

Dated _____ 20[]

(1) CADENT GAS LIMITED

(2) [CONTRACTOR]

Contract Agreement

for Works and Services relating to [INSERT DESCRIPTION OF WORKS] at [INSERT LOCATION].

Contract Number []

THIS AGREEMENT is made the day of 20[]

BETWEEN

- (1) **CADENT GAS LIMITED** of Ashbrook Court Prologis Park, Central Boulevard, Coventry, United Kingdom, CV7 8PE registered company number 10080864 (hereinafter called "**the Employer**") and
- (2) **[CONTRACTOR]** of **[REGISTERED ADDRESS]** registered company number **[COMPANY NUMBER]** (hereinafter called "**the Contractor**")

together being the "**Parties**" each being a "**Party**".

WHEREAS the *Employer* is desirous that certain works and/or services should be provided in connection with the **[DESCRIPTION OF WORKS]** at **[LOCATION]** ("**the works**") and has reached agreement with the *Contractor* on the terms of a contract for the provision of the same.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, namely:
 - the Conditions of Contract being the NEC Engineering and Construction Short Contract Third Edition April 2013 subject to the amendments set out in document reference "Schedule of Additional Conditions of Contract amending the NEC3 Engineering and Construction Short Contract April 2013 Edition" and any documents incorporated by reference into such Conditions of Contract including:
 - the Contract Data.
3. In consideration of the payments to be made by the *Employer* to the *Contractor* hereinafter mentioned the *Contractor* hereby covenants with the *Employer* to carry out the *works* in conformity in all respects with the provisions of the Agreement.
4. The *Employer* hereby covenants to pay to the *Contractor* in consideration of the provision of the *works* the amounts payable in accordance with the Conditions of Contract at the times and in the manner prescribed by the Conditions of Contract.
5. This Agreement may be executed in two counterparts, each of which when executed shall together constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

This Agreement is executed at the date stated at the beginning of this Agreement.

Executed by **CADENT GAS LIMITED**

acting by **[NAME OF DIRECTOR]**, a **[SIGNATURE OF]**
director,

DIRECTOR]

Director

in the presence of:

.....

[SIGNATURE OF WITNESS]

[NAME OF WITNESS]

[ADDRESS OF WITNESS]

[OCCUPATION OF WITNESS]

Executed by **[MAIN CONTRACTOR]**

acting by **[NAME OF DIRECTOR]**, a **[SIGNATURE OF DIRECTOR]**
director,

Director

in the presence of:

.....

[SIGNATURE OF WITNESS]

[NAME OF WITNESS]

[ADDRESS OF WITNESS]

[OCCUPATION OF WITNESS]

CONDITIONS OF CONTRACT

Schedule of Additional Conditions of Contract amending the NEC3 Engineering and Construction Short Contract April 2013 Edition

This schedule of additional conditions of contract amends the NEC3 Engineering and Construction Short Contract (April 2013) (the "**NEC3**"). In the event of any ambiguity between the provisions of this schedule of additional conditions of contract and the other provisions of the unamended NEC3 standard form, the provisions of this schedule of additional conditions of contract shall prevail and take precedence over the unamended NEC3 standard form provisions.

Additional conditions of and Amendments to the conditions of contract

The additional conditions of and amendments to the conditions of contract are as follows:

1. General

11 – Identified and defined terms

Delete the definition of Completion in clause 11.2(1) and replace with:

- "(1) Completion is when
- the *Contractor* has done all the work which the Works Information states he is to do by the Completion Date,
 - the *Contractor* has supplied all the documents and information which the Works Information states he is to supply by the Completion Date,
 - any other pre-conditions to Completion stated in the Works Information and/or this contract have been satisfied, and
 - the *Contractor* has corrected all Defects which have been notified prior to Completion, except for those Defects which the *Employer* has agreed may be corrected after Completion.

If the work which the *Contractor* is to do by the Completion Date is not stated in the Works Information, Completion is when the *Contractor* has done all the work and provided all the documents and information necessary for the *Employer* to use the *works* and for Others to do their work and has corrected notified Defects."

Delete the definition of Defect in clause 11.2(3) and replace with:

- "(3) A Defect is:
- a part of the *works* which is not in accordance with the Works Information or the *Contractor's* obligations under this contract
 - a part of the *works* designed by the *Contractor* which is not in accordance with the Applicable Law or the *Contractor's* design or
 - where expressly referred to in the contract, any other specific deficiency in or failure by the *Contractor* to Provide the Works or any incidental services or activities in accordance with the requirements of the contract."

Add the following defined terms to clause 11.2

- "(14) Applicable Law means any applicable statute, Act, order or other law, regulation or by-law or any rule, code or direction having the force of law or any regulatory licence, consent, permit, authorisation or other approval including any conditions attached of the United Kingdom or any part thereof or of the European Union or of any public body, authority or

regulatory body which has appropriate jurisdiction, but excluding the Licence (and any conditions of the Licence)

- (15) Business Day means Monday to Friday in any week apart from any day which is a bank holiday in England under the Banking and Financial Dealings Act 1971.
- (16) CDM Regulations are the Construction (Design and Management) Regulations 2015 together with any requirements issued from time to time by the Health and Safety Executive.
- (17) Contract Number is the number quoted on the front page of the Contract Agreement
- (18) EIR means the Environmental Information Regulations 2004, subordinate legislation made under them, any amendment or re-enactment of any of them and any guidance and/or codes of practice issued in relation to such legislation from time to time
- (19) Environment means any and all living organisms (including man), ecosystems, property and the media of air (including air in buildings, natural or man made structures, below or above ground), water (including drains and sewers), land (including under any water as described above and whether above or below the surface) and for the avoidance of doubt includes the same both onshore and offshore.
- (20) Environmental Law means any rule of common law, statute, code of practice, circular, guidance note, by-law or regulation having the force of law or any consent, license, permit, order notice, recording, registration or judgement whose breach can give rise, whether immediately or not, to criminal, civil or administrative damages, sanctions or penalties for the failure to meet obligations relating to the presence, release, spillage, treatment, handling, deposit, escape or other mode of existence of any substance, the carrying out of any activity, or the existence of any condition or any phenomenon which has or could have a detrimental impact on the Environment and which in any such case has as its primary purpose or effect the protection of the Environment generally or in any particular locality.
- (20A) Free Issue Items are items of Plant and Materials provided by the *Employer* that are identified by the *Employer* as constituting Free Issue Items or as *free issue items* or in the Contract Data.
- (21) Good Industry Practice means the standards, practices, methods and procedures conforming to all Statutory Requirements and the degree of skill, care, diligence, prudence and foresight which would reasonably be expected from a skilled and experienced person undertaking all or part of the *works*, as the case may be, under the same or similar circumstances.
- (22) Information means information recorded in any form held by the *Contractor* (or other entity on behalf of the *Contractor*) subject to the EIR which relates to the *Employer* and/or this contract;
- (23) Insolvent means the relevant Party
 - suspends, or threatens to suspend, payment of its debts; or is unable to pay its debts as they fall due; or admits inability to pay its debts; or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- has a receiver or provisional liquidator appointed over any of its assets, undertaking or income;
 - is subject to a notice of intention to appoint an administrator or has an administrator appointed in respect of it;
 - passes a resolution for its winding-up; or
 - has a winding up order made by a court in respect of it.
- (24) Licence means the “Gas Transporter Licence” granted to the *Employer* by the Regulator in respect of its regional distribution network as updated from time to time;
- (25) NRSWA means the New Roads and Street Works Act 1991 and any statutory modification (including under the Traffic Management Act 2004) or re-enactment thereof for the time being in force.
- (26) Others are people or organisations who are not the *Employer*, the *Adjudicator*, the *Contractor* or any employee, subcontractor or supplier of the *Contractor*.
- (27) A Prevention Event is, subject to clause 60.2, an event which
- stops the *Contractor* completing the *works* or
 - stops the *Contractor* completing the *works* by the date shown on the programme
- and which
- neither party could prevent and
 - an experienced contractor would have judged at the date of this contract to have such a small chance of occurring that it would have been unreasonable for him to have allowed for it and
 - which arises from
 - war, insurrection, civil commotion, act or threat of terrorism, blockade or embargo,
 - epidemic or plague
 - strikes, lock-outs and industrial disputes (other than those primarily involving the employees of the *Contractor* or any of his subcontractors),
 - the exercise after the *starting date* by the United Kingdom Government of any statutory power which directly affects the execution of the *works* by restricting the availability or use of labour which is essential to the proper carrying out of the works or preventing the *Contractor* from or delaying the *Contractor* in securing such goods or materials or such fuel or energy as are essential to the proper carrying out of the *works*.
- (28) Regulator means the Office of the Gas and Electricity Markets (“Ofgem”) or any person or persons or body appointed to regulate the gas and/or electricity industry in his place;
- (29) Statutory Requirements are the requirements placed on the *Employer* or the *Contractor* affecting or governing the performance of the works by Applicable Law and/or the Licence and/or the Regulator or Health and Safety Executive and/or any government agency or body and any relevant codes of practice issued by such bodies including in relation to health, safety and environmental matters.

- (30) Third Party Agreement is an agreement between the *Employer* and a third party relating to or affecting the *works* including the provision of services, plant or equipment relating to the *works* a copy of which (or relevant extracts from which) the *Employer* has given to the *Contractor*."

Delete clause 12.2 and replace with the following:

- "12.2 This contract and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales"

Delete clause 12.4 and replace with the following:

- "12.4 This contract constitutes the entire agreement between the Parties and supersedes any prior agreement or arrangement in respect of its subject matter and neither Party has entered into this contract in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other Party or any other person and whether made to the first Party or any other person) which is not expressly set out in this contract. Nothing in this clause 12.4 will be interpreted or construed as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation."

Delete Clause 13 and replace with the following:

"13 - Communications

- 13.1 Subject to clause 13.3, any notice or other communication given under or in connection with this contract will be in writing and:

- sent to the relevant party's address by pre-paid first class post, airmail post or mail delivery service providing proof of delivery, in which case service shall be deemed to have occurred at 9.00 a.m. on the second Business Day after the date of posting;
- delivered to or left at the relevant party's address (but not, in either case, by one of the methods set out in the paragraph above, in which case service shall be deemed to have occurred at the time the notice or communication is delivered to or left at that party's address; or
- sent by e-mail to the relevant party's e-mail address, in which case service shall be deemed to have occurred at the time of sending, except that if an automatic electronic notification is received by the sender informing the sender that the e-mail has not been delivered to the recipient or that the recipient is out of the office, that e-mail will be deemed not to have been served.

The address, e-mail address and representative for each of the Parties the *Employer* is as set out in the Contract Data or as otherwise notified to the other in writing from time to time.

- 13.2 To prove service of a notice or communication it will be sufficient to prove that the provisions of Clause 13.1 were complied with.
- 13.3 This Clause 13 will not apply to the service of any proceedings or other documents in a legal action to which the Civil Procedure Rules apply.
- 13.4 If this contract requires the *Employer* or the *Contractor* to reply to a communication unless otherwise stated in this contract he replies within the *period for reply*."

Delete clause 14.3 and replace with the following:

"14.3 No

- communication (including instructions, the Defects Certificate or other certificates),
- acceptance of a communication from the *Contractor*,
- failure to withhold acceptance of, express disapproval of or otherwise comment on a submission or work carried out by the *Contractor* or
- enquiry, inspection, test, comment, consent, decision, approval, sanction or acceptance of the *Contractor's* work

by the *Employer* excludes, limits or otherwise diminishes or changes the *Contractor's* liability under this contract, including the *Contractor's* responsibility to Provide the Works, his liability for Defects and for the design of the works."

Delete clause 15.1 and replace with the following:

"15.1 The *Employer* allows access to and use of the *site* to the *Contractor* as necessary for the work included in this contract. Such access will be granted solely for the purpose of the *Contractor* complying with this contract, and will be subject to the *Contractor* complying with all security requirements, policies and procedures communicated to it by the *Employer*."

After clause 15 insert a new clause 16 as follows:

"16 - Assignment

- 16.1 The *Employer* will be entitled to assign, novate, sub-contract, transfer, charge, hold on trust for any person and deal in any other manner with any of its rights under this contract.
- 16.2 Subject to clause 21.4 below, the *Contractor* will not be entitled to assign, novate, sub-contract, transfer, charge, hold on trust for any person or deal in any other manner with any of its rights or obligations under this contract without obtaining the prior written consent of the *Employer* to do so, such consent to be given or withheld at the discretion of the *Employer*, acting reasonably."

2. The Contractor's main responsibilities

20 – Providing the Works

Delete clause 20.1 and replace with the following:

- "20.1 The *Contractor* Provides the Works in accordance with
- the Works Information,
 - the other provisions of this contract,
 - the Statutory Requirements (including the CDM Regulations)
 - best practice guidelines in respect of health and safety as are applicable to the activities comprising the *works*
 - relevant British or European Standards or Codes of Practice
 - any licences and approvals from Others relating to the *works*
 - all health and safety and security policies that apply at the *site* and all lawful and reasonable directions of the *Employer*

- Good Industry Practice and
- so that the plant and equipment forming part of the works is capable of operating and being maintained in accordance with Good Industry Practice

and using Plant and Materials which shall

- be new (save where the contract expressly allows the re-use or the use of recycled plant or materials) and of good quality,
- be suitable for the purpose and use for which it is intended as evidenced by or reasonably inferred from the contract, and
- have a rate of deterioration not greater than that to be expected of high quality, well designed and engineered goods and materials,

and

- so as not to put the Employer in breach of the Statutory Requirements
- so that the completed *works* will comply with any performance requirements in the Works Information, the Statutory Requirements, and any licences and approvals from Others relating to the works
- so that the various elements of the *works* (including Plant and Materials) are compatible and are properly co-ordinated and integrated with each other
- using appropriately qualified, trained and experienced personnel
- in a safe manner which is free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner
- shall procure and maintain all licences, permissions and consents required from time to time."

Delete clause 20.2 and replace with the following clauses 20.2 to 20.5:

- "20.2 (1) The *Contractor* designs the parts of the *works* which the Works Information states he is to design.
- (2) To the extent that the *Contractor* is responsible for the design of the *works*, the *Contractor* warrants and undertakes that he has exercised and will continue to exercise in the design of the *works* all the skill, care and diligence to be expected of a professionally qualified and competent engineer or other appropriate consultant taking into account the size, scope, nature, type and complexity of the *works*.
- 20.3 (1) The *Contractor* submits the particulars of his design as the Works Information requires to the *Employer* for acceptance. A reason for not accepting the *Contractor's* design is that it does not comply with either the Works Information or the applicable law.
- (2) The *Contractor* does not proceed with the relevant work until the *Employer* has accepted his design.
- 20.4 The *Contractor* may submit his design for acceptance in parts if the design of each part can be assessed fully.
- 20.5 The *Contractor*
- complies with any obligations relevant to the *works* imposed on the *Employer* by any Third Party Agreement (including obtaining

required approvals or consents or executing any work),

- Provides the Works so as not to put the *Employer* in breach of any Third Party Agreement, and
- indemnifies the *Employer* against any damages, costs, fees expenses or other losses arising from any breach of a Third Party Agreement caused by the *Contractor*."

After clause 21.3 insert new clauses 21.4 to 21.7 as follows:

"21.4 If the *Contractor* sub-contracts any of its obligations, then the *Contractor* shall provide to the *Employer* the following details in relation to that sub-contractor:

- the sub-contractor's name and address;
- the subject-matter of the sub-contract, including the quality of items to be supplied, scope of involvement in the Provision of the Works;
- confirmation that the *Contractor* has agreed appropriate provisions in the relevant sub-contract to enable the *Contractor* to comply with its obligations under this contract,
- in the case where the sub-contractor is an affiliate of the *Contractor*, documents demonstrating that the proposed sub-contract is on arm's length terms; and
- any additional information that the *Employer* may reasonably require.

21.5 The *Contractor* shall ensure that any sub-contract includes payment terms no less favourable than those set out in Clause 5.

21.6 As soon as the *Contractor* becomes aware of any non-payment to a Subcontractor it notifies the *Employer* of the non-payment and provides the *Employer* with written reasons for the non-payment, details of the level of payment withheld and the estimated date for resolution.

21.7 The *Contractor* notifies the *Employer* as soon as it becomes aware (or has reason to believe) that the financial health of any Subcontractor engaged in connection with the *works* has substantially deteriorated."

22.1 In clause 22.1 replace the word "others" with "Others".

23 Insert new clause 23 as follows:

"23 Other Responsibilities

23A Audit

23A.1 The *Contractor* will, for the duration of this contract and for a period of six years thereafter, permit the *Employer* or the representatives of any regulatory authority (each referred to as an "**Auditing Body**"), to have access on demand during normal business hours to the *Contractor's* premises, systems and relevant records as may be reasonably required in order to:

- fulfil any request by any regulatory authority;
- undertake verifications of the accuracy of the charges or identify or investigate suspected fraud;
- undertake verification that the *Contractor* is Providing the Works in accordance with this contract and that the *Contractor* is

complying with all other obligations contained in this contract;

- assess and verify the *Contractor's* compliance with all Applicable Law; or
- enable the *Employer* to:
 - fully comply with all Applicable Law (including any accounting, tax and filing obligations);
 - respond to enquiries by any regulatory authority; or
 - deal with enquiries, complaints or claims made by the *Employer's* customers.

23A.2 The *Employer* will provide the *Contractor* with at least 5 Business Days' written notice of its intention to conduct an audit, except in cases of suspected fraud or suspected breach of this contract.

23B Confidentiality

23B.1 The *Contractor* undertakes that it shall keep confidential and shall not, at any time during the term of this contract and for a period of five years after termination of this contract, disclose to any person any confidential information disclosed to the *Contractor*, whether orally or in writing, concerning the business, affairs, customers, clients or suppliers of the *Employer* except as permitted by 23B.2 below.

23B.2 The *Contractor* may disclose the *Employer's* confidential information:

- to its employees, officers, representatives or advisers to the extent that they need to know such information for the purposes of performing the *Contractor's* obligations under this contract; or
- as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

23B.3 The *Contractor* shall ensure that its employees, officers, representatives or advisers to whom it discloses the *Employer's* confidential information comply with this Clause 23B.

23B.4 The *Contractor* shall not use the *Employer's* confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this contract.

23C Data Protection

23C.1 The *Contractor* shall comply with all applicable laws, statutes, regulations, and codes relating to data privacy including, but not limited to, the Data Protection Act 1998, all EU Data Protection Legislation including the General Data Protection Regulation 2016 and the Law Enforcement Directive 2016 ("**DP Relevant Requirements**").

23C.2 The *Contractor* shall comply with the *Employer's* data protection policies, procedures and Codes of Conduct for Contractors (available on the *Employer's* website) including any updates as may be available from time to time ("**DP Relevant Policies**").

23C.3 The *Contractor* shall have and shall maintain in place throughout the duration of this order its own policies and procedures to ensure compliance with the DP Relevant Requirements and the DP Relevant Policies and will enforce them where appropriate.

23C.4 The *Contractor* shall provide such supporting evidence of compliance with clauses 23C.1, 23C.2 and 23C.3 as the *Employer* may reasonably

request and without undue delay, shall notify the *Employer* of any breach of this clause 23C.

23C.5 The Parties agree that a breach by the *Contractor* of any of its obligations under this clause 23C is a fundamental and repudiatory breach of this contract entitling the *Employer* to terminate the Contractor's obligation to Provide the Works immediately on written notice to the *Contractor* which shall take place immediately or on such longer period of notice as stipulated by the *Employer*. Such right of termination is without prejudice to any other rights and remedies the *Employer* may have at law, equity or under this contract for the *Contractor's* breach.

23C.6 The Data Protection Addendum contained in Schedule 1 (GDPR Addendum) shall apply.

23D Intellectual Property

23D.1 All property and copyright in all drawings, designs, patterns, specifications, samples, materials, tools and other data or intellectual property provided by the *Employer* or prepared by the *Contractor* at the request of the *Employer* in connection with this contract ("**Proprietary Materials**"), shall be

- the property of and vest in the *Employer* absolutely from the time of their creation (and the *Contractor* hereby assigns with full title guarantee all such intellectual property rights created by it in the course of Providing the Works,
- used by the *Contractor* solely for the purpose of this contract, and
- sent, if requested, to the *Employer* carriage paid on Completion.

23D.2 The *Contractor* shall not disclose any such Proprietary Materials or any data comprised therein to any third party unless expressly required or permitted to do so in writing by the *Employer*.

23D.3 The *Contractor* shall indemnify the *Employer* in full in respect of any third party claim relating to breach of intellectual property rights arising from the Provision of the Works or receipt or use by the *Employer* of the works.

23D.4 The *Contractor* shall ensure that the works will be safe and without risk when properly used in accordance with designs and specifications prepared by it.

23E TUPE

23E.1 The Parties do not envisage that the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("**TUPE**") will apply to this contract. However:

- the *Contractor* will, subject to compliance with Applicable Law, provide to the *Employer* within such timescales as the *Employer* stipulates (acting reasonably) any employee related information in respect of employees assigned to the Provision of the Works which the *Employer* may reasonably require from time to time; and
- in the 6 months prior to expiry of the contract or following receipt of a notice to terminate the *Contractor's* obligation to Provide the Works, the *Contractor* shall not assign any new employees to Provide the Works, or materially alter the terms and conditions of employment of its employees assigned to the contract without the

prior consent of the *Employer*;

- the *Contractor* will, keep the *Employer* and any replacement supplier of some or all of the *works* indemnified in full against any losses arising directly or indirectly in connection with any *Contractor* employee who is held or alleges that his employment has or should have transferred to the *Employer* (or such replacement supplier) on any date following the date of this contract; and
- in the event TUPE applies both Parties will comply with their obligations thereunder.

23I Background Checks

23F.1 To the extent permitted by Applicable Law, and as required by the *Employer*, the *Contractor* will vet each member of its personnel involved in Providing the Works (whether employed or otherwise) in accordance with the *Employer's* pre-employment vetting and background checking requirements notified to the *Contractor* from time to time.

23G Anti-Bribery & Anti-Slavery

23G.1 The *Contractor* shall comply with all applicable laws, statutes, regulations, and codes relating to:

- anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**ABAS Relevant Requirements**");
- slavery, servitude, forced or compulsory labour or human trafficking (for the purposes of this clause 23J, "**Anti-Slavery Laws**").

23G.2 The *Contractor* shall comply with the *Employer's* Anti-bribery and Anti-corruption Policies, and Anti-Slavery Policy contained in the Supplier Code of Conduct (which is available to view on the *Employer's* website) including any updates as may be available from time to time ("**ABAS Relevant Policies**").

23G.3 The *Contractor* shall have and shall maintain in place throughout the duration of this contract its own policies and procedures to ensure compliance with the ABAS Relevant Requirements and the ABAS Relevant Policies and will enforce them where appropriate.

23G.4 The *Contractor* shall provide such supporting evidence of compliance with Clauses 23G.1, 23G.2 and 23G.3 as the *Employer* may reasonably request and promptly notify the *Employer* of any breach of this clause 23G.

23G.5 The Parties agree that a breach by the *Contractor* of any of its obligations under this clause 23G is a fundamental and repudiatory breach of this contract entitling the *Employer* to terminate the *Contractor's* obligation to Provide the Works contract immediately on written notice to the *Contractor* (which shall take effect immediately or on such longer period of notice as stipulated by the *Employer*). Such right of termination is without prejudice to any other rights and remedies the *Employer* may have at law, equity or under this contract for the *Contractor's* breach.

23H NRSWA

23H.1 For the purpose of obtaining any license under NRSWA required for the *works* the undertaker shall be the *Employer* who for the purposes of

NRSWA will be the licensee.

- 23H.2 All other expressions common to NRSWA and to this clause shall have the same meaning as those assigned to them by NRSWA.
- 23H.3 The *Employer* shall obtain any street works licence and any other street works related consent licence or permission that may be required for carrying out of the *works* and shall supply the *Contractor* with copies thereof including details of any conditions or limitations imposed. Where such licence or consent is assignable the *Employer* may assign such licence or consent to the *Contractor* and the *Contractor* shall comply with such licence or consent. Provided that where the licence contains a prohibition against assignment which is notified to the *Contractor* then the *Contractor* shall give the *Employer* all notices required to be given by the undertaker and shall indemnify the *Employer* from and against all costs and charges which may arise from any failure by him to do so.
- 23H.4 Any condition or limitation in any licence obtained after the date of this contract shall be deemed to be an instruction under clause 60.1(1) unless such condition or limitation ought to have been reasonably foreseeable as at the date of the contract to a contractor experienced in carrying out works of a similar nature, size, location and complexity to the *works*.
- 23H.5 The *Contractor* shall be responsible for giving to the *Employer* information in due time in respect of any required notice (or advance notice where prescribed) of his proposal to commence any work.
- 23H.6 If the *Contractor* fails to carry out any work of repair or otherwise as required by NRSWA and if in the opinion of the *Employer* that work is required urgently, then the *Employer* is entitled to carry out that work using its own workpeople or by other contractors.
- If it is work which the *Contractor* should have carried out without adjustment to the Prices the *Employer* is entitled to recover the cost from the *Contractor* and may deduct it from any monies that are or may become due to the *Contractor*.
- 23H.7 An amount equal to any liability suffered or incurred by the *Employer* arising from any breach of NRSWA and/or the Traffic Management Act 2004 by the *Contractor* shall be paid by the *Contractor* to the *Employer* or the *Employer* may at its option deduct the same from any monies that are or may become due to the *Contractor*.
- 23H.8 The cost of rectifying Defects in work carried out to the extent that it is subject to NRSWA during the associated reinstatement guarantee periods in accordance with the Specification for the Reinstatement of Openings in Highways (issued by the Highway Authorities and Utilities Committee) shall be borne by the *Contractor*.
- 23H.9 Subject to clause 23H.4 there shall be no adjustment to the Prices arising from this clause 23H and no extension of time.
- 23H.10 Without prejudice to the foregoing provisions of this clause 23H, the *Contractor* does everything necessary to enable the *Employer* to obtain any relevant street works licence and any other street works related consent licence or permission that may be required for carrying out the *works* and to ensure compliance with any such licence, consent or permission including completing any relevant application, providing any necessary design, attending any relevant meetings and liaising as

required with the relevant statutory authority.

23I CDM

- 23J.1 The *Employer* appoints the *Contractor* to perform the role(s) of the Principal Contractor and/or the Principal Designer for the purposes of (and as defined in) the CDM Regulations and the *Contractor* accepts any such appointment.

23K Environmental Information Regulations

- 23K.1 The *Contractor* accepts that the *Employer* may be obliged to disclose Information pursuant to the EIR (whether or not the Information is confidential and/or commercially sensitive) without consulting or obtaining consent from the *Contractor*.
- 23k.2 The *Contractor* will (at its own expense) and will procure that any sub-contractors or third parties will (at their own expense) provide the *Employer* with details about and/or copies of all Information that the *Employer* requests within five (5) working days of a request from the *Employer* and otherwise use reasonable endeavours to assist and co-operate with the *Employer* to enable the *Employer* to comply with its obligations under the EIR.
- 23K.3 The *Contractor* will not itself (or allow any sub-contractor or third party to) respond to any person making a request for information under the EIR and shall pass all such requests to the *Employer* within three (3) working days of receipt."

4. Defects

Insert a new clause 40A before clause 40 as follows:

"40A Tests and Inspections

- 40A.1 This clause only applies to tests and inspections required by the Works Information or the applicable law.
- 40A.2 The *Contractor* and the *Employer* provide materials, facilities and samples for tests and inspections as stated in the Works Information.
- 40A.3 The *Contractor* and the *Employer* informs the other of each of their tests and inspections before the test or inspection starts and afterwards informs the other of the results.
- The *Contractor* informs the *Employer* in time for a test or inspection to be arranged and done before doing work which would obstruct the test or inspection. The *Employer* may watch any test done by the *Contractor*.
- 40A.4 If a test or inspection shows that any work has a Defect, the *Contractor* corrects the Defect and the test or inspection is repeated.
- 40A.5 The *Project Manager* assesses the cost incurred by the *Employer* in repeating a test or inspection after a Defect is found. The *Contractor*

pays the amount assessed.”

40.2 Delete clause 40.2 and replace with the following:

“40.2 The *Employer* may inspect the *works* including any Plant and Materials delivered to the *site* to form part of the *works* at any time and may notify a Defect to the *Contractor* at any time before the *defects date*.

In clause 41.2 replace the word “others” with “Others”.

5. Payment

50 – Assessing the amount due

50.1 Delete the word “The” at the start of the first sentence of clause 50.1 and replace with the following:

“Save where the Contract Data confirms that the Parties have agreed that the duration of the work is estimated to be less than 45 days the”

50.1 At the end of clause 50.1 inset the following:

“Where the Contract Data confirms that the Parties have agreed that the duration of the work is estimated to be less than 45 days the *Contractor* assesses the amount due after the date of Completion and applies to the *Employer* for payment. The *Contractor’s* applications for payment shall be delivered in accordance with the requirements of clause 13.”

50.2 At the end of the first sentence of clause 50.2 before the “.” insert the following words:

“and a valid invoice for the amount applied for”

50.2 At the end of clause 50.2 inset a new sentence as follows:

“An invoice will be valid only if it references the Contract Number, includes detailed information necessary to support the invoiced amount, including all relevant time sheets or schedules and complies with the requirements for a valid VAT invoice as set down by HM Revenue and Customs from time to time.”

50.4 Delete clause 50.4 and replace with the following:

“The due date for payment shall be the date 14 days after the date of the *Employer’s* receipt of the *Contractor’s* valid application for payment. The *Employer* certifies a payment within 5 days of the due date for payment specifying the amount to be paid (the notified sum) at the due date for payment and the basis on which that sum has been calculated (the payment notice). If the *Contractor* fails to issue a valid application for payment by the *assessment day*, the *Employer* may issue (but is not obliged to issue) to the *Contractor* a payment notice in default of the *Contractor’s* application for payment and such will be treated as a payment notice for the purposes of this contract.”

50.5 The following sentence shall be inserted at the end of clause 50.5:

“The *Contractor’s* total maximum aggregate liability to the *Employer* under this clause 50.5 shall not exceed the amount set out in the

Contract Data."

- 50.6 Delete the word "An" at the start of the first sentence of clause 50.6 and replace with the following:

"Save where the Contract Data confirms that the Parties have agreed that the duration of the work is estimated to be less than 45 days, an"

- 50.6 At the end of clause 50.6 insert the following:

"Where the Contract Data confirms that the Parties have agreed that the duration of the work is estimated to be less than 45 days an amount is retained from the *Contractor* in the assessment of the amount due. This amount is the *retention* applied to the Price for the Work Done to Date and remains at this amount until the Defects Certificate is issued."

Insert a new clause 50.8 as follows

- "50.8 The Prices shall be deemed to be inclusive of all charges, VAT and other taxes unless stated otherwise

- 51.1 Delete clause 51.1 and replace with the following:

"The final date for payment is 28 days after the due date for payment."

- 51.3 Insert new clauses 51.3 to 51.4 as follows:

- "51.3 If the *Employer* intends to pay less than the notified sum, he notifies the *Contractor* not later than 3 days before the final date for payment by stating the amount considered to be due and the basis on which that sum is calculated.

- 51.4 The *Employer* shall be entitled to set off any liability which the *Contractor* has to it against any liability which it has to the *Contractor*, and may recover from the *Contractor* any amounts due from the *Contractor* as a debt."

6. Compensation Events

60 – Compensation Events

Delete clause 60.1(8) and replace with the following:

- "60.1(8) The *Employer* instructs the *Contractor* to search for a Defect and no Defect is found unless the search is needed only because the *Contractor* gave insufficient notice of doing work obstructing a required test or inspection."

Delete clause 60.1(12) and replace with the following:

- "60.1(12) A Prevention Event occurs".

Insert a new clause 60.1(15) after clause 60.1(14) as follows:

- "60.1(15) The *Employer* requires the *Contractor* to comply with a requirement in a Third Party Agreement a copy of which has not been disclosed to the *Contractor* as at the date of this contract."

61 – Notifying Compensation Events

Delete the first line and first bullet of clause 61.2 and replace with the following:

"If and to the extent that the *Employer* decides that an event notified by the *Contractor*:

- arises from or is contributed to by a fault of the *Contractor* or a subcontractor, supplier or any other person for whom the *Contractor* is responsible"

63 – Assessing Compensation Events

After clause 63.2 insert a new clause 63.2A as follows:

"63.2A Notwithstanding any other provision of this contract, there shall be no change to the Prices due to the occurrence of a compensation event of the type referred to in clause 60.1(12)."

Delete clause 63.8

7 Title

Insert new clauses 70.3 to 70.4 as follows:

"70.3 Each item of Plant and Materials supplied by the *Contractor* under this contract shall become the property of the *Employer* upon the earlier of delivery to the *site* and when the value of the item, whether or not delivered to *site*, has been included in a certificate of payment issued by the *Employer* under this contract. Delivery of any Plant and Materials shall be effected when such Plant and Materials have been safely unloaded at the *site* and, without prejudice to the *Employer's* rights under clause 40.1 and/or 40.2, a duly authorised representative of the *Employer* has accepted the delivery. Risk of loss of or damage to the Plant and Materials shall be with the *Contractor* until the date of Completion.

70.4 No payment is made to the *Contractor* on account of Plant and Materials which are outside the *site* unless stated otherwise in the Works Information."

Insert a new clause 71 as follows:

"71 The Contractor warrants that:

- it has full clear and unencumbered title to all Plant and Materials provided under this contract and, that at the date of delivery of the same to the *Employer*, it will have full and unrestricted rights to transfer title in all such items to the *Employer*; and
- the Plant and Materials will be of satisfactory quality, fit for the *Employer* intended purpose and free from Defects."

Insert a new clause 72 as follows:

"72 **Free Issue Items**

72.1 The *Employer* supplies free of charge the Free Issue Items (if any) in accordance with the details in the Works Information. Where Free Issue Items are made available by the *Employer* no other Plant or Materials from another source are used by the Contractor in place of the Free Issue Items without the prior approval of the *Employer*.

72.2 Upon completion of delivery, such Free Issue Items are at the risk of the *Contractor*. Immediately upon the same being made available to him the *Contractor* shall carry out a detailed inspection of such Free Issue Items

and shall use its reasonable endeavours to advise the *Employer* within 48 hours and no later than 10 days or before being taken into operation use (whichever is sooner) if any such goods and materials are damaged or defective. Unless otherwise agreed by both Parties, the *Employer* secures the repair, replacement and/or reissue of any such goods and materials as soon as reasonably practicable.

- 72.3 If the *Contractor* does not so notify, the *Contractor* is only entitled subsequently to claim that any such Free Issue Items are damaged or defective to the extent that the same could not have been identified by a detailed inspection within such period. Subject to the *Contractor* mitigating the effect of such damage or defect (including without limitation using other non-damaged and non-defective Free Issue Items where possible) any such damage or defect is treated as a compensation event. The *Contractor* disposes of any packaging and/or waste arising in accordance with this contract."

8 Indemnity, insurance and liability

80 – Limitation of Liability

Delete clause 80.1 and replace with the following:

- "80.1 Subject to clause 80.2 and 80.3 the *Contractor's* total liability to the *Employer* for all matters arising under or in connection with this contract, is limited to the greater of 200% of the final total of the Prices or £1,000,000 (one million pounds). The exclusion and/or limitation of liability under this clause 80.1 applies in contract, tort or delict and otherwise to the maximum extent permitted by law."

Insert new clauses 80.2 to 80.4 after clause 80.1 as follows:

- "80.2 The limitations in clause 80.1 do not apply to and do not affect the *Contractor's* liability under or in connection with this contract for
- death or injury to any person to the extent caused or contributed to by the negligence, omission, default or breach of contract of the *Contractor* or any subcontractor,
 - fraud or wilful misconduct
 - any matter for which it is not permitted by law to exclude or limit or to attempt to exclude or limit its liability
 - any amount recoverable under an insurance policy maintained under this contract, up to the relevant amount stated as the minimum amount of cover or minimum limit of indemnity required by this contract or any greater amount of cover that is actually maintained or which would have been so recoverable
 - under insurances maintained by the *Contractor*:
 - if the *Contractor* had maintained insurance as required by this contract or
 - but for any act, omission or default of the *Contractor* rendering such insurances void, voidable or unenforceable whether in whole or in part.
 - under insurances maintained by the *Employer* (if any) but for any act, omission or default of the *Contractor* rendering such insurances void, voidable or unenforceable whether in whole or in part.

- 80.3 Nothing in this clause 80 or the rest of this contract shall limit or exclude any liability the *Contractor* has arising under the third bullet point of clause 20.1, clause 23B, clause 23D.3, clause 23E, clause 23G, clause 23I, clause 23K, clause 81.4 or arising from or for loss or destruction of or damage to the *Employer's* real and/or tangible property (howsoever caused).
- 80.4 Subject always to clause 80.2, the *Employer's* liability to the *Contractor* shall be limited to the total of the Prices."

81- Indemnities

Delete clause 81.1 and replace with the following:

"81.1 Not used."

Delete clause 81.2 and replace with the following:

- "81.2 The *Contractor* is responsible for and indemnifies the *Employer* against all expenses, liabilities, losses, claims, proceedings, compensation and costs whatsoever ("Losses") incurred in respect of
- death or injury to any person,
 - loss or damage to property (including property belonging to the *Employer* or for which it is responsible) and
 - any other Losses arising out of or in connection with the *works*

to the extent that such Losses are due to any negligence, breach of contract, breach of statutory duty, error, omission, or default by the *Contractor* or any of its subcontractors (of any tier) or its or their employees or agents. The *Contractor's* indemnity under this clause remains in force for the duration of this contract and continues to survive the termination of the provision of the *works* and services by the *Contractor* under this contract and the expiry or termination of this contract. The *Contractor* is not responsible for and does not indemnify the *Employer* for Losses to the extent that such Losses are caused by the negligence of the *Employer*, its employees or agents."

Insert a new clause 81.4 as follows:

- "81.4 Subject always to Clauses 80.2 and 80.3 above, the *Contractor* shall indemnify the *Employer* against all losses (direct and indirect), liabilities, costs (including, without limitation, the costs of any re-tender), damages, claims, awards, orders, obligations and expenses (including legal fees on a full indemnity basis) ("**Losses**") that the *Employer* does or will incur or suffer, all claims or proceedings made, brought or threatened against the *Employer* by any person and all Losses the *Employer* does or will incur or suffer as a result of defending or settling any such actual or threatened claim or proceeding arising out of or in connection with a breach by the *Contractor* of the warranties set out in clause 71 or any breach of Clause 23D."

Insert new clauses 81.5 and 81.6 as follows:

- "81.5 (1) All operations necessary for the construction and completion of the *works* shall so far as compliance with the requirements of the contract permits be carried on by the *Contractor* so as not to interfere unnecessarily or improperly with:

- the convenience of the public or
- the access to the public or private roads footpaths or properties whether in the possession of the *Employer* or of any other person and with the use of occupation thereof.

(2) The *Contractor* at all times takes reasonable measures to prevent any trespass, public or private nuisance (including any statutory nuisance as defined by reference to the Environment Act 1990 as may be amended from time to time or any nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway) or other interference with the rights and activities of any adjoining or neighbouring landowner, tenant or occupier or any statutory undertaker arising out of the carrying out of the works and assists the *Employer* in defending any relevant action or proceedings which may be instituted.

(3) The *Contractor* is responsible for and indemnifies the *Employer* from and against any and all expenses, liabilities, losses, claims and proceedings compensation and costs whatsoever resulting from any such trespass, nuisance or interference, except only where such trespass, nuisance or interference is the consequence of an instruction of the *Employer* (which is itself not the result of any negligence, default or breach of contract by or on behalf of the *Contractor* or any subcontractor or supplier) and has not been avoided despite the *Contractor* using all reasonable and practical means to avoid the same.

(4) Without prejudice to any other provision in this contract the *Contractor* advises the *Employer* as soon as possible of any potential liability on account of noise disturbances or other pollution which would be the unavoidable consequence of carrying out the *works* and on possible changes to the *works* to avoid such liability. The *Contractor* complies with any necessary changes to the *works* instructed by the *Employer* to the satisfaction of the *Employer*.

(5) The *Employer* issues to the *Contractor* such instructions as he considers necessary if any injunction is granted or court order is made in consequence of any such trespass, nuisance or interference.

(6) The *Contractor* shall among other things in connection with the *works* provide and maintain at his own cost all lights guards fencing warning signs and watching when and where necessary or required by the *Employer* or by any statutory or other competent authority for the protection of the *works* or for the safety and convenience of the public or Others.

81.6

(1) The *Contractor* hereby warrants and undertakes that with respect to the carrying out of the *works* and the design, construction and operation of the plant forming part of the *works* and the remedying of Defects therein, there shall be no breach of Environmental Law.

(2) The *Contractor* further warrants that it shall not introduce or cause to be introduced any substances, debris or materials onto any land (including land adjacent to or near the *site*) or into any stream, river, lake or other body of water which may pollute or contaminate the same or constitute a hazard to the Environment in each case in breach of any Environmental Law.

(3) In the event of any breach by the *Contractor* of this clause 81.5, the *Contractor* shall forthwith at its own expense, alter, repair or replace any

affected *works* or part thereof, or otherwise remedy the breach.”

82 – Insurance Cover

82.1 Insert a new row at the end of the Insurance Table as follows:

“

Insurance against	Minimum amount of cover or minimum limit of indemnity	Cover provided until
Negligence omission or default in respect of design of the <i>works</i> for which the <i>Contractor</i> is responsible (refer to clause 88)	The amount stated in the Contract Data in the annual aggregate	6 (six) years after the <i>Employer's</i> certificate of Completion has been issued or 6 (six) years after the termination of this contract for any reason, including breach by the <i>Employer</i> , whichever is earlier.

”

9. Termination

90 – Termination and reasons for termination

90.2 Delete clause 90.2 and replace with the following:

“90.2 Either party may terminate if the other Party has become Insolvent or its equivalent (Reason 1).”

Delete clause 90.5 and replace with the following:

“90.5 The *Employer* may terminate if a Prevention Event occurs and has substantially affected the *Contractor's* work for a continuous period of more than 13 weeks (Reason 8).”

Insert a new clause 90.6 as follows:

“90.6 The Employer may terminate in accordance with:

- clause 23C.5 (Reason 9).
- clause 23G.5 (Reason 10).”

In clause 92.2 delete the words “for Reason 1, 2, 3 or 4” and replace with the following:

“for Reason 1, 2, 3, 4, 9 or 10”

93 – Dispute Resolution

Delete the first sentence of clause 93.2(1).

Delete clause 93.3(2) and replace with the following:

“93.3 (2) The Party referring the dispute to the *Adjudicator* includes with his referral information to be considered by the *Adjudicator*.”

In clause 93.4 replace the words "four weeks" with "ten weeks".

After clause 93.4, under the heading "**If the United Kingdom Housing Grants, construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction act 20089 (the Act) applies to this contract the following additional conditions apply**" delete clauses 1.1, 1.2 and 1.3.

After clause 93.4 insert a new clause 10 as follows:

"10. Additional Provisions

101 – Changes in the Law

101.1 A change in

- the law of the contract or
- the Applicable Law in which the *site* is located

is a compensation event if it occurs after the date of the contract, unless the change and its effects could reasonably have been anticipated by the *Contractor* prior to the date of the contract. The *Employer* may notify the *Contractor* of a compensation event for a change in the law and instruct him to submit quotations. If the effect of a compensation event which is a change in law is to reduce the total Defined Cost or otherwise reduce the Prices, the Prices are reduced.

102 – Third Parties

102.1 The Parties to this contract do not intend that any of its terms shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it save that any permitted assignee shall be deemed to be a party to this contract.

103 – Construction Industry Scheme

103.1 This contract falls within the scope of the Construction Industry Scheme provided for by Chapter 3, Part 3 of the Finance Act 2004 (the "Finance Act").

103.2 The *Contractor* provides the information required by the Income Tax (Construction Industry Scheme) Regulations 2005 (SI2005/2045) (the "CIS Regulations") to enable the *Employer* to verify (in accordance with paragraph 6 of the CIS Regulations) whether the *Contractor* under the Finance Act

- is registered for gross payment,
- is registered for payment under deduction,
- is exempt from registration as a local authority or other public body or
- is neither registered nor exempt from registration.

103.3 If the *Contractor* is registered for payment under deduction or is neither registered nor exempt from registration the *Contractor* submits an application for payment which separately identifies the cost of labour and the *Contractor* deducts the relevant percentage from the payment in accordance with the Finance Act and the CIS Regulations."

CONTRACT DATA

Contract Data

The *Employer* is

Name Cadent Gas Limited.....
Contact name [].....
Address Ashbrook Court Prologis Park, Central Boulevard, Coventry,
United Kingdom, CV7 8PE
Telephone []..... Fax [].....
E-mail address [].....

The *works* are [].....

The *site* is [].....

The *starting date* is [].....

The *completion date* is [].....

The *period for reply* is 2 weeks.

The *defects date* is calculated as follows:

- in respect of any *works* carried out that are subject to the requirements of NRSWA and associated reinstatement guarantee periods in accordance with the Specification for the Reinstatement of Openings in Highways (issued by the Highway Authorities and Utilities Committee), the *defects date* shall be the date of expiry of the relevant reinstatement guarantee period for such *works* such date being either:
 - 2 years after date of completion of permanent reinstatement of those *works* where depth of cover of pipe is less than 1.5m or
 - 3 years after date of completion of permanent reinstatement of those *works* where depth of cover of pipe is greater than 1.5m (trenches with a depth of cover that is intermittently more than 1.5m for lengths of less than 5m are not deemed to be deep openings)

or

- in respect of any *works* other than those referred to in the first main bullet above, the *defects date* is 52 weeks after Completion of those *works*.

The *defect correction period* is 2 weeks.

The *delay damages* are [] per day.

The *Contractor's* total maximum aggregate liability to the *Employer* under clause 50.5 shall not exceed [] % of the final total of the Prices.

The *assessment day* is the [] of each month.

The *retention* is [] %.

Does the United Kingdom Housing Grants, Construction and Regeneration Act (1996) apply? Yes / ~~No~~ (delete as appropriate)

The Parties agree that the duration of the work is estimated to be less than 45 days Yes / No (delete as appropriate)

The *Adjudicator* is nominated by

Name The President or Vice President for the time being of the Technology and construction Solicitors Association.....

Address

.....

Telephone Fax

E-mail address

The *free issue* items are []

Contract Data

The interest rate on late payment is2..... % per annum above the base rate of Barclays Bank Plc .

Insert a rate only if a rate less than 0.5% per week of delay has been agreed.

The *Employer* provides this insurance

Only enter details here if the *Employer* is to provide insurance.

.....
.....

The minimum amount of cover for the third insurance stated in the

Insurance Table is Ten million pounds (£10,000,000) any one occurrence and unlimited in the period insurance.

The minimum amount of cover for the fourth insurance stated in the

Insurance Table is The greater of ten million pounds (£10,000,000) any one occurrence or the amount required by applicable law.

The minimum amount of cover for the fifth insurance stated in the

Insurance Table is
Ten Million Pounds (£10,000,000) each and every and in the annual aggregate

The *Adjudicator nominating body* is

The President or Vice President for the time being of the Technology and construction Solicitors Association.....

The *tribunal* is the Technology and Construction Court and the Employer and the Contractor submit to the exclusive jurisdiction of the Courts of England and Wales.

If the *tribunal* is arbitration, n/a.....
the arbitration procedure is ...

The *conditions of contract* are the NEC3 Engineering and Construction Short Contract (June 2005) and the following additional conditions

Only enter details here if additional conditions are required.

The conditions stated in the document entitled "Schedule of Additional Conditions of Contract amending the NEC3 Engineering and Construction Short Contract April 2013 Edition".....
.....
.....
.....
.....

2

Contract Data

The Contractor

The Contractor is
Name

Contact name

Address

.....

Telephone Fax

E-mail address

The percentage for overheads and profit added to the Defined Cost for people is %.

The percentage for overheads and profit added to other Defined Cost is %.

The Contractor will Provide the Works in accordance with the *conditions of contract* for an amount to be determined in accordance with the *conditions of contract*.

The total of the
Prices is

Enter the total of the Prices from the Price List.

Contract Data

Price List

Entries in the first four columns in this Price List are made either by the *Employer* or the tenderer.

If the *Contractor* is to be paid an amount for the item which is not adjusted if the quantity of work in the item changes, the tenderer enters the amount in the Price column only; the Unit, Quantity and Rate columns being left blank.

If the *Contractor* is to be paid an amount for the item of work which is the rate for the work multiplied by the quantity completed, the tenderer enters the rate which is then multiplied by the expected quantity to produce the Price, which is also entered.

Item number	Description	Unit	Quantity	Rate	Price
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.....
The total of the Prices					

Works Information

The Works Information should be a complete and precise statement of the *Employer's* requirements. If it is incomplete or imprecise there is a risk that the *Contractor* will interpret it differently from the *Employer's* intention. Information provided by the *Contractor* should be listed in the Works Information only if the *Employer* is satisfied that it is required, is part of a complete statement of the *Employer's* requirements and is consistent with the other parts of the Works Information.

1 Description of the works

Give a detailed description of what the *Contractor* is required to do and of any work the *Contractor* is to design.

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2 Drawings

List the drawings that apply to this contract.

Drawing number	Revision	Title
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Contract Data

Works Information

3 Specifications

List the specifications which apply to this contract.

Title	Date or revision	Tick if publicly available
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4 Constraints on how the *Contractor* Provides the Works

State any constraints on the sequence and timing of work and on the methods and conduct of work including the requirements for any work by the *Employer*.

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.....

Contract Data

Works Information

5 Requirements for the programme

State whether a programme is required and, if it is, state what form it is to be in, what information is to be shown on it, when it is to be submitted and when it is to be updated.

State what the use of the *works* is intended to be at their Completion as defined in Clause 11.2(1).

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.....

6 Services and other things provided by the *Employer*

Describe what the *Employer* will provide, such as services (including water and electricity) and “free issue” Plant and Materials and equipment.

<i>Item</i>	Date by which it will be provided
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Site Information

This image shows a full page of white paper with horizontal dotted lines. The lines are evenly spaced and run across the width of the page, providing a guide for handwriting or typing. There are no margins, text, or other markings on the page.

Schedules

1. GDPR Addendum

Schedule 1 – GDPR Addendum

1. Definitions

1.1 In this Addendum, the following terms have the meanings set out below:

(a) "Addendum" means the provisions of this Schedule 1

(b) "Data Protection Laws" means applicable legislation protecting the Personal Data of natural persons, including in particular the Data Protection Act 1998 and any replacement to it (and, from 25 May 2018, the GDPR), together with binding guidance and codes of practice issued from time to time by relevant supervisory authorities;

(c) "GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of Personal Data and on the free movement of such data including where applicable any local implementing laws as updated from time to time;

(d) "Services" means the works or services which are provided by the Contractor to the Employer in accordance with this contract; and

(e) The terms **"Data Controller"**, **"Data Processor"**, **"Data Subject"**, **"Personal Data"**, **"Personal Data Breach"** and **"Process/Processing"** have the same meaning as described in the Data Protection Laws.

2. Description of Personal Data Processing

2.1 The Employer hereby appoints the Contractor as Data Processor in relation to the Processing of Personal Data and the Parties agree to act in accordance with their respective obligations under this Addendum.

2.2 Section 5 of this Addendum sets out the subject matter and duration of the Processing, the nature and purpose of the Processing, the type of Personal Data and categories of data subject as required by Article 28(3) of the GDPR or equivalent provisions of any Data Protection Laws.

3. Data Processing Terms

3.1 In the course of providing the Services to the Employer under this contract, the Contractor shall observe all its obligations under the Data Protection Laws which arise in connection with the provision of the Services.

3.2 From the 25th May 2018, where the Contractor Processes Personal Data for the Employer as a Data Processor, it shall:

3.2.1 Process the Personal Data solely on the documented instructions of the Employer, for the purposes of providing the Services (unless required by law to act without such instructions, in which case Contractor shall, except where prohibited by law from doing so, inform the Employer of that legal requirement before Processing);

- 3.2.2 Process only the types of Personal Data, relating to the categories of Data Subjects, and in the manner required to deliver the Services, as described in the form referred to in section 2;
- 3.2.3 take all measures required by Article 32 of the GDPR to ensure the security of the Personal Data;
- 3.2.4 take reasonable steps to ensure the reliability of any staff who may have access to the Personal Data, and their treatment of the Personal Data as confidential;
- 3.2.5 not transfer the Personal Data to any country outside the European Economic Area (EEA) without the prior written consent of the Employer;
- 3.2.6 not permit any third party to Process the Personal Data without the prior written consent of the Employer, such consent to be subject to the Contractor meeting the conditions set out in Article 28 (2) and (4) of the GDPR;
- 3.2.7 notify the Employer without undue delay and in any event, within 3 Working Days, of any communication from a Data Subject regarding the Processing of their Personal Data, or any other communication (including from a supervisory authority) relating to either Party's obligations under the Data Protection Laws in respect of the Personal Data;
- 3.2.8 notify the Employer immediately upon becoming aware of or reasonably suspecting any Personal Data Breach, such notice to include all information reasonably required by the Employer to comply with its obligations under the Data Protection Laws;
- 3.2.9 upon requests, provide the Employer with reasonable assistance in carrying out data protection impact assessments;
- 3.2.10 permit the Employer, on reasonable prior notice, to inspect and audit the facilities and systems used by the Contractor to Process the Personal Data, the technical and organisational measures used by the Contractor to ensure the security of the Personal Data and any and all records maintained by the Contractor relating to that Processing;
- 3.2.11 provide any assistance reasonably requested by the Employer in relation (i) any communication received under section 3.2.7, as well as any similar communication received by the Employer directly; and (ii) any Personal Data Breach, including by taking any appropriate technical and organisational measures reasonably requested by the Employer; and
- 3.2.12 cease Processing the Personal Data immediately upon the termination or expiry of the Principal Agreement and at the Employer's option either return, or securely delete the Personal Data.

4. Personal information

- 4.1 This Section 5 addresses certain details of the Processing of the Personal Data as required by Article 28(3) GDPR or equivalent provisions of any Data Protection Law. The Contractor shall Process the Personal Data for the purposes of providing the Services as set out in this contract.
- 4.2 The Parties agree that in the course of providing the Services, potentially the following types of personal data could be Processed:-

Name, gender, job title, age, personal contact details (address, telephone number, email address, IP address), work contact details (telephone number, email address), personal

lifestyle data or interests, photographs, browser generated information, personal data contained in meeting, telephone or attendance notes and any other information which the Contractor has a legitimate interest in Processing in accordance with the provision of the Services.

4.3 The Parties agree that the categories of Data Subject to whom Section 5.2 relates includes the Employer's current and former directors, employees, contractors, sub-contractors, professional advisers, workers, and all other individuals employed or engaged by any of the Employer's contractors, sub-contractors or professional advisers. The Parties acknowledge that from time to time, Data Subjects could include members of the public provided this is necessary for the provision of the Services.

4.4 The obligations and rights of the Data Controller are set out in this contract and this Addendum.

5. General

5.1 Any breach of this Addendum shall constitute a material breach of this contract.

5.2 The provisions of this Addendum are supplemental to the provisions of the conditions of contract and shall not reduce the Contractor's obligations under the conditions of contract in relation to the protection of Personal Data. In the event of inconsistencies between the provisions of this Addendum and the provisions of the conditions of contract the provisions of this Addendum shall prevail. Compliance by the Contractor with the provisions of this Addendum will be at no additional cost to the Employer.