

### **Appendix 3: Call-Off Terms and Conditions**

The Call Off Terms and Conditions for appointments under this DPS will be from the JCT (Joint Contracts Tribunal) suite of contracts selected for the works proposed on a tender by tender basis;

- JCT Measured Term Contract 2016 Edition (inc. latest amendments) for term contracts;
- JCT Minor Works Building Contract 2016 Edition (inc. latest amendments);
- JCT Minor Works Building Contract with Contractors design, 2016 Edition (inc. latest amendments);
- JCT Intermediate Building Contract 2016 Edition (inc. latest amendments);
- JCT Intermediate Building Contract with Contractors Design, 2016 Edition (inc. latest amendments);
- JCT Repair & Maintenance Contract 2016 Edition (inc. latest amendments);

Should the above terms be revised during the life of this DPS the NPS and Clients reserve the right to adopt the revised version with the agreement of the DPS Provider.

Clients will have the opportunity to vary the Contract Data and Clauses via a further competition process.

In the event that neither of the above opportunities to vary the terms are taken by the Client the following will apply.

Call Off Terms Appendix One

**Sample  
Collateral Warranty Agreement**

**DATED**

**20[ ]**

**[CONTRACTOR]**

**- and -**

**[BENEFICIARY]**

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**CONTRACTOR COLLATERAL WARRANTY**

**in relation to**

**[ PROJECT NAME ]**

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**THIS AGREEMENT** is made the                      day of                      20[   ]

**BETWEEN:-**

1. **[CONTRACTOR]** (Company Registration No. [   ]) of/whose registered office is at [   ] ("the Contractor"); and
2. **[BENEFICIARY]** (Company Registration No. [   ]) of/whose registered office is at [   ] ("the Beneficiary", which term shall include all permitted assignees under this Agreement).

**WHEREAS:-**

- A By a contract dated [   ] ("the Appointment") between The Client and the Contractor, The Client have appointed the Contractor to provide consultancy services in relation to [insert description of works] ("the Works").
- B It is a condition of the Appointment that the Contractor will enter into this Agreement with the Beneficiary.

**OPERATIVE PROVISIONS**

**1. CONSIDERATION**

- 1.1 This Deed is made in consideration of the payment of one pound (£1.00) by the Beneficiary to the Contractor receipt of which the Contractor acknowledges.

**2. CONTRACTOR'S WARRANTIES**

- 2.1 The Contractor warrants to the Beneficiary that it has performed and will continue to perform its duties under the Appointment in accordance with the Appointment and that it has exercised and will continue to exercise in the performance of such matters as lie within the scope of its professional responsibilities pursuant to the Appointment the reasonable skill and care to be expected of a properly qualified and competent Contractor experienced in carrying out duties such as its duties under the Appointment in relation to works of similar scope, nature, timescale and complexity and on a similar site or at a similar location to the Works.

**3. INTELLECTUAL PROPERTY RIGHTS**

- 3.1 Subject to the following provisions of this Deed, all Intellectual Property in the drawings, designs, charts, specifications, plans, software and any other documents or materials in any medium (excluding internal memoranda and documents, working papers and templates) which have been created and/or developed by or on behalf of the Contractor in the course of performing its obligations under the Appointment ("the Documents") will remain vested in the Contractor. For the purposes of this **clause 3**, "Intellectual Property" shall mean all copyright and all neighbouring and database rights and moral rights, registered designs, registered and unregistered design rights, or any rights or property similar to the foregoing in any part of the world whether registered or unregistered together with the right to apply for the registration of such rights in any part of the world and the rights to current applications for registration of any such intellectual property referred to above.
- 3.2 The Contractor grants (or, if such a grant cannot legally take place until a later date, agrees to grant) to the Beneficiary, with effect from the date of this Deed or in the case of any of the Documents not yet in existence with effect from the creation of such Documents, an irrevocable, royalty-free, non-exclusive licence (such licence to remain in full force and effect notwithstanding the completion of the Contractor's obligations or the termination of the Appointment or this Deed or the determination of the Contractor's employment under the Appointment or any dispute under the Appointment or this Deed) to copy, use or reproduce the Documents for any

purpose whatsoever connected with the Works including, but without limitation, the execution, completion, maintenance, letting, advertisement, modification, extension, reinstatement and repair of the Works. Such licence will carry the right to grant sub-licences and will be transferable to third parties. Such licence will enable the Beneficiary to use and reproduce the Documents for any extension of the Development, but shall not include a licence to reproduce the design in the Documents for any extension of the Development.

- 3.3 The Contractor will not grant to any third party the right to use any of the Documents save under any warranty it is obliged to give under the Appointment or under this Deed or as otherwise required to enable it to fulfil its obligations under the Appointment.
- 3.4 The Contractor will not be liable for any use the Beneficiary may make of the Documents for any purpose other than the purposes set out in **clause 3.2**
- 3.5 The Contractor warrants that the Documents (save to the extent that duly authorised SubContractor s or other third parties have been used to prepare the same) are the Contractor's own original work and that in any event their use in connection with the Works will not infringe the rights of any third party. The Contractor further warrants that where duly authorised SubContractor s or other third parties are used their work will be original and that the Contractor will obtain the necessary consents in relation to the grant of the licence pursuant to **clause 3.2**.
- 3.6 The Contractor agrees on reasonable request at any time and following reasonable prior written notice to give to the Beneficiary, or those authorised by the Beneficiary, access to the Documents and to provide copies (including copy negatives and CAD discs) of the Documents at the Beneficiary's expense.

#### **4. PROFESSIONAL INDEMNITY INSURANCE**

- 4.1 The Contractor by this Deed covenants with the Beneficiary that it has at its own cost taken out and will maintain professional indemnity insurance with reputable insurers carrying on business in the United Kingdom with a limit of indemnity of not less than **£[AMOUNT] ([AMOUNT IN WORDS])** for any one claim or series of claims arising out of any one originating cause, in relation to the Works provided always that:
  - 4.1.1 such insurance shall be in place from the date of this Deed until no less than 12 years after a statement of practical completion under the building contract or if there is no building contract 12 years after completion or abandonment of the Services;
  - 4.1.2 if such insurance is not available to the Contractor (and/or members of the Contractor's profession engaged in services of a similar scope, size, nature and complexity as the Contractor) at commercially reasonable rates and terms (excluding any increase in premiums attributable to the actions, omissions, errors or defaults of the Contractor), the Contractor and the Beneficiary will meet and the Contractor will outline the steps he intends to take to manage such risks. If the steps proposed by the Contractor are not reasonably acceptable to the Beneficiary, the parties shall agree an alternative method of managing such risk.
- 4.2 The Contractor will provide the Beneficiary with a certificate from its insurer or broker that the policies referred to in this **clause 4** are in full force and effect.

#### **5. NOTICES**

- 5.1 Any notice to be given by either party under this Deed will be sufficiently served if sent by hand, by facsimile transmission or by post to the registered office or if there is none the last known address of the party to be served. Any notice sent by

hand will be deemed to be served on the date of delivery and any notice sent by facsimile transmission will be deemed to be served in full at the time recorded on the facsimile report sheet provided that if any notice sent by hand or facsimile is sent after 4.45p.m. on any day it will be deemed to be served on the next working day. Any notice sent by post will be deemed to have been duly served at the expiration of 48 hours after the time of posting if the end of that period falls before 4.45p.m. on a working day and otherwise on the next working day.

**6. ASSIGNMENT**

- 6.1 The benefit of and the rights on the part of the Beneficiary under this Deed may be assigned without the consent of the Contractor on two occasions only. The Beneficiary will give the Contractor reasonable prior written notice following any such assignment specifying the name and address of the assignee and the date of the assignment. The Contractor will not contend that any such assignee is precluded from recovering any loss resulting from any breach of this Deed (whatever the date of such breach) by reason only that that person is an assignee and not the original beneficiary under this Deed or by reason that the original beneficiary or any intermediate beneficiary escaped any loss resulting from such breach by reason of the disposal of any interest in the Site or that the original beneficiary or any intermediate beneficiary has not suffered any or as much loss.

**7. OTHER RIGHTS AND REMEDIES**

- 7.1 The rights and benefits conferred upon the Beneficiary by this Deed are in addition to any other rights and remedies it may have against the Contractor including, without limitation, any remedies in negligence.

**8. NO APPROVAL**

- 8.1 The Contractor's liabilities under this Deed will not be in any way reduced or extinguished by reason of any inspection or approval of the Documents or attendance at site meetings or other enquiry or inspection which the Beneficiary may make or procure to be made for the Beneficiary's benefit or on its behalf.

**9. PROHIBITED MATERIALS**

- 9.1 The Contractor warrants that, to the extent it either is obliged to specify or approve products or materials for use in the Works or does so specify or approve, it has exercised and will exercise the standard of skill and care set out in clause 2.1 and the Appointment not to specify, approve or use any products or materials which are generally known within the Contractor's profession at the time of specification or use to be deleterious in the particular circumstances in which they are used, or those identified as potentially hazardous in or not in conformity with:
- 9.1.1 the British Council for Offices report entitled "Good Practice in the Selection of Construction Materials" (current edition) other than in accordance with the recommendations as to good practice contained in that report;
  - 9.1.2 relevant British or European Standards or Codes of Practice;
  - 9.1.3 any publications of the Building Research Establishment related to the specification of products or materials.
- 9.2 If, in the performance of its duties under the Appointment, the Contractor becomes aware that it, or any other person, has specified or used, or authorised or approved the specification or use by others of any such products or materials the Contractor will immediately give the Beneficiary written notice of the same. This **clause 9.2**

does not create any additional duty for the Contractor to inspect or check the work of others which is not required by the Appointment.

**10. LIMITATION**

- 10.1 The Contractor has no liability under this Deed which is greater or of longer duration than it would have had if the Beneficiary had been a party to the Appointment as joint employer with the Contractor owing its duties thereunder to each employer separately.
- 10.2 The Contractor shall be entitled in any action or proceedings brought by the Beneficiary under this Deed to rely on any limitation in the Appointment and to raise equivalent rights in defence of liability (but excluding set-offs and counterclaims) as it would have against the Beneficiary if, in lieu of this Deed, the Beneficiary had been a party to the Appointment as employer.
- 10.3 The parties agree that no action or proceedings may be brought or commenced under this Deed at any time after the date being 12 years after a statement of practical completion under the building contract or if there is no building contract 12 years after completion or abandonment of the Services under the Appointment.

**11. GOVERNING LAW AND JURISDICTION**

- 11.1 This Deed will be construed in accordance with English and Welsh law and be in all respects subject to the non-exclusive jurisdiction of the English and Welsh courts.

**12. THIRD PARTY RIGHTS**

- 12.1 The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

**THIS DOCUMENT** is executed as a deed and delivered on the date stated at the beginning of this Deed.

EXECUTED AS A DEED )

by the **[CONTRACTOR]** )

EXECUTED AS A DEED )

by the **[BENEFICIARY]** )

**PART B: SUBCONTRACTOR WARRANTY**

**DATED**

**20[ ]**

**[SUBCONTRACTOR]**

**- and –**

**[BENEFICIARY]**

---

**SUBCONTRACTOR COLLATERAL WARRANTY**

**in relation to**

**[ PROJECT NAME ]**

---



**THIS AGREEMENT** is made the                      day of                      20[   ]

**BETWEEN:-**

1. [All the Partners in] **[SUBCONTRACTOR]** [(all of whom have executed this Agreement)] [registered in England and Wales under Company Number [   ]]  
[of/whose registered office is situated at] ("the SubContractor"); and
2. **[BENEFICIARY]** (Company Registration No. [   ]) of/whose registered office is at [   ]  
("the Beneficiary", which term shall include all permitted assignees under this Agreement);

**WHEREAS:-**

- A By a contract dated [   ] ("the Main Appointment") between The Client and [Contractor]  
("the Contractor"), The Client have appointed the Contractor to provide consultancy  
services in relation to [insert description of works] ("the Works").
- B By a deed of Appointment dated [   ] ("the Appointment") the Contractor has engaged  
the SubContractor to provide consultancy services in relation to the Works.
- C It is a condition of the Appointment that the SubContractor will enter into this  
Agreement with the Beneficiary.

**OPERATIVE PROVISIONS**

**1. CONSIDERATION**

This Deed is made in consideration of the payment of one pound (£1.00) by the  
Beneficiary to the SubContractor receipt of which the SubContractor acknowledges.

**2. SUBCONTRACTOR 'S WARRANTIES**

The SubContractor warrants to the Beneficiary that it has performed and will continue  
to perform its duties under the Appointment in accordance with the Appointment and  
that it has exercised and will continue to exercise in the performance of such matters  
as lie within the scope of its professional responsibilities pursuant to the Appointment  
the reasonable skill and care to be expected of a properly qualified member of its  
profession experienced in carrying out duties such as its duties under the Appointment  
in relation to works of similar scope, nature, timescale and complexity and on a similar  
site or at a similar location to the Works.

**3. INTELLECTUAL PROPERTY RIGHTS**

- 3.1 Subject to the following provisions of this Deed, all Intellectual Property in the drawings,  
designs, charts, specifications, plans, software and any other documents or materials  
in any medium (excluding internal memoranda and documents, working papers and  
templates) which have been created and/or developed by or on behalf of the  
SubContractor in the course of performing its obligations under the Appointment ("the  
Documents") will remain vested in the SubContractor. For the purposes of this clause  
3 Intellectual Property shall mean all copyright and all neighbouring and database  
rights and moral rights, registered designs, registered and unregistered design rights,  
or any rights or property similar to the foregoing in any part of the world whether  
registered or unregistered together with the right to apply for the registration of such  
rights in any part of the world and the rights to current applications for registration of  
any such intellectual property referred to above.
- 3.2 The SubContractor grants (or, if such a grant cannot legally take place until a later  
date, agrees to grant) to the Beneficiary, with effect from the date of this Deed or in the  
case of any of the Documents not yet in existence with effect from the creation of such  
Documents, an irrevocable, royalty-free, non-exclusive licence (such licence to remain  
in full force and effect notwithstanding the completion of the SubContractor's

obligations or the termination of the Appointment or this Deed or the determination of the SubContractor's engagement under the Appointment or any dispute under the Appointment or this Deed) to copy, use and reproduce the Documents for any purpose whatsoever connected with the Works including, but without limitation, the execution, completion, maintenance, letting, advertisement, modification, extension, reinstatement and repair of the Works. Such licence will carry the right to grant sub-licences and will be transferable to third parties. Such licence will enable the Beneficiary to use and reproduce the Documents for any extension of the Development, but shall not include a licence to reproduce the design in the Documents for any extension of the Development.

- 3.3 The SubContractor will not grant to any third party the right to use any of the Documents save under any warranty it is obliged to give under the Appointment or under this Deed or as otherwise required to enable it to fulfil its obligations under the Appointment.
- 3.4 The SubContractor will not be liable for any use the Beneficiary may make of the Documents for any purpose other than the purposes set out in clause 3.2.
- 3.5 The SubContractor warrants that the Documents are the SubContractor's own original work and that in any event their use in connection with the Works will not infringe the rights of any third party.
- 3.6 The SubContractor agrees on reasonable request at any time and following reasonable prior written notice to give to the Beneficiary, or those authorised by the Beneficiary, access to the Documents and to provide copies (including copy negatives and CAD disks) of the Documents at the Beneficiary's expense.

#### **4. PROFESSIONAL INDEMNITY INSURANCE**

- 4.1 The SubContractor by this Deed covenants with the Beneficiary that it has at its own cost taken out and will maintain professional indemnity insurance with reputable insurers carrying on business in the [United Kingdom] [European Union] with a limit of indemnity of not less than **£[AMOUNT] ([AMOUNT IN WORDS])** for any one occurrence or series of occurrences arising out of any one event, in relation to the Works provided always that:
  - 4.1.1 such insurance shall be in place from the date of the Appointment until no less than 12 years after a statement of practical completion under the building contract or if there is no building contract 12 years after completion or abandonment of the Services;
  - 4.1.2 if such insurance is not available to the SubContractor (and/or members of the SubContractor's profession engaged in services of a similar scope, size, nature and complexity as the SubContractor) at commercially reasonable rates and terms (excluding any increase in premiums attributable to the actions, omissions, errors or defaults of the SubContractor), the SubContractor and the Beneficiary will meet and the SubContractor will outline the steps he intends to take to manage such risks. If the steps proposed by the SubContractor are not reasonably acceptable to the Beneficiary, the parties shall agree an alternative method of managing such risk.
- 4.2 The SubContractor will provide the Beneficiary with reasonable evidence that the policies referred to in this clause 4 are in full force and effect together with a summary of the policy terms and conditions.

#### **5. NOTICES**

Any notice to be given by either party under this Deed will be sufficiently served if sent by hand, by facsimile transmission or by post to the registered office or if there is none the last known address of the party to be served. Any notice sent by hand will be deemed to be served on the date of delivery and any notice sent by facsimile

transmission will be deemed to be served in full at the time recorded on the facsimile report sheet, provided that if any notice sent by hand or facsimile is sent after 4.45p.m. on any day it will be deemed to be served on the next working day. Any notice sent by post will be deemed to have been duly served at the expiration of 48 hours after the time of posting if the end of that period falls before 4.45p.m. on a working day and otherwise on the next working day.

**6. ASSIGNMENT**

Without prejudice to the provisions of clause 10, the benefit of and the rights on the part of the Beneficiary under this Deed may be assigned without the consent of the SubContractor on two occasions only [this amendment for the funder warranty only] [(provided that any assignment to a group company and any assignment by way of security and re-assignment on redemption shall not count towards the number of permitted assignments and the Beneficiary shall be free to assign in such manner)]. The Beneficiary will give the SubContractor written notice following any such assignment specifying the name and address of the assignee and the date of the assignment. The SubContractor will not contend that any such assignee is precluded from recovering any loss resulting from any breach of this Deed (whatever the date of such breach) by reason only that that person is an assignee and not the original beneficiary under this Deed or by reason that the original beneficiary or any intermediate beneficiary escaped any loss resulting from such breach by reason of the disposal of any interest in the Site or that the original beneficiary or any intermediate beneficiary has not suffered any or as much loss.

**7. OTHER RIGHTS AND REMEDIES**

The rights and benefits conferred upon the Beneficiary by this Deed are in addition to any other rights and remedies it may have against the SubContractor including without limitation, any remedies in negligence.

**8. NO APPROVAL**

The SubContractor's liabilities under this Deed will not be in any way reduced or extinguished by reason of any inspection or approval of the Documents or attendance at site meetings or other enquiry or inspection which the Beneficiary may make or procure to be made for the Beneficiary's benefit or on its behalf.

**9. PROHIBITED MATERIALS**

- 9.1 The SubContractor warrants that, to the extent it either is obliged to specify or approve products or materials for use in the Works or does so specify or approve, it has exercised and will exercise the standard of skill and care set out in clause 2 not to specify, approve or use any products or materials which are generally known within the Contractor's profession at the time of specification or use to be deleterious in the particular circumstances in which they are used, or those identified as potentially hazardous in or not in conformity with:

9.1.1 the British Council for Offices report entitled "Good Practice in the Selection of Construction Materials" (current edition) other than in accordance with the recommendations as to good practice contained in that report;

9.1.2 relevant British or European Standards or Codes of Practice;

9.1.3 any publications of the Building Research Establishment related to the specification of products or materials.

- 9.2 If in the performance of its duties under the Appointment, the SubContractor becomes aware that it or any other person has specified or used, or authorised or approved the specification or use by others, of any such products or materials the SubContractor will

immediately give the Beneficiary written notice of the same. This clause 9.2 does not create any additional duty for the SubContractor to inspect or check the work of others which is not required by the Appointment.

## **10. STEP-IN RIGHTS**

10.1 Subject to clause 10.7, the SubContractor will not exercise or seek to exercise any right which may be or become available to it to terminate or treat as terminated or repudiated the Appointment or its engagement under it or discontinue or suspend the performance of any duties or obligations under the Appointment, without first giving to the Beneficiary not less than [twenty-eight days] prior written notice specifying the SubContractor's grounds for terminating or treating as terminated or repudiated the Appointment or its engagement under it or discontinuing or suspending its performance of the Appointment and stating the amount (if any) of monies outstanding under the Appointment. Within such period of notice:

10.1.1 the Beneficiary may give written notice to the SubContractor expressly confirming its intention to comply with clause 10.1.3 and that the Beneficiary shall become the client under the Appointment to the exclusion of the Contractor and, upon giving such notice, that will be the case and the Appointment will be and remain in full force and effect notwithstanding any of the grounds in the SubContractor's notice under clause 10.1; and

10.1.2 if the Beneficiary has given notice under clause 10.1.1 or under clause 10.3, the Beneficiary will then as soon as practicable remedy any outstanding breach by the Client (provided that where the notice is given under clause 10.1.1 rather than under clause 10.3 such breach has properly been included in the Contractor's specified grounds under clause 10.1); and

10.1.3 if:

10.1.3.1 the Beneficiary has given notice under clause 10.1.1 then from the date of the SubContractor's notice; or

10.1.3.2 the Beneficiary has given notice under clause 10.3 then from the date of the Beneficiary's notice

the Beneficiary will, by clause 10.1.1, become responsible for all sums properly payable to the SubContractor under the Appointment and for the observance and performance of all of the other duties and obligations on the part of the client to be observed and performed under the Appointment accruing due after the service of such SubContractor's notice or Beneficiary's notice (as applicable) but the Beneficiary will in paying such sums be entitled to the same rights of set-off and deduction as would have applied to the Contractor under the Appointment.

10.2 Notwithstanding anything contained in this Deed and notwithstanding any payments which may be made by the Beneficiary to the SubContractor the Beneficiary will not be under any obligation to the SubContractor nor will the SubContractor have any claim or cause of action against the Beneficiary unless and until the Beneficiary has given written notice to the SubContractor under either clause 10.1.1 or clause 10.3.

10.3 The SubContractor further covenants with the Beneficiary that if requested by the Beneficiary by written notice expressly confirming the Beneficiary's intention to comply with clause 10.1.3 and subject to clause 10.1.2 and clause 10.1.3, it will accept the instructions of the Beneficiary to the exclusion of the Contractor in respect of the Works upon the terms and conditions of the Appointment. The Beneficiary shall then become the client under the Appointment to the exclusion of the Contractor and the

SubContractor will, if so requested, enter into a novation agreement in order to substitute the Beneficiary for the Contractor under the Appointment.

- 10.4 [Where the SubContractor has given rights in relation to the Appointment similar to those contained in this clause 10 to any other person then if both the Beneficiary and any such other person serve notice under clause 10.1 or clause 10.3 or its equivalent the notice served by the Beneficiary shall [prevail] [not prevail] [not prevail over any notice served by [Name] but prevail over any notice served by any other person]].
- 10.5 The Contractor acknowledges that the SubContractor will be entitled to rely on a notice given to the SubContractor by the Beneficiary under clause 10.3 as conclusive evidence that the Beneficiary is entitled to serve such notice.
- 10.6 The Beneficiary may by written notice to the SubContractor appoint another person to exercise its rights under this clause 10 subject to the Beneficiary remaining liable to the SubContractor as guarantor for its appointee in respect of its obligations under this Deed.
- 10.7 Where the SubContractor is seeking to exercise a right to suspend the performance of any duties or obligations under the Appointment as a result of non-payment or in accordance with s112 of the Housing Grants, Construction and Regeneration Act 1996, the SubContractor will give to the Beneficiary written notice of its intention so to do [at the same time as it serves notice on the Contractor] [not less than seven days before it serves notice on the Contractor].
- 10.8 Notwithstanding the other provisions of this clause 10, if the Appointment has for any reason been terminated prior to receipt by the SubContractor of a notice from the Beneficiary served under clause 10.1.1 or clause 10.1.3, the SubContractor shall on receipt of any such notice from the Beneficiary enter into a new appointment with the Beneficiary on the same terms as the Appointment to continue the SubContractor services in all respects as if the Appointment had been transferred to the Beneficiary in accordance with the provisions of this clause 10.

## **11. LIMITATION**

- 11.1 The SubContractor has no liability under this Deed which is greater or of longer duration than it would have had if the Beneficiary had been a party to the Appointment as employer.
- 11.2 The SubContractor shall be entitled in any action or proceedings brought by the Beneficiary under this Deed to rely on any limitation in the Appointment and to raise equivalent rights in defence of liability (but excluding set-offs and counterclaims) as it would have against the Beneficiary if, in lieu of this Deed, the Beneficiary had been a party to the Appointment as employer.
- 11.3 The parties agree that no action or proceedings may be brought or commenced under this Deed at any time after the date being 12 years after a statement of practical completion under the building contract or if there is no building contract 12 years after completion or abandonment of the Services under the Appointment.

## **12. PARTNERSHIP**

Where the SubContractor is a partnership references in this Deed to "the SubContractor" will be deemed to include reference to each and every present and future partner of such partnership and the liability of each and every such partner under this Deed will be deemed to be joint and several.]

## **13. GOVERNING LAW AND JURISDICTION**

This Deed will be construed in accordance with English and Welsh law [as applied in Wales] and be in all respects subject to the non-exclusive jurisdiction of the English and Welsh courts.

**14. THIRD PARTY RIGHTS**

The parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

**THIS DOCUMENT** is executed as a deed and delivered on the date stated at the beginning of this Deed.

EXECUTED AS A DEED )

by the **[SUBCONTRACTOR]** )

EXECUTED AS A DEED )

by the **[BENEFICIARY]** )

**Schedule 1 - Example Schedule to Call-Off Contract :**

**Processing, Personal Data and Data Subjects Data Processing Schedule**

1. The Provider shall comply with any further written instructions with respect to processing by the Participating Organisation.
2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	[The Participating Organisation will set out a high level, short description of what the processing is about i.e. its subject matter]
Duration of the processing	[The Participating Organisation will clearly set out the duration of the processing including dates]
Nature and purposes of the processing	[The Participating Organisation shall cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc.]
Type of Personal Data	Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]
Categories of Data Subject	[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ Participating Organisations, suppliers, patients, students / pupils, members of the public, users of a particular website etc]
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	[The Participating Organisation shall set out how long the data will be retained for, how it is to be returned or destroyed]