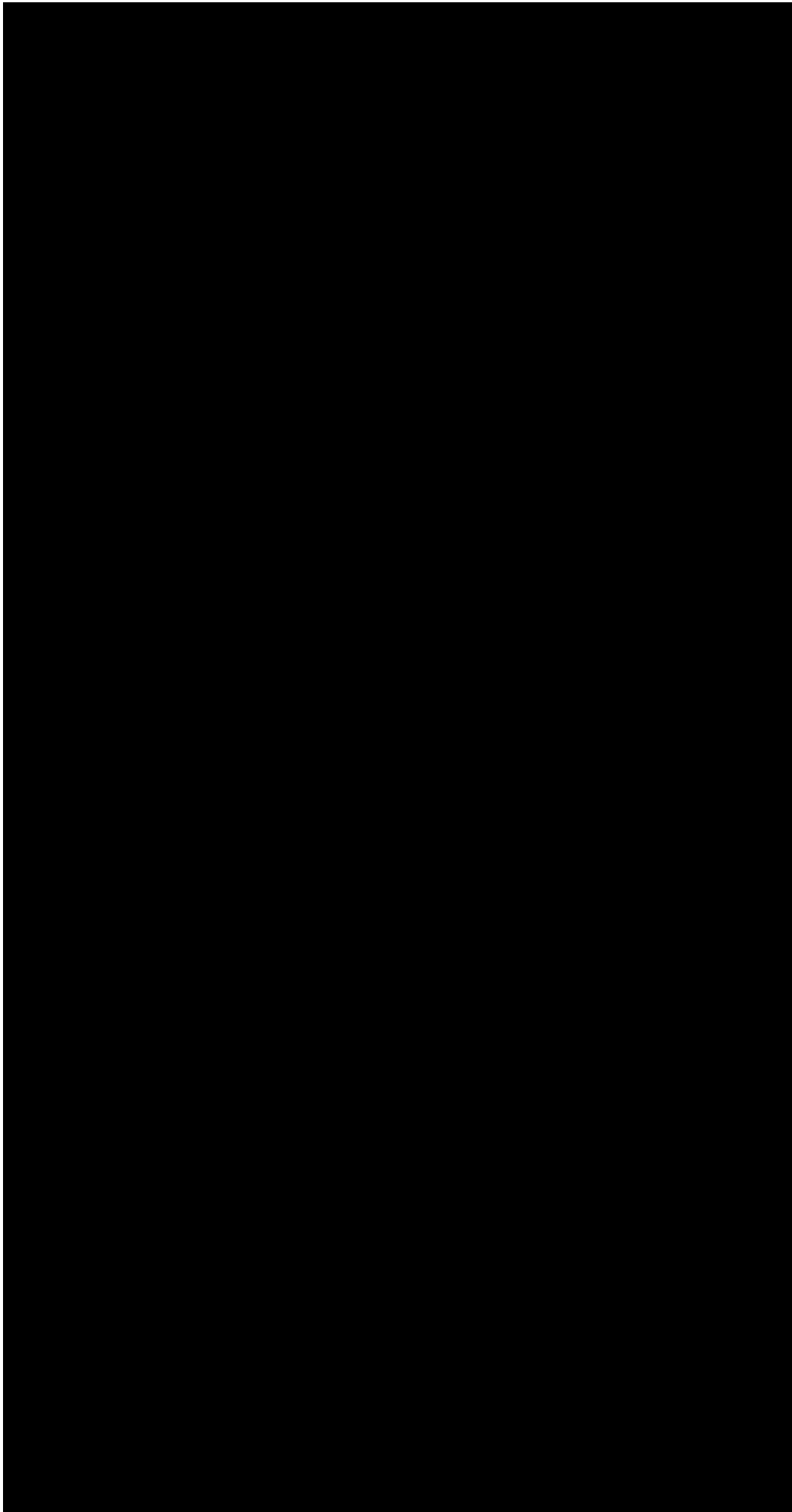


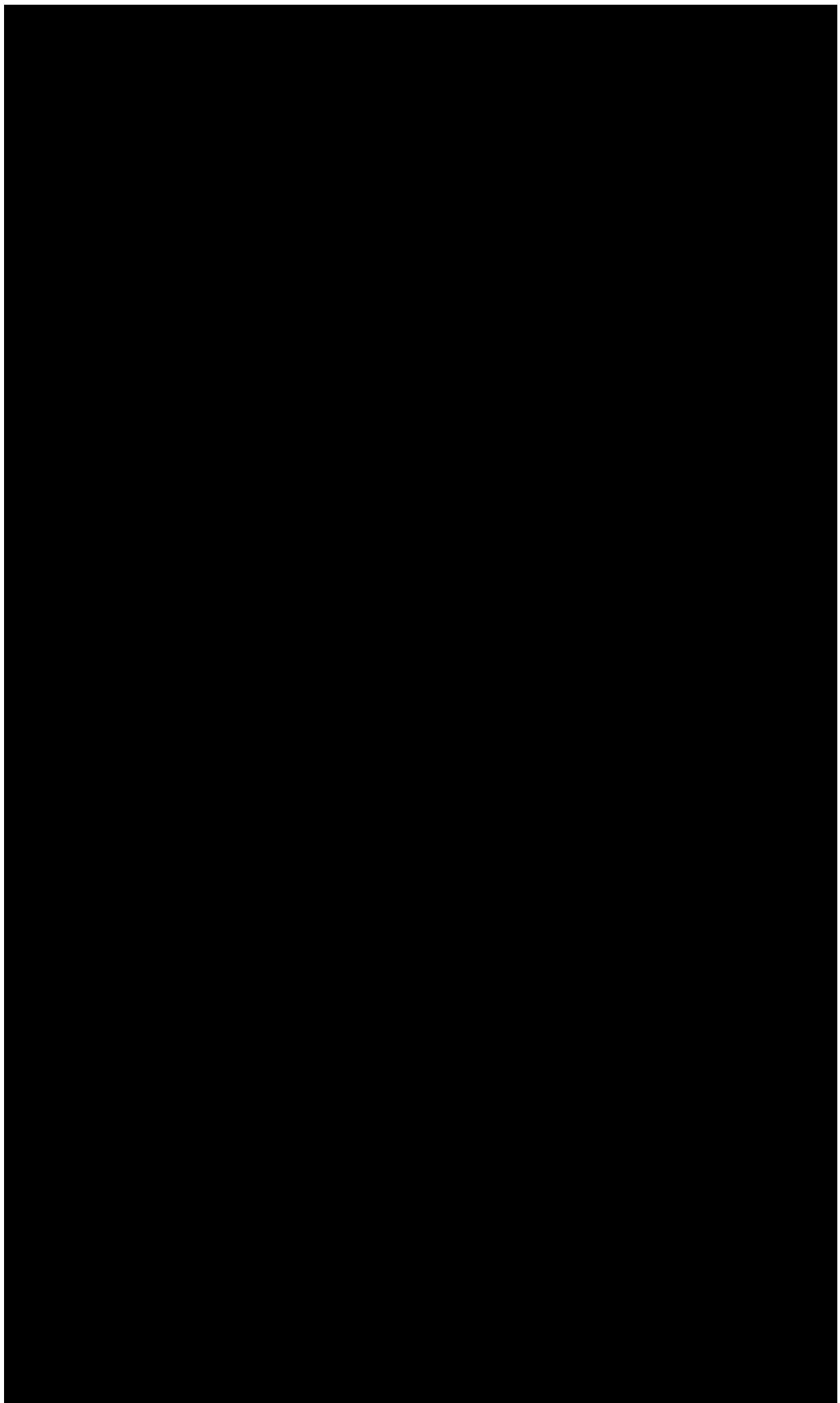
Appendix 2 – Pricing Information

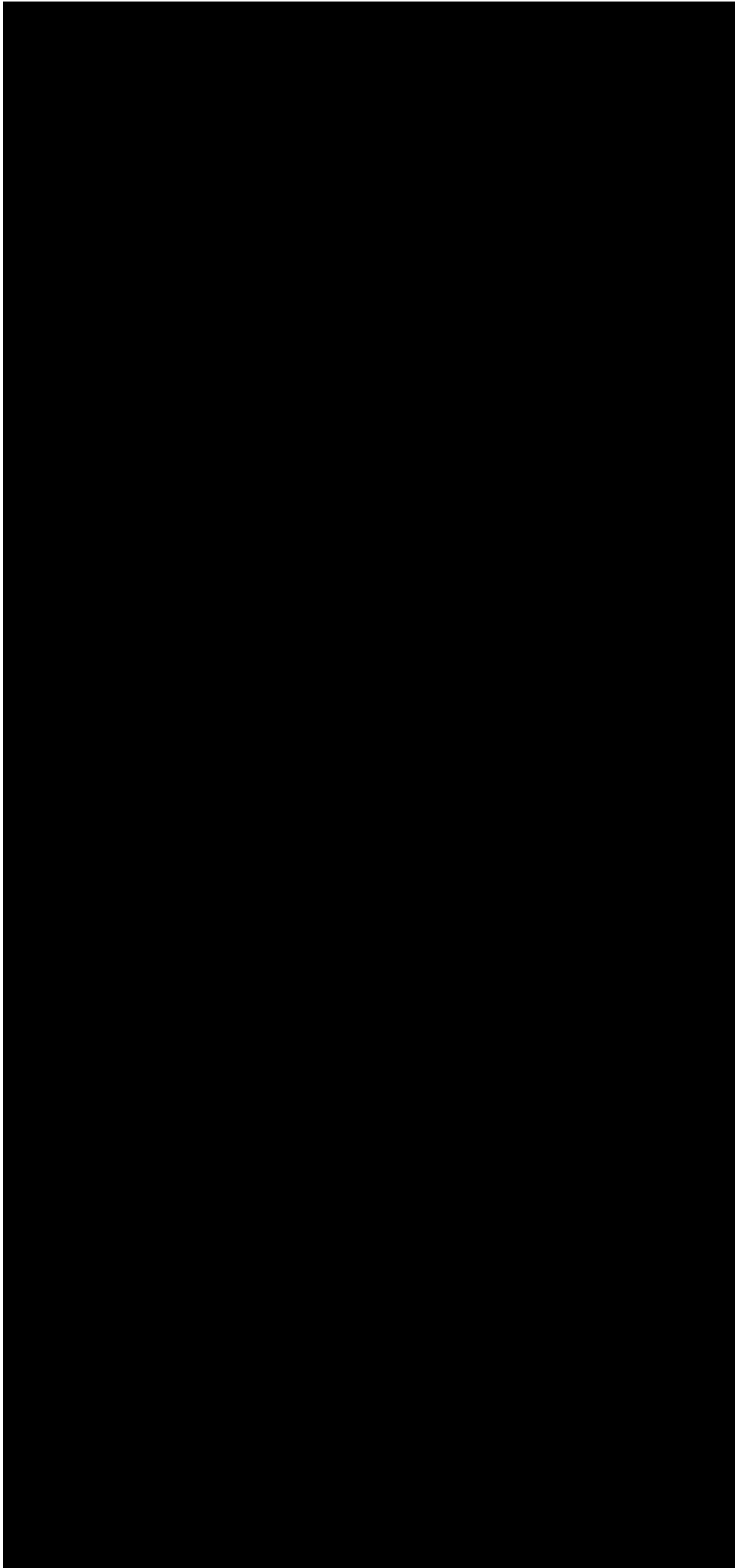
Part 3 - Fees and Profit Margins

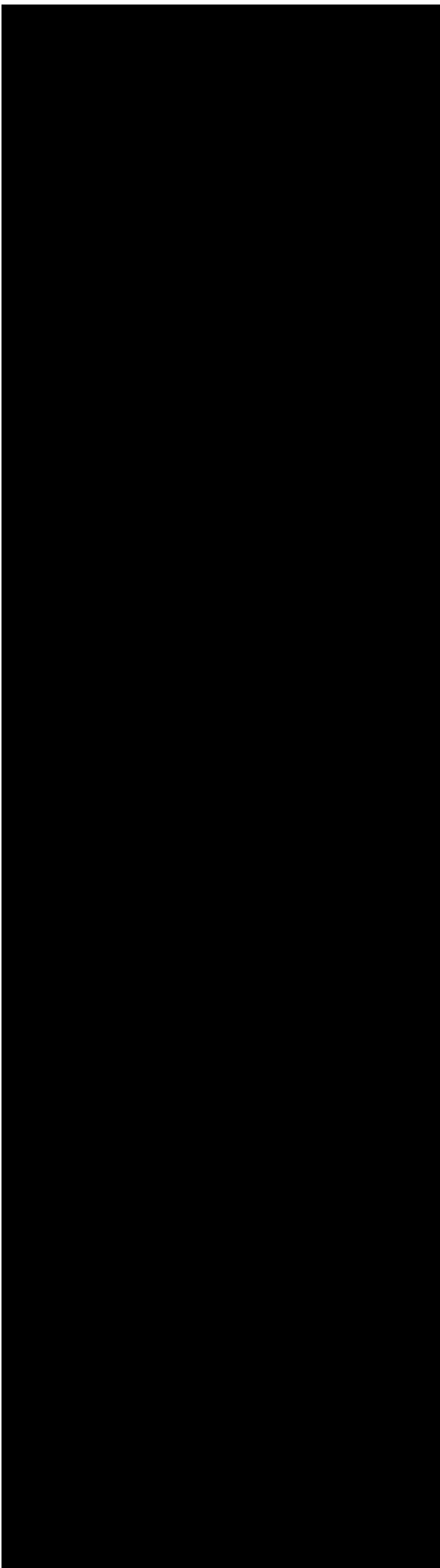
For the purposes of paragraph 2.2(c) of part 3 (Medium Value Changes) to schedule 25, the relevant professional fees shall be calculated as a percentage of the total net works costs incurred in the implementation of the relevant Medium Value Change as set out below.

The rates set out in the tables below are exclusive of any statutory local authority fees which may be payable at the time e.g. planning permission fees or the cost of obtaining approvals in connection with the building regulations.

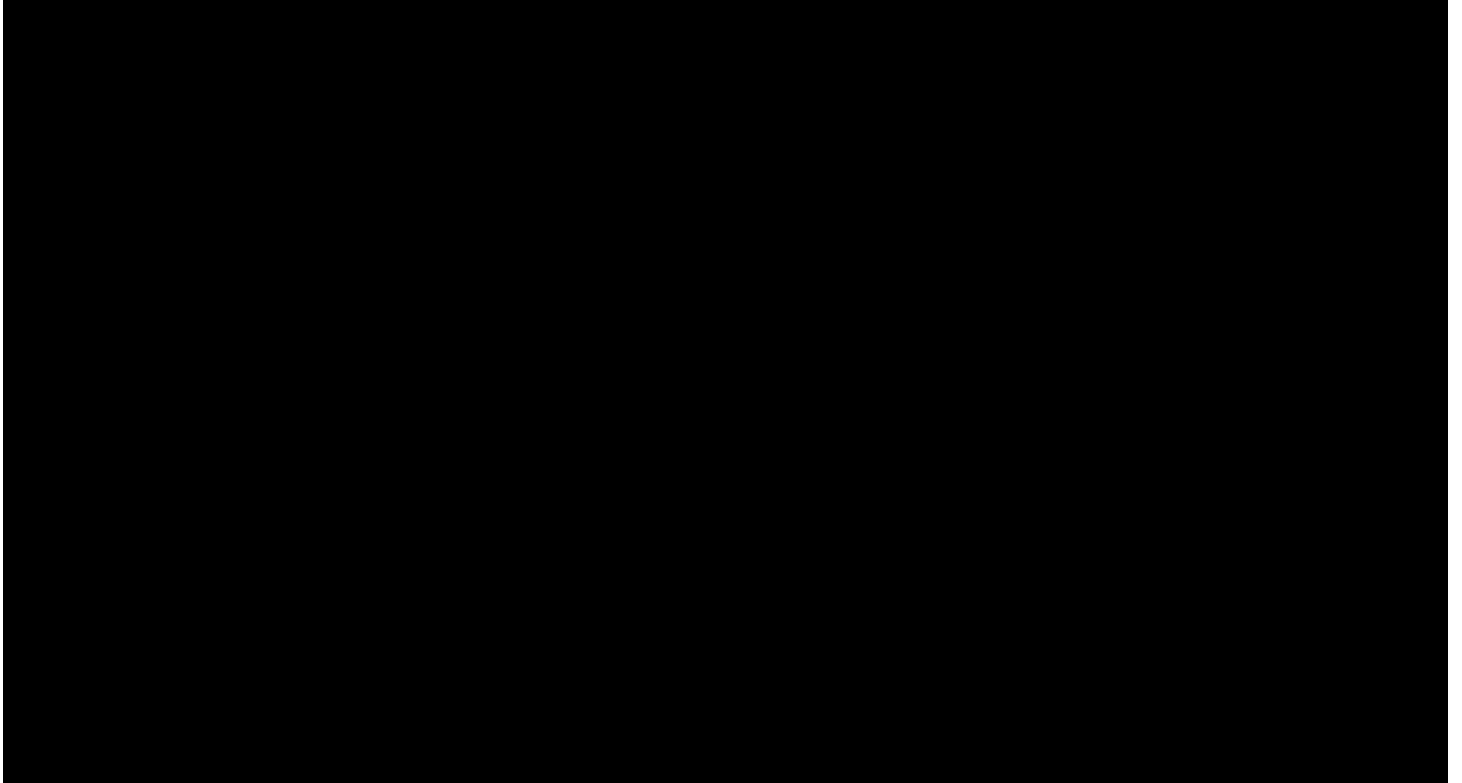








For the purposes of paragraph 2.2(c) of part 3 (Medium Value Changes) to schedule 25, the relevant profit margin shall, for the time periods specified in the left hand column, be calculated as a percentage of the construction costs incurred in the implementation of the relevant Medium Value Change as set out below.

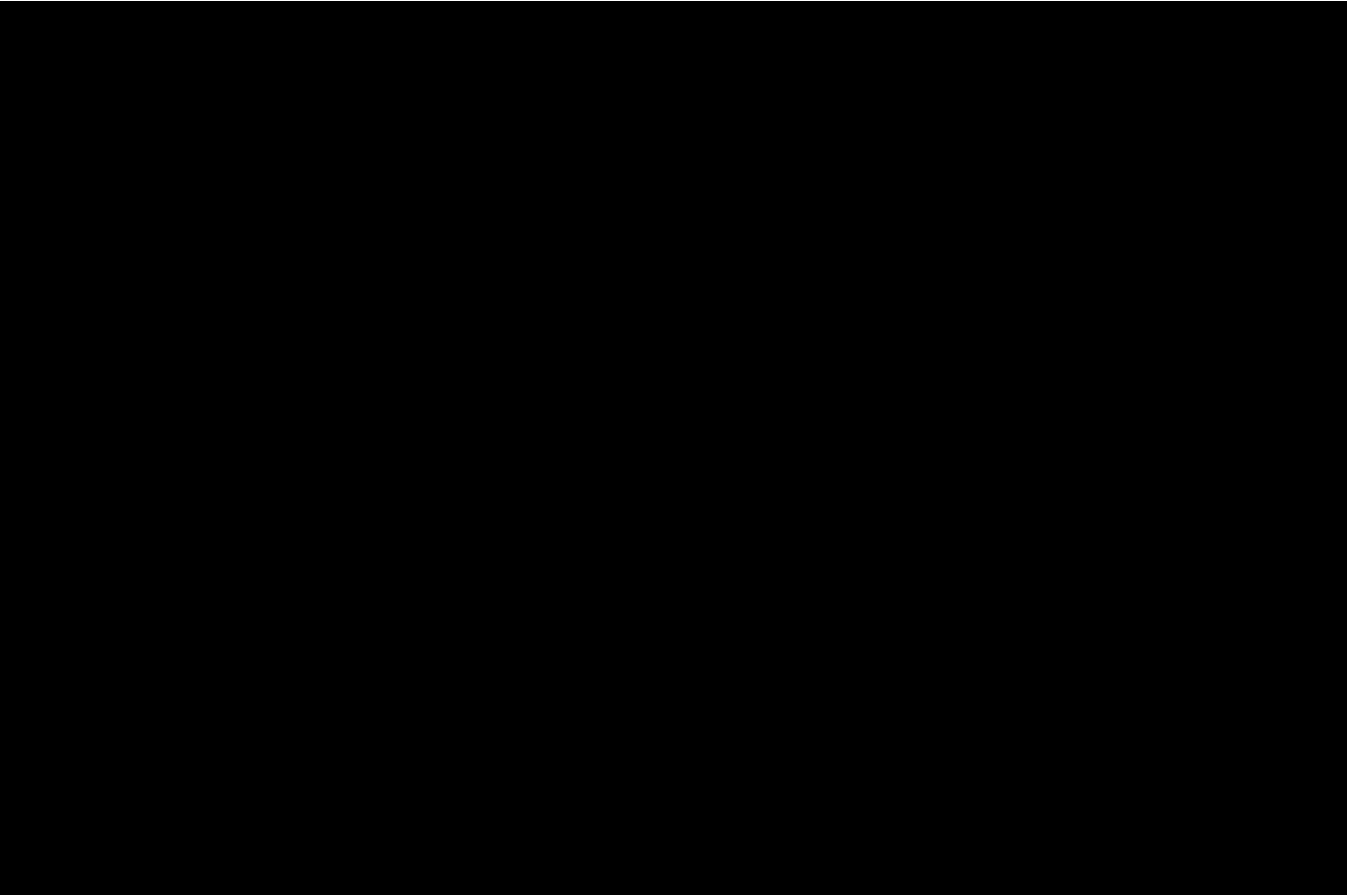


Appendix 2 – Pricing Information

Part 4 - Contractor Management Costs

For the purposes of paragraphs 2.2(d) and 2.2(e) to part 3 of schedule 25, the unit cost of any extension of, or change to, any service that constitutes a Medium Value Change shall be calculated with reference to the unit rates set out below.

The Authority and the Contractor agree that the daily and hourly rates below shall be reviewed on the first anniversary of the Commencement Date and on each such anniversary thereafter.



For Contract Management costs that relate to staff or services that are not captured in the table above, then in order to determine a price for such staff or services the Contractor shall make reference to the rates that it is paying for equivalent staff or services under the Sub-Contracts in place at the time of the Change Request.

Where such rates are referenced, the Authority shall be granted full and transparent access to the Sub-Contractors' pricing of the relevant sub-contract in order that the Authority can satisfy itself that the rates are reasonable. Only when the Authority is duly satisfied that such rates are reasonable, shall those rates be used in the pricing of the change.

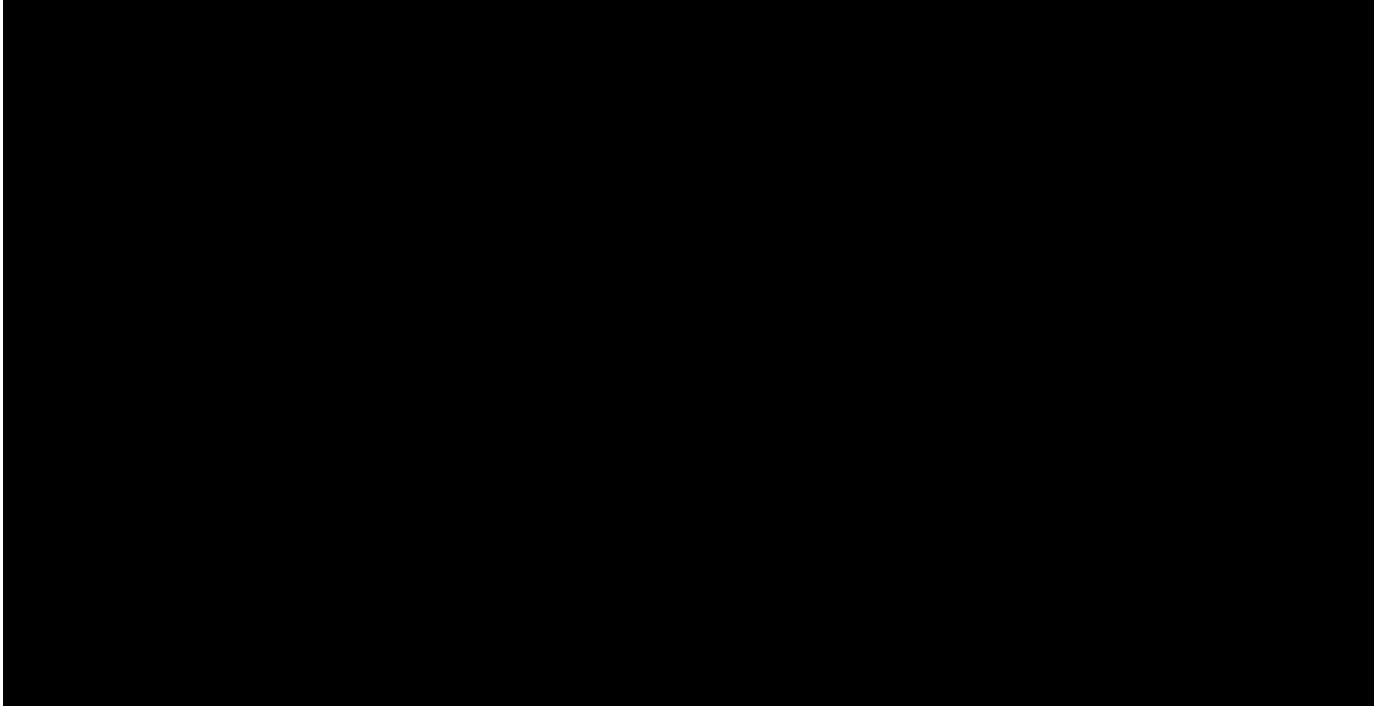
Any staff or services costs that are not covered by the table above or for which there is no equivalent under a Sub-Contract will be priced by market testing. The latter shall involve the Contractor getting quotes from at least three (3) providers of similar services.

Appendix 2 – Pricing Information

Part 5 - Project Management Fee

For the purposes of paragraph 2.4(b) to part 4 (High Value Change) of schedule 25, the cost of the Project Management Fee shall be calculated using the rates set out below.

The rates set out below shall be reviewed on the first anniversary of the Commencement Date and on each such anniversary thereafter.



Appendix 3 - Low Value Change Request

CATALOGUE ORDER FORM	
Low Value Change Request	Dated
To be completed by Authority Representative	
Change no:	
Brief description of the Change	
Change of Law	
Catalogue reference number (if applicable)	
Catalogue price of Change (if applicable)	
Budget for the Change (if not Catalogue)	
Date for completion/implementation	
To be completed by Contractor Representative	
Confirmation of Catalogue Price/Time (if applicable)	
If not Change in Catalogue:	
(i) cost of labour rates	
(ii) lifecycle cost (if appropriate)	
(iii) additional FM cost (if appropriate)	
(iv) plant/equipment costs (if appropriate)	
Total cost	

Appendix 4 – Not Used

Appendix 5 - Adaptation Works Schedule of Rates

Schedule 26

Disclosed Title Matters

Schedule of Title and Search Documents

A) Hall Road, Hull

1.	10.09.1969	Lease (HS352833)	(1) The Lord Mayer Aldermen and Citizens of the City and County of Kingston Upon Hull; (2) The Yorkshire Electricity Board
2.	05.12.1966	Lease (HS352704)	(1) The Lord Mayer Aldermen and Citizens of the City and County of Kingston Upon Hull; (2) The Yorkshire Electricity Board
3.	01.06.1987	Lease (HS132118)	(1) Kingston Upon Hull City Council; (2) Vodafone Limited
4.	16.01.2013	Official Copies and Title Plan (HS352833)	Electricity Sub-station, Hall Road, Hull
5.	01.06.1987	Lease (HS352704)	(1) Kingston Upon Hull City Council; (2) Vodafone Limited
6.	05.12.1966	Lease (HS352704)	(1) The Lord Mayer Aldermen and Citizens of the City and County of Kingston Upon Hull; (2) The Yorkshire Electricity Board
7.	10.09.1969	Lease (HS352640)	(1) The Lord Mayer Aldermen and Citizens of the City and County of Kingston Upon Hull; (2) The Yorkshire Electricity Board
8.	08.08.2013	Official Copies and Title Plan (HS371475)	Hall Road, Kingston Upon Hull
9.	08.08.13	Replies to CPSE.1 (version 3.2)	Hull City Council
10	12.07.2012	Local Authority Search - Certificate of Search - Laxthorpe, Hull HU6 9EG	Hull City Council
11	12.07.2012	Local Authority Search – Schedule to Search - Laxthorpe, Hull HU6 9EG	Hull City Council
12	12.07.2012	Local Authority Search – Plot Image - Laxthorpe, Hull HU6 9EG	Hull City Council
13	12.07.2012	Local Authority Search – Replies to Standard Enquiries - Laxthorpe, Hull HU6 9EG	Hull City Council
14	04.07.2012	SIM Results - Laxthorpe, Hull HU6 9EG	
15	11.07.2012	Coal Search Results - Laxthorpe, Hull HU6 9EG	The Coal Authority
16	06.07.2012	Drainage & Water Enquiry Results - Laxthorpe, Hull HU6 9EG	Safe-Move, Yorkshire Water
17	01.08.2012	Utilities Search Results - Laxthorpe, Hull HU6 9EG	Groundwise Searches Limited
18	16.04.2013	Site Plan – Hall Road	Hull City Council
19	February 2010	Walkover Survey and Desk Study. Desk Study No. NE2973	Sub Surface North East Limited

20	20.05.2010	Flood Risk Assessment - Thorpe's Extra Care Housing Hall Road, Hull	NPS Humber Limited
21	11.04.2013	Topographical Survey – Orchard After Care Site	NPS Humber Limited
22	20.01.2012	Archaeological Survey – Proposed Extra Care Housing Scheme at Thorpes Site, Orchard Park, Hall Road, Hull	Humber Archaeology Partnership
23	Undated	Highway Status Plan – Hall Road Site	
24	11.10.2011	Public Right of Way Information	Hull City Council
25	Undated	Surplus Roads and Footpaths Hall Road	
26	18.04.2014	Planning Design Brief – Hall Road	Hull City Council
27	01.09.2010	Planning Permissions – Land To The North Of Hall Road And South Of Homethorpe, Kingston Upon Hull	Kingston Upon Hull City Council
28	Undated	Green Space Plan – Hall Road	

B) Leads Road, Hull

29	22.04.2013	Official Copies (HS334715)	Tweendykes School, Tweendykes Road, Sutton On Hull, Hull HU7 4XJ
30	Undated	Title Plan (HS334715)	Tweendykes School, Tweendykes Road, Sutton On Hull, Hull HU7 4XJ
31	02.04.1963	Lease (HS334715)	(1) The Lord Mayer Aldermen and Citizens of the City and County of Kingston Upon Hull; (2) The Yorkshire Electricity Board
32	08.08.13	Replies to CPSE.1 (version 3.2)	Hull City Council
33	10.07.2012	Local Authority Search - Certificate of Search – Land East Leeds Road, Hull HU7 4XT	Hull City Council
34	10.07.2012	Local Authority Search – Schedule to Search - Land East Leeds Road, Hull HU7 4XT	Hull City Council
35	10.07.2012	Local Authority Search – Plot Image - Land East Leeds Road, Hull HU7 4XT	Hull City Council
36	10.07.2012	Local Authority Search – Replies to Standard Enquiries - Land East Leeds Road, Hull HU7 4XT	Hull City Council
37	04.07.2012	SIM Results – Land East Leads Road, Leads Road, Hull HU7 4XT	
38	09.07.2012	Coal Search Results – Land East Leads Road, Leads Road, Hull HU7 4XT	The Coal Authority
39	05.07.2012	Drainage & Water Search Enquiry Results - Land East Leads Road, Leads Road, Hull HU7 4XT	Safe-Move, Yorkshire Water

40	24.07.2012	Utilities Search Results - Land East Leads Road, Leads Road, Hull HU7 4XT	Groundwise Searches Limited
41	16.04.2013	Site Plan – Leads Road	Hull City Council
42	February 2010	Walkover Survey and Desk Study. Desk Study No. NE2974	Sub Surface North East Limited
43	20.05.2011	Flood Risk Assessment – Holden Extra Care Housing, Leads Road, Hull	NPS Humber Limited
44	11.04.2013	Topographical Survey – Tweendykes After Care Site	NPS Humber Limited
45	20.01.2012	Archaeological Survey – Proposed Extra Care Housing Scheme at Hawthorn Avenue Site, Hull	Humber Archaeology Partnership
46	20.01.2012	Archaeological Survey – Proposed Extra Care Housing Scheme at Holden Centre Site, Leads Road, Hull	Humber Archaeology Partnership
47	Undated	Highway Status Plan – Leads Road Site	
48	11.10.2011	Public Right of Way Information	Hull City Council
49	18.04.2012	Planning Design Brief – Leads Road	Hull City Council
50	01.09.2010	Planning Permissions – Holden East Hull Resource Centre, Leads Road, Kingston Upon Hull, HU7 4XS	Kingston Upon Hull City Council

C) Hawthorn Avenue, Hull

51	22.04.2013	Official Copies (HS367710)	Land at Cecil Street, Rhodes Street and Greek Street, Kingston Upon Hull
52	Undated	Title Plan (HS367710)	Land at Cecil Street, Rhodes Street and Greek Street, Kingston Upon Hull
53	08.08.13	Replies to CPSE.1 (version 3.2)	Hull City Council
54	11.07.2012	Local Authority Search - Certificate of Search – Land to East of Hawthorne Avenue, Hull HU3 5LL	Hull City Council
55	11.07.2012	Local Authority Search – Schedule to Search - Land to East of Hawthorne Avenue, Hull HU3 5LL	Hull City Council
56	11.07.2012	Local Authority Search – Plot Image - Land to East of Hawthorne Avenue, Hull HU3 5LL	Hull City Council
57	10.07.2012	Local Authority Search – Replies to Standard Enquiries - Land to East of Hawthorne Avenue, Hull HU3 5LL	Hull City Council
58	05.07.2012	SIM Results – Land to East of Hawthorne Avenue, Hull HU3 5LL	

59	06.07.2012	Coal Search Results – Land to East of Hawthorne Avenue, Hull HU3 5LL	The Coal Authority
60	06.07.2012	Drainage & Water Search Enquiry Results - Land to East of Hawthorne Avenue, Hull HU3 5LL	Safe-Move, Yorkshire Water
61	01.08.2012	Utilities Search Results - Land to East of Hawthorne Avenue, Hull HU3 5LL	Groundwise Searches Limited
62	01.10.2013	Site Plan – Hawthorn Avenue	Hull City Council
63	February 2010	Walkover Survey and Desk Study. Desk Study No. NE2975	Sub Surface North East Limited
64	20.05.2010	Flood Risk Assessment – Hawthorn Extra Care Housing, Hawthorn Avenue, Hull	NPS Humber Limited
65	11.04.2013	Topographical Survey – Hawthorn Avenue After Care Site	NPS Humber Limited
66	20.01.2012	Archaeological Survey – Proposed Extra Care Housing Scheme at Hawthorn Avenue Site, Hull	Humber Archaeology Partnership
67	Undated	Highway Status Plan – Hawthorn Avenue Site	
68	11.10.2011	Public Right of Way Information	Hull City Council
69	13.04.2012	Public Use Closure Order - Cecil Street	Kingston Upon Hull City Council
70	09.05.2012	Private Road (Cherry Garth) adopted by Hull City Council	Hull City Council
71	18.04.2012	Planning Design Brief – Hawthorn Avenue	Hull City Council
72	01.09.2010	Planning Permissions – Land To The East Of Hawthorn Avenue, South Of Greek Street And West Of Plane Street, Kingston Upon Hull, HU3 5PU	Kingston Upon Hull City Council

D) Tree Preservation Orders

73	Undated	Hull Road Tree Report	Waller Tree Consulting Ltd
74	Undated	Hull Road Tree Report – Extra Care Scheme	Waller Tree Consulting Ltd
75	19/05/2014	Hull Road Tree Report – Extra Care Scheme – Appendix	Waller Tree Consulting Ltd
76	Undated	Hull Road Tree Protection Plan	
77	Undated	Hull Road Tree Report – Extra Care Scheme in relation to tower block	Waller Tree Consulting Ltd
78	13/06/2014	Hull Road Tree Report – Extra Care Scheme – Tower Block – Appendix	Waller Tree Consulting Ltd
79			
80	Undated	Holden Centre Tree Report	Waller Tree Consulting Ltd
81		Holden Centre Tree Report – Extra Care Scheme	Waller Tree Consulting Ltd

82	05/06/2014	Holden Centre Tree Report – Extra Care Scheme – Appendix	Waller Tree Consulting Ltd
83	Undated	Holden Centre Tree Protection Plan 1	
84	Undated	Holden Centre Tree Protection Plan 2	
85	Undated	Hawthorn Avenue Tree Report	Waller Tree Consulting Ltd
86	Undated	Tweendykes Special School – Extra Care Scheme	Waller Tree Consulting Ltd
87	16/06/2014	Tweendykes Special School – Extra Care Scheme – Appendix	Waller Tree Consulting Ltd

Schedule 27

Phases, Start on Site Dates and Planned Services Commencement Dates

Phase	Start on Site Date	Planned Services Commencement Date
Hawthorn Avenue Site		2 June 2017
Leads Road Site		25 August 2017
Hall Road Site		10 March 2017

The Parties acknowledge that a failure to meet the dates referred to in this Schedule shall not of itself be capable of giving rise to a Contractor Default under limbs (a) or (b) of that definition.

Schedule 28

Funder's Direct Agreement

Schedule 29

Not Used

Schedule 30

Works Procedures

During the carrying out of the Works, the Contractor shall procure that the Building Contractor and the Principal Building Sub-Contractor shall:

- 1 not use or occupy or permit the Sites or any land upon which the Works are being undertaken to be used or occupied for any purpose other than the carrying out of the Works;
- 2 not deposit or manufacture or permit to be deposited or manufactured on the Sites or any land upon which the Works are being undertaken any materials which are not required for the carrying out of the Works;
- 3 not sell or dispose of any earth, clay, sand, gravel, chalk or other material from the Sites or any land upon which the Works are being undertaken or permit or suffer the same to be removed, except so far as shall be necessary for the proper execution of the Works, without the consent of the Authority which shall not be unreasonably withheld;
- 4 at the Contractor's sole cost transport all surplus materials arising from the Works and arrange for the tipping of the same at such places as may lawfully be used for tipping and the Contractor shall ensure that such materials will not cause or give rise to pollution of the environment as defined by section 29(3) Environmental Protection Act 1990;
- 5 not permit or suffer the storage of materials or the parking of vehicles in the immediate external vicinity of the boundaries of the Sites by the Contractor, the Building Contractor or any Principal Building Sub-Contractor other than for reasonable periods necessary for loading and unloading or as set out in the Contractor's Proposals;
- 6 ensure that all vehicles leaving the Sites are adequately cleaned to prevent the deposit of waste materials and debris on the adjoining property and if any such material or debris is so deposited the Contractor shall forthwith employ such measures as shall be necessary to remove the material and debris and to clean and reinstate the adjoining property to the reasonable satisfaction of the owners or occupiers of the adjoining property as the case may be;
- 7 not, in breach of any legislation, permit any oil, grease or deleterious, dangerous, poisonous, explosive or radioactive matter to be discharged from the Sites into any rivers or any ditches or services media on the sites and/or any adjoining property and shall not permit or suffer the blockage of any of such rivers, ditches and services media by reason of anything done or omitted on the Sites or any land upon which the Works are being undertaken, and shall comply at the Contractor's expense with any requirements of the environment agency or any other relevant authority so far as such requirements relate to or affect the Works;
- 8 not gain access to and egress from the Apartment Areas or Sites except as contemplated by the Contractor's Proposals;
- 9 not without the written consent of the Authority erect or permit or suffer to be erected on the Sites any temporary structure except site accommodation usual in connection with works of a like nature to the Works or as contemplated by the Contractor's Proposals;
- 10 not erect or exhibit or permit or suffer to be erected or exhibited on any part of the Sites any signs or trade boards save those previously approved in writing by the Authority (such approval not to be unreasonably withheld or delayed);

11 take all necessary steps in accordance with legislation with regard to ensuring the health and safety of all:

11.1 occupants of the Sites;

11.2 individuals invited onto the Sites; and

11.3 occupants of Adjoining Properties,

is not adversely impacted upon by the undertaking of the Works.

Schedule 31

Form of Lease

Schedule 32

Form of Underlease

Schedule 33

Site Plans

Part 1 - Hawthorn Avenue Site

Part 2 - Leads Road Site

Part 3 - Hall Road Site

Part 4 - Existing Buildings Plan

Part 5 - Sketch Layout of Proposed Raised Table Junction

Schedule 34

Deed of Appointment of Independent Certifier

Schedule 35

Reviewable Design Data

Schedule 36

Charitable Surplus

Schedule 37

Title Compensation Events

Hall Road Site

Number	Reference giving rise to Title Compensation Event	Text of Compensation Event
1.	CPSE replies in relation to the potential for prescriptive rights along the unadopted footpaths on the Hall Road Site.	Any pedestrian rights of way acquired over the roads on the Hall Road Site through long user as shown coloured dotted black on the Site Plan for Hall Road.

Leads Road Site

Number	Reference giving rise to Title Compensation Event	Text of Compensation Event
2.	SIM search results	Any claim by a third party that they have rights over or ownership of the unregistered land between the southern boundary of the Leads Road Site and the adopted highway on Tween Dykes Road as shown on the highways plan for the Leads Road Site.

Hawthorn Avenue Site

Number	Reference giving rise to Title Compensation Event	Text of Compensation Event
3.	Entry 2 of the Charges Register of Title Number HS366347 in respect of a covenant in a Conveyance dated 26 April 1899 made between (1) Robert Foster and William Smith Sharp and (2) Thomas Pearce and (3) The Hull Estates Company Limited	The covenant contained in a Conveyance dated 26 April 1899 that all buildings dwellinghouses or shops to be built on the Hawthorn Avenue Site should be faced with red stock bricks and have the roofs slated and such dwellinghouses or shops should be built not less than 22 feet in height and which affects the area edged 1 and 2 on the title plan for HS366347 only.
4.	Entry 3 of the Charges Register of Title Number HS367710 in respect of a covenant in a Conveyance dated 26 April 1899 made between (1) Robert Foster and William Smith Sharp and (2) Thomas Pearce and (3) The Hull Estates Company Limited	The covenant contained in a Conveyance dated 26 April 1899 that all buildings dwellinghouses or shops to be built on the Hawthorn Avenue Site should be faced with red stock bricks and have the roofs slated and such dwellinghouses or shops should be built not less than 22 feet in height and which affects the part of the title edged blue on the title plan for HS367710 only.

Appendix 1

Access Protocol

1 MEANING OF ACCESS REFUSAL EVENT

1.1 Subject to paragraph 1.2, an **Access Refusal Event** shall occur when

1.1.1 a Tenant or an Occupier has:

- (i) refused the Contractor access to an Apartment to undertake Responsive Repairs and/or Planned Maintenance; or
- (ii) failed to respond to contacts made by the Contractor for the purposes of carrying out Responsive Repairs and/or Planned Maintenance; or
- (iii) responded to contacts made by the Contractor for the purposes of carrying out Responsive Repairs and/or Planned Maintenance but still following such contact refuses to permit access to an Apartment; and

1.1.2 where the Contractor has been refused access to undertake a Responsive Repair, the Contractor has undertaken all action required of it in relation to the relevant Responsive Repair (as specified in the table set out in paragraph 2.1(b)); and

1.1.3 where the Contractor has been refused access to undertake Planned Maintenance, the Contractor has taken the action required of it as specified at paragraphs 3(a), 3(b) and 3(c) of this Access Protocol.

1.2 An Access Refusal Event shall not occur in:

- (a) circumstances where Responsive Repairs are required in respect of matters giving rise to an immediate health and safety or security risk; or
- (b) circumstances where access was refused linked to the failure of the Contractor or a Contractor Related Party to perform its obligations in accordance with Good Industry Practice or with the terms of this Access Protocol, or if access was refused for reasons linked to any cause within the control or the ability of the Contractor or any Contractor Related Party to manage with respect to the Services; or
- (c) circumstances where a previous Tenant has refused access and there is a new Tenant unless they also refuse; or
- (d) any Apartments which are Void at the point access is required;
- (e) circumstances where the Contractor has previously been notified that the Tenant shall be absent; or
- (f) the Contractor has, in respect of the failure to gain access in question, failed to comply with any provisions of this Access Protocol.



1.3 This Access Protocol is set out in two parts:

- (a) the first covering the carrying out of Responsive Repairs; and
- (b) the second covering the carrying out of Planned Maintenance.

2 RESPONSIVE REPAIRS

2.1 Responsive Repairs Procedure

- (a) This section is concerned with the access procedure to be employed in respect of the provision of Responsive Repairs.
- (b) Wherever appropriate, the Contractor shall make (or procure the making of) appointments with the Tenant (via the Helpdesk) to undertake any Responsive Repairs. It is anticipated that on arrival at the appointed time to some appointments, the Tenant or other members of his or her household shall not be available. In this instance a number of attempts shall be made to revisit the Tenant's Apartment to gain access, and take such other action, as specified in column 3 of the table below.

Access Refusal Event Protocol

Priority	Description	Response Required	Action
A	Matters giving rise to an immediate health and safety or security risk.	Respond and institute at least an interim solution within 2 hours of notification or detection.	<p>As soon as possible following notification and not more than 1 hour following notification the Contractor shall procure that its on-site staff shall:</p> <ul style="list-style-type: none"> (a) attempt to gain access to the affected Apartment; (b) notify the on-site staff of the Care Provider to attempt to facilitate emergency access; (c) attempt to notify the Tenant's next-of-kin or emergency contact to attempt to facilitate emergency access; (d) notify the police to attempt to facilitate emergency access. <p>If following the steps above, the Contactor or its on-site staff have been unable to gain access to the Tenant's Apartment, the provisions of paragraph 4.1(a) shall apply.</p>

Priority	Description	Response Required	Action
		<p>Permanent rectification of health and safety issues required within 1 day of notification when only an interim solution was achieved security matters must be permanently rectified within 1 day.</p>	<p>The Contractor shall procure that its on-site staff shall make at least two (2) attempts (not within less than 1 hour of each other) to gain access to the Tenant's Apartment following temporary rectification of the health and safety issue following which the Contractor shall:</p> <ul style="list-style-type: none"> (a) procure that its on-site staff shall make contact with on-site staff of the Care Provider to attempt to facilitate access; (b) post a card through the letterbox of the Apartment requesting the Tenant to contact the Helpdesk and informing the Tenant of the time that the Contractor attempted to gain access to the Apartment; and (c) thereafter the provisions of paragraph 4.1 shall apply until the job is completed.
B	Matters requiring rectification within 1 day.	Permanent or temporary rectification.	<p>Within 4 hours of notification the Contractor shall procure that its on-site staff shall:</p> <ul style="list-style-type: none"> (a) attempt to gain access to the affected Apartment; (b) notify the on-site staff of the Care Provider to attempt to facilitate access; and (c) post a card through the letterbox of the Apartment requesting the Tenant to contact the Helpdesk and informing the Tenant of the time that the Contractor

Priority	Description	Response Required	Action
		<p>Permanent rectification following temporary rectification. To be implemented within 1 day period of notification or detection.</p>	<p>attempted to gain access to the Apartment.</p> <p>If the Contactor or its on-site staff have been unable to gain access to the Tenant's Apartment, the Contactor shall procure that its on-site staff shall make 2 (two) further attempts within 8 hours of the first attempt, (but not within less than 30 minutes of each other) to gain access following which the provisions of paragraph 4.1 shall apply.</p> <p>The Contractor shall procure that its on-site staff shall make at least four (4) attempts (not within less than 4 hours of each other) to gain access following temporary rectification following which the Contractor shall:</p> <ul style="list-style-type: none"> (a) procure that its on-site staff shall make contact with on-site staff of the Care Provider to attempt to facilitate access; (b) post a card through the letterbox of the Apartment requesting the Tenant to contact the Helpdesk and informing the Tenant of the time that the Contractor attempted to gain access to the Apartment; and (c) thereafter the provisions of paragraph 4.1 shall apply until the job is completed.

Priority	Description	Response Required	Action
C	Matters requiring rectification within 7 days.	Permanent or temporary rectification.	<p>Within 12 hours of notification the Contractor shall procure that its on-site staff shall:</p> <ul style="list-style-type: none"> (a) attempt to gain access to the affected Apartment; (b) notify the on-site staff of the Care Provider to attempt to facilitate access; and (c) post a card through the letterbox of the Apartment requesting the Tenant to contact the Helpdesk and informing the Tenant of the time that the Contractor attempted to gain access to the Apartment. <p>If the Contractor or its on-site staff have been unable to gain access to the Tenant's Apartment the Contractor on-site staff shall within 36 hours of the first attempt, make two further attempts (not within less than 12 hours of each other) to gain access following which the provisions of paragraph 4.1 will apply.</p>

Priority	Description	Response Required	Action
		<p>Permanent rectification following temporary rectification. To be implemented within 7 day period of notification or detection.</p>	<p>The Contractor shall procure that its on-site staff shall make at least four (4) attempts (not within less than 12 hours of each other) to gain access following temporary rectification following which the Contractor shall:</p> <ul style="list-style-type: none"> (a) procure that its on-site staff shall make contact with on-site staff of the Care Provider to attempt to facilitate access; (b) post a card through the letterbox of the Apartment requesting the Tenant to contact the Helpdesk and informing the Tenant of the time that the Contractor attempted to gain access to the Apartment; and (c) thereafter the provisions of paragraph 4.1 shall apply until the job is completed.
D	<p>Matters requiring rectification for longer than 7 days.</p>	<p>Permanent or temporary rectification.</p>	<p>Within 24 hours of notification the Contractor shall procure that its on-site staff shall:</p> <ul style="list-style-type: none"> (a) attempt to gain access to the affected Apartment; (b) notify the on-site staff of the Care Provider to attempt to facilitate access; and (c) post a card through the letterbox of the Apartment requesting the Tenant to contact the Helpdesk and informing the Tenant of the time that the Contractor attempted to gain access to the Apartment.

Priority	Description	Response Required	Action
		<p>Permanent rectification following temporary rectification. To be implemented within 14 day period of notification or detection.</p>	<p>If the Contractor or its on-site staff have been unable to gain access to the Tenant's Apartment the Contractor on-site staff shall within 6 days of the first attempt, make two further attempts (not within less than 24 hours of each other) to gain access following which the provisions of paragraph 4.1 shall apply.</p> <p>The Contractor shall procure that its on-site staff shall make at least four (4) attempts (not within less than 24 hours of each other) to gain access following temporary rectification following which the Contractor shall:</p> <ul style="list-style-type: none"> (a) procure that its on-site staff of the Care Provider to attempt to facilitate access; (b) post a card through the letterbox of the Apartment requesting the Tenant to contact the Helpdesk and informing the Tenant of the time that the Contractor attempted to gain access to the Apartment; and (c) thereafter the provisions of paragraph 4.1 shall apply until the job is completed.



- (c) Dates and times of delivery of calling cards and attempted access will be recorded by the Contractor and made available to the Authority for inspection on two (2) Business Days' notice.
- (d) The Contractor will also provide to the Authority for inspection on two (2) Business Days' notice a rolling schedule of Apartments where no response to calling cards has been received.
- (e) Where any Responsive Repairs have not been either commenced or completed due to failure to gain access the Authority will be informed in writing in the monthly report to be provided under clause 33.2 (Report and Invoice) of the Project Agreement.

3 PLANNED MAINTENANCE

- (a) In respect of Planned Maintenance undertaken by the Contractor to Apartments, the Contractor shall comply with the following procedure:
 - (i) the Contractor shall write to individual Tenants informing them that either access will be required to carry out a survey or that works will commence in twenty (20) Business Days time as appropriate. At least two (2) attempts on separate days will be made to deliver this letter personally to establish face to face contact;
 - (ii) the Contractor shall procure that a further reminder letter of the required access will be sent five (5) Business Days prior to the start of the Planned Maintenance where the Planned Maintenance is to be directly carried out without the need of a survey or prior to the start of the survey work;
 - (iii) where survey work is carried out, the Contractor shall procure that a further five (5) Business Days notice will be forwarded prior to the Planned Maintenance actually commencing; and
 - (iv) on the morning the Planned Maintenance is due to commence the Contractor or his appointee shall attend the Apartment. If there is no response the Contractor will make contact with any on site or visiting staff of the Care Provider and the Housing Management Contractor and a calling card will be posted through the letterbox at the Apartment requesting the Tenant to make immediate contact and confirming that the team will attend again the following Business Day. This calling card will be multi-lingual if the Tenancy Agreement or other information available to the Contractor suggests that the Tenant and/or household belongs to an ethnic minority. The Contractor shall also, if necessary, arrange access to a locally available dedicated language line or specialist special needs support as the case may require. These services will be provided and procured by the Contractor as soon as practicable following it becoming known to the Contractor that the Tenant or his or her household may need them.
- (b) Regardless of whether a response to the calling card referred to in paragraph 3(a)(iii) was obtained, the Contractor shall procure that the procedure in that paragraph will be repeated the next Business Day.
- (c) In the event that, on the second visit, no response is obtained or no access is available, the Contractor shall:

- (i) inform the Authority in writing as soon as practicable and not more than 1 Business Day following the Contractor being refused access; and
 - (ii) post a calling card through the letterbox at the Apartment as previously.
- (d) Within 1 Business Day following the Contractor taking the action referred to at paragraph 3(c), the Contractor shall write and post a letter to the relevant Tenant confirming that attempts have been made to access the Apartment to undertake the Planned Maintenance and that such Planned Maintenance will now be rescheduled until such time as the Apartment is vacated by the Tenant or access is subsequently granted by that Tenant.
- (e) In the event of Tenant holidays or pressing personal circumstances, such as family bereavement or illness, the Contractor shall take such reasonable steps as may be necessary to agree with a Tenant a mutually convenient alternative time for the Planned Maintenance to be undertaken and at that point an Access Refusal Event will be deemed to have taken place.
- (f) All copies of written letters, dates and times of delivery and attempted access will be recorded by the Contractor and made available to the Authority for inspection on two (2) Business Days notice.

4 WHERE THERE IS AN ACCESS REFUSAL EVENT

4.1 Where there is an Access Refusal Event, the Contractor shall comply with the following procedure:

- (a) if there are reasonable grounds to believe that there are significant Health & Safety issues in respect of the Apartment or other potential liabilities to the Authority or the Contractor, the Contractor shall take all appropriate steps in accordance with the Tenancy Agreement and Good Industry Practice including taking legal proceedings to gain access at the earliest possible opportunity;
- (b) in the event that the carrying out of Planned Maintenance or Responsive Repairs to any other Apartment means that it is subsequently conducive to revisiting any Apartments where access was denied the Contractor shall again take all reasonable steps to attempt to make contact with the relevant Tenants or members of their households in order to gain access to carry out the Planned Maintenance or Responsive Repairs;
- (c) the Contractor shall maintain an accurate and up-to-date list of all Apartments that are subject to an Access Refusal Event. This list shall include details of the time the Access Refusal Event occurred. If following the occurrence of the Access Refusal Event, the Tenant does subsequently allow access, the Contractor shall update the list by annotating details of the date when access was permitted and the Apartment shall be placed on a waiting list to be maintained by the Contractor (**Access Refusal Waiting List**);
- (d) once the Apartment is placed on the Access Refusal Waiting List the Rectification Period shall be reset and the Contractor shall:
 - (i) in relation to Responsive Repairs, complete the Responsive Repairs



within the Rectification Period referred to in the Output Specification;
or

- (ii) in relation to Planned Maintenance, return and complete the works within 20 Business Days;
- (e) prior to the end of the relevant period of Planned Maintenance or Rectification Period for the Responsive Repairs the Contractor shall contact all Tenants that have refused access to their Apartment. This shall be by letter, which shall be personally delivered to the relevant Apartments. Apartments of Tenants subsequently allowing access after the dispatch of this letter shall be added to the Access Refusal Waiting List referred to in paragraph 4.1(c) above.

5 GENERAL

- 5.1 Nothing in this Access Protocol excuses the Contractor from undertaking any Responsive Repairs or any Planned Maintenance to an Apartment in the circumstances set out in paragraph 4.1(c) and, for the avoidance of doubt, the Contractor shall take all appropriate steps open to it to gain access to an Apartment in such circumstances.
- 5.2 An Access Refusal Event shall come to an end upon the earlier to occur of:
 - (a) a Tenant vacating an Apartment; or
 - (b) the Contractor subsequently gaining actual physical access to the Apartment in accordance with the paragraph 4.1 of the Access Protocol.



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Appendix 2

Form of Tenancy Agreement

Form of Project Report

The Project Reports referred to in Clause 74 should include the following categories:

- 1.0 PERFORMANCE MONITORING / HELPDESK CALLS IN MONTH**
 - 1.1 Summary of helpdesk calls in period
 - 1.2 Measurement of performance against KPIs
 - 1.3 Helpdesk performance
 - 1.4 Details of any recurring helpdesk calls where further action is required
 - 1.5 Details of defects reported in period

- 2.0 PLANNED MAINTENANCE**
 - 2.1 Summary of PM carried out in period
 - 2.2 Future maintenance for discussion / agreement
 - 2.3 Maintenance plans

- 3.0 LIFECYCLE**
 - 3.1 Five year lifecycle planned work / spend
 - 3.2 Lifecycle progress against agreed plan
 - 3.3 Lifecycle reconciliation

- 4.0 UTILITIES / ENERGY**
 - 4.1 Utilities Consumption – Summary
 - 4.2 Energy Targets review
 - 4.3 Energy initiatives for discussion

- 5.0 QUALITY MANAGEMENT**
 - 5.1 Audits / Inspections
 - 5.2 Supply Chain Reviews

- 6.0 CONTRACT MANAGEMENT**
 - 6.1 FM Personnel changes / training
 - 6.2 Annual Service Report
 - 6.3 Small Works / Graffiti rates
 - 6.4 Customer Satisfaction Survey
 - 6.5 Continuous improvement initiatives for discussion
 - 6.6 Spares being held on site

- 7.0 HEALTH & SAFETY**
 - 7.1 Accidents in period
 - 7.2 Accidents within Contract year
 - 7.3 Health & Safety updates
 - 7.4 Health & Safety review

- 8.0 FINANCIALS**
 - 8.1 Performance deductions in period
 - 8.2 Unavailability deductions in period
 - 8.3 Payment notices / invoices raised in period
 - 8.4 Variation raised / closed in period
 - 8.5 Operating costs in the period

- APPENDICES**
 - 1 Minutes from last meeting
 - 2 KPI measurements
 - 3 Helpdesk performance
 - 4 Defect feedback report
 - 5 Energy / utility reports
 - 6 Schedule of FM deliverables

