



Land and Property Professional Services Framework

Framework Agreement

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Framework Agreement

(Contract No. F139)

High Speed Two (HS2) Limited

(the Employer)

and

Lambert Smith Hampton Group Limited

(the Consultant)

Land and Property Professional Services

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This agreement is made on the day of 2013

Between **HIGH SPEED TWO (HS2) LIMITED** (company number 06791686) of Eland House,
Bressenden Place, London SW1E 5DU

(the *Employer*)

and **Lambert Smith Hampton Group Limited**, company number 02521225 of United
Kingdom House, 180 Oxford Street, London, W1D 1NN

(the *Consultant*)

- The *Employer* wishes to procure the carrying out of certain consultation services in connection with the High Speed Two project, London.
- For the purpose of carrying out such services the *Employer* may retain the *Consultant* as may be required.
- The *Employer* and the *Consultant* accept and agree that under this Framework Agreement no guarantee is given nor representation made by the *Employer* to the *Consultant* that the *Consultant* will be appointed to carry out any services.
- This Framework Agreement (including the conditions of contract) shall take precedence over any other document forming part of this Framework Agreement.
- In consideration of the *Employer* appointing the *Consultant* under this Framework Agreement the *Guarantor* has agreed to guarantee the obligations of the *Consultant* hereunder and under each Package Order.

Executed as a deed and delivered on the
date above by:

..... (signed)

Alison Munro, Director, Chief Executive

On behalf of **HIGH SPEED TWO (HS2) LIMITED**

Witness signature..... (signed)

Witness name.....

Witness address.....

Witness occupation.....

Director signature..... (signed)

Name, Director:

On behalf of **Lambert Smith Hampton Group Limited**

Witness signature..... (signed)

Witness name.....

Witness address.....

Witness occupation.....

CONTENTS

Framework Agreement Recitals
Conditions of Contract and Contract Data

Annexure 1
Framework Information

Annexure 2
Framework Scope

Annexure 3
Selection Procedure

Annexure 4
Quotation Procedure and Appendix

Annexure 5
Commercial Schedule

Annexure 6
Forms of Novation

Annexure 7
Package Order Conditions of Contract

Framework Agreement – Conditions of Contract

Actions 10

- 10.1 The *Employer* and the *Consultant* shall act as stated in this contract and in a spirit of mutual trust and co-operation.

Identified and defined terms 11

- 11.1 In these conditions of contract, terms identified in the Contract Data are in italics and defined terms have capital initials.
- 11.2
- (1) Confidential Information means any information of whatever kind (whether commercial, technical, financial, operational or otherwise, in whatever form and whether or not recorded in any way) relating to the *Employer* or the Programme.
 - (2) Consultant Information means information provided or made available to the *Employer* by the *Consultant* and recorded in any form held by the *Employer* or held by the *Consultant* on behalf of the *Employer*.
 - (3) FOI Legislation means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 (EIR) and any amendment or re-enactment of any of them and any guidance issued by the Information Commissioner in relation to such legislation.
 - (4) Framework Information is information which specifies how the Parties work together and is in the document which the Contract Data states it is in.
 - (5) Information Request means a request for information under the FOI Legislation.
 - (6) Materials means all documents, items, information, data, reports, drawings, specifications, plans, software, designs, inventions and/or other material produced or supplied by the *Consultant* as part of or in connection with the *services* and/or this contract;
 - (7) New Employer means *DfT* or any company which is a holding company or subsidiary (within the meaning of Section 1159 of the Companies Act 2006 of *DfT* or is a company in which *DfT* or any such holding company or subsidiary holds more than 25% of the issued equity share capital (as defined by Section 548 of the Companies Act 2006);

- (8) Others are people or organisations who are not the *Employer*, the *Consultant*, the *Guarantor*, or any employee, subconsultant or supplier of the *Consultant*.
- (9) A Package Order is an instruction to carry out a Work Package and shall be in the form annexed.
- (10) Package Order Scope means the "Scope" for a particular Package Order as defined in the contract for such Package Order.
- (11) The Parties are the *Employer* and the *Consultant*.
- (12) Phase 1 means the first phase of the Programme, which runs between London and the West Midlands with connections to the West Coast Main Line and High Speed 1 (HS1) line
- (13) Phase 2 means the second phase of the Programme, which runs from the West Midlands to Manchester and to Leeds via East Midlands and South Yorkshire; with connections to the West Coast and the East Coast main lines and a spur connection from HS2 Phase 1 to Heathrow Airport in the south.
- (14) The Programme means the proposed high speed line from London to the north including any spurs and extensions.
- (15) A Prohibited Act means;
 - (a) offering, giving or agreeing to give to any officer or agent of the *Employer*, any gift or consideration of any kind:
 - (i) as an inducement or reward; or
 - (ii) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this contract or any other contract with the *Employer*; or
 - (iii) for showing or not showing favour or disfavour for any person in relation to this contract or any other contract with the *Employer*; or
 - (iv) for entering into this contract in connection with which commission has been paid or has been agreed to be paid by him or on his behalf, or to his knowledge unless before this contract is made, particulars of any such commission and of the terms and conditions

of any such agreement for the payment thereof have been disclosed in writing to the *Employer*; or

(b) the commission of an offence under the Bribery Act 2010; or

(c) entering into any form of collusion with other suppliers of services similar to the services or with other actual or potential bidders for this contract.

(16) The Project means the project for the proposed high speed line from London to West Midlands (also known as HS2).

(17) Work Package is work which is to be carried out under this contract.

Interpretation, the law 12 and best value

12.1 In this contract, except where the context shows otherwise, words in the singular also mean in the plural and the other way round and words in the masculine also mean in the feminine and neuter. Words denoting persons include individuals, partnerships, firms and corporations and their successors and permitted assignees or transferees.

12.2 This contract is governed by the law of England and Wales.

12.3 No change to this contract has effect unless it has been agreed, confirmed in writing and signed by the Parties.

12.4 This contract and all related Package Orders are the entire agreement between the Parties and supersede all previous agreements between the Parties relating to the subject matter of this contract and the Package Orders and each Party acknowledges that in entering into this contract and each Package Order it has not relied on any representation or undertaking, whether oral or in writing, save such as are expressly incorporated in this contract or the relevant Package Order.

12.5 If any clause or part of this contract is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from this contract and will be ineffective without, as far as is possible, modifying any other clause or part of this contract and this will

not affect any other provisions of this contract which will remain in full force and effect.

- 12.6 The *Employer* is HS2 Ltd, which is a Government-owned company. The broad governance framework that applies to HS2 Ltd and its relationship with the *DfT* are set out in its Framework Document, available at <http://www.hs2.org.uk/framework>.

For the avoidance of doubt the *Consultant* shall not be entitled to bring any claim in tort or in contract under or relating to this contract against *DfT*.

- 12.7 In this contract any reference to:

any enactment, order, regulation or other similar instrument references the enactment, order, regulation or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;

a public organisation references any successor (statutory or otherwise) organisation which has taken over the functions and duties of such public organisation;

laws includes any applicable legislation, judgments of a relevant court of law changing a binding precedent, standards and codes of practice published from time to time by the International Organisation for Standardisation or other international standards and codes of practice;

words preceding "include", "includes", "including", and "included" are construed without limitation to the words which follow those words; and

this contract includes any permitted variation, amendment, or supplement to this contract.

Communications 13

- 13.1 Each instruction, certificate, submission, proposal, record acceptance, notification, reply and other communication which this contract requires is communicated in a form which can be read, copied and recorded or is available for access on a nominated hosted web server (save in the case of the notification of a Dispute which shall be notified in hard copy only). Writing is in English.

- 13.2 A communication has effect when it is received at the last address notified by the recipient for receiving communications or, if none is notified, at the address of the recipient stated in the Contract Data. Alternatively, an electronic communication has

effect when it is posted on a nominated hosted web service. Communications relating to the notification of a Dispute shall have no effect under this contract unless served in hard copy.

The Parties' obligations 14

- 14.1 When the *Employer* requires work to be carried out within the *framework scope*, he selects a consultant using the *selection procedure*.
- 14.2 The *Consultant* obeys an instruction which is in accordance with this contract and is given to him by the *Employer*.
- 14.3 The *Consultant* attends meetings with the *Employer* and others as stated in the Framework Information.
- 14.4 At 12 monthly intervals, or at such other intervals as the Parties may agree to from time to time, the *Employer* and the *Consultant* shall undertake a formal review of the performance of the *Consultant*.

Package Order 15

- 15.1 The *Employer* instructs the *Consultant* to submit a quotation for a proposed Work Package and provides the Contract Data specific to the Work Package.
- 15.2 The *Consultant* submits a quotation in accordance with the *quotation procedure*. The *Consultant* submits details of his assessment with the quotation. The assessment is made using the *quotation information*. The *Employer* replies to the submission within 28 days (or such other period as the *Employer* notifies to the *Consultant*) of receiving the quotation. His reply is
 - issue of a Package Order accepting the quotation,
 - an instruction to submit a revised quotation or
 - a notification that the proposed Package Order will not be issued to the *Consultant*.
- 15.3 If a quotation is to be revised, the *Employer* advises the *Consultant* of the reasons for not accepting the quotation and the *Consultant* submits a revised quotation within the time required by the *Employer*.
- 15.4 The *Consultant* does not do any work included in a proposed Work Package until he has received a Package Order and both parties have executed the Package Order.

Assignment 16

The *Consultant* does not assign the contract or any part thereof or any benefit or interest therein or thereunder without the prior written consent of the *Employer*. The *Employer* may assign the contract or any part thereof or any benefit or interest therein or

thereunder.

Novation 17

- 17.1 The *Consultant* and *Guarantor* executes and delivers to the *Employer* a deed of novation in the form annexed to this contract with the *Employer* and any New Employer within fourteen days of the *Employer's* request.

Conflict of Interest 18

- 18.1 The *Consultant* confirms that as at the date of this contract it does not have any interest in any matter and does not act and has not acted for any party in respect of any matter which would (in either case) create a conflict of interest in Providing the Services. The *Consultant* will undertake ongoing conflict of interest checks and will notify the *Employer* immediately if any conflict or potential conflict of interest arises (including notification of any instructions from a party with whom the *Employer* has or has had any dealings with respect to the Programme).
- 18.2 To the extent that an actual or potential conflict may arise involving the *Employer*, the *Consultant* shall where reasonably required continue to act for and advise the *Employer* and if reasonably required will cease to act for any other party where to act so would constitute a conflict of interest.

Completion 19

- 19.1 After the *end date*
- the *Employer* may not issue a Package Order
 - the *Consultant* completes Work Packages ordered before the *end date*.

Publicity 20

The *Consultant* shall not, except with the consent of the *Employer*, make any press announcements or publicise this contract or the Programme in any way unless the purpose of such disclosure is to allow compliance with a requirement to disclose information concerning this contract as required by law or the requirement of the stock exchange. The provisions of this clause shall not apply to any information relating to this contract, which is or which pursuant to this clause 20 is entitled to be public knowledge (otherwise than by breach of this clause) or which is limited to the fact of the *Consultant* being a party to this contract.

Access to Information 21

- 21.1 The *Consultant* shall free of charge disclose to the *Employer* and shall free of charge allow the *Employer* and/or his nominated staff to inspect and take away copies and all such information relating to the *Consultants* engagement in relation to the Programme (including without prejudice to the generality of the foregoing accounts and records) as the *Employer* shall reasonably require in order to satisfy itself that the provisions of this contract are being observed and performed, and/or in order to facilitate the operation of this contract, and the *Consultant* shall ensure that such representatives have full and free access (including access to the *Consultant's* premises) and licence to use such information in order to facilitate the operation of this clause but the *Consultant* shall not be obliged to supply any information which would be treated as privileged in any proceedings.

Freedom of Information 22

- 22.1 The *Consultant* acknowledges that the *Employer* is subject to the FOI Legislation and agrees to assist and co-operate with the *Employer* to enable the *Employer* to comply with its obligations under the FOI Legislation. The foregoing shall not preclude the *Consultant* from objecting to a disclosure of Consultant Information.
- 22.2 The *Employer* shall be responsible for determining whether Consultant Information is exempt information under the FOI Legislation and for determining what Consultant Information will be disclosed in that respect to an Information Request in accordance with the FOI Legislation. The *Consultant* shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by the *Employer*.
- 22.3 The *Consultant* acknowledges that the *Employer* may be obliged under the FOI Legislation to disclose Consultant Information.

Confidential Information 23

- 23.1 Subject to the other provisions of and as expressly permitted by this clause 23, the *Consultant*:
- (1) may not use any Confidential Information for any purpose other than the performance of its obligations under this contract;
 - (2) may not disclose any Confidential Information to any

person except with the prior written consent of the *Employer*; and

- (3) shall make every effort to prevent the use or disclosure of the Confidential Information.

23.2 Notwithstanding clause 23.1, the *Consultant* may disclose any Confidential Information to the following parties in the following circumstances:

- (1) to any officer or servant of the *Consultant* or any person engaged in the provision of goods or services to or for him if disclosure is necessary to enable the *Consultant* to perform its obligations under or to enforce its rights under this contract, upon obtaining an undertaking of strict confidentiality from such officer, servant or person;
- (2) to the extent required by any applicable law, the rules of any stock exchange or regulatory body or any written request of any taxation authority; and
- (3) pursuant to the order of any court or tribunal of competent jurisdiction.

23.3 The provisions of clause 23.1 above shall not apply to any Confidential Information which:

- (1) is at the date of this contract or any time thereafter becomes publicly known other than by breach of this contract or of an obligation of confidence;
- (2) can be shown by the *Consultant* to the *Employer's* reasonable satisfaction to have been known by the *Consultant* before disclosure by the *Employer*;
- (3) is required to be disclosed by any court or governmental, administrative or regulatory authority competent to require such disclosure;
- (4) is required to be disclosed by any applicable law or regulation; or
- (5) is disclosed in circumstances where such disclosure is a "protected disclosure" as defined by section 43A of the Employment Rights Act 1996.

23.4 Before disclosure of any Confidential Information, the *Consultant* shall ensure that the recipient is made aware of and complies with the *Consultant's* obligations of confidentiality under this

contract as if the recipient was a party to this contract.

23.5 Without prejudice to any other rights or remedies which the *Employer* may have, the *Consultant* acknowledges and agrees that in the event of breach of this clause 23 the *Employer* shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which it may be entitled.

23.6 If this contract is terminated, the *Consultant* shall return to the *Employer* all of the Confidential Information then within its possession or control or destroy such Confidential Information using a secure and confidential method of destruction and furnish to the *Employer* sufficient evidence of such destruction, save that the *Consultant* may retain one copy of the Confidential Information if required to do so by law.

Termination 24

24.1 The *Employer* may terminate the *Consultant's* employment under this contract at any time by notifying the *Consultant* if

the *Employer* no longer requires the *Consultant* to carry out any work in connection with the Programme or

the *Consultant* has failed to comply with his obligations or

the *Consultant* commits a Prohibited Act.

24.2 The *Consultant* may terminate the *Consultant's* employment under this contract by notifying the *Employer* if the *Employer* has done one of the following or its equivalent.

had a winding-up order made against it,

had a provisional liquidator appointed to it,

passed a resolution for winding-up (other than in order to amalgamate or reconstruct),

had an administration order made against it,

had a receiver, receiver and manager, or administrative receiver appointed over the whole or a substantial part of its undertaking or assets or

made an arrangement with its creditors.

24.3 After a Party has notified termination,

- the *Employer* may not issue a Package Order,
- the *Consultant* completes Work Packages ordered before the notification and
- the Parties continue to comply with the constraints and obligations in this contract in relation to publicising the services, confidentiality and the FOI Legislation.

For the avoidance of doubt the *Consultant* shall not be entitled to any claim for loss of profit, business or opportunity arising from any notified termination.

Termination shall be without prejudice to any accrued rights and obligations under this contract as at the date of such termination.

- 24.4 Following any termination of the *Consultant's* employment under this contract, the *Consultant* shall co-operate with the *Employer* and shall provide to him all reasonable assistance to facilitate the handover or transfer of such obligations to the *Employer* or the *Employer's* nominee including briefing and providing information to the *Employer* or the *Employer's* nominee.

Guarantee 25

- 25.1 The *Guarantor* is a party to this contract for the sole purpose of guaranteeing the performance of the obligations of the *Consultant* hereunder and under each Package Order.

- 25.2 In consideration of the *Employer* appointing the *Consultant* in accordance with the terms of this contract, the *Guarantor*:

agrees that if the *Consultant* shall in any respect fail to perform any of its obligations arising under or out of this contract or a Package Order (as the same may be amended or varied from time to time) or shall commit any breach or fail to perform any warranty or indemnity set out in this contract or a Package Order (as the same may be amended or varied from time to time), then the *Guarantor* shall forthwith upon the *Employer's* demand perform and fulfil in the place of the *Consultant* each and every obligation, warranty or indemnity in respect of which the *Consultant* has defaulted or as may be unfulfilled by the *Consultant*, and the *Guarantor* shall indemnify and save harmless the *Employer* from any and all losses, damages, expenses, claims, costs or proceedings which the *Employer* may suffer or incur by reason of the said failure or breach;

confirms that it has full power and capacity to enter into this

contract and to give the guarantee set out herein, and that the guarantee shall not be revocable and shall be a continuing guarantee; and

agrees that the *Employer* is entitled to assign any of its rights under this guarantee at any time to any person who takes an assignment, novation or other transfer of this contract or the benefit thereof.

25.3 As between the *Guarantor* and the *Employer*, the *Guarantor* shall remain liable under clause 25.2 as if it were the sole principal obligor and not merely a guarantor

25.4 The *Guarantor* shall not be discharged nor shall its liability be affected by anything which would not discharge it or affect its liability if it were the sole principal obligor including, but not limited to:

(a) any amendment, modification, waiver, consent or variation, express or implied, to the *framework scope* or the *Scope* or *services* under a Package Order or to this contract or any Package Order or any related documentation;

the granting of any extensions of time or forbearance, forgiveness or indulgences in relation to time to the *Consultant*;

the enforcement, absence of enforcement or release of the contract or any Package Order or of any security, right of action or other guarantee or indemnity;

the dissolution, amalgamation, reconstruction, reorganisation of the *Consultant* or any other person;

the illegality, invalidity or unenforceability of or any defect in any provision of the contract or any Package Order or any of the *Consultant's* obligations under the contract or any Package Order or;

any indulgence or additional or advanced payment, forbearance, payment or concession to the *Consultant*;

any compromise of any dispute with the *Consultant*;

any failure of supervision to detect or prevent any fault of the *Consultant*;

any assignment of the benefit of the contract or any Package

Order.

- 25.5 Without prejudice to the generality of clause 25.2, the *Employer* shall have the right, as its sole option, in the event of any default by the *Consultant* to engage another consultant, other than the *Guarantor* or any nominee of the *Guarantor* to Provide the Services under any Package Order and the *Guarantor* undertakes to pay any additional costs (whether direct or indirect) thereby incurred by the *Employer*.
- 25.6 The *Guarantor* agrees that any decision of any adjudicator appointed in accordance with this contract or a Package Order and/or any court and/or any agreement reached between the *Consultant* and the *Employer* in respect of or in connection with this contract or a Package Order shall be binding on the *Guarantor*, provided always that the *Guarantor* shall have available to it such rights of appeal or challenge as the *Consultant* would have or would have had.

Disputes

26

Dispute Resolution 26.1

Any dispute or difference between the Parties as to the construction of this contract or any matter or thing of whatsoever nature arising under this contract or in connection therewith (a "Dispute") shall be resolved pursuant to the terms of this clause 26.

Managerial Discussions 26.2

Without prejudice to the Parties' rights at any time to refer Disputes to adjudication in accordance with this clause 26 the Parties shall each use their reasonable endeavours to resolve any Dispute which may arise by means of prompt, bona fide discussion at a managerial level appropriate to the Dispute in question.

Adjudication Procedure 26.3

Either party may give notice at any time of its intention to refer to adjudication a Dispute arising out of or in connection with this contract and such adjudication shall be conducted in accordance with the Scheme for Construction Contracts (England and Wales) Regulations 1998. The adjudicator shall be agreed between the Parties or failing which, nominated by the London Court of International Arbitration.

Joinder 26.4

(1) If a Dispute arising under this contract raises issues of fact or law which are the same as, or relate to issues raised in an unresolved dispute between the *Employer* and any Other (a "Related Dispute"):

- (a) the *Employer* may require a representative of the parties in the Related Dispute to meet with the

parties under this contract and endeavour to resolve both the Related Dispute and the Dispute; and

- (b) the *Employer* may refer the Related Dispute to an adjudicator or court to which the Dispute has been referred under this contract or may refer the Dispute to an adjudicator or court to which the Related Dispute had been referred and the proceedings shall be consolidated, save where the adjudicator or court shall in its absolute discretion determine that it is not possible to consolidate the proceedings; and
 - (c) any dispute as to whether the Dispute raises issues of fact or law which are the same as or related to issues of fact or law in the Related Dispute shall be resolved by the adjudicator or court to which the Dispute and the Related Dispute have been referred, provided that, if the adjudicator or court decides that such issues of fact or law do not arise in the Related Dispute this clause 26.4 shall cease to apply; and
 - (d) the adjudicator to whom the Dispute and the Related Dispute have been referred shall have power to make such decisions, directions and all necessary orders and awards in respect of the Dispute and the Related Dispute in the same way as if the procedure of the High Court as to joining one or more defendants or joining co-defendants or third parties was available to the parties and to him.
- (2) The *Employer* may only refer a Related Dispute to the adjudicator appointed in relation to a Dispute if the adjudicator receives particulars of the Related Dispute within seven days of the referral of the Dispute to the adjudicator under this contract and may only refer a Dispute to the adjudicator appointed in relation to a Related Dispute if the adjudicator receives particulars of the Dispute within seven days of the referral of the Related Dispute to the adjudicator.

**Final and Binding
Decision** 26.5

The Parties may agree that the adjudicator's decision shall be final and binding and shall finally determine any Dispute, or in the absence of such agreement may otherwise refer such Dispute to the courts of England and Wales for further determination

Third Party Rights

27

- 27.1 With the exception of *DfT*, a person or organisation who is not one of the Parties may not enforce a term of this contract under the Contracts (Rights of Third Parties) Act 1999.

CONTRACT DATA

Part one - Data provided by the *Employer*

The Data which will apply to all work under the Framework Agreement is

- The Employer is
Name High Speed Two (HS2) Limited
Address Eland House, Bressenden Place, London SW1E 5DU
- The Framework Information is in Annexure 1
- The *framework scope* is in Annexure 2
- The *selection procedure* is in Annexure 3
- The *quotation procedure* is in Annexure 4
- *DfT* is Department for Transport of Great Minster House, 76 Marsham Street, London SW1P 4DR.
- The *end date* is 02 July 2016, which may be extended by the *Employer* by up to 36 months
- The framework consultants are:

Lot 1	Lot 2	Lot 3	Lot 4
Bruton Knowles	Bruton Knowles	Capita Symonds	Capita Symonds
Capita Symonds	CBRE	Carter Jonas	CBRE
Carter Jonas	Colliers	DTZ	Cushman & Wakefield
GL Hearn	DTZ	Lambert Smith Hampton	Deloitte
Keppie Massie	GVA Grimley	Montagu Evans	DTZ
Lambert Smith Hampton	Jones Lang LaSalle	Mouchel	GL Hearn
Montagu Evans	Lambert Smith Hampton	Savills (UK)	GVA Grimley
Mouchel	Montagu Evans		
Strutt & Parker	Mouchel		
Valuation Office Agency	Valuation Office Agency		

The Data which will apply to all Package Orders is

The terms and conditions set out in Annexure 7.

Part two - Data provided by the *Consultant*

The Data which will apply to all work under the Framework Agreement is

- The Consultant is

Name: Lambert Smith Hampton Group Limited

Address: United Kingdom House, 180 Oxford Street, London, W1D 1NN

- The quotation information is in the quotation procedure.

The Data which will apply to all Package Orders is

Maximum rates and prices set out in the Commercial Schedule in Annexure 5.

ANNEXURE 1

Framework Information

1. EMPLOYERS STRATEGIC OBJECTIVES

1.1 The Consultant provides services to support the Employer achieve its strategic objectives which include:

For the Phase 1 project:

- to deposit a hybrid Bill by October 2013 and obtain Royal Assent by May 2015;
- to deliver a safe and affordable design suitable for the requirements of the Parliamentary procedures while controlling the overall cost of the project;
- to produce an acceptable and proportionate Environmental Statement;
- to develop and maintain a set of undertakings and assurances during negotiations with stakeholders and third parties which meet their concerns while controlling the overall cost of the project;
- to secure a funding programme for the implementation of the project;
- to develop and establish the commercial agreements necessary for the delivery of the project;
- to develop the Employer's capability and organisation and make other prudent preparations beneficial for the next stage of the project, if appropriate; and
- ensure value for money at each stage of development.

For the Phase 2 project the overall objective for the consultation phase is to enable the Secretary of State to announce a decision on the preferred scheme for Phase 2 by December 2014. The following strategic objectives are instrumental to achieving the overall aim:

- to refine the provisional scheme proposals (including associated sustainability appraisals) through informal engagement with key stakeholders ahead of formal public consultation.
- to thoroughly prepare the consultation team and produce robust, high quality materials and demonstrations ready for the start of formal public consultation.
- to run a formal public consultation process efficiently with the highest standards of professionalism and integrity, treating all stakeholders equally with respect and impartiality in order to achieve a positive outcome.
- to help analyse and respond to issues emerging from consultation to further refine the scheme proposals (including associated sustainability appraisals).

- to act in such a manner to minimise the risk of challenge to the consultation process and scheme proposals and to respond promptly to all FOI and EIR requests.
- to develop the proposals to deliver an affordable scheme underpinned by a compelling investment case and consistent with emerging approaches from Phase 1.
- to explore the case for further extensions of the high speed route in response to directions from the Secretary of State.

Framework Panels

The *Employer* has entered into a number of framework agreements with *framework consultants* and has compiled the following Framework Lots:

Reference	Lot
1	Valuation Services
2	Estates Services
3	Property Management Services
4	Urban Regeneration/Commercial Development Advice

The Framework Lot members are *framework consultants* who competed for and were awarded framework agreements under OJEU notice 2012/S 244-401862.

The *Consultant* has been appointed under its Framework Agreement to the following Lots:

Lot 1 – Valuation Services

Lot 2 – Estates Services

Lot 3 – Property Management Services

The *Employer* may consider and discuss with relevant *framework consultants* how they might, if desirable, collaborate with other *framework consultants* appointed to other Framework Lots.

The *Employer* may award a Work Package to a *framework consultant*, the Scope of which includes a management and co-ordination role in respect of other *framework consultants* who have been awarded a related Work Package.

2. CO-OPERATION

- 2.1 The *Employer* may, from time to time, wish to consult with the *Consultant* in relation to future Work Packages. The *Consultant* agrees to provide any reasonable cooperation and advice which the *Employer* seeks prior to entering into a Package Order, acknowledging that unless and until the *Employer* and the *Consultant* enter into a Package Order, the *Consultant* shall not be entitled to any reimbursement for activity in relation to the Framework Agreement.
- 2.2 When the *Employer* and the *Consultant* have entered into a Package Order, the *Employer* may request the *Consultant* and the *Consultant* agrees to attend any meetings and to provide any necessary cooperation with Others where this is considered by the *Employer* to be beneficial to the Work Package in question or to the HS2 Programme as a whole.

3. PERFORMANCE REVIEW

- 3.1 At 12 monthly intervals, or at such other intervals as the Parties may agree to from time to time, the *Employer* and the *Consultant* shall undertake a formal review of the performance of the *Consultant* against the key performance indicators. The *Consultant* and the *Employer* shall discuss any ways in which the performance of the *Consultant* may be improved and may agree from time to time revisions to such key performance indicators as may be appropriate to encourage and measure such performance improvements.
- 3.1 The key performance indicators may include indicators relating to the following aspects of performance such as:
- timely production of deliverables;
 - quality of deliverables;
 - delivering within the scheduled cost of the Work Package;
 - retention of key persons;
 - conflicts of interest;
 - stakeholder relations;
 - customer satisfaction; and
 - collaborative working.

ANNEXURE 2

Framework Scope

1. General

- 1.1 The *framework scope* relates only to the Project save for special circumstances where services may be required in relation to other parts of the Programme.
- 1.2 The *Consultant* provides services to support the *Employer* in its land and property undertakings and requirements in an efficient and timely manner which delivers requirements to appropriate standards and ensures that propriety and due process are followed.
- 1.3 The framework scope is delivered through Work Packages that will be allocated in accordance with the selection procedure in Annexure 3.
- 1.4 Work Packages fall into one of four Lots, which are:
 - Lot 1: Valuation Services
 - Lot 2: Estates Services
 - Lot 3: Property Management services
 - Lot 4: Urban Regeneration/Commercial Development Advice
- 1.6 When undertaking any Work Package the *Consultant* produces all materials to support any submission to the *Employer* and to any external stakeholder, statutory body or approval authority to which the *Employer* has an obligation to consult or seek approval.
- 1.7 When undertaking any Work Package the *Consultant* ensures that the services are integrated and co-ordinated with the other services being provided for the Programme by other professional services consultants of the *Employer* or by Others. This will include suppliers providing HS2 Ltd with appropriate data and records and interfacing with HS2 Ltd's management systems and ICT systems.
- 1.8 The scope of a Work Package awarded to the *Consultant* may include a management and co-ordination role in respect of other *framework consultants* who have been awarded a related Work Package.
- 1.9 In undertaking a Work Package the *Consultant* works in a collaborative manner with the *Employer*, other consultants engaged by the *Employer* and stakeholders to the extent and in the manner described within the Package Order Scope.
- 1.10 The *Employer* may require, from time to time or for certain packages, co-location of the *Employer* and some staff of the Professional Services Consultants in the *Employer's* offices. Details of such co-location requirements will be provided within the Package Order Scope.
- 1.11 HS2 Ltd requires *Consultants* to manage the variety and scale of properties along the Phase 1 (London to Birmingham) and Phase 2 (Birmingham to Manchester and Leeds) routes.
- 1.12 *Consultants* may use sub-consultants where required to supplement its skills and resources.

2. Lot 1 Scope – Valuation Services

2.1 Valuations of property assets will be required in connection with the acquisition (by agreement and by compulsory purchase), and disposal of property, the management of property (for example rental valuations, rating valuations), for development appraisals (e.g. regeneration projects around HS2 station sites) and for strategic planning and management information (e.g. property cost estimates and asset valuations of the HS2 Ltd property portfolio).

2.2 Consequently, HS2 Ltd requires *Consultants* to be able to demonstrate a good capability and track record in undertaking property valuations for all of these requirements, including but are not limited to:

- a) Acquisition of property by compulsory purchase and including the valuation and assessment of all heads of claim, including claims for severance/injurious affection, disturbance, total extinguishment (including loss of profits) and equivalent reinstatement, and related valuation of other assets such as plant and machinery/forced sale.
- b) Valuations for Part 1 claims under Land Compensation Act 1973.
- c) Valuations of property assets for transfer between Government Departments, by vesting or inter Government transfer.
- d) Valuations for rental purposes, either where HS2 Ltd rents in property (e.g. survey licences or compound sites) or leases out property, to maximise income and provide good estates management pending possession for scheme purposes.
- e) Rating valuations and appeals.
- f) Valuations for presentation of evidence to Parliamentary select committee or Upper Tribunal.
- g) Property Cost Estimate for all phases of HS2, including review of plus and minus effects of engineering options on property costs, and of future disposal proceeds from property disposals.
- h) Portfolio Asset management – red book valuation of the HS2 estate.
- i) Analysis of the effects of HS2 on property values in a given area.
- j) Valuations for the sale of surplus property either through Critchel Down or on the open market.
- k) Valuations for development and regeneration purposes, particularly on a residual basis for development appraisal and negotiation of JVs and Development Agreements.

2.3 Valuations to the appropriate professional standards (including RICS standards) are to be provided by the *Consultant* where necessary in the provision of the Services outlined above. Customers may require independent stand- alone valuations which can take a number of forms including but not limited to:

- a) Full valuations.
- b) Valuations in accordance with RICS Valuation – Professional Standards March 2012, capital and rental values.
- c) Desk top valuations.

- d) Valuations based upon property information provided by the Customer, without the need for inspection – capital and rental values.

2.4 Valuations of all property types may be required, and across all geographic areas affected by HS2 Phases 1 and 2. This takes in a large part of England and includes the main urban centres of London, Birmingham, Manchester, East Midlands, Sheffield and Leeds, plus the less populated and rural areas between them. Consequently, we will be looking for general valuation experience and capacity to handle the wide scope required, but also local and niche expertise in key areas such as:

- a) Residential - urban and rural
- b) Agricultural and rural businesses
- c) Commercial – offices, industrial, retail
- d) Community, Leisure and Sports facilities
- e) Development Land
- f) Historic and Heritage property

2.5 Provide performance and progress reporting to HS2 Ltd as required.

3. Lot 2 Scope – Estates Services

- 3.1** The overall requirement for Lot 2 is that the *Consultant* provides estates services, property advice and strategic guidance for HS2. The *Consultant* will also carry out negotiations towards a successful conclusion for the project. The *Consultant* is to provide services to the required quality and programme constraints in order to meet the government's objectives for delivery of HS2.

The Lot 2 Work Package activities anticipated include but are not limited to:

3.2 Acquisition and disposal services

- a) The *Consultant* will provide advice and guidance covering all significant facts, setting out actions, negotiating strategies and anticipated outcomes.
- b) Following agreement with HS2 Ltd, the *Consultant* will undertake and manage negotiations through to a satisfactory conclusion for HS2 Ltd and will provide a comprehensive final report to support a recommendation on a figure for settlement.
- c) In the event that a satisfactory settlement cannot be reached, the *Consultant* will advise on the appropriate courses of action and represent HS2 Ltd in any further proceedings, where required.
- d) The *Consultant* will advise on acquisitions for a diverse range of properties including residential agricultural, retail, leisure, and large commercial businesses needed for the construction, operation and maintenance of HS2 either under compulsory purchase terms or by advance purchase under private treaty.
- e) This may include but is not limited to:
 - Acquisition and disposal of freehold and leasehold property.
 - Negotiation and settlement and taking possession of a variety of property types, development sites, occupiers and dealing with the various heads of claims.
 - Negotiation for temporary accommodation for site offices and construction work sites.
 - Settlement of compensation claims by negotiation with third parties.
 - Advising on relocation solutions.
 - Providing expert witnesses at Upper Tribunal (Lands Chamber) where compensation is disputed.
 - Land assembly strategy and implementation of the compulsory purchase orders (CPO's).
 - Securing possession of the land required and passing on to Property Management, advising on associated risks and liabilities.
 - Managing the interface with owners / occupiers affected by partial land take.
 - Following agreement with HS2 Ltd, the *Consultant* will undertake and manage the marketing and disposal through to a satisfactory conclusion

and will provide a comprehensive final report to support a recommendation, including any need for claw back, with advice on amounts and mechanism

3.3 Support services for exceptional hardship, long term hardship and safeguarding schemes

- (a) The *Consultant* will provide advice covering all aspects of the exceptional hardship scheme, long term hardship scheme and safeguarding schemes that HS2 Ltd is currently running, setting out strategies for further development and compensation for blight in line with the government position.
- (b) The *Consultant* will undertake, where required a review of the schemes that are running, and also proposed to run for future phases. The *Consultant* will provide a comprehensive final report and present the findings to support the recommendations.

3.4 Support CPO work

- (a) The *Consultant* will provide advice and guidance covering all significant facts, setting out actions, negotiating strategies and anticipated outcomes.
- (b) Following agreement with HS2 Ltd, the *Consultant* will undertake and manage negotiations through to a satisfactory conclusion for HS2 and will provide a comprehensive final report to support a recommendation on a figure for settlement.
- (c) In the event that a satisfactory settlement cannot be reached, the *Consultant* will advise on the appropriate courses of action and represent HS2 Ltd in any further proceedings, where required.
- (d) The *Consultant* will provide compulsory purchase advice. This may include but is not limited to:
 - Procedural and negotiation advice to compulsorily acquire land from third parties.
 - Strategic and procedural advice on property matters at all stages of the CPO process from inception through, bill deposit, parliamentary process, Royal Assent, exercise of compulsory purchase powers, negotiation, land acquisition, compensation and cases of referral to the Upper Chamber (Land Tribunal).
 - Advice and guidance on dealing with matters arising from all heads of claim under the compensation code, including claims for severance/injurious affection, disturbance, total extinguishment, (including loss of profit) and equivalent reinstatement and related other assets such as plant and machinery sale.
 - Upon receipt of notices served under statutory blight, provide advice for dealing with each case, taking account of the DfT and HS2 policy framework in this area. Provide assistance in responding to blight claims and in the service of counter notices where required..
 - In due course, CPO advice on Part 1 claims under the Land Compensation Act 1973.
 - Strategic advice on the implementation of the CPO powers.
 - Advice and negotiation for the withdrawal of petitions and expert evidence and in Select Committee.

- Strategy for taking vacant possession, and for taking forceful possession of properties upon the service of notices under compulsory purchase.
- Advice where HS2 Ltd owns or occupies land which is subject to a CPO being promoted by another body. The advice will include potential objection/petition to the CPO and appearance at public inquiry, if appropriate. It will also include negotiation for the sale of land and settlement of compensation, if necessary by referral to the Upper Tribunal (Lands Chamber).

3.5 **Property cost estimate review and update**

- (a) The *Consultant* will provide advice and guidance covering the current property cost estimate, setting out a thorough review of the findings.
- (b) Following agreement with HS2 Ltd the *Consultant* will provide a comprehensive report and will present the findings in support of the outcomes. The *Consultant* will make recommendations for a comprehensive update setting out detailed list of the recommendations.
- (c) The *Consultant* will carry out an update of the property cost estimate to include as a minimum the following:
 - Total forecast of compensation broken down by property, heads of claim and a details of the specific and general assumptions which have been made.
 - An analysis of statutory interest due on payments.
 - The HS2 Ltd position with regard to Stamp Duty Land Tax where this is applicable.
 - Input to the annual cash flow analysis based on the HS2 programme.
 - Financial appraisals to inform the selection of route options and key issues which are essential to minimise compensation.
 - Review and analysis of construction activity and how temporary construction sites and permanent land acquisition will affect compensation liability.
 - Updates to the Property cost estimates as aspects of the scheme change in response to design development and value engineering.

3.6 **Valuation of residential commercial and agricultural businesses**

- (a) The *Consultant* will provide advice and guidance covering all significant facts, setting out actions, negotiating strategies and anticipated outcomes.
- (b) Following agreement with HS2 Ltd, the *Consultant* will undertake and manage negotiations through to a satisfactory conclusion for HS2 and will provide a comprehensive final report to support a recommendation on a figure for settlement.
- (c) In the event that a satisfactory settlement cannot be reached, the *Consultant* will advise on the appropriate courses of action and represent HS2 Ltd in any further proceedings, where required.
- (d) The *Consultant* will advise valuations to the appropriate Framework standards (including RICS standards). HS2 Ltd may require independent stand alone valuations which can take a number of forms including:

Full valuations

- In accordance with RICS Valuation – Professional Standards March 2012, capital and rental values

Desk top

- Based upon property information provided by the Customer, without the need for inspection – capital and rental values

Capital Charge

- For internal charging purposes. Valuations to be based upon current open market existing use value, alternative use value where that is greater, and apportioned between land and buildings, with an assessment of remaining economic life

Independent 'check' valuations

- (e) Verification of capital and rental values
- (f) Other valuation services may include but are not limited to:
 - Agreeing valuations for agricultural and industrial businesses, working with experts in plant and machinery to agree the valuations.
 - Forensic accountancy advice in assessing land values, heads of claim, loss and profit.
 - Preparation of reports and valuation to support individual acquisitions and settlement of compensation.

3.7 Rateable value

- (a) The *Consultant* will provide advice and guidance covering all significant facts, setting out actions, negotiating strategies and anticipated outcomes.
- (b) Following agreement with HS2 Ltd, the *Consultant* will undertake and manage negotiations through to a satisfactory conclusion for HS2 and will provide a comprehensive final report to support a recommendation on a figure for settlement.
- (c) In the event that a satisfactory settlement cannot be reached, the *Consultant* will advise on the appropriate courses of action and represent HS2 Ltd in any further proceedings, where required.
- (d) The *Consultant* will provide professional services in respect of non-domestic rating issues to include as a minimum:

General

- Checking rates bills for accuracy of fact and calculation.
- Providing forecasts for budgeting purposes including apportionments for lettings and estimates for new buildings.

Baseline liabilities

- Providing advice on baseline certificates and where appropriate challenging these to generate savings during transitional phasing.

Full payment management

- Providing a full service checking and paying HS2 Ltd rate bills, service charges, insurance and rent including general administration and baseline liability services, as above to ensure HS2 Ltd liabilities are correct and mitigated to the fullest extent without going to appeal and should include the potential initial consultation fees for compiled list and material change appeals as set out below and a proactive strategy to mitigate changes in liability arising from new buildings and alterations.

Compiled list appeals

- Providing initial advice on the likelihood of success.
- Lodging formal appeals against the rating assessment, and negotiating with the relevant body in an attempt to agree to a lower rateable value.
- Forecasting and checking rate refund calculations from the Billing Authority.
- Checking interest payment calculations issued by the Billing Authority.
- In light of any such appeals examine the baseline certificate to ascertain whether this can be challenged to produce further savings.

Material change appeals

- Material change appeals.
- Applications for void relief.
- Applications for charitable relief.
- Appropriate splits and mergers.

Lands/valuation tribunal hearings

- Advising the Customer as soon as it becomes apparent that a suitable agreement cannot be achieved through the normal appeal process.
- Recommending the most appropriate course of action to be taken and advising fully on the positive and negative implications.
- Consulting on the procurement of external assistance, for example appointing legal support.
- Professional support at Tribunals.

Acquisition of statutory authority assets such as TfL & NR land

3.8 Letting services

- (a) The *Consultant* will provide a lettings services, giving advice covering all significant factors affecting lettings, setting out actions and negotiating strategies.
- (b) The *Consultant* will undertake and manage negotiations on behalf of HS2 Ltd, as landlord or tenant, through to a satisfactory conclusion and provide a comprehensive final report and support recommendations. In the event that a satisfactory conclusion cannot be reached the *Consultant* will advise on the appropriate course of action and may be required to represent HS2 LTD in any further proceedings, where required.
- (c) The *Consultant* will provide lettings services across the portfolio of properties, and advice on strategy in agreeing the terms of short and long terms lettings to protect the HS2 position.

3.9 Lease renewals, lease breaks and lease expiry

- (a) The *Consultant* will provide a lease renewals, lease breaks and lease expiry service, giving advice covering all significant factors affecting leases, setting out actions and negotiating strategies.
- (b) The *Consultant* will undertake and manage negotiations on behalf of HS2 Ltd, as landlord or tenant, through to a satisfactory conclusion and provide a comprehensive final report and support recommendations. In the event that a satisfactory conclusion cannot be reached the *Consultant* will advise on the appropriate course of action and maybe required to represent HS2 Ltd in any further proceedings, where required.
- (c) The *Consultant* will provide lease management services across the portfolio of properties, and advice on strategy in agreeing the lease terms and course of action an imminent break or expiry to protect the HS2 Ltd's position.

3.10 Rent reviews

- (a) The *Consultant* will provide a rent reviews service, giving advice covering all significant factors affecting rent reviews, setting out actions and negotiating strategies.
- (b) The *Consultant* will undertake and manage negotiations on behalf of HS2 Ltd, as landlord or tenant, through to a satisfactory conclusion and provide a comprehensive final report and support recommendations. In the event that a satisfactory conclusion cannot be reached the *Consultant* will advise on the appropriate course of action and maybe required to represent HS2 Ltd in any further proceedings, where required.
- (c) The *Consultant* will provide rent review services across the portfolio of properties, and advise on strategy in agreeing the rent review to protect the HS2 Ltd position.

3.11 Surveys

- (a) On receipt of an order the *Consultant* will provide comprehensive advice to HS2 Ltd as landlord or tenant on the course of action to be taken on surveys. Advice will take account of the statutory position, the likely use of the property, the current condition and the lease provisions of the building.
- (b) The *Consultant* will provide guidance covering all significant factors and giving recommendations. The *Consultant* will provide a comprehensive final survey report giving photographic evidence, charts and presentations to support the outcome. A separate and further report may be required to support a recommendation for the way forward.
- (c) The *Consultant* will provide the survey(s). This may include but is not limited to:
 - Advice on condition surveys with respect to purchase, renovation, maintenance, and disposal to make an assessment of the current condition and any defects for the avoidance future claims.
 - Advice in relation to dealing with settlement from ground works, including monitoring settlement during and after tunnelling, methods for assessment for buildings within the settlement contours, and the principles by which compensation would be assessed.

3.12 Strategic advice, including the preparation and development of an Estate Strategy

- (a) The *Consultant* will work with HS2 to provide appropriate strategic advice and/or develop a comprehensive estate strategy setting out the business need and justification, any existing estate options, funding options and their implications.
- (b) The *Consultants* will recommend a way forward which demonstrably represents whole life value for money. The evidence will be underpinned with full risk and benefits analysis to allow HS2 Ltd to make informed decisions.
- (c) Advice can be provided in many areas including but not limited to:
 - Land assembly
 - Asset management
 - Development appraisal
 - Planning matters
 - Relocations
 - Regeneration

3.13 Options appraisals and business case development for proposed transactions

- (a) The *Consultant* will provide advice and guidance covering all significant business case and appraisal development matters, setting out actions, negotiating strategies and anticipated outcomes.
- (b) Following agreement with HS2 Ltd the *Consultant* will undertake appraisals, complete the business case and manage the proposed property transaction to a satisfactory conclusion. The *Consultant* will provide a comprehensive final report and present the findings to support the transaction.
- (c) The *Consultant* will provide professional services in respect of business case development taking the following form:
 - Define the objectives, examining the options and weighing up the costs, benefits and uncertainties in order to inform the decision.
 - Objectively and systematically evaluate the best way to achieve the property transaction, exploring costs and benefits of acquiring, Evaluate the options and then compare them fully and fairly on how they would perform against the criteria.
 - Clearly present the information in a business case to support the outcomes or benefits of the proposed decision to carry out the property transaction.

3.14 Development consultancy

- (a) The *Consultant* will provide advice covering all significant development matters, setting out facts and negotiating strategies and anticipated outcomes.
- (b) The *Consultant* will undertake a review of the property assets to help HS2 Ltd reach the planning, strategic, economic and regeneration goals. The *Consultant* will provide a comprehensive final report and present the findings to support the recommendations.

- (c) The *Consultant* will provide professional development services for HS2 Ltd as landowner or to facilitate development and regeneration goals. The services will include but are not limited to:
- Planning and regeneration matters varying land development sites including commercial, residential and mixed use.
 - Development partner and framework selection and how this can be improved.
 - Strategic marketing for government projects and development positioning.
 - Service assurance.

3.15 Daylighting/sunlighting/overshadowing and rights of light

- (a) Provide advice and about daylighting/sunlighting/overshadowing where there is a potential impact. This will cover an analysis of how adjoining, properties are affected by the scheme and provide data to ensure that any residential accommodation in the scheme complies with the British Standard on Lighting.
- (b) In the case of rights of light, advice can be given when analyses are carried out to show what adjoining properties might lose light as a result of the project.

3.16 Party wall awards

- (a) Provide advice to HS2 Ltd where property acquisition is affected, as building owner or where notices are served on the company by an adjoining owner. Advice will be required in a timely manner so notices can be served at the right time and awards entered into as required. Detailed schedules of condition are to be prepared.
- (b) Advise on application of the Party Wall Act and the impact party wall awards would have on the overall construction programme.

3.17 Way-leaves and easements

- (a) Provide advice and guidance covering all significant facts, setting out actions, negotiating strategies and anticipated outcomes.
- (b) Following agreement with HS2 Ltd, the *Consultant* will undertake and manage negotiations through to a satisfactory conclusion for HS2 Ltd and will provide a comprehensive final report to support a recommendation on a figure for settlement.
- (c) In the event that a satisfactory settlement cannot be reached, the *Consultant* will advise on appropriate courses of action and represent the HS2 Ltd in any further proceedings, where required.

3.18 General advice on estate and property management

- (a) HS may seek advice on all aspects of estate services to support the delivery of the acquisitions workload, and the statutory, regulatory and business objectives.
- (b) This may include, but is not limited to:
- Advice and support can be provided in many areas including but not limited to:

- Advice in the development of policy papers and position statement to set the government position on property matters.
 - Property advice in support of minimising petitions against the scheme.
 - Support for HS2's community and liaison programme.
 - Provide performance and progress reports to HS2 Ltd as required.
- (c) The *Consultant* must be considerate of the HS2 Property Information Centre. This database is currently under procurement, however the *Consultant* must ensure that the services and systems supplied can interface and are compliant with this database and with property industry standard best practice solutions in this area.

4. Lot 3 Scope – Property Management Services (PMS)

4.1 Introduction

- (a) Currently properties are acquired under the Exceptional Hardship Scheme and are managed by the Highways Agency on behalf of HS2 Ltd.
- (b) From when the Secretary of State for Transport gives Directions for the Safeguarding of the route in Spring 2013 to Royal Assent (programmed for March 2015), properties will be acquired either as a result of advanced purchases through Blight notices, the long term hardship scheme or the voluntary purchase scheme.
- (c) After Royal Assent, HS2 Ltd will have CPO powers to acquire properties, but it is expected that blight notices, long term hardship and voluntary purchase applications will still be received.
- (d) It is anticipated that the majority of purchases and any subsequent lettings and disposals will be of residential properties, though there will be a significant number of agricultural and commercial interests – the latter covering a variety of property types and sizes.

4.2 The PMS requirements include, but are not limited to:

- (a) Pre-acquisition Support
 - Supporting HS2 Ltd case officers in preparing for the acquisition; liaison with lawyers, engineers and other professionals. Preparing data bases to interact with HS2 data bases and record information.
- (b) Project Management , including project management of demolition work; architectural and planning services to implement new build and demolition works
 - HS2 may have to undertake new build and repair work and to demolish properties. Whilst it is anticipated that building contractors and demolition firms will be directly employed by HS2 Ltd, HS2 Ltd may require *Consultants* to access architectural and planning services to ensure that planning consent can be secured for any works, (including demolition). Thereafter the works will need to be project managed and monitored by the *Consultants*.
- (c) Facilities Management
 - “Hard” FM – arranging and managing property repairs, including those repairs to ensure the property complies with regulations.
 - “Soft” FM - residential cleaning services prior to letting/disposal or commercial cleaning services.
 - Security services for vacant properties, including regular visits/inspections, hiring of security personnel and house siting services, to prevent vandalism and squatting.
 - House clearance services, supported where appropriate with auctioning of items.

(d) Inspection and condition surveys

- “Before” and “after” condition surveys for properties above or near tunnels (to cover the structure as well as general condition of the property). These surveys should record all cracks and defects before the tunnelling and engineering works begin and after they have finished. These surveys should also provide estimates of how long any repair work would take to do and at what cost.
- Condition surveys for acquisitions, lettings and disposals should include: current condition, energy rating; where appropriate an assessment of the mechanical & electrical, plumbing, gas and heating systems; estimate of cost of any repairs and the time needed to undertake them; a priority list of repairs to bring the property up to an acceptable standard and where appropriate a planned preventative maintenance programme with whole life costings and a risk register.
- The surveys should include statutory obligations, including: asbestos; equality/access; and Health & Safety risks and issues. The survey should provide clear recommendations.

(e) Rent and Service Charge collection

- HS2 Ltd will have an industry standard property management data system. The *Consultants’* system shall be able to interact with the main industry standard systems. HS2 Ltd will require regular reports on income collection and performance, highlighting any areas of concern and how these will be addressed speedily.
- Rent and service charges shall be collected in a timely fashion and non payments followed up with appropriate action, (including where necessary bailiff services) rather than being allowed to drift.

(f) Inventory Checks

- Inventories (recording what furnishings and appliances are there and their condition; and the decorative condition of the property generally) will need to be undertaken pre letting, during the letting and post letting. Any structural defects or other items requiring further investigation should also be reported to HS2 Ltd.

(g) Any other related services.

5. Lot 4 Scope – Urban Regeneration/Commercial Development Advice

- 5.1 The overall requirement for Lot 4 is that the *Consultant* provides urban regeneration and commercial development advice and strategic guidance for HS2 Ltd. The *Consultant* will also carry out negotiations towards a successful conclusion for the HS2 project.
- The Lot 4 Work Package activities anticipated include but are not limited to:
- 5.2 Regeneration/Development consultancy.
- 5.3 The *Consultant* will provide advice covering all significant development matters, setting out facts and negotiating strategies and anticipated outcomes.
- 5.4 The *Consultant* will undertake a review of the property assets to help HS2 Ltd reach the planning, strategic, economic and regeneration goals. The *Consultant* will provide a comprehensive final report and present the findings to support the recommendations.
- 5.5 The *Consultant* will provide professional development services for HS2 Ltd as landowner or to facilitate development and regeneration goals. The services may include but are not limited to:
- (a) Stakeholder/community engagement and an understanding of local/regional needs and requirements including socio economic analysis and the preparation of business cases.
 - (b) Maintain a collaborative relationship with HS2 Ltd's development partners and stakeholders involved in potential regeneration and development opportunities.
 - (c) The *Consultant* will need to interface with an industry standard best practice IT system which is being procured and not yet confirmed.
 - (d) Planning and regeneration matters/strategies, varying land development sites including commercial, residential and mixed use.
 - (e) Development consultancy, master planning and feasibility work including Section 106, 278 etc. negotiations.
 - (f) Preparation of design briefs/statements in line with HS2 Ltd's strategic requirements.
 - (g) Supporting services for design and construction analysis/monitoring.
 - (h) Environmental and Health and Safety including sustainability strategies, BREEAM and industry best practice.
 - (i) Assessment of private sector demand and market interest.
 - (j) Undertake development and viability appraisals.
 - (k) Cost consultancy including development costs, site servicing, remediation etc.
 - (l) Advice on site assembly including compulsory purchase.
 - (m) Advice on development partner procurement and selection.
 - (n) Financial modelling and advice.
 - (o) Taxation in relation to Property and Property Transactions including national and local initiatives.
 - (p) Preparation of funding applications/green book appraisals to maximise other funding streams.
 - (q) Advice on delivery vehicles including Joint Ventures, Joint Arrangement mechanisms and implementation strategies.

- (r) Investment strategies and business case development.
- (s) Commercial negotiations.
- (t) Any other related services.

6. Required Standard

- 6.1 In undertaking a Work Package the *Consultant* achieves the standard required and produces the deliverables ("The Required Standard") stated in the Package Order Scope.
- 6.2 In undertaking a Work Package the *Consultant* complies with the *Employer's* management processes and procedures included in the Package Order Scope.

ANNEXURE 3

ANNEXURE 3 Selection Procedure

Introduction

The *Employer* has entered into a number of framework agreements with *framework consultants*, including the *Consultant*.

The *Employer* has formed Framework Lots which are set out in the Framework Information.

The purpose of this *selection procedure* is to provide guidance on how the *Employer* selects *framework consultants* from the Framework Lots who will be instructed to submit quotations under Clause 15.1 of the Framework Agreement.

Selection of framework consultants to submit quotations

The *Employer* will invite *framework consultants* to submit a quotation in accordance with the quotation procedure in Annexure 4.

The *Employer* will invite the *framework consultants* to submit a quotation for a Package Order and will make its selection based upon relevant factors which may include the following:

- The terms of the Framework Agreement with the *framework consultant*;
- The delivery capacity of the *framework consultant*;
- The current financial standing of the *framework consultant*;
- Any special technical ability of the *framework consultant*;
- Consideration of programme requirements and delivery risks;
- The number of previous quotation opportunities offered to the *framework consultant*;
- Preferences of the *framework consultant*; and
- The past performance of the *framework consultant* in relation to any Package Order awarded under the Framework Agreement.

The *Employer* will manage the selection process to provide fair and equal opportunities to the *framework consultants* as far as is reasonably possible.

Should any performance issues arise in the delivery of services by a *framework consultant* then the *Employer* reserves the right to exclude that *framework consultant* from the consideration of firms to be selected for valuation opportunities until the *framework consultant* has demonstrated to the *Employer* that they have rectified the causes of the performance issues.

If necessary, the *Employer's* reasons for the decision regarding the *framework consultants* instructed to submit a quotation will be provided to *framework consultants* in the relevant Lot at the start of the Package Order competition.

Circumstances where the *Employer* may instruct only one *framework consultant* to submit a quotation are:

- When the *Employer* is satisfied, at its sole discretion, that the *framework consultant* who would deliver the most economically advantageous service can be determined on the basis of the original framework competition;
- When the *services* are required as a matter of urgency;
- When for technical or specialist reasons the services would best be performed by one *framework consultant*;
- When there are periods of high resource pressure and when in HS2 Ltd's opinion it is beneficial to allocate work so as to make best use of the overall resources available on the framework;
- When services not included in an original Package Order become necessary and cannot for technical or economic reasons be carried out by another *framework consultant* or are necessary to the later stages of the performance of the original Package Order; and
- When the services are a repetition of services carried out under the original Package Order.

Selection of framework consultants to submit quotations for valuation services under the Exceptional Hardship Scheme ("EHS")

It is envisaged that services relating to the EHS will ordinarily be provided under Lot 1.

The nature of, and procedures relating to, EHS valuation services require a specific approach to the selection of *framework consultants*. The procedures normally include provision for property owners to select a valuation firm as one of two firms which will provide valuations as part of the process for determining offer price. The *Employer's* selection procedure is aimed at ensuring a fair allocation of opportunities across the *framework consultants* to provide valuation services.

Normally a property owner will be given the opportunity to choose one firm from the list of *framework consultants* to give an element of independence. The *Employer* will then normally choose a consultant from the other *framework consultants* normally by way of mini-competition. This process will produce a list of two consultants who will undertake valuations as part of the procedure for determining the property value and hence offer price. If the valuations are within 10% of each other then the average will be taken. If the valuations are not within 10% of each other, the property owner will choose a third valuer from the original list of *framework consultants*.

ANNEXURE 4

Quotation Procedure

Introduction

This *quotation procedure* provides guidance on how the *Consultant* prepares and the *Employer* assesses a quotation for a proposed Work Package instructed under Clause 15.1 of the Framework Agreement.

Package Order information provided by the *Employer*

The *Employer* will prepare the Package Order information using a standard proforma and include:

- (a) the title of the Work Package and reference number;
- (b) a description of the Scope of the requirements;
- (c) details of the level of access that the *Employer* will make available to its own persons, places and things to facilitate completion of the Work Package;
- (d) details of the anticipated start and end dates;
- (e) details of the deliverables and delivery dates and or other conditions;
- (f) details of any specialist expertise, experience or qualifications required;
- (g) any constraints that apply to the delivery of the Work Package;
- (h) any changes to the Package Order conditions of contract that are deemed necessary;
and
- (i) Any other relevant information.

The *Employer* sends the Package Order information together with the award criteria to the *Consultant* and instructs the submission of a Package Order quotation.

Quotation information prepared by the *Consultant*

The *Consultant* prepares a Package Order quotation in the form required by the *Employer* that comprises the following documents:

- (a)
 - a plan setting out the *Consultant's* proposals for
 - 1) delivery of the services and deliverables;
 - 2) a quality statement;
 - 3) the resourcing of the Work Package include details of key personnel, CVs and an organisational chart;

- 4) a programme;
- (b)
 - The required commercial information setting out the *Consultant's* price for delivering the services;
- (c)
 - any further information requested by the *Employer*.

Assessment of the *Consultant's* quotation by the *Employer*

The *Employer* will evaluate the quotations received from the *Consultant* and other framework consultants in accordance with the criteria notified in the Package Order information.

The *Employer* will determine whether the *Consultant's* quotation represents value for money taking into account the technical quality of the *Consultant's* proposal and the proposed or anticipated price.

The *Employer* is under no obligation to accept the *Consultant's* quotation.

In accordance with the framework agreement the *Employer* may request the *Consultant* to submit a revised quotation.

The *Employer* may negotiate with the *Consultant* to finalise the documents comprising the Package Order.

Package Order award

The *Employer* will inform the *Consultant* of the outcome of its assessment.

Subject to internal governance the *Employer* awards the Package Order through issuing a contract award letter and issues a purchase order to the *Consultant*.

The *Consultant* confirms acceptance of the Package Order

ANNEXURE 5

S43(2)

Land and Property Professional Services Framework - Lot 1 - Quotation Request and Form of Instruction

Part 1 - Instruction to Bidders

Please complete the details below to indicate your quotation for this Work Package. Your quotation will constitute an offer capable of acceptance by High Speed Two (Hs2) Limited ("HS2") and shall remain open for acceptance for a period of 180 days from submission. Your quotation shall become a binding contract (to which the Package Order Standard Conditions contained within Annexure 7 of the HS2 Land and Property Professional Services Framework agreement apply) only when accepted by HS2 once HS2 has signed Part 5 below.

This document will form the Package Order Special Conditions if your quotation is accepted by HS2.

Part 2 – To be Completed by HS2

HS2 Reference number	[need to assign a reference number to this case]
Property name /address	
Property Location	[Select from Euston, London Met, Regions]
Property Description	Property type; Detached/semi ; number of beds; age/period
Property Value Band	[Select from Framework Agreement Table 1a] If approx. value not known give as much description as possible above
Ownership details	[ie is the property freehold/leasehold etc]
Valuation Type	[Select Visit or Desk Top]
Delivery date	[Specify date by which work is to be done]]

Part 3 – To be Completed by Bidder

Bidder name	<i>[Bidder inserts full corporate name]</i>	
Key personnel	<i>[Bidder inserts name of valuer undertaking valuation]</i>	
Fee	<i>[Bidder inserts fee which cannot be more than the maximum specified in the Framework Agreement Table 1a]</i>	
Statement of Bone fide Tender	I/We confirm that the undersigned are authorised to commit the Bidder to the contractual obligations contained in the Package Order Standard Conditions referred to above on the basis of this quotation. I/We confirm that the information supplied to you and forming part of this quotation including (for the avoidance of doubt) any information supplied to you as part of my/our initial tender to be appointed to the HS2 Ltd Land and Property Professional Services Framework, was true when made and remains true and accurate in all respects.	
Name (duly authorised to sign on behalf of the Bidder):	Signature:	Date

Part 4 – HS2 Ltd Response for Unsuccessful Bidders

Hs2 Ltd Decision:	Your Quotation is NOT accepted on this occasion.	
Name and Position		
Signature and Date		

Part 5 – Instruction to Proceed [ONLY Required for Successful Bidder]

Your quotation is accepted only when this section has been signed on behalf of HS2 Ltd.

Signed)
duly authorised to sign for)
and on behalf of)
HIGH SPEED TWO (HS2) LIMITED)

Name: Position: Date:

Part 6 – Case Details [DO NOT complete until successful Bidder has been selected]

Vendor Name	
Contact name & details	<i>[name, telephone number & e-mail (where available) of the owner or their representative]</i>
Valuation date	<i>[HS2 Ltd to insert date of application received under HS/EHS]</i>
Valuation	

ANNEXURE 6

Novation Agreement

BETWEEN:-

[] whose registered office is at [] ("the Guarantor").]

NOW IT IS HEREBY AGREED as follows:-

The Consultant hereby releases and discharges the Employer from any and all obligations and liabilities owed to the Consultant under the Appointment and accepts the obligations and

liability of the New Employer under the Appointment in lieu of the liability of the Employer.

Without prejudice to Clause 1.2, the Consultant [and Guarantor] warrants to the New Employer that [it][they] shall be liable for any loss or damage suffered or incurred by the New Employer arising out of any negligent act, default or breach by the Consultant in the performance of its obligations under the Appointment prior to the date of this Agreement. Subject to any limitation of liability in the Appointment, the Consultant [and Guarantor] shall be liable for such loss or damage notwithstanding that such loss or damage would not have been suffered or incurred by the Employer (or suffered or incurred to the same extent by the Employer).

The Consultant acknowledges that all fees and expenses properly due to the Consultant under the Appointment up to the date of this Agreement have been paid by the Employer.

The New Employer undertakes to perform the Appointment and to be bound by its terms in every way as if the New Employer were, and had been from the inception, a party to the Appointment in lieu of the Employer.

Proper Law and Jurisdiction

This Agreement and the rights and obligations of the parties hereto shall be governed and construed according to English Law. Any dispute shall be subject to the jurisdiction of the English Courts.

Contracts (Rights of Third Parties) Act 1999

Notwithstanding any other provision in this Agreement, nothing in this Agreement is intended to confer on any person any right to enforce any of the provisions of this Agreement which such person would not have had, but for the Contracts (Rights of Third Parties) Act 1999.

IN WITNESS whereof the parties hereto have executed this Agreement as a Deed the day and year first before written.

Executed as a Deed by _____)
 [_____] _____)
 acting by:- _____)

Director

Director/Secretary

Executed as a Deed by _____)
 [_____] _____)
 acting by:- _____)

Director

Director/Secretary

Executed as a Deed by)
[])
acting by:-)

Director

Director/Secretary

[Executed as a Deed by)
[])
acting by:-)

Director

Director/Secretary]

ANNEXURE 7

**PACKAGE ORDER STANDARD CONDITIONS – LAND AND PROPERTY PROFESSIONAL SERVICES
FRAMEWORK LOT 1**

1. DEFINITIONS AND INTERPRETATIONS

1.1 In these Package Order Conditions, unless the context requires otherwise, the following words and phrases shall have the following meanings:

“Applicable Laws”

any:

- (i) statute, statutory instrument, bye-law, order, directive, treaty, decree or law (including any common law, judgment, demand, order or decision of any court, regulator or tribunal);
- (ii) rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or
- (iii) industry code of conduct or guideline which relates to the Contract and/or the Goods and/or their manufacture, packaging, packing and/or delivery and/or the Services and/or the activities which are comprised in all or some of the Services or the use or application of the output from the Services

“Beneficiary”

the Employer, the Secretary of State for Transport, any subsidiary of the Secretary of State and the Department for Transport

“Business Day”

a day that is not a Saturday, Sunday or public or bank holiday in England

“Change in Control”

occurs where:

- (a) Control of the relevant entity is obtained (whether directly or as a result of obtaining Control of one or more other persons) by any person (either alone or together with persons acting in concert with it, as such expression is defined in the Takeover Code) who did not, at the date of the Contract, hold Control (whether directly or as a result of having Control of one or more other persons) of the relevant entity; or
- (b) a person who has Control (whether directly or as a result of having Control of one or more other persons) of the relevant entity at any time during the term of the Contract

ceases to have Control (whether directly or as a result of having Control of one or more other persons) of the relevant entity

"Commencement Date"	the date upon which the Contract is formed in accordance with Condition 2.1, or, if different, the date specified as the "Commencement Date" in the Package Order
"Control"	the power (whether direct or indirect) to direct or cause the direction of the affairs of an entity, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise
"Confidential Information"	all information (whether written, oral, in electronic form or in any other media) of a confidential or proprietary nature that is disclosed by or on behalf of the Employer obtained by or made available to the Consultant or its representatives
"Contract"	the contract between the Employer and the Consultant as formed in accordance with Condition 2
"Contract Manager"	such official of the Employer, or other person, as the Employer shall from time to time appoint to act on its behalf for the purpose of managing the Contract, as notified in writing by the Employer to the Consultant
"Consultant"	the person appointed by the Employer for the supply of the Goods and/or performance of the Services
"Consultant's Representative"	such competent person as the Consultant shall from time to time appoint to be its representative in relation to the performance of the Contract, who will receive and act on any directions given by the Contract Manager and whose appointment and contact details shall be notified in writing by the Consultant to the Employer
"Data Controller"	has the meaning set out in section 1 of the Data Protection Act 1998
"Data Processor"	has the meaning set out in section 1 of the Data Protection Act 1998
"Disputed Sum"	that part of an amount invoiced by the Consultant which is the subject of a bona fide dispute, as notified by the Employer to the Consultant under Condition 4.9
"EIR"	the Environmental Information Regulations 2004
"Employer"	the company named High Speed Two (HS2) Limited (company

number 06791686) whose registered office is at Eland House, Bressenden Place, London SW1E 5DU

"Excluded Matters"

any amounts payable by the Consultant under any of the indemnities referred to in Package Order Conditions 16.3, 20.4.2 and 24.1.1

"Expiry Date"

the date upon which all of the Services are complete and all of the Goods (if any) have been delivered, or, if any, the date specified as the "Contract End Date" in the Package Order Special Conditions

"FOIA"

the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or the Secretary of State or relevant Government Department in relation to such Act

"Goods"

the Goods to be supplied by the Consultant (if any) under the Contract

"Information"

has the meaning given under section 84 of FOIA and/or under regulation 2(1) of the EIR

"Insolvent"

where the Consultant:

- (a) gives notice under section 84 Insolvency Act 1986 of, or proposes or passes a resolution for, its winding up or in the case of a limited liability partnership proposes or determines that it will be wound up;
- (b) has a winding up petition presented against it;
- (c) has a winding up order or a notice of striking off made in respect of it;
- (d) has an administration order or an application for an administration order made in respect of it or has a notice of appointment of an administrator or a notice of intention to appoint an administrator filed in respect of it at any court;
- (e) proposes, makes or is subject to
 - (i) a company voluntary arrangement;

- (ii) a composition with its creditors generally;
- (iii) an application to a court of competent jurisdiction for protection from its creditors generally; (iv) a scheme of arrangement under Part 26 Companies Act 2006;
- (f) has a receiver or a provisional liquidator appointed over any of its assets, undertakings or income;
- (g) ceases to trade or appears, in the reasonable opinion of the Employer, to be likely to cease to trade;
- (h) is unable to pay its debts as they fall due; or the value of its assets are less than its liabilities, including its contingent and prospective liabilities;
- (i) is the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction

"Key Personnel"

any person specified in the Package Order Special Conditions as such and any other person who has been notified to the Consultant as being, in the opinion of the Employer, fundamental to the performance of the Contract

"Package Order"

the written quotation submitted by the Consultant and confirmed as accepted by the Employer

"Package Order Conditions"

these Package Order Standard Conditions together with the Package Order Special Conditions

"Package Order Special Conditions"

the Package Order Special Conditions (including the contract details and pricing schedule) contained within a Package Order

"Package Order Standard Conditions"

these standard terms and conditions for the purchase of goods and/or services

"Personal Data"

has the meaning set out in section 1 of the Data Protection Act 1998

"Price"

the charges payable to the Consultant by the Employer under the Contract for the Goods and/or Services as set out in the Package Order Special Conditions, or, if none specified, then as set out in the Employer's order

"Premises"

any premises owned by or occupied by the Employer from time to time

"Processing" and "Process"	has the meaning set out in section 1 of the Data Protection Act 1998
"Request for Information"	a request for information or an apparent request under any relevant guidance on accessing Government Information, FOIA or the EIR
"Services"	means the services that the Consultant is required to carry out under the Contract
"Sub-contractor"	shall, as the context may require, include any adviser, consultant, supplier or agent engaged by the Consultant to assist in the performance of the Contract
"TUPE"	the Transfer of Undertakings (Protection of Employment) Regulations 2006

1.2 In these Package Order Conditions:

- 1.2.1 unless the context requires otherwise, the singular shall include the plural and vice versa, and words expressed in any gender shall include any other gender;
- 1.2.2 the headings are inserted for convenience only and shall not affect the interpretation of these Package Order Conditions;
- 1.2.3 save where express provision is made to the contrary, any reference to a statute, statutory provision or subordinate legislation shall be construed as a reference to that legislation, as amended and in force from time to time, including any re-enactment, consolidation or replacement (with or without modification). In the case of a statute or statutory provision, the reference shall also be construed as a reference to all subordinate legislation made under such statute or statutory provision;
- 1.2.4 any words following the words "include", "includes", "including", "in particular" or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them;
- 1.2.5 the rule known as the ejusdem generis rule will not apply and accordingly the meaning of general words introduced by the word "other" or a similar word or expression will not be restricted by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things;
- 1.2.6 any reference to:
 - 1.2.6.1 time of day is to London time;
 - 1.2.6.2 a day is to a period of 24 hours running from midnight to midnight;
 - 1.2.6.3 a month is to a calendar month, unless otherwise stated;

- 1.2.6.4 a "person" shall, as the context may require, include any individual, firm, company, corporation, Government Department, Agency or any association or partnership (whether or not having a separate legal personality);
- 1.2.7 an obligation on a party to procure or ensure the performance or standing of another person will be construed as a primary obligation of that party; and
- 1.2.8 any obligation on a party not to do or omit to do anything includes an obligation not to allow (whether expressly or by a failure to take reasonable steps to prevent) that thing to be done or omitted to be done by any other person.

- 1.3 The Consultant shall perform its obligations under the Contract for the benefit of each of the Beneficiaries. The parties acknowledge that the Beneficiaries shall have the right to enforce the Contract.

2. **CONTRACT FORMATION AND DURATION**

- 2.1 An order placed by the Employer constitutes an offer by the Employer to purchase Goods and/or Services from the Consultant on these Package Order Conditions and in accordance with the Contract. A contract for the supply of Goods and/or Services between the Consultant and the Employer will be formed when the Consultant has signed the Package Order, or if earlier, on commencement of the performance of the Services or delivery of the Goods.
- 2.2 The Contract comprises the only terms and conditions on which the Employer will purchase goods and/or services from the Consultant and will apply to the exclusion of all other terms and conditions including any terms and condition which the Consultant purports to apply under any quotation, acknowledgement, acceptance or confirmation of order, delivery note, invoice or similar document (whether or not such document is referred to in the Contract) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing.
- 2.3 The Contract shall comprise these Package Order Standard Conditions together with the Package Order Special Conditions. To the extent of any conflict or inconsistency between such sections, this shall be resolved in the following order of precedence:
 - 2.3.1 Package Order Special Conditions;
 - 2.3.2 Package Order Standard Conditions.
- 2.4 Subject to any other rights of the Employer to terminate the Contract (howsoever arising), the Contract shall be in force from the Commencement Date until the Expiry Date or, where there is no Expiry Date, until the Consultant has completed the Services in accordance with the Contract.
- 2.5 The Consultant will comply with all Applicable Laws in performing its obligations under the Contract.
- 2.6 Each of the parties may by notice to the other request an alteration to the requirements of the Contract. In the event of any such alteration being agreed by both parties, payment under the Contract shall be subject to fair and reasonable adjustment to be agreed between the Employer and the Consultant and recorded in writing. The parties shall continue to act in accordance with the Contract until any such

alteration and adjustment has been agreed in writing and signed by a duly authorised representative on behalf of each party.

3. PERFORMANCE OF THE SERVICES

- 3.1 The Consultant shall properly perform the Services in accordance with the Contract and shall ensure that it:
- 3.1.1 uses the degree of skill, care, prudence, supervision, diligence, foresight, quality control and quality management which would be adopted by a competent professional provider of the Services;
 - 3.1.2 uses appropriately qualified, trained and experienced personnel;
 - 3.1.3 fulfils all requirements set out in the Contract;
 - 3.1.4 conducts itself in a safe manner which is free from any unreasonable or avoidable risk to any person's health and well-being;
 - 3.1.5 performs the Contract in an economic and efficient manner;
 - 3.1.6 fully co-operates with the Employer's agents, representatives and contractors;
 - 3.1.7 ensures that it has and maintains all licences, permissions and consents required from time to time;
 - 3.1.8 complies with all health and safety and security policies that apply at any Premises, and all lawful and reasonable directions of the Employer; and
 - 3.1.9 not do or omit to do anything which may cause the Employer to lose any licence, permission or consent or to be in breach of any Applicable Law.
- 3.2 The Consultant shall perform the Services in accordance with the provisions in the Package Order relating to performance of the Services, including performance dates.
- 3.3 The Consultant acknowledges that health and safety is paramount to the Employer's objectives and that the Services must be provided in compliance with the Contract and the Consultant shall manage and monitor performance of the Services accordingly. The Consultant shall inform the Contract Manager as soon as reasonably practicable if any of the requirements of the Contract are not being or cannot be performed in accordance with the Contract.
- 3.4 Unless otherwise agreed with the Employer, the Consultant shall provide all the necessary facilities, materials and any other equipment, and personnel of appropriate qualifications and experience to undertake the Services.
- 3.5 All Key Personnel and other personnel deployed on work relating to the Contract shall be appropriately qualified and competent and shall be acceptable to the Employer. The Consultant shall supervise and manage all such personnel properly.

- 3.6 The Consultant shall take all reasonable steps to avoid changes to the Key Personnel. The Consultant shall give at least one month's notice to the Contract Manager of any proposal to remove or replace Key Personnel and the Employer must agree any replacement in writing, save that the Consultant shall be required to give such notice as is reasonable in the circumstances in the event that Key Personnel are changed as a result of illness, resignation or unusual personal circumstances.
- 3.7 If the Employer gives the Consultant notice that any person is to be removed from involvement in the Services, the Consultant shall take immediate steps to comply with that notice and to find a suitable alternative replacement. The decision of the Employer regarding the Consultant's personnel shall be final and conclusive.
- 3.8 The Consultant shall:
- 3.8.1 to the extent that it is able to do so in accordance with Applicable Law, give the Employer, if so requested, the name, role and details of relevant work experience of all persons who are or may be at any time employed on the Contract;
 - 3.8.2 comply with any rules, regulations and any safety and security instructions notified by the Employer to the Consultant in writing, including completion of any additional security clearance procedures required by the Employer, and return of any passes required.
- 3.9 Unless otherwise agreed by the Employer, the Consultant shall not carry out any business or trading activity within or on the Premises and no advertisement, sign or notice of any description shall be exhibited without prior written approval from the Employer.
- 3.10 The Consultant shall exercise due care and propriety when dealing with third parties in connection with the Contract and ensure that no commitments that might impose any obligations on the Employer are entered into (unless expressly authorised by the Employer) without the Employer's prior written consent.
- 3.11 Where, in the opinion of the Employer, the Consultant has failed to perform the whole or any part of the Services in accordance with the Contract, the Employer may:
- 3.11.1 give the Consultant a notice specifying that its performance falls short of the requirements of the Contract, or is otherwise unsatisfactory; and
 - 3.11.2 suspend payments to the Consultant, in such amount as the Employer deems appropriate, until the Consultant has rectified the defective performance of the Services to the Employer's satisfaction.
- 3.12 Any notice served by the Employer pursuant to Condition 3.11.1 may require that the Consultant re-schedules and re-performs the Services to the Employer's satisfaction at its own expense, including where necessary, the correction or re-execution of any Services already carried out, and the Consultant shall comply with the requirements of such notice within such period as shall be specified by the Employer in the notice (or where no such period is specified, as soon as reasonably practicable).

- 3.13 Any notice served by the Employer pursuant to Package Order Conditions 3.11 and 3.12 shall be without prejudice to the Employer's rights under these Package Order Conditions or otherwise.
4. **INVOICES AND PAYMENT**
- 4.1 Subject to the Consultant performing its obligations in accordance with the terms of the Contract, the Employer will pay the Price to the Consultant in accordance with this Condition 4.
- 4.2 The Price will be inclusive of all costs and expenses incurred by the Consultant including all packaging, insurance, carriage and delivery costs, and costs relating to staff, facilities, equipment, materials. To the extent that any additional expenses are claimed by the Consultant, these shall only be reimbursed by the Employer where they are in line with the Employer's "Contract Expense Policy", a copy of which is available on request.
- 4.3 Any sum payable under the Contract is exclusive of value added tax (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time, subject to receipt by the paying party of a valid value added tax invoice.
- 4.4 The Consultant shall be entitled to submit an invoice to the Employer following delivery of the Goods or within 28 days of the completion of the Services. The Consultant shall not be entitled to submit interim invoices for the Services prior to completion unless otherwise agreed by the Employer. All invoices shall quote the contract number and, where appropriate, the purchase order number.
- 4.5 Each invoice will be a valid value added tax invoice and will be accompanied by such records as the Employer may reasonably require including, but not limited to, time sheets, details of expenses incurred, invoices paid and any other documents which would enable the Employer to verify the information and the amounts referred to in that invoice. Invoices will be submitted electronically to accountspayable@hs2.org.uk
- 4.6 The Employer is committed to prompt payment and shall pay the Consultant within 30 days of receipt of a valid invoice, provided that that Goods have been delivered and/or the Services to which the invoice relates have been performed fully in accordance with the Contract. The Consultant shall provide to the Employer the name and address of its bank, the account name and number, the bank sort code and any other details requested by the Employer.
- 4.7 Notwithstanding any purported contrary appropriation by the Consultant, the Employer will be entitled, by giving written notice to the Consultant, to appropriate any payment by the Employer to any invoice issued by the Consultant.
- 4.8 No payment made by the Employer will constitute acceptance or approval by the Employer of the Goods or Services or otherwise prejudice any rights or remedies which the Employer may have against the Consultant including the right to recover any amount overpaid or wrongfully paid to the Consultant.

- 4.9 If the Employer, on bona fide grounds, disputes any part of an amount invoiced by the Consultant, the Employer may notify the Consultant in writing of such dispute giving details of the nature of the dispute and the amount that it claims should have been invoiced and:
- 4.9.1 the Employer will pay that part of the invoice which is not the Disputed Sum in accordance with Condition 4.6;
 - 4.9.2 the Employer will be entitled to withhold payment of the Disputed Sum; and
 - 4.9.3 following resolution of the dispute the Employer will, within 30 days, pay to the Consultant that part of the Disputed Sum (if any) as it is resolved is payable by the Employer.
- 4.10 For the avoidance of doubt, if the Employer fails to notify any dispute about the amount of an invoice to the Consultant in accordance with Condition 4.9, this will not constitute a waiver of the Employer's right to dispute the amount of that invoice.
- 4.11 If any sum payable under the Contract is not paid on or before the due date for payment the Consultant will be entitled to charge the Employer interest on that sum at 2% per annum above the base lending rate from time to time of the Bank of England from the due date until the date of payment (whether before or after judgment), such interest to accrue on a daily basis. Such interest will not be chargeable on any Disputed Sum, provided that if it is agreed or determined that part or all of the Disputed Sum is payable, interest will be chargeable on the relevant part of the Disputed Sum in accordance with this Condition 4.11 but from the date on which payment of that sum is due in accordance with Condition 4.9.3 rather than from the date on which payment of the original invoice which included that sum was originally due. The parties agree that this Condition 4.11 is a substantial remedy for late payment of any sum payable under the Contract, for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.12 The Employer will be entitled to set-off any liability which the Consultant has to it against any liability which it has to the Consultant, whether such liability is present or future, liquidated or unliquidated, under the Contract or any other contract between the parties or other cause of action.
5. **DRAWINGS, SPECIFICATIONS, SOFTWARE, DESIGNS AND OTHER DATA**
- 5.1 The final 'deliverable' version of anything which the Consultant produces in its performance of the Services including written reports, data, calculations, software, designs, drawings, specifications, maps and photographs completed or provided in connection with the Contract (each a "Deliverable") shall be delivered up to the Employer on completion (or, if sooner, termination) of the Services, subject to the retention of proper professional records. The Deliverables shall be supplied by the Consultant in an agreed format.
- 5.2 If the Contract is terminated by the Employer the provisions of Condition 5.1 shall apply to the working version of each Deliverable (a "Working Deliverable") that has not been completed as at the date of termination of the Contract. The Employer acknowledges that Working Deliverables may contain information that is incomplete and agrees that should it choose to rely upon any Working Deliverable that reliance shall be at its own risk.

6. PRODUCTION AND RETENTION OF DOCUMENTATION

- 6.1 The Consultant shall produce such accounts, documents (including working documents) and records related to the Contract as the Employer, or the Contract Manager, may request at any time during the term of the Contract. Subject to the provisions of Condition 10, the Employer's right to request the production of documents shall not apply to the extent that production of the documents would cause the Consultant to breach confidentiality obligations to its other clients.
- 6.2 The Consultant shall retain and produce such accounts, documents (including working documents) and records related to the Contract as the Employer, or the Contract Manager, may request for a period of 6 years from the Expiry Date or termination of the Contract, or such longer period as may be agreed between the Employer and the Consultant in writing at or before the commencement of the Contract.
- 6.3 The Consultant shall afford such facilities as the Employer may reasonably require for its representatives to visit the Consultant's premises and examine the records held under this Condition 6. The right to these records shall not apply to the extent that an examination would jeopardise the confidentiality of information relating to the Consultant's other clients.
- 6.4 Subject to the provision of reasonable notice to the Consultant, and for the purpose of:
- 6.4.1 examining and certifying the Employer's accounts; or
 - 6.4.2 any examination, pursuant to section 7(1) of the National Audit Act 1983, of the economy, efficiency and effectiveness with which the Employer has used its resources,
- the Comptroller and Auditor General shall have a right of access to such relevant documents as are owned, held or otherwise within the control of the Consultant.
- 6.5 The Consultant shall assist the Comptroller and Auditor General to understand such documents and provide any oral and/or written information and explanation of the documents as may reasonably be requested.
- 6.6 For the avoidance of doubt, nothing in this Condition constitutes a requirement or agreement for the purposes of section 6(3)(d) of the National Audit Act 1983 for the examination, certification or inspection of the accounts of the Consultant.

7. MEETINGS AND REPORTS

- 7.1 The Consultant shall, upon receipt of reasonable notice, on Business Days attend all meetings arranged by the Employer for the discussion of matters connected with the Contract.
- 7.2 Without prejudice to any other requirement in the Contract, the Consultant shall provide such reports on the performance of the Contract as the Contract Manager may reasonably require.

8. **CONFLICT OF INTEREST**

- 8.1 It shall be the Consultant's responsibility to ensure that no conflict of interest arises in connection with the Services to be carried out under the Contract.
- 8.2 The Consultant will immediately notify and consult with the Employer in the event that any circumstances arise which give rise, or may give rise to a conflict of interest. The Employer shall be entitled to direct the Consultant to take reasonable steps to avoid such conflict of interest and the Consultant shall comply with such directions.
- 8.3 Without prejudice to the generality of the foregoing provisions of this Condition 8, the Consultant shall not, for any person (which includes the Consultant itself) other than the Employer:
- 8.3.1 perform work in respect of, or relating to; or
 - 8.3.2 promote,

any scheme, or any part of any scheme, either proposed or agreed, for the development of a high speed rail link anywhere in Great Britain.
- 8.4 A breach of this Condition 8 shall be deemed to be a material breach which cannot be remedied entitling the Employer to terminate the Contract under Condition 22.3.1.

9. **ANTI-CORRUPTION**

- 9.1 In this clause:
- 9.1.1 "Bribery Act" means the Bribery Act 2010;
 - 9.1.2 "Prohibited Act" means any of the following:
 - 9.1.2.1 to directly or indirectly offer, promise or give any person working for or engaged by the Employer a financial or other advantage to (i) induce that person to perform improperly a relevant function or activity or (ii) reward that person for improper performance of a relevant function or activity; or
 - 9.1.2.2 to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; or
 - 9.1.2.3 committing any offence (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to the Contract or any other contract with the Employer; or (iv) defrauding, attempting to defraud or conspiring to defraud the Employer.
- 9.2 The Consultant:

- 9.2.1 shall not and shall procure that any of its employees, consultants, agents, or sub-contractors shall not commit a Prohibited Act in connection with the Contract;
- 9.2.2 warrants, represents and undertakes to the Employer that it is not aware of any financial or other advantage being given to any person working for or engaged by the Employer, or that an agreement has been reached to that effect, in connection with the execution of the Contract, excluding any arrangement of which full details have been disclosed in writing to the Employer before formation of the Contract.

9.3 The Consultant shall:

- 9.3.1 if requested, provide the Employer with any reasonable assistance to enable the Employer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- 9.3.2 if so required by the Employer within 20 Business Days of the Commencement Date, and annually thereafter, certify to the Employer in writing compliance with this Condition 9 by the Consultant and all persons associated with it or other persons who are supplying goods or services in connection with the Contract. The Consultant shall provide such supporting evidence of compliance as the Employer may reasonably request.

9.4 The Consultant shall have and maintain an anti-bribery policy (which shall be disclosed to the Employer on request) to prevent it and any of its employees, consultants, agents or sub-contractors from committing a Prohibited Act and shall enforce it where appropriate.

9.5 If any breach of Condition 9.2 is suspected or known, the Consultant must notify the Employer immediately.

9.6 If the Consultant notifies the Employer that it suspects or knows that there may be a breach of Condition 9.2, the Consultant must respond promptly to the Employer's enquiries, co-operate with any investigation, and allow the Employer to audit books, records and any other relevant documentation. This obligation shall continue for three years following the expiry or termination of this Contract.

9.7 A breach of Condition 9.2 shall be deemed to be a material breach which is incapable of remedy.

10. **FREEDOM OF INFORMATION**

10.1 The Consultant acknowledges that:

- 10.1.1 the Employer is a public authority for the purposes of FOIA and EIR; and
- 10.1.2 public authorities have certain information disclosure requirements under the Act and Environmental Information Regulations.

10.2 The Consultant shall assist and co-operate with the Employer (at its own expense) to enable the Employer to comply with any relevant Requests for Information with which the Employer is obliged by FOIA or EIR to comply, within the time limits set out in Condition 10.3.

- 10.3 The Consultant shall and shall procure that its sub-contractors shall:
- 10.3.1 transfer any Request for Information to the Employer as soon as practicable after receipt and in any event within two Business Days of receiving it;
 - 10.3.2 provide the Employer with a copy of all Information in its possession or power in the form that the Employer requires within five Business Days (or such other period as the Employer may specify) of the Employer requesting that Information; and
 - 10.3.3 provide all necessary assistance as reasonably requested by the Employer to enable the Employer to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- 10.4 The Employer shall be responsible for determining at its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the EIR.
- 10.5 In no event shall the Consultant respond directly to a Request for Information unless expressly authorised to do so by the Employer.
11. **CONFIDENTIALITY**
- 11.1 Subject to Package Order Conditions 11.2 and 11.3 below, the Consultant shall not disclose to any third party, nor shall it publish, disseminate, or use, other than for the purposes of the Contract any Confidential Information without the prior written consent of the Employer.
- 11.2 Condition 11.1 shall not apply to any Confidential Information which:
- 11.2.1 is or becomes public knowledge (otherwise than by breach of the Contract);
 - 11.2.2 is lawfully in the possession of the Consultant, without restriction as to its disclosure, before he receives it from the Employer; or
 - 11.2.3 is received by the Consultant from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.
- 11.3 Condition 11.1 shall not prevent the Consultant from disclosing, without the Employer's consent, any Confidential Information to the extent that it is required to be disclosed by law or by any professional or regulatory obligation, provided that prior to disclosure the Consultant consults the Employer and takes full account of the Employer's views about whether (and, if so, the extent to which) the Confidential Information should be disclosed.
- 11.4 The Consultant shall take all reasonable steps to ensure the observance of the provisions of this Condition 11 by all of its employees, office holders, workers and Sub-contractors.
- 11.5 The provisions of this Condition 11 will survive any termination of the Contract.

12. **PUBLICITY**

The Consultant shall not, except with the prior written consent of the Employer, make any press announcements or publicise the Contract or its appointment by the Employer in any way unless expressly permitted by the provisions of Condition 11.

13. **DISCRIMINATION**

13.1 The Consultant shall, in its performance of the Contract:

13.1.1 not unlawfully discriminate either directly or indirectly or by way of victimisation or harassment within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in age, disability, gender reassignment, marriage and civil partnerships, pregnancy, paternity and maternity, race, religion or belief, sex or sexual orientation or otherwise) and shall take all reasonable steps to ensure that its employees, similarly do not unlawfully discriminate;

13.1.2 without prejudice to the generality of Condition 13.1.1, not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and all other relevant legislation and any statutory modification or re-enactment of such legislation; and

13.1.3 where in connection with the Contract, the Consultant, its agents or Sub-contractors, or its staff are required to carry out work on Premises or alongside the Employer's employees on any other premises, comply with the Employer's own employment policy and codes of practice relating to equality and diversity in the workplace.

13.2 Should the Consultant or any of its employees, consultants, agents or sub-contractors breach any part of Condition 13.1.1, the Employer shall be entitled to terminate the Contract with immediate effect by notice in writing to the Consultant.

14. **ASSIGNMENT AND SUB-CONTRACTORS**

14.1 The Consultant shall not sub-contract or transfer, assign, charge, or otherwise dispose of the Contract or any part of it without the prior written consent of the Employer.

14.2 The Consultant shall ensure that any Sub-contractor complies with the provisions of the Contract, so far as they are applicable. Any sub-contract shall not relieve the Consultant of its obligations under the Contract.

14.3 Where the Consultant enters into a contract with a Sub-contractor for the purpose of performing the Contract or any part of it, it shall cause a term to be included in such contract which requires payment to be made by the Consultant to the Sub-contractor within a specified period not exceeding 30 days from receipt of an invoice properly issued in accordance with that contract.

15. **INSURANCE**

- 15.1 The Consultant shall effect and maintain an adequate level of insurance cover in respect of all risks that may be incurred by it in the performance of the Contract.
- 15.2 The Consultant shall hold:
- 15.2.1 employer's liability insurance in respect of its employees and of any Sub-contractors used by it in the performance of the Contract;
 - 15.2.2 public liability insurance; and
 - 15.2.3 professional indemnity insurance with a minimum limit of indemnity of £1,000,000 (one million pounds).
- 15.3 Where the Consultant sub-contracts part of the Contract, he shall procure that any Sub-contractor effects and maintains insurance to cover its liabilities under that sub-contract.
- 15.4 Where in compliance with Package Order Conditions 15.1 and/or 15.2 the Consultant effects professional indemnity insurance, the insurance policy and any renewal shall cover liabilities under the Contract from the commencement of the Services until 6 years after:
- 15.4.1 the completion of the Services; or
 - 15.4.2 the termination of the Contract,
- whichever is the earlier.
- 15.5 When requested by the Employer the Consultant shall produce documentary evidence showing that the insurance required by this Condition 15 has been effected and is being maintained.
- 15.6 If, for whatever reason, the Consultant fails to effect and maintain the insurance required by this Condition 15, and/or fails to provide evidence requested under Condition 15.5 within the timescales stipulated by the Employer, the Employer may make alternative arrangements necessary to protect its interests and recover the costs thereof from the Consultant.
- 15.7 The terms of any insurance or the amount of cover shall not relieve the Consultant of any liabilities under the Contract.
- 15.8 The Consultant shall impose obligations on its Sub-contractors in terms substantially similar to those set out in this Condition 15, but this shall not relieve the Consultant of any of its obligations and liabilities under the Contract.

16. **DATA PROTECTION**

- 16.1 With respect to any Personal Data disclosed to the Consultant in connection with the Contract, the Consultant acknowledges that the Employer is the Data Controller and that the Consultant is the Data Processor.

- 16.2 In respect of any Personal Data processed by the Consultant pursuant to the Contract for and on behalf of the Employer, the Consultant warrants and undertakes that it will:
- 16.2.1 comply at all times with Applicable Law;
 - 16.2.2 only process the Personal Data:
 - 16.2.2.1 on behalf of the Employer to the extent necessary to provide the Goods and/or Services and then only in accordance with the Contract; and
 - 16.2.2.2 on instructions received from the Employer from time to time;
 - 16.2.3 promptly comply with any change of instructions from the Employer relating to:
 - 16.2.3.1 the Personal Data; and/or
 - 16.2.3.2 the Consultant's role as Data Processoras issued in accordance with the Contract and/or as otherwise required by Applicable Law;
 - 16.2.4 put in place:
 - 16.2.4.1 a level of security measures which ensures that only authorised personnel have access to the Personal Data and processing equipment to be used to process such Personal Data and that any such persons whom the Consultant authorises to have access to such Personal Data will comply with like obligations as are contained in this Condition 16.2.4 and will respect and maintain all due confidentiality; and
 - 16.2.4.2 a level of security measures which reflects the level of harm, damage and/or distress that might be suffered by a Data Subject to whom the Personal Data relates, as a result of a breach of this Condition 16.2.4;
 - 16.2.5 promptly give notice to the Employer of any actual or suspected incident of unauthorised or accidental disclosure of or access to the Personal Data or other breach of Condition 16.2.4 made by any of the Consultant's staff or any other identified or unidentified third party (a "Security Breach");
 - 16.2.6 promptly provide the Employer with all information in the Consultant's possession concerning any Security Breach;
 - 16.2.7 not make any announcement or publish or otherwise authorise any broadcast of any notice or information about a Security Breach (a "Security Breach Notice") without the prior written consent of the Employer and prior written approval by the Employer of the content, media and timing of the Security Breach Notice;
 - 16.2.8 hold all Personal Data to which the Contract relates physically and electronically separate from any other data held by the Consultant and ensure that such Personal Data is readily identifiable;

- 16.2.9 not process any or all of the Personal Data to which this Contract relates as a means to enhance or enrich any Personal Data to which this Contract does not relate (which includes any Personal Data in respect of which the Consultant or a customer of the Consultant is a Data Controller);
 - 16.2.10 not make any copies of the Personal Data (whether in electronic or paper form) unless strictly necessary for the Services;
 - 16.2.11 not cause or permit the Personal Data to be transferred outside the European Economic Area (as defined in the DPA) without the prior written consent of the Employer; and
 - 16.2.12 not cause the Employer to be in breach of any part of Applicable Law relating to privacy or data protection, whether by reason of an act or omission by the Consultant or by its respective agents, directors, officers, employees and sub-contractors.
- 16.3 The Consultant will indemnify, keep indemnified and hold harmless the Employer in full and on demand from and against all liabilities (including any tax liability), direct, indirect and consequential losses, damages, claims, proceedings and legal costs (on an indemnity basis), judgments and costs (including costs of enforcement) and expenses which the Employer incurs or suffers directly or indirectly in any way whatsoever as a result of or arising out of or in connection with any breach of this Condition 16.
- 16.4 The Consultant will inform the Employer immediately if it receives any correspondence or request for information from any Regulatory Authority (including the Information Commissioner's Office ("ICO")) in relation to the Personal Data to which the Contract relates including correspondence or requests which relate to an ICO enforcement notice or information notice.
17. **TRANSFER OF THE SERVICES AND TUPE**
- 17.1 Where following the performance or termination of the Contract the Employer intends to acquire services similar to the Services either by performing them itself or by the appointment of a replacement contractor the Consultant (assuming it does not successfully tender for the work) shall use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the Employer.
- 17.2 The Consultant shall co-operate fully during the transition period and provide full access to all non-confidential data, documents, manuals, working instructions, reports or other information which the Employer considers it necessary to see.
- 17.3 In addition to the legal obligation to provide "employee liability information" under regulation 11 of TUPE the Consultant will, in respect of any person at that time employed by it and assigned to the economic grouping of employees working on the Contract, provide the Employer with information equivalent to employee liability information whenever requested to do so in writing by the Employer (provided that the Employer shall not make such a request more than once in any 6 month period).

18. **OCCUPATION OF PREMISES**

Where the Consultant requires access Premises, it shall be granted such access on a non-exclusive basis and only to the extent reasonably required for the purpose of performing its obligations under the Contract. Any utilities required by the Consultant shall be subject to recharge by the Employer.

19. **ENVIRONMENTAL REQUIREMENTS**

19.1 In performing the Contract the Consultant shall comply with the Employer's environmental policy, which is to conserve energy, water and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

19.2 Without prejudice to Condition 19.1, the Consultant will comply with the UK Government Procurement Service "Government Buying Standards for Sustainability" accessible at <http://sd.defra.gov.uk/advice/public/buying/standards/suppliers/>

20. **INTELLECTUAL PROPERTY RIGHTS**

20.1 In the absence of any specific provision for the allocation of intellectual property rights between the parties elsewhere in the Contract and subject to the prior rights (if any) of the Consultant, the Crown or any third parties, such intellectual property rights as are derived from or arise as a result of the performance of the Contract by the Consultant shall vest in the Employer, including any Deliverables, as such term is defined in Condition 5.1. The Consultant shall not use, supply, reproduce, publish, modify, adapt, enhance or otherwise deal with any materials in which such intellectual property rights exist without the Employer's prior written approval.

20.2 In this Condition 20 the term 'intellectual property rights' means all intellectual and industrial property rights of any nature whatsoever, including all of the following: patents, copyrights, database rights, design rights; all rights in or arising out of discoveries, inventions, improvements, know-how, confidential information, trade marks, designs and works; the right to apply for any form of protection for any of these, applications for and registrations of any of these and all resulting registrations. In each case it includes these rights and interests in every part of the world for their full terms, including any renewals and extensions, and the right to receive any income from them and any compensation in respect of their infringement.

20.3 The Consultant shall ensure that all royalties, licence fees and similar expenses in respect of all intellectual property or intellectual property rights used in connection with the Contract have been paid and are included in the Price.

20.4 The Consultant:

20.4.1 warrants that the use of any intellectual property rights which derive from or arise as a result of the performance of the Contract by the Consultant will not infringe any intellectual property rights owned by third parties; and

- 20.4.2 will indemnify, keep indemnified and hold harmless the Employer in full and on demand from and against all liabilities (including any tax liability), direct, indirect and consequential losses, damages, claims, proceedings and legal costs (on an indemnity basis), judgments and costs (including costs of enforcement) and expenses which the Employer incurs or suffers directly or indirectly in any way whatsoever as a result of any claim that such intellectual property rights infringe any intellectual property rights owned by third parties.

21. MERGER, TAKE-OVER OR CHANGE OF CONTROL

- 21.1 The Consultant shall obtain the Employer's written consent (which shall not be unreasonably withheld, but may be given subject to conditions) prior to any Change of Control of the Consultant, provided that where a Change of Control arises from any change in the beneficial or legal ownership of shares that are listed on the stock exchange, such approval shall be obtained promptly as soon as the Consultant becomes aware of the same. If such consent is not obtained when required by this Condition 21.1, the Employer has the right to terminate the Contract at its election as set out in Condition 22 (Termination of the Contract).
- 21.2 The Consultant shall inform the Employer of any change, or proposed change in the name of or status of the Consultant.

22. TERMINATION OF THE CONTRACT

- 22.1 The Consultant may not terminate the Contract.
- 22.2 The Employer may terminate the Contract by giving not less than 30 days' written notice to that effect to the Consultant at any time. If the Employer exercises its right of cancellation under this Condition 22.2 then the Employer's sole liability will be to pay to the Consultant fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss.
- 22.3 Without prejudice to any other power of termination, howsoever arising, the Employer may by notice in writing terminate the Contract with immediate effect and without liability where:
- 22.3.1 the Consultant is in material breach of the Contract which is incapable of remedy;
 - 22.3.2 the Consultant is in material breach of the Contract which can be remedied but fails to remedy that breach within the timescale stipulated by the Employer in a written notice served by the Employer on the Consultant setting out the breach and requiring it to be remedied
 - 22.3.3 the Consultant has failed to comply with a notice given under Condition 3.11;
 - 22.3.4 a Change of Control occurs without the prior approval of the Employer; or
 - 22.3.5 the Consultant is Insolvent.
- 22.4 For the avoidance of doubt and without prejudice to the generality of Condition 22.3.1, breach by the Consultant of any of Package Order Conditions 8 (Conflict of Interests), 9.2 (Anti-Corruption), 10 (Freedom

of Information) and 34.2 (Inspection and Testing) of the Contract, shall be deemed to be material breaches of the Contract which are incapable of remedy.

22.5 The Consultant will give written notice to the Employer immediately upon becoming Insolvent.

22.6 In the event that, during the period of the Contract the Employer is dissolved or wound up, then the Contract shall terminate with immediate effect.

23. **CONSEQUENCES OF TERMINATION**

23.1 Upon the expiry of any notice period, or immediately upon termination without notice, the Contract shall be terminated without prejudice to any right of action or remedy which shall have accrued or shall thereupon accrue to the parties. Termination shall not affect the continued operation of Package Order Conditions 1, 3.11, 3.12, 3.13, 4, 5, 6, 9, 10, 11, 12, 15, 16, 17, 20.4, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32.6, 33.4 and 33.5 together with any other provision which expressly or impliedly will survive termination.

23.2 Where the Contract is terminated under Condition 22.3, the following provisions shall apply:

23.2.1 pending final ascertainment of such sums as are payable under the Contract any sum due or accruing from the Employer to the Consultant may be withheld or reduced by such amount as the Employer in either case considers reasonable and appropriate;

23.2.2 the Employer may make all arrangements which are in its view necessary to procure the orderly completion of the Employer's requirements under the Contract, including the letting of another contract or contracts. In the event that a different organisation is required to provide the Goods and/or Services, the Consultant shall co-operate in the transfer and with any arrangements notified to it by the Employer. The transfer shall be arranged between the Employer and the Consultant so as to reduce to a minimum any interruption in the provision of the Goods or performance of the Services;

23.2.3 where the total costs reasonably and properly incurred by the Employer by reason of any arrangements made under Condition 23.2.2 exceed the amount that would have been payable to the Consultant for the completion of the Services, the excess shall be recoverable from the Consultant and the Employer reserves the right to recover such excess under Condition 25.

24. **LIABILITY AND INDEMNITY**

24.1 The Consultant will indemnify, keep indemnified and hold harmless the Employer in full and on demand from and against:

24.1.1 death and/or personal injury;

24.1.2 damage or loss to property;

24.1.3 breach of statutory duty; or

24.1.4 third party claims

arising from the Consultant's performance of the Contract.

- 24.2 The Consultant's liability to the Employer for each and every claim arising under or in connection with the Contract, save for any of the Excluded Matters, is limited to £1,000,000 (one million pounds) and applies in contract, tort (including negligence) or delict and otherwise to the extent permitted under English Law.

25. **RECOVERY OF SUMS DUE**

Whenever under the Contract any sums of money shall be recoverable from or payable by the Consultant to the Employer, that amount may be deducted from any sum then due, or which at any later time may become due, to the Consultant under the Contract or under any other contract with the Employer.

26. **SERVICE OF NOTICES**

- 26.1 Any formal notice required to be given or served under the Contract shall be in writing and shall be served by:

- 26.1.1 delivery in person to the Consultant's Representative, when it shall be deemed served at the time the notice is delivered to the Consultant's Representative, or
- 26.1.2 sending it to the Consultant's Representative by first-class post, when it shall be deemed served on the second working day after posting; or
- 26.1.3 delivery in person to the Contract Manager, when it shall be deemed served at the time the notice is delivered to the Contract Manager, or
- 26.1.4 sending it to the Contract Manager by first-class post, when it shall be deemed served on the second working day after posting.

27. **SEVERABILITY**

If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect. In the event that an invalid, illegal or unenforceable condition is fundamental to the performance of the Contract, the Employer and the Consultant shall immediately commence negotiations in good faith to remedy the invalidity.

28. **WAIVER**

- 28.1 Any failure by the Employer or the Consultant to exercise any right or remedy shall not constitute a waiver of that right or remedy.
- 28.2 No waiver shall be effective unless it is communicated to the other party in writing.
- 28.3 A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

29. **RIGHTS OF THIRD PARTIES**

Save as provided in Condition 1.3, the parties do not intend that any term of this Agreement will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.

30. **DISPUTE RESOLUTION**

30.1 The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Business Days of either party notifying the other of the dispute. If necessary such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of the Consultant and the Employer's Head of Procurement.

30.2 Nothing in this dispute resolution procedure shall prevent the parties from seeking from any court of the competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.

30.3 If the dispute cannot be resolved by the parties pursuant to Condition 30.1, the dispute shall be referred to mediation pursuant to the procedure set out in Condition 30.5 unless the Employer considers that the dispute is not suitable for resolution by mediation or the Consultant does not agree to mediation.

30.4 The performance of the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Consultant (and its employees, consultants, agents or sub-contractors) shall comply fully with the requirements of the Contract at all times.

30.5 The procedure for mediation is as follows:

30.5.1 a neutral adviser or mediator ("the Mediator") shall be chosen by agreement between the parties. If they are unable to agree upon a Mediator within 10 Business Days after a nomination of a Mediator by one party to the other or if the Mediator agreed upon is unable or unwilling to act, either party shall within 10 Business Days from the date of the nomination or within 10 Business Days of discovering that the nominated Mediator is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") to appoint a Mediator;

30.5.2 the parties shall within 10 Business Days of the appointment of the Mediator meet with the appointed Mediator in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure;

30.5.3 unless otherwise agreed in writing, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings (subject to Condition 30.5.4);

30.5.4 if the parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by their duly authorised representatives;

- 30.5.5 failing agreement, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties;
- 30.5.6 if the parties fail to reach agreement in the structured negotiations within 45 Business Days of the Mediator being appointed, or such longer period as may be agreed by the parties in writing, then any dispute or difference between them may be referred to the Courts in accordance with Condition 31.

31. LAW

The Contract shall be governed by and interpreted in accordance with English law and, subject to Condition 30, any dispute arising out of or in connection with it shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

PACKAGE ORDER CONDITIONS RELATING TO GOODS (WHERE APPLICABLE)

32. DELIVERY OF THE GOODS

- 32.1 The Consultant will deliver the Goods to the delivery address and on the date stated in the Employer's order or as otherwise agreed with the Employer, during 9.00 am and 4.00 pm on a Business Day.
- 32.2 The Consultant will be responsible for off-loading the Goods from the delivery vehicle. Delivery of the Goods will occur when they arrive at the delivery address.
- 32.3 The Consultant may not deliver the Goods by separate instalments unless the Employer gives its prior written consent to this. If the Employer gives such consent, the Consultant will invoice the Price for each instalment separately in accordance with Condition 4 and the Employer will be entitled, at its sole discretion, to exercise its rights and remedies (whether under these Package Order Conditions or otherwise) in respect of the relevant instalment or the whole Contract.
- 32.4 The Consultant will ensure that:
 - 32.4.1 the Goods are marked in accordance with any instructions given by the Employer and any Applicable Laws and are properly packed and secured so as to reach their destination in an undamaged condition;
 - 32.4.2 the delivery is accompanied by a prominently displayed delivery note which shows the order number, date of order, type and quantity of Goods, code numbers of Goods (if applicable), any special storage instructions and, where delivery by instalments is permitted under Condition 32.3, the outstanding balance of Goods remaining to be delivered;
 - 32.4.3 if the Consultant requires the Employer to return any packaging material for the Goods to the Consultant, that fact is clearly stated on the delivery note. Any such packaging material will only be returned to the Consultant at the cost of the Consultant;

- 32.4.4 on or before delivery, the Employer is provided in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the Goods supplied whether in use or otherwise and thereafter information concerning any changes in such properties or ingredients. The Employer will rely on the supply of such information from the Consultant in order to satisfy its own obligations under the Health and Safety at Work Act 1974 and any relevant Applicable Laws; and
- 32.4.5 on or before delivery the Employer is supplied with all operating and safety instructions, clearly displayed warning notices and such other information as may be necessary for the proper use, maintenance and repair of the Goods.
- 32.5 The Employer reserves the right to mark the Goods immediately on delivery. This is undertaken for the purposes of security and the Employer will not be deemed to have accepted the Goods by reason of this nor will the Consultant be entitled to raise an objection on this ground to any subsequent rejection of the Goods.
- 32.6 If the Consultant fails to deliver the Goods on the date specified in Condition 32.1, without prejudice to any other rights or remedies of the Employer (whether express or implied), the Employer may terminate the Contract immediately by giving written notice to that effect to the Consultant, in which case:
 - 32.6.1 the Consultant will refund any monies already paid by the Employer under the Contract in relation to the Goods that have not been delivered; and
 - 32.6.2 the Employer will be entitled to recover from the Consultant any and all liabilities, losses, damages, costs and expenses incurred by the Employer as a result of the Consultant's failure to supply Goods, including in obtaining substitute goods from another supplier.
- 32.7 Risk in and ownership of the Goods will pass to the Employer on delivery.

33. **STANDARD OF THE GOODS**

- 33.1 The quantity and description of the Goods will be as set out in any quotation or tender submitted by the Consultant, the Contract and the order placed by the Employer.
- 33.2 The Consultant will ensure that the Goods will:
 - 33.2.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
 - 33.2.2 be fit for any purpose held out by the Consultant or made known to the Consultant expressly or by implication and in this respect the Employer relies on the Consultant's skill and judgement;
 - 33.2.3 be free from defects in design, materials and workmanship;
 - 33.2.4 comply with all relevant Applicable Laws; and
 - 33.2.5 be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health.

- 33.3 The Consultant will maintain and observe quality control and supplier quality assurance standards in respect of the Goods in accordance with the requirements of the Employer, relevant British Standards and the requirements of any relevant statutory and regulatory bodies.
- 33.4 Without prejudice to any other rights or remedies of the Employer (whether express or implied), if any Goods do not conform with any of the terms of Condition 33.1 or 33.2, the Employer may (whether or not the Goods have been accepted):
- 33.4.1 terminate the Contract immediately by giving written notice to that effect to the Consultant; or
 - 33.4.2 require the Consultant, at the Employer's option, to promptly repair or replace the relevant Goods free of charge or to refund the Price for the relevant Goods,
- and, in either case, the Employer will be entitled to recover from the Consultant any and all liabilities, losses, damages, costs and expenses incurred by the Employer as a result of the non-conformity of the Goods, including in obtaining substitute goods from another supplier.
- 33.5 Condition 33.4 will apply to any repaired or replacement Goods supplied under Condition 33.4.2.

34. **INSPECTION AND TESTING**

- 34.1 The Employer will have the right to inspect and test the Goods at any time prior to delivery (or any planning, preliminary and preparatory work in relation thereto) at any reasonable time. The Consultant will permit the Employer, its officers, employees, agents and sub-contractors to enter upon the Consultant's premises for such purpose, and will procure permission for such persons to enter upon any relevant third party premises, to carry out such inspection and testing and will provide the Employer with all facilities reasonably required.
- 34.2 If, following inspection or testing under Condition 34.1, the Employer gives written notice to the Consultant that it is not satisfied that the Goods and/or the Services will comply with the Contract, the Consultant will take all steps necessary to ensure compliance. Any breach of this obligation by the Consultant shall be deemed to be a material breach which cannot be remedied entitling the Employer to terminate the Contract under Condition 22.3.1.
- 34.3 No inspection or testing under Condition 34.1 will reduce or otherwise affect the Consultant's obligations under the Contract.

SECTION ONE - PACKAGE ORDER SPECIAL CONDITIONS – LAND AND PROPERTY PROFESSIONAL SERVICES FRAMEWORK LOTS 2, 3 AND 4

THIS PACKAGE ORDER comprises Section One (Package Order Special Conditions) and Section Two (Package Order Standard Conditions) and is dated [DATE ONLY WHEN BOTH PARTIES HAVE SIGNED]

BETWEEN:

- (1) High Speed Two (HS2) Limited, (company number 06791686) whose registered office is at Eland House, Bressenden Place, London SW1E 5DU ("Employer"); and
- (2) [CONSULTANT NAME], Company Registration Number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (the "Consultant").

.....

SECTION 1 - Employer requirement (to be completed by HS2)
1.1 Details of the Work Package requirement
[HS2 to insert] [Include scope] [Include map] [Include details of property, i.e. size, age, etc.] [Include details of those involved, i.e. owner occupier]
1.2 Details of the level of access that the Employer shall make available to its own persons, places and things to facilitate completion of the Work package
[HS2 to insert] [Include contacts responsible for access]

1.3 The starting and termination date of the Work Package

[HS2 to insert]

[Approximate end date is sufficient if exact date not possible]

1.4 Key deliverables and timescales

[HS2 to insert]

[Include Inspection, report by, negotiation dates, recommendations, etc]

1.5 Personnel Requirements

[HS2 to insert]

[Include details of Employer's Contract Manager]

1.6 Other relevant information

[HS2 to insert]

[Reporting]

[Acceptance Criteria]

[Performance Measures]

1.7 State any Confidentiality Requirements

[HS2 to insert]

SECTION 2 - Service Provider's proposal [To be amended as relevant to specific works package]

2.1 Key Personnel Experience and Expertise

I/we attach the following CVs to this proposal:

[Tenderer to add name]

[Tenderer to add name]

[Tenderer to add name]

[Include details of Consultant Representative]

2.2 Proposed methodology

[Tenderer to complete]

2.3 Programme

[Tenderer to complete]

2.4 Fee proposal / Price
[Tenderer to complete]
2.5 [Optional criteria]

SIGNED BY the duly authorised representatives of the parties on the date stated above.

Signed)
duly authorised to sign for)
and on behalf of)
HIGH SPEED TWO (HS2) LIMITED)

Name:

Position:

Signed)
duly authorised to sign for)
and on behalf of)
[CONSULTANT NAME])

Name:

Position:

SECTION TWO - PACKAGE ORDER STANDARD CONDITIONS - LOTS 2, 3 AND 4

1. DEFINITIONS AND INTERPRETATIONS

1.1 In these Package Order Conditions, unless the context requires otherwise, the following words and phrases shall have the following meanings:

“Applicable Laws”

any:

- (i) statute, statutory instrument, bye-law, order, directive, treaty, decree or law (including any common law, judgment, demand, order or decision of any court, regulator or tribunal);
- (ii) rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or
- (iii) industry code of conduct or guideline which relates to the Contract and/or the Goods and/or their manufacture, packaging, packing and/or delivery and/or the Services and/or the activities which are comprised in all or some of the Services or the use or application of the output from the Services

“Beneficiary”

the Employer, the Secretary of State for Transport, any subsidiary of the Secretary of State and the Department for Transport

“Business Day”

a day that is not a Saturday, Sunday or public or bank holiday in England

“Change in Control”

occurs where:

- (a) Control of the relevant entity is obtained (whether directly or as a result of obtaining Control of one or more other persons) by any person (either alone or together with persons acting in concert with it, as such expression is defined in the Takeover Code) who did not, at the date of the Contract, hold Control (whether directly or as a result of having Control of one or more other persons) of the relevant entity; or
- (b) a person who has Control (whether directly or as a

result of having Control of one or more other persons) of the relevant entity at any time during the term of the Contract ceases to have Control (whether directly or as a result of having Control of one or more other persons) of the relevant entity

"Commencement Date"	the date upon which the Contract is formed in accordance with Condition 2.1, or, if different, the date specified as the "Commencement Date" in the Package Order
"Control"	the power (whether direct or indirect) to direct or cause the direction of the affairs of an entity, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise
"Confidential Information"	all information (whether written, oral, in electronic form or in any other media) of a confidential or proprietary nature that is disclosed by or on behalf of the Employer obtained by or made available to the Consultant or its representatives
"Contract"	the contract between the Employer and the Consultant as formed in accordance with Condition 1.3
"Contract Manager"	such official of the Employer, or other person, as the Employer shall from time to time appoint to act on its behalf for the purpose of managing the Contract, whose appointment and contact details shall be set out in the Package Order Special Conditions or as notified in writing by the Employer to the Consultant
"Consultant"	the person appointed by the Employer for the supply of the Goods and/or performance of the Services
"Consultant's Representative"	such competent person as the Consultant shall from time to time appoint to be its representative in relation to the performance of the Contract, who will receive and act on any directions given by the Contract Manager and whose appointment and contact details shall be notified in writing by the Consultant to the Employer
"Data Controller"	has the meaning set out in section 1 of the Data Protection Act 1998

"Data Processor"	has the meaning set out in section 1 of the Data Protection Act 1998
"Disputed Sum"	that part of an amount invoiced by the Consultant which is the subject of a bona fide dispute, as notified by the Employer to the Consultant under Condition 4.9
"EIR"	the Environmental Information Regulations 2004
"Employer"	the company named High Speed Two (HS2) Limited (company number 06791686) whose registered office is at Eland house, Bressenden Place, London SW1E 5DU
"Excluded Matters"	any amounts payable by the Consultant under any of the indemnities referred to in Package Order Conditions 16.3, 20.4.2 and 24.1.1
"Expiry Date"	the date upon which all of the Services are complete and all of the Goods (if any) have been delivered, or, if any, the date specified as the "Contract End Date" in the Package Order Special Conditions
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or the Secretary of State or relevant Government Department in relation to such Act
"Goods"	the Goods to be supplied by the Consultant (if any) under the Contract
"Information"	has the meaning given under section 84 of FOIA and/or under regulation 2(1) of the EIR
"Insolvent"	where the Consultant: <ul style="list-style-type: none"> (a) gives notice under section 84 Insolvency Act 1986 of, or proposes or passes a resolution for, its winding up or in the case of a limited liability partnership proposes or determines that it will be wound up;

- (b) has a winding up petition presented against it;
- (c) has a winding up order or a notice of striking off made in respect of it;
- (d) has an administration order or an application for an administration order made in respect of it or has a notice of appointment of an administrator or a notice of intention to appoint an administrator filed in respect of it at any court;
- (e) proposes, makes or is subject to
 - (i) a company voluntary arrangement;
 - (ii) a composition with its creditors generally;
 - (iii) an application to a court of competent jurisdiction for protection from its creditors generally; (iv) a scheme of arrangement under Part 26 Companies Act 2006;
- (f) has a receiver or a provisional liquidator appointed over any of its assets, undertakings or income;
- (g) ceases to trade or appears, in the reasonable opinion of the Employer, to be likely to cease to trade;
- (h) is unable to pay its debts as they fall due; or the value of its assets are less than its liabilities, including its contingent and prospective liabilities;
- (i) is the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction

“Key Personnel”

any person specified in the Package Order Special Conditions as such and any other person who has been notified to the Consultant as being, in the opinion of the Employer, fundamental to the performance of the Contract

“Package Order”

the written order placed by the Employer for provision of the Services

“Package Order Conditions”

these Package Order Standard Conditions together with the

Package Order Special Conditions

"Package Conditions"	Order	Special	the Package Order Special Conditions (including the contract details and pricing schedule) contained within a Package Order
"Package Conditions"	Order	Standard	the standard terms and conditions for the purchase of goods and/or services contained in Section Two of these Package Order Conditions
"Personal Data"			has the meaning set out in section 1 of the Data Protection Act 1998
"Price"			the charges payable to the Consultant by the Employer under the Contract for the Goods and/or Services as set out in the Package Order Special Conditions, or, if none specified, then as set out in the Employer's order
"Premises"			any premises owned by or occupied by the Employer from time to time
"Processing" and "Process"			has the meaning set out in section 1 of the Data Protection Act 1998
"Request for Information"			a request for information or an apparent request under any relevant guidance on accessing Government Information, FOIA or the EIR
"Services"			means the services that the Consultant is required to carry out under the Contract
"Sub-contractor"			shall, as the context may require, include any adviser, consultant, supplier or agent engaged by the Consultant to assist in the performance of the Contract
"TUPE"			the Transfer of Undertakings (Protection of Employment) Regulations 2006

1.2 In these Package Order Conditions:

- 1.2.1 unless the context requires otherwise, the singular shall include the plural and vice versa, and words expressed in any gender shall include any other gender;

- 1.2.2 the headings are inserted for convenience only and shall not affect the interpretation of these Package Order Conditions;
- 1.2.3 save where express provision is made to the contrary, any reference to a statute, statutory provision or subordinate legislation shall be construed as a reference to that legislation, as amended and in force from time to time, including any re-enactment, consolidation or replacement (with or without modification). In the case of a statute or statutory provision, the reference shall also be construed as a reference to all subordinate legislation made under such statute or statutory provision;
- 1.2.4 any words following the words “include”, “includes”, “including”, “in particular” or any similar words or expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them;
- 1.2.5 the rule known as the ejusdem generis rule will not apply and accordingly the meaning of general words introduced by the word “other” or a similar word or expression will not be restricted by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things;
- 1.2.6 any reference to:
 - 1.2.6.1 time of day is to London time;
 - 1.2.6.2 a day is to a period of 24 hours running from midnight to midnight;
 - 1.2.6.3 a month is to a calendar month, unless otherwise stated;
 - 1.2.6.4 a “person” shall, as the context may require, include any individual, firm, company, corporation, Government Department, Agency or any association or partnership (whether or not having a separate legal personality);
- 1.2.7 an obligation on a party to procure or ensure the performance or standing of another person will be construed as a primary obligation of that party; and
- 1.2.8 any obligation on a party not to do or omit to do anything includes an obligation not to allow (whether expressly or by a failure to take reasonable steps to prevent) that thing to be done or omitted to be done by any other person.

1.3 The Consultant shall perform its obligations under the Contract for the benefit of each of the Beneficiaries. The parties acknowledge that the Beneficiaries shall have the right to enforce the Contract.

2. CONTRACT FORMATION AND DURATION

- 2.1 An order placed by the Employer constitutes an offer by the Employer to purchase Goods and/or Services from the Consultant on these Package Order Conditions and in accordance with the Contract. A contract for the supply of Goods and/or Services between the Consultant and the Employer will be formed when the Consultant has signed the Package Order, or if earlier, on commencement of the performance of the Services or delivery of the Goods.
- 2.2 The Contract comprises the only terms and conditions on which the Employer will purchase goods and/or services from the Consultant and will apply to the exclusion of all other terms and conditions including any terms and condition which the Consultant purports to apply under any quotation, acknowledgement, acceptance or confirmation of order, delivery note, invoice or similar document (whether or not such document is referred to in the Contract) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing.
- 2.3 The Contract shall comprise Section One (Package Order Special Conditions) and Section Two (Package Order Standard Conditions). To the extent of any conflict or inconsistency between such sections, this shall be resolved in the following order of precedence:
- 2.3.1 Package Order Special Conditions;
 - 2.3.2 Package Order Standard Conditions.
- 2.4 Subject to any other rights of the Employer to terminate the Contract (howsoever arising), the Contract shall be in force from the Commencement Date until the Expiry Date or, where there is no Expiry Date, until the Consultant has completed the Services in accordance with the Contract.
- 2.5 The Consultant will comply with all Applicable Laws in performing its obligations under the Contract.
- 2.6 Each of the parties may by notice to the other request an alteration to the requirements of the Contract. In the event of any such alteration being agreed by both parties, payment under the Contract shall be subject to fair and reasonable adjustment to be agreed between the Employer and the Consultant and recorded in writing. The parties shall continue to act in accordance with the Contract until any such alteration and adjustment has been agreed in writing and signed by a duly authorised representative on behalf of each party.

3. PERFORMANCE OF THE SERVICES

- 3.1 The Consultant shall properly perform the Services in accordance with the Contract and shall ensure that it:

- 3.1.1 uses the degree of skill, care, prudence, supervision, diligence, foresight, quality control and quality management which would be adopted by a competent professional provider of the Services;
- 3.1.2 uses appropriately qualified, trained and experienced personnel;
- 3.1.3 fulfils all requirements set out in the Contract;
- 3.1.4 conducts itself in a safe manner which is free from any unreasonable or avoidable risk to any person's health and well-being;
- 3.1.5 performs the Contract in an economic and efficient manner;
- 3.1.6 fully co-operates with the Employer's agents, representatives and contractors;
- 3.1.7 ensures that it has and maintains all licences, permissions and consents required from time to time;
- 3.1.8 complies with all health and safety and security policies that apply at any Premises, and all lawful and reasonable directions of the Employer; and
- 3.1.9 not do or omit to do anything which may cause the Employer to lose any licence, permission or consent or to be in breach of any Applicable Law.
- 3.2 The Consultant shall perform the Services in accordance with the provisions in the Package Order relating to performance of the Services, including performance dates.
- 3.3 The Consultant acknowledges that health and safety is paramount to the Employer's objectives and that the Services must be provided in compliance with the Contract and the Consultant shall manage and monitor performance of the Services accordingly. The Consultant shall inform the Contract Manager as soon as reasonably practicable if any of the requirements of the Contract are not being or cannot be performed in accordance with the Contract.
- 3.4 Unless otherwise agreed with the Employer, the Consultant shall provide all the necessary facilities, materials and any other equipment, and personnel of appropriate qualifications and experience to undertake the Services.
- 3.5 All Key Personnel and other personnel deployed on work relating to the Contract shall be appropriately qualified and competent and shall be acceptable to the Employer. The Consultant shall supervise and manage all such personnel properly.
- 3.6 The Consultant shall take all reasonable steps to avoid changes to the Key Personnel. The Consultant shall give at least one month's notice to the Contract Manager of any proposal to remove or replace Key Personnel and the Employer must agree any replacement in writing, save

that the Consultant shall be required to give such notice as is reasonable in the circumstances in the event that Key Personnel are changed as a result of illness, resignation or unusual personal circumstances.

- 3.7 If the Employer gives the Consultant notice that any person is to be removed from involvement in the Services, the Consultant shall take immediate steps to comply with that notice and to find a suitable alternative replacement. The decision of the Employer regarding the Consultant's personnel shall be final and conclusive.
- 3.8 The Consultant shall:
- 3.8.1 to the extent that it is able to do so in accordance with Applicable Law, give the Employer, if so requested, the name, role and details of relevant work experience of all persons who are or may be at any time employed on the Contract;
 - 3.8.2 comply with any rules, regulations and any safety and security instructions notified by the Employer to the Consultant in writing, including completion of any additional security clearance procedures required by the Employer, and return of any passes required.
- 3.9 Unless otherwise agreed by the Employer, the Consultant shall not carry out any business or trading activity within or on the Premises and no advertisement, sign or notice of any description shall be exhibited without prior written approval from the Employer.
- 3.10 The Consultant shall exercise due care and propriety when dealing with third parties in connection with the Contract and ensure that no commitments that might impose any obligations on the Employer are entered into (unless expressly authorised by the Employer) without the Employer's prior written consent.
- 3.11 Where, in the opinion of the Employer, the Consultant has failed to perform the whole or any part of the Services in accordance with the Contract, the Employer may:
- 3.11.1 give the Consultant a notice specifying that its performance falls short of the requirements of the Contract, or is otherwise unsatisfactory; and
 - 3.11.2 suspend payments to the Consultant, in such amount as the Employer deems appropriate, until the Consultant has rectified the defective performance of the Services to the Employer's satisfaction.
- 3.12 Any notice served by the Employer pursuant to Condition 3.11.1 may require that the Consultant re-schedules and re-performs the Services to the Employer's satisfaction at its own expense, including where necessary, the correction or re-execution of any Services already carried out, and the Consultant shall comply with the requirements of such notice within such period as shall be

specified by the Employer in the notice (or where no such period is specified, as soon as reasonably practicable).

- 3.13 Any notice served by the Employer pursuant to Package Order Conditions 3.11 and 3.12 shall be without prejudice to the Employer's rights under these Package Order Conditions or otherwise.

4. INVOICES AND PAYMENT

- 4.1 Subject to the Consultant performing its obligations in accordance with the terms of the Contract, the Employer will pay the Price to the Consultant in accordance with this Condition 4.
- 4.2 The Price will be inclusive of all costs and expenses incurred by the Consultant including all packaging, insurance, carriage and delivery costs, and costs relating to staff, facilities, equipment, materials. To the extent that any additional expenses are claimed by the Consultant, these shall only be reimbursed by the Employer where they are in line with the Employer's "Contract Expense Policy", a copy of which is available on request.
- 4.3 Any sum payable under the Contract is exclusive of value added tax (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) which will be payable in addition to that sum in the manner and at the rate prescribed by law from time to time, subject to receipt by the paying party of a valid value added tax invoice.
- 4.4 The Consultant shall be entitled to submit an invoice to the Employer following delivery of the Goods or within 28 days of the completion of the Services. The Consultant shall not be entitled to submit interim invoices for the Services prior to completion unless otherwise agreed by the Employer. All invoices shall quote the contract number and, where appropriate, the purchase order number.
- 4.5 Each invoice will be a valid value added tax invoice and will be accompanied by such records as the Employer may reasonably require including, but not limited to, time sheets, details of expenses incurred, invoices paid and any other documents which would enable the Employer to verify the information and the amounts referred to in that invoice. Invoices will be submitted electronically to accountspayable@hs2.org.uk
- 4.6 The Employer is committed to prompt payment and shall pay the Consultant within 30 days of receipt of a valid invoice, provided that that Goods have been delivered and/or the Services to which the invoice relates have been performed fully in accordance with the Contract. The Consultant shall provide to the Employer the name and address of its bank, the account name and number, the bank sort code and any other details requested by the Employer.
- 4.7 Notwithstanding any purported contrary appropriation by the Consultant, the Employer will be entitled, by giving written notice to the Consultant, to appropriate any payment by the Employer to any invoice issued by the Consultant.

- 4.8 No payment made by the Employer will constitute acceptance or approval by the Employer of the Goods or Services or otherwise prejudice any rights or remedies which the Employer may have against the Consultant including the right to recover any amount overpaid or wrongfully paid to the Consultant.
- 4.9 If the Employer, on bona fide grounds, disputes any part of an amount invoiced by the Consultant, the Employer may notify the Consultant in writing of such dispute giving details of the nature of the dispute and the amount that it claims should have been invoiced and:
- 4.9.1 the Employer will pay that part of the invoice which is not the Disputed Sum in accordance with Condition 4.6;
 - 4.9.2 the Employer will be entitled to withhold payment of the Disputed Sum; and
 - 4.9.3 following resolution of the dispute the Employer will, within 30 days, pay to the Consultant that part of the Disputed Sum (if any) as it is resolved is payable by the Employer.
- 4.10 For the avoidance of doubt, if the Employer fails to notify any dispute about the amount of an invoice to the Consultant in accordance with Condition 4.9, this will not constitute a waiver of the Employer's right to dispute the amount of that invoice.
- 4.11 If any sum payable under the Contract is not paid on or before the due date for payment the Consultant will be entitled to charge the Employer interest on that sum at 2% per annum above the base lending rate from time to time of the Bank of England from the due date until the date of payment (whether before or after judgment), such interest to accrue on a daily basis. Such interest will not be chargeable on any Disputed Sum, provided that if it is agreed or determined that part or all of the Disputed Sum is payable, interest will be chargeable on the relevant part of the Disputed Sum in accordance with this Condition 4.11 but from the date on which payment of that sum is due in accordance with Condition 4.9.3 rather than from the date on which payment of the original invoice which included that sum was originally due. The parties agree that this Condition 4.11 is a substantial remedy for late payment of any sum payable under the Contract, for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.12 The Employer will be entitled to set-off any liability which the Consultant has to it against any liability which it has to the Consultant, whether such liability is present or future, liquidated or unliquidated, under the Contract or any other contract between the parties or other cause of action.

5. **DRAWINGS, SPECIFICATIONS, SOFTWARE, DESIGNS AND OTHER DATA**

- 5.1 The final 'deliverable' version of anything which the Consultant produces in its performance of the Services including written reports, data, calculations, software, designs, drawings, specifications,

maps and photographs completed or provided in connection with the Contract (each a "Deliverable") shall be delivered up to the Employer on completion (or, if sooner, termination) of the Services, subject to the retention of proper professional records. The Deliverables shall be supplied by the Consultant in an agreed format.

- 5.2 If the Contract is terminated by the Employer the provisions of Condition 5.1 shall apply to the working version of each Deliverable (a "Working Deliverable") that has not been completed as at the date of termination of the Contract. The Employer acknowledges that Working Deliverables may contain information that is incomplete and agrees that should it choose to rely upon any Working Deliverable that reliance shall be at its own risk.

6. PRODUCTION AND RETENTION OF DOCUMENTATION

- 6.1 The Consultant shall produce such accounts, documents (including working documents) and records related to the Contract as the Employer, or the Contract Manager, may request at any time during the term of the Contract. Subject to the provisions of Condition 10, the Employer's right to request the production of documents shall not apply to the extent that production of the documents would cause the Consultant to breach confidentiality obligations to its other clients.
- 6.2 The Consultant shall retain and produce such accounts, documents (including working documents) and records related to the Contract as the Employer, or the Contract Manager, may request for a period of 6 years from the Expiry Date or termination of the Contract, or such longer period as may be agreed between the Employer and the Consultant in writing at or before the commencement of the Contract.
- 6.3 The Consultant shall afford such facilities as the Employer may reasonably require for its representatives to visit the Consultant's premises and examine the records held under this Condition 6. The right to these records shall not apply to the extent that an examination would jeopardise the confidentiality of information relating to the Consultant's other clients.
- 6.4 Subject to the provision of reasonable notice to the Consultant, and for the purpose of:
- 6.4.1 examining and certifying the Employer's accounts; or
 - 6.4.2 any examination, pursuant to section 7(1) of the National Audit Act 1983, of the economy, efficiency and effectiveness with which the Employer has used its resources,
- the Comptroller and Auditor General shall have a right of access to such relevant documents as are owned, held or otherwise within the control of the Consultant.
- 6.5 The Consultant shall assist the Comptroller and Auditor General to understand such documents and provide any oral and/or written information and explanation of the documents as may reasonably be requested.

- 6.6 For the avoidance of doubt, nothing in this Condition constitutes a requirement or agreement for the purposes of section 6(3)(d) of the National Audit Act 1983 for the examination, certification or inspection of the accounts of the Consultant.

7. **MEETINGS AND REPORTS**

- 7.1 The Consultant shall, upon receipt of reasonable notice, on Business Days attend all meetings arranged by the Employer for the discussion of matters connected with the Contract.
- 7.2 Without prejudice to any other requirement in the Contract, the Consultant shall provide such reports on the performance of the Contract as the Contract Manager may reasonably require.

8. **CONFLICT OF INTEREST**

- 8.1 It shall be the Consultant's responsibility to ensure that no conflict of interest arises in connection with the Services to be carried out under the Contract.
- 8.2 The Consultant will immediately notify and consult with the Employer in the event that any circumstances arise which give rise, or may give rise to a conflict of interest. The Employer shall be entitled to direct the Consultant to take reasonable steps to avoid such conflict of interest and the Consultant shall comply with such directions.
- 8.3 Without prejudice to the generality of the foregoing provisions of this Condition 8, the Consultant shall not, for any person (which includes the Consultant itself) other than the Employer:
- 8.3.1 perform work in respect of, or relating to; or
 - 8.3.2 promote,

any scheme, or any part of any scheme, either proposed or agreed, for the development of a high speed rail link anywhere in Great Britain.
- 8.4 A breach of this Condition 8 shall be deemed to be a material breach which cannot be remedied entitling the Employer to terminate the Contract under Condition 22.3.1.

9. **ANTI-CORRUPTION**

- 9.1 In this clause:
- 9.1.1 "Bribery Act" means the Bribery Act 2010;
 - 9.1.2 "Prohibited Act" means any of the following:
 - 9.1.2.1 to directly or indirectly offer, promise or give any person working for or engaged by the Employer a financial or other advantage to (i) induce that

person to perform improperly a relevant function or activity or (ii) reward that person for improper performance of a relevant function or activity; or

9.1.2.2 to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; or

9.1.2.3 committing any offence (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to the Contract or any other contract with the Employer; or (iv) defrauding, attempting to defraud or conspiring to defraud the Employer.

9.2 The Consultant:

9.2.1 shall not and shall procure that any of its employees, consultants, agents, or sub-contractors shall not commit a Prohibited Act in connection with the Contract;

9.2.2 warrants, represents and undertakes to the Employer that it is not aware of any financial or other advantage being given to any person working for or engaged by the Employer, or that an agreement has been reached to that effect, in connection with the execution of the Contract, excluding any arrangement of which full details have been disclosed in writing to the Employer before formation of the Contract.

9.3 The Consultant shall:

9.3.1 if requested, provide the Employer with any reasonable assistance to enable the Employer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

9.3.2 if so required by the Employer within 20 Business Days of the Commencement Date, and annually thereafter, certify to the Employer in writing compliance with this Condition 9 by the Consultant and all persons associated with it or other persons who are supplying goods or services in connection with the Contract. The Consultant shall provide such supporting evidence of compliance as the Employer may reasonably request.

9.4 The Consultant shall have and maintain an anti-bribery policy (which shall be disclosed to the Employer on request) to prevent it and any of its employees, consultants, agents or sub-contractors from committing a Prohibited Act and shall enforce it where appropriate.

9.5 If any breach of Condition 9.2 is suspected or known, the Consultant must notify the Employer immediately.

9.6 If the Consultant notifies the Employer that it suspects or knows that there may be a breach of Condition 9.2, the Consultant must respond promptly to the Employer's enquiries, co-operate with any investigation, and allow the Employer to audit books, records and any other relevant documentation. This obligation shall continue for three years following the expiry or termination of this Contract.

9.7 A breach of Condition 9.2 shall be deemed to be a material breach which is incapable of remedy.

10. **FREEDOM OF INFORMATION**

10.1 The Consultant acknowledges that:

10.1.1 the Employer is a public authority for the purposes of FOIA and EIR; and

10.1.2 public authorities have certain information disclosure requirements under the Act and Environmental Information Regulations.

10.2 The Consultant shall assist and co-operate with the Employer (at its own expense) to enable the Employer to comply with any relevant Requests for Information with which the Employer is obliged by FOIA or EIR to comply, within the time limits set out in Condition 10.3.

10.3 The Consultant shall and shall procure that its sub-contractors shall:

10.3.1 transfer any Request for Information to the Employer as soon as practicable after receipt and in any event within two Business Days of receiving it;

10.3.2 provide the Employer with a copy of all Information in its possession or power in the form that the Employer requires within five Business Days (or such other period as the Employer may specify) of the Employer requesting that Information; and

10.3.3 provide all necessary assistance as reasonably requested by the Employer to enable the Employer to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.

10.4 The Employer shall be responsible for determining at its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the EIR.

10.5 In no event shall the Consultant respond directly to a Request for Information unless expressly authorised to do so by the Employer.

11. CONFIDENTIALITY

- 11.1 Subject to Package Order Conditions 11.2 and 11.3 below, the Consultant shall not disclose to any third party, nor shall it publish, disseminate, or use, other than for the purposes of the Contract any Confidential Information without the prior written consent of the Employer.
- 11.2 Condition 11.1 shall not apply to any Confidential Information which:
- 11.2.1 is or becomes public knowledge (otherwise than by breach of the Contract);
 - 11.2.2 is lawfully in the possession of the Consultant, without restriction as to its disclosure, before he receives it from the Employer; or
 - 11.2.3 is received by the Consultant from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.
- 11.3 Condition 11.1 shall not prevent the Consultant from disclosing, without the Employer's consent, any Confidential Information to the extent that it is required to be disclosed by law or by any professional or regulatory obligation, provided that prior to disclosure the Consultant consults the Employer and takes full account of the Employer's views about whether (and, if so, the extent to which) the Confidential Information should be disclosed.
- 11.4 The Consultant shall take all reasonable steps to ensure the observance of the provisions of this Condition 11 by all of its employees, office holders, workers and Sub-contractors.
- 11.5 The provisions of this Condition 11 will survive any termination of the Contract.

12. PUBLICITY

The Consultant shall not, except with the prior written consent of the Employer, make any press announcements or publicise the Contract or its appointment by the Employer in any way unless expressly permitted by the provisions of Condition 11.

13. DISCRIMINATION

- 13.1 The Consultant shall, in its performance of the Contract:
- 13.1.1 not unlawfully discriminate either directly or indirectly or by way of victimisation or harassment within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in age, disability, gender reassignment, marriage and civil partnerships, pregnancy, paternity and maternity, race, religion or belief, sex or sexual orientation or otherwise) and shall take all reasonable steps to ensure that its employees, similarly do not unlawfully discriminate;

- 13.1.2 without prejudice to the generality of Condition 13.1.1, not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and all other relevant legislation and any statutory modification or re-enactment of such legislation; and
- 13.1.3 where in connection with the Contract, the Consultant, its agents or Sub-contractors, or its staff are required to carry out work on Premises or alongside the Employer's employees on any other premises, comply with the Employer's own employment policy and codes of practice relating to equality and diversity in the workplace.

- 13.2 Should the Consultant or any of its employees, consultants, agents or sub-contractors breach any part of Condition 13.1.1, the Employer shall be entitled to terminate the Contract with immediate effect by notice in writing to the Consultant.

14. **ASSIGNMENT AND SUB-CONTRACTORS**

- 14.1 The Consultant shall not sub-contract or transfer, assign, charge, or otherwise dispose of the Contract or any part of it without the prior written consent of the Employer.
- 14.2 The Consultant shall ensure that any Sub-contractor complies with the provisions of the Contract, so far as they are applicable. Any sub-contract shall not relieve the Consultant of its obligations under the Contract.
- 14.3 Where the Consultant enters into a contract with a Sub-contractor for the purpose of performing the Contract or any part of it, it shall cause a term to be included in such contract which requires payment to be made by the Consultant to the Sub-contractor within a specified period not exceeding 30 days from receipt of an invoice properly issued in accordance with that contract.

15. **INSURANCE**

- 15.1 The Consultant shall effect and maintain an adequate level of insurance cover in respect of all risks that may be incurred by it in the performance of the Contract.
- 15.2 The Consultant shall hold:
 - 15.2.1 employer's liability insurance in respect of its employees and of any Sub-contractors used by it in the performance of the Contract;
 - 15.2.2 public liability insurance; and
 - 15.2.3 professional indemnity insurance with a minimum limit of indemnity as follows:
 - Lot 2: £10,000,000 (ten million pounds);
 - Lot 3: £1,000,000 (one million pounds);

Lot 4: £10,000,000 (ten million pounds).

- 15.3 Where the Consultant sub-contracts part of the Contract, he shall procure that any Sub-contractor effects and maintains insurance to cover its liabilities under that sub-contract.
- 15.4 Where in compliance with Package Order Conditions 15.1 and/or 15.2 the Consultant effects professional indemnity insurance, the insurance policy and any renewal shall cover liabilities under the Contract from the commencement of the Services until 6 years after:
- 15.4.1 the completion of the Services; or
 - 15.4.2 the termination of the Contract,
- whichever is the earlier.
- 15.5 When requested by the Employer the Consultant shall produce documentary evidence showing that the insurance required by this Condition 15 has been effected and is being maintained.
- 15.6 If, for whatever reason, the Consultant fails to effect and maintain the insurance required by this Condition 15, and/or fails to provide evidence requested under Condition 15.5 within the timescales stipulated by the Employer, the Employer may make alternative arrangements necessary to protect its interests and recover the costs thereof from the Consultant.
- 15.7 The terms of any insurance or the amount of cover shall not relieve the Consultant of any liabilities under the Contract.
- 15.8 The Consultant shall impose obligations on its Sub-contractors in terms substantially similar to those set out in this Condition 15, but this shall not relieve the Consultant of any of its obligations and liabilities under the Contract.

16. **DATA PROTECTION**

- 16.1 With respect to any Personal Data disclosed to the Consultant in connection with the Contract, the Consultant acknowledges that the Employer is the Data Controller and that the Consultant is the Data Processor.
- 16.2 In respect of any Personal Data processed by the Consultant pursuant to the Contract for and on behalf of the Employer, the Consultant warrants and undertakes that it will:
- 16.2.1 comply at all times with Applicable Law;
 - 16.2.2 only process the Personal Data:
 - 16.2.2.1 on behalf of the Employer to the extent necessary to provide the Goods and/or Services and then only in accordance with the Contract; and

- 16.2.2.2 on instructions received from the Employer from time to time;
- 16.2.3 promptly comply with any change of instructions from the Employer relating to:
 - 16.2.3.1 the Personal Data; and/or
 - 16.2.3.2 the Consultant's role as Data Processoras issued in accordance with the Contract and/or as otherwise required by Applicable Law;
- 16.2.4 put in place:
 - 16.2.4.1 a level of security measures which ensures that only authorised personnel have access to the Personal Data and processing equipment to be used to process such Personal Data and that any such persons whom the Consultant authorises to have access to such Personal Data will comply with like obligations as are contained in this Condition 16.2.4 and will respect and maintain all due confidentiality; and
 - 16.2.4.2 a level of security measures which reflects the level of harm, damage and/or distress that might be suffered by a Data Subject to whom the Personal Data relates, as a result of a breach of this Condition 16.2.4;
- 16.2.5 promptly give notice to the Employer of any actual or suspected incident of unauthorised or accidental disclosure of or access to the Personal Data or other breach of Condition 16.2.4 made by any of the Consultant's staff or any other identified or unidentified third party (a "Security Breach");
- 16.2.6 promptly provide the Employer with all information in the Consultant's possession concerning any Security Breach;
- 16.2.7 not make any announcement or publish or otherwise authorise any broadcast of any notice or information about a Security Breach (a "Security Breach Notice") without the prior written consent of the Employer and prior written approval by the Employer of the content, media and timing of the Security Breach Notice;
- 16.2.8 hold all Personal Data to which the Contract relates physically and electronically separate from any other data held by the Consultant and ensure that such Personal Data is readily identifiable;
- 16.2.9 not process any or all of the Personal Data to which this Contract relates as a means to enhance or enrich any Personal Data to which this Contract does not relate (which

includes any Personal Data in respect of which the Consultant or a customer of the Consultant is a Data Controller);

- 16.2.10 not make any copies of the Personal Data (whether in electronic or paper form) unless strictly necessary for the Services;
- 16.2.11 not cause or permit the Personal Data to be transferred outside the European Economic Area (as defined in the DPA) without the prior written consent of the Employer; and
- 16.2.12 not cause the Employer to be in breach of any part of Applicable Law relating to privacy or data protection, whether by reason of an act or omission by the Consultant or by its respective agents, directors, officers, employees and sub-contractors.

16.3 The Consultant will indemnify, keep indemnified and hold harmless the Employer in full and on demand from and against all liabilities (including any tax liability), direct, indirect and consequential losses, damages, claims, proceedings and legal costs (on an indemnity basis), judgments and costs (including costs of enforcement) and expenses which the Employer incurs or suffers directly or indirectly in any way whatsoever as a result of or arising out of or in connection with any breach of this Condition 16.

16.4 The Consultant will inform the Employer immediately if it receives any correspondence or request for information from any Regulatory Authority (including the Information Commissioner's Office ("ICO")) in relation to the Personal Data to which the Contract relates including correspondence or requests which relate to an ICO enforcement notice or information notice.

17. **TRANSFER OF THE SERVICES AND TUPE**

17.1 Where following the performance or termination of the Contract the Employer intends to acquire services similar to the Services either by performing them itself or by the appointment of a replacement contractor the Consultant (assuming it does not successfully tender for the work) shall use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the Employer.

17.2 The Consultant shall co-operate fully during the transition period and provide full access to all non-confidential data, documents, manuals, working instructions, reports or other information which the Employer considers it necessary to see.

17.3 In addition to the legal obligation to provide "employee liability information" under regulation 11 of TUPE the Consultant will, in respect of any person at that time employed by it and assigned to the economic grouping of employees working on the Contract, provide the Employer with information equivalent to employee liability information whenever requested to do so in writing

by the Employer (provided that the Employer shall not make such a request more than once in any 6 month period).

18. OCCUPATION OF PREMISES

Where the Consultant requires access Premises, it shall be granted such access on a non-exclusive basis and only to the extent reasonably required for the purpose of performing its obligations under the Contract. Any utilities required by the Consultant shall be subject to recharge by the Employer.

19. ENVIRONMENTAL REQUIREMENTS

19.1 In performing the Contract the Consultant shall comply with the Employer's environmental policy, which is to conserve energy, water and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

19.2 Without prejudice to Condition 19.1, the Consultant will comply with the UK Government Procurement Service "Government Buying Standards for Sustainability" accessible at <http://sd.defra.gov.uk/advice/public/buying/standards/suppliers/>

20. INTELLECTUAL PROPERTY RIGHTS

20.1 In the absence of any specific provision for the allocation of intellectual property rights between the parties elsewhere in the Contract and subject to the prior rights (if any) of the Consultant, the Crown or any third parties, such intellectual property rights as are derived from or arise as a result of the performance of the Contract by the Consultant shall vest in the Employer, including any Deliverables, as such term is defined in Condition 5.1. The Consultant shall not use, supply, reproduce, publish, modify, adapt, enhance or otherwise deal with any materials in which such intellectual property rights exist without the Employer's prior written approval.

20.2 In this Condition 20 the term 'intellectual property rights' means all intellectual and industrial property rights of any nature whatsoever, including all of the following: patents, copyrights, database rights, design rights; all rights in or arising out of discoveries, inventions, improvements, know-how, confidential information, trade marks, designs and works; the right to apply for any form of protection for any of these, applications for and registrations of any of these and all resulting registrations. In each case it includes these rights and interests in every part of the world for their full terms, including any renewals and extensions, and the right to receive any income from them and any compensation in respect of their infringement.

20.3 The Consultant shall ensure that all royalties, licence fees and similar expenses in respect of all intellectual property or intellectual property rights used in connection with the Contract have been paid and are included in the Price.

20.4 The Consultant:

- 20.4.1 warrants that the use of any intellectual property rights which derive from or arise as a result of the performance of the Contract by the Consultant will not infringe any intellectual property rights owned by third parties; and
- 20.4.2 will indemnify, keep indemnified and hold harmless the Employer in full and on demand from and against all liabilities (including any tax liability), direct, indirect and consequential losses, damages, claims, proceedings and legal costs (on an indemnity basis), judgments and costs (including costs of enforcement) and expenses which the Employer incurs or suffers directly or indirectly in any way whatsoever as a result of any claim that such intellectual property rights infringe any intellectual property rights owned by third parties.

21. **MERGER, TAKE-OVER OR CHANGE OF CONTROL**

- 21.1 The Consultant shall obtain the Employer's written consent (which shall not be unreasonably withheld, but may be given subject to conditions) prior to any Change of Control of the Consultant, provided that where a Change of Control arises from any change in the beneficial or legal ownership of shares that are listed on the stock exchange, such approval shall be obtained promptly as soon as the Consultant becomes aware of the same. If such consent is not obtained when required by this Condition 21.1, the Employer has the right to terminate the Contract at its election as set out in Condition 22 (Termination of the Contract).
- 21.2 The Consultant shall inform the Employer of any change, or proposed change in the name of or status of the Consultant.

22. **TERMINATION OF THE CONTRACT**

- 22.1 The Consultant may not terminate the Contract.
- 22.2 The Employer may terminate the Contract by giving not less than 30 days' written notice to that effect to the Consultant at any time. If the Employer exercises its right of cancellation under this Condition 22.2 then the Employer's sole liability will be to pay to the Consultant fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss.
- 22.3 Without prejudice to any other power of termination, howsoever arising, the Employer may by notice in writing terminate the Contract with immediate effect and without liability where:
 - 22.3.1 the Consultant is in material breach of the Contract which is incapable of remedy;

- 22.3.2 the Consultant is in material breach of the Contract which can be remedied but fails to remedy that breach within the timescale stipulated by the Employer in a written notice served by the Employer on the Consultant setting out the breach and requiring it to be remedied
 - 22.3.3 the Consultant has failed to comply with a notice given under Condition 3.11;
 - 22.3.4 a Change of Control occurs without the prior approval of the Employer; or
 - 22.3.5 the Consultant is Insolvent.
- 22.4 For the avoidance of doubt and without prejudice to the generality of Condition 22.3.1, breach by the Consultant of any of Package Order Conditions 8 (Conflict of Interests), 9.2 (Anti-Corruption), 10 (Freedom of Information) and 34.2 (Inspection and Testing) of the Contract, shall be deemed to be material breaches of the Contract which are incapable of remedy.
- 22.5 The Consultant will give written notice to the Employer immediately upon becoming Insolvent.
- 22.6 In the event that, during the period of the Contract the Employer is dissolved or wound up, then the Contract shall terminate with immediate effect.

23. **CONSEQUENCES OF TERMINATION**

- 23.1 Upon the expiry of any notice period, or immediately upon termination without notice, the Contract shall be terminated without prejudice to any right of action or remedy which shall have accrued or shall thereupon accrue to the parties. Termination shall not affect the continued operation of Package Order Conditions 1, 3.11, 3.12, 3.13, 4, 5, 6, 9, 10, 11, 12, 15, 16, 17, 20.4, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32.6, 33.4 and 33.5 together with any other provision which expressly or impliedly will survive termination.
- 23.2 Where the Contract is terminated under Condition 22.3, the following provisions shall apply:
- 23.2.1 pending final ascertainment of such sums as are payable under the Contract any sum due or accruing from the Employer to the Consultant may be withheld or reduced by such amount as the Employer in either case considers reasonable and appropriate;
 - 23.2.2 the Employer may make all arrangements which are in its view necessary to procure the orderly completion of the Employer's requirements under the Contract, including the letting of another contract or contracts. In the event that a different organisation is required to provide the Goods and/or Services, the Consultant shall co-operate in the transfer and with any arrangements notified to it by the Employer. The transfer shall be arranged between the Employer and the Consultant so as to reduce to a minimum any interruption in the provision of the Goods or performance of the Services;

- 23.2.3 where the total costs reasonably and properly incurred by the Employer by reason of any arrangements made under Condition 23.2.2 exceed the amount that would have been payable to the Consultant for the completion of the Services, the excess shall be recoverable from the Consultant and the Employer reserves the right to recover such excess under Condition 25.

24. LIABILITY AND INDEMNITY

- 24.1 The Consultant will indemnify, keep indemnified and hold harmless the Employer in full and on demand from and against:

- 24.1.1 death and/or personal injury;
- 24.1.2 damage or loss to property;
- 24.1.3 breach of statutory duty; or
- 24.1.4 third party claims

arising from the Consultant's performance of the Contract.

- 24.2 The Consultant's liability to the Employer for each and every claim arising under or in connection with the Contract, save for any of the Excluded Matters, is limited to £10,000,000 (ten million pounds) for Contracts under Lots 2 and 4, and £1,000,000 (one million pounds) for Contracts under Lot 3, and applies in contract, tort (including negligence) or delict and otherwise to the extent permitted under English Law.

25. RECOVERY OF SUMS DUE

Whenever under the Contract any sums of money shall be recoverable from or payable by the Consultant to the Employer, that amount may be deducted from any sum then due, or which at any later time may become due, to the Consultant under the Contract or under any other contract with the Employer.

26. SERVICE OF NOTICES

- 26.1 Any formal notice required to be given or served under the Contract shall be in writing and shall be served by:
- 26.1.1 delivery in person to the Consultant's Representative, when it shall be deemed served at the time the notice is delivered to the Consultant's Representative, or
 - 26.1.2 sending it to the Consultant's Representative by first-class post, when it shall be deemed served on the second working day after posting; or

- 26.1.3 delivery in person to the Contract Manager, when it shall be deemed served at the time the notice is delivered to the Contract Manager, or
- 26.1.4 sending it to the Contract Manager by first-class post, when it shall be deemed served on the second working day after posting.

27. **SEVERABILITY**

If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect. In the event that an invalid, illegal or unenforceable condition is fundamental to the performance of the Contract, the Employer and the Consultant shall immediately commence negotiations in good faith to remedy the invalidity.

28. **WAIVER**

- 28.1 Any failure by the Employer or the Consultant to exercise any right or remedy shall not constitute a waiver of that right or remedy.
- 28.2 No waiver shall be effective unless it is communicated to the other party in writing.
- 28.3 A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

29. **RIGHTS OF THIRD PARTIES**

Save as provided in Condition 1.3, the parties do not intend that any term of this Agreement will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.

30. **DISPUTE RESOLUTION**

- 30.1 The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Business Days of either party notifying the other of the dispute. If necessary such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of the Consultant and the Employer's Head of Procurement.
- 30.2 Nothing in this dispute resolution procedure shall prevent the parties from seeking from any court of the competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.
- 30.3 If the dispute cannot be resolved by the parties pursuant to Condition 30.1, the dispute shall be referred to mediation pursuant to the procedure set out in Condition 30.5 unless the Employer considers that the dispute is not suitable for resolution by mediation or the Consultant does not agree to mediation.

- 30.4 The performance of the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Consultant (and its employees, consultants, agents or sub-contractors) shall comply fully with the requirements of the Contract at all times.
- 30.5 The procedure for mediation is as follows:
- 30.5.1 a neutral adviser or mediator ("the Mediator") shall be chosen by agreement between the parties. If they are unable to agree upon a Mediator within 10 Business Days after a nomination of a Mediator by one party to the other or if the Mediator agreed upon is unable or unwilling to act, either party shall within 10 Business Days from the date of the nomination or within 10 Business Days of discovering that the nominated Mediator is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("CEDR") to appoint a Mediator;
 - 30.5.2 the parties shall within 10 Business Days of the appointment of the Mediator meet with the appointed Mediator in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek assistance from CEDR to provide guidance on a suitable procedure;
 - 30.5.3 unless otherwise agreed in writing, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings (subject to Condition 30.5.4);
 - 30.5.4 if the parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by their duly authorised representatives;
 - 30.5.5 failing agreement, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties;
 - 30.5.6 if the parties fail to reach agreement in the structured negotiations within 45 Business Days of the Mediator being appointed, or such longer period as may be agreed by the parties in writing, then any dispute or difference between them may be referred to the Courts in accordance with Condition 31.

31. **LAW**

The Contract shall be governed by and interpreted in accordance with English law and, subject to Condition 6, any dispute arising out of or in connection with it shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

PACKAGE ORDER CONDITIONS RELATING TO GOODS (WHERE APPLICABLE)

32. **DELIVERY OF THE GOODS**

- 32.1 The Consultant will deliver the Goods to the delivery address and on the date stated in the Employer's order or as otherwise agreed with the Employer, between 9.00 am and 4.00 pm on a Business Day.
- 32.2 The Consultant will be responsible for off-loading the Goods from the delivery vehicle. Delivery of the Goods will occur when they arrive at the delivery address.
- 32.3 The Consultant may not deliver the Goods by separate instalments unless the Employer gives its prior written consent to this. If the Employer gives such consent, the Consultant will invoice the Price for each instalment separately in accordance with Condition 4 and the Employer will be entitled, at its sole discretion, to exercise its rights and remedies (whether under these Package Order Conditions or otherwise) in respect of the relevant instalment or the whole Contract.
- 32.4 The Consultant will ensure that:
- 32.4.1 the Goods are marked in accordance with any instructions given by the Employer and any Applicable Laws and are properly packed and secured so as to reach their destination in an undamaged condition;
 - 32.4.2 the delivery is accompanied by a prominently displayed delivery note which shows the order number, date of order, type and quantity of Goods, code numbers of Goods (if applicable), any special storage instructions and, where delivery by instalments is permitted under Condition 32.3, the outstanding balance of Goods remaining to be delivered;
 - 32.4.3 if the Consultant requires the Employer to return any packaging material for the Goods to the Consultant, that fact is clearly stated on the delivery note. Any such packaging material will only be returned to the Consultant at the cost of the Consultant;
 - 32.4.4 on or before delivery, the Employer is provided in writing with a list by name and description of any harmful or potentially harmful properties or ingredients in the Goods supplied whether in use or otherwise and thereafter information concerning any changes in such properties or ingredients. The Employer will rely on the supply of such

information from the Consultant in order to satisfy its own obligations under the Health and Safety at Work Act 1974 and any relevant Applicable Laws; and

32.4.5 on or before delivery the Employer is supplied with all operating and safety instructions, clearly displayed warning notices and such other information as may be necessary for the proper use, maintenance and repair of the Goods.

32.5 The Employer reserves the right to mark the Goods immediately on delivery. This is undertaken for the purposes of security and the Employer will not be deemed to have accepted the Goods by reason of this nor will the Consultant be entitled to raise an objection on this ground to any subsequent rejection of the Goods.

32.6 If the Consultant fails to deliver the Goods on the date specified in Condition 32.1, without prejudice to any other rights or remedies of the Employer (whether express or implied), the Employer may terminate the Contract immediately by giving written notice to that effect to the Consultant, in which case:

32.6.1 the Consultant will refund any monies already paid by the Employer under the Contract in relation to the Goods that have not been delivered; and

32.6.2 the Employer will be entitled to recover from the Consultant any and all liabilities, losses, damages, costs and expenses incurred by the Employer as a result of the Consultant's failure to supply Goods, including in obtaining substitute goods from another supplier.

32.7 Risk in and ownership of the Goods will pass to the Employer on delivery.

33. **STANDARD OF THE GOODS**

33.1 The quantity and description of the Goods will be as set out in any quotation or tender submitted by the Consultant, the Contract and the order placed by the Employer.

33.2 The Consultant will ensure that the Goods will:

33.2.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979;

33.2.2 be fit for any purpose held out by the Consultant or made known to the Consultant expressly or by implication and in this respect the Employer relies on the Consultant's skill and judgement;

33.2.3 be free from defects in design, materials and workmanship;

33.2.4 comply with all relevant Applicable Laws; and

33.2.5 be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health.

33.3 The Consultant will maintain and observe quality control and supplier quality assurance standards in respect of the Goods in accordance with the requirements of the Employer, relevant British Standards and the requirements of any relevant statutory and regulatory bodies.

33.4 Without prejudice to any other rights or remedies of the Employer (whether express or implied), if any Goods do not conform with any of the terms of Condition 33.1 or 33.2, the Employer may (whether or not the Goods have been accepted):

33.4.1 terminate the Contract immediately by giving written notice to that effect to the Consultant; or

33.4.2 require the Consultant, at the Employer's option, to promptly repair or replace the relevant Goods free of charge or to refund the Price for the relevant Goods,

and, in either case, the Employer will be entitled to recover from the Consultant any and all liabilities, losses, damages, costs and expenses incurred by the Employer as a result of the non-conformity of the Goods, including in obtaining substitute goods from another supplier.

33.5 Condition 33.4 will apply to any repaired or replacement Goods supplied under Condition 33.4.2.

34. **INSPECTION AND TESTING**

34.1 The Employer will have the right to inspect and test the Goods at any time prior to delivery (or any planning, preliminary and preparatory work in relation thereto) at any reasonable time. The Consultant will permit the Employer, its officers, employees, agents and sub-contractors to enter upon the Consultant's premises for such purpose, and will procure permission for such persons to enter upon any relevant third party premises, to carry out such inspection and testing and will provide the Employer with all facilities reasonably required.

34.2 If, following inspection or testing under Condition 34.1, the Employer gives written notice to the Consultant that it is not satisfied that the Goods and/or the Services will comply with the Contract, the Consultant will take all steps necessary to ensure compliance. Any breach of this obligation by the Consultant shall be deemed to be a material breach which cannot be remedied entitling the Employer to terminate the Contract under Condition 22.3.1.

34.3 No inspection or testing under Condition 34.1 will reduce or otherwise affect the Consultant's obligations under the Contract.