

Construction agreement for minor works projects purchased by the British Council

EXTERNAL TEMPLATE BRITISH COUNCIL USE ONLY

The British Council: **[THE BRITISH COUNCIL**, incorporated by Royal Charter and registered as a charity (under number 209131 in England & Wales and number SC037733 in Scotland), with its principal office at 1 Redman Place, Stratford, London E20 1JQ] **OR** **[insert name of appropriate local entity where relevant outside the UK] [where appropriate add the following wording] [operating through its local office at [insert office address and details]]**

The Contractor: **[insert name and address details (and company number, if appropriate)]**

Date: **[insert date when signed by the second party to sign (which should always be the British Council)]**

This Agreement is made on the date set out above subject to the terms set out in the schedules listed below which both the British Council and the Contractor undertake to observe in the performance of this Agreement.

The Contractor shall provide to the British Council, and the British Council shall acquire and pay for the works described in Schedule 1 and/or Schedule 2 on the terms of this Agreement.

Schedules

Schedule 1	Special Terms
Schedule 2	Terms of Reference
Schedule 3	Charges
Schedule 4	Standard Terms
Schedule 5	Data Processing Schedule
Schedule 6	Environmental Standards Protection Schedule
Schedule 7	Health and Safety Schedule

This Agreement shall only become binding on the British Council upon its signature by an authorised signatory of the British Council subsequent to signature by or on behalf of the Contractor.

IN WITNESS whereof the parties or their duly authorised representatives have entered into this Agreement on the date set out above.

Signed by the duly authorised representative of THE BRITISH COUNCIL

Name: Signature:

Position:

Signed by the duly authorised representative of [insert name of Contractor]

Name: Signature:

Position:

Schedule 1

Special Terms

Terms defined in this Schedule 1 shall have the same meanings when used throughout this Agreement.

In the event of any conflict between the terms set out in the various Schedules, the Schedules shall prevail in the order in which they appear in the Agreement.

For the purposes of ***[insert specific details of project]*** (the “**Project**”) and the provision of the Works, the terms of this Agreement shall prevail over any other terms and conditions issued by the British Council (whether on a purchase order or otherwise).

1 Commencement Date and Term

- 1.1 The Contractor’s appointment shall commence from the date of this Agreement or from the date on which the Contractor began to perform the Works, whichever is the earlier, and this Agreement shall be deemed to apply to the performance by the Contractor of the Works and any additional works from the date of commencement of the Contractor’s appointment.
- 1.2 No actions or proceedings shall be brought against the Contractor by the British Council in relation to this Agreement **6** years after completion of the Works by the Contractor or **6** years from Practical Completion of the Project as defined in the Building Contract, whichever is earlier (the “**Term**”).
- 1.3 Notwithstanding anything to the contrary elsewhere in this Agreement, the British Council shall be entitled to terminate this Agreement by serving not less than 28 days’ written notice on the Contractor.

2 Locations

- 2.1 The Contractor shall be required to provide the Works in ***[insert list of locations]*** and such other locations as may be agreed between the parties in writing from time to time (“**Location(s)**”).

3 Date for Completion

- 3.1 The Date for Completion of the Works is ***[insert date]***

4 Liquidated Damages

- 4.1 The amount of Liquidated Damages is ***[insert amount]*** per week or pro rata thereof

5 Rectification Period

- 5.1 The Rectification is 12 months from the Completion Date unless otherwise specified here.

6 Equipment or Onsite Facility

- 6.1 ***[Not applicable] OR [The British Council will provide the Contractor with the following equipment to be used by the Contractor in the provision of the Works (“British Council Equipment”): [insert list (e.g. laptops)].]***

AND/OR [The Contractor will provide the following equipment which it will use in the provision of the Works: [insert list (e.g. laptops)].]

- **AND/OR [The British Council shall provide [insert description (e.g. a room for the Contractor to establish office or access to washrooms and for Contractor, or this could be a portable toilet if British Council facility not available) (“British Council Onsite Facility”)]]**

7 Key Personnel

7.1 The Contractor shall deploy the following persons in the provision of the Works: **[insert list] (“Key Personnel”)**.

7.1.1 Project Manager

7.1.2 Health and Safety Manager or responsible person

7.1.3 Site Manager

7.2 In addition the Contractor will provide an escalation matrix in order that the British Council can, where required, escalate issues beyond site level.

8 Service of notices

8.1 For the purposes of clause 36, notices are to be sent to the following addresses:

To the British Council	To the Contractor
<i>[The British Council 1 Redman Place, Stratford, London E20 1JQ]</i> Email: <i>[Attention: insert name <u>and</u> job title]</i>	<i>[Insert address]</i> <i>[Attention: insert name <u>and</u> job title]</i> <i>Email:</i>

9 Insurance Requirements

9.1 The Contractor shall take out and maintain during the Term with a reputable insurance company the following cover types with the following indemnity limits:

Insurance Cover	Indemnity Limit
[Employer's liability]	£[10,000,000] per claim
[Public liability]	£[5,000,000] per occurrence and in the aggregate (annual total of all losses)
[Professional indemnity]	£[10,000,000] per occurrence and in the aggregate (annual total of all losses).
[Contractors Work/All Risk]	£[insert amount]

[NB: Delete those which are not applicable]

or such other insurance cover types and indemnity limits as may be agreed between the parties in writing from time to time.

10 Working Hours

- 10.1 For the purposes of this Agreement “**Working Hours**” and “**Working Days**” shall mean ***[insert relevant working hours/working days, details for territory in which works are to be provided, premises at which works are to be provided [e.g. 9 a.m. to 5 p.m. local time Monday to Friday OR 10 a.m. to 6 p.m. local time Sunday to Thursday]]***.

Data Protection [NB please note the following guidance on when to use these additional Data Protection clauses]:

- *The following clause (clause 11 below) should be included in the Special Terms in the event of any international transfers of personal information or data to **any country/territory** that is **NOT** listed below:*
 - ***United Kingdom;***
 - ***Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Iceland, Norway Liechtenstein;***
 - ***Gibraltar;***
 - ***Andorra, Argentina, Faroe Islands, Guernsey, Isle of Man, Israel, Jersey, New Zealand, Switzerland and Uruguay;***
 - ***Japan (where the Contractor is a private sector organisation);***
 - ***Canada (where the data that is subject to Canada's Personal Information Protection and Electronic Documents Act (PIPEDA)).***
- *Where you are transferring personal information from the UK/EU to the US, please consult with IGRM.*
- *Please note that, in addition to the other data protection information required in Schedule 5, Part C contains some questions (highlighted) which need to be answered.*

- *This sub-clause supplements the Data Processing clause (clause 19) in Schedule 4 (Terms and Conditions) and will be an integral part of clause 19, covering the transfer or sharing of personal data on the conditions set out under the first bullet above.*
- *If you have enquiries about what constitutes the sharing or transfer of personal data, then please contact the British Council's Information Governance & Risk Management Team (InfoGovernance@britishcouncil.org) for further guidance.*
- *Regardless of whether this additional sub-clause is used or not, **please ensure the Data Processing clause in clause 19 of Schedule 4 of the Agreement remains as this is a Standard Term and should not be deleted. Additionally, Part A of Schedule 5 should not be deleted either.***

Delete these guidance notes before finalising and signing the Agreement]

11 [Data Protection] – [NB delete this clause 11 as well as Part B and C (and their Appendixes and Annexes) of Schedule 5, if they are not applicable – see guidance note above]

The following clauses will apply in addition to clauses 19.1 to 19.14 (Data Processing) of Schedule 4:

“Clause 19.15 applies to the Processing of Personal Data that takes place in any country or territory that is not within the United Kingdom (UK), the European Economic Area or any country deemed to provide an adequate level of protection under Article 45 of the EU GDPR and Article 45 of the UK GDPR. Clause 19.14 also applies to this clause.

19.15 The Contractor and the British Council shall:

- 19.15.1 comply with the provisions of Schedule 5, Part B in relation to all relevant Personal Data identified in, and on the basis of the information set out in, Schedule 5, Parts A, B and C in order to provide an appropriate safeguard for that transfer in accordance with Article 46 of the UK GDPR; and
- 19.15.2 comply with the provisions of Schedule 5, Part C in relation to all relevant Personal Data identified in, and on the basis of the information set out in, Schedule 5, Parts A, B and C in order to provide an appropriate safeguard for that transfer in accordance with Article 46 of the EU GDPR.”

Schedule 2

Terms of Reference

[Minor works and small construction contracts valued between £5,000 - £50,000 GBP (includes local tax) could be procured using either the traditional or design and build route. If following the traditional procurement route, the British Council would appoint consultants to design the project, produce plans and develop a specification or work schedule with a separate contractor appointed to build and manage the construction phase. If following the design and build procurement route, the British Council will provide a general performance specification (including any relevant guidelines) and proposed testfits and the contractor will be responsible for the detailed and technical design and final construction works.]

[Please Note: This contract should only be used if the project is fairly simple, falls within the above small cost threshold and construction should last no more than 3-4 months.]

[Projects likely to be included within this definition include, reactive and/or planned building maintenance work, minor alterations, refurbishments and/or improvement works and small capital works/construction schemes covering single or multiple trades.]

[Complex, higher value or longer duration construction projects should use an appropriate construction contract which contains the appropriate level of detail/contractual mechanisms for the project type i.e. NEC/JCT/FIDIC.

New Engineering Contract (“NEC”) NEC3: Contracts - Products - NEC Contracts

Joint Contracts Tribunal (“JCT”) The Joint Contracts Tribunal (JCT) (jctltd.co.uk)

FIDIC International Federation of Consulting Engineers (“FIDIC”) FIDIC | International Federation of Consulting Engineers | The Global Voice of Consulting Engineers

]

General

The Contractor shall provide the British Council with a professionally managed, high-quality design and/or construction service, utilising current industry best practice, to deliver the small construction Project as per the detailed requirements and quality standards set out in this Agreement.

The contractor shall comply with all the applicable British Council Requirements more particularly set out in Schedule 4 which supports the delivery of the Terms of Reference.

The Project shall comprise the following Works, and the Contractor shall provide all necessary materials, labour and expertise required to successfully deliver the Project at the stated Location(s):

Project description:

Detail Specification:

[Please insert detail or document reference as per tender]

Brief or/and British Council design guide reference (where applicable)

[Please insert detail or document reference]

Test Fit (where applicable)

[Please insert as annexe]

Design and Build Contract [WHERE APPLICABLE]

If the Contractor has been appointed to deliver the Project on a design and build contract basis, the Contractor shall provide all necessary design and construction information which could include, but not be limited to floor plan drawings, elevation drawing, detail drawings , visualisations, schedules and specifications.

[Please insert design and build drawings reference here]

Concept drawing Reference [WHERE APPLICABLE]

[Please insert drawing reference for the Project here]

[The Drawing Reference should be produced by either the British Council or an appointed qualified consultant and should ideally include architectural/MEP/structural (where applicable) concept design type floor plans, key elevations, visualisations and specifications to form the concept drawings.]

[These should have been previously shared with the building contractor as part of the RFQ/RFP process but are included here as part of the final contract.]

Detail design [WHERE APPLICABLE]

[Please insert drawing reference for the Project here or to be done by contractor as per design guide if design and build.]

Should include architectural/MEP/structural (where applicable) detailed design type plans, elevations, sections, visualisations, schedules, outline specifications and branding.

Construction Drawings [WHERE APPLICABLE]

Should include architectural/MEP/structural (where applicable) construction design type plans, elevations, sections, details, schedules and detailed specifications.

[Please insert construction drawings reference here or to be done by contractor as per design guides if Design and build contract]

Shop drawings, samples and mock-ups [WHERE APPLICABLE]

To be produced and supplied by contractor and approved by British Council prior to orders being placed

Timescales

Date	Stage/Milestone
[Insert]	Contract Commencement
[Insert]	Mobilisation Period
[Insert]	Construction Commencement
[Insert]	Mid-Point <i>[please re-name and define for your project]</i>
[Insert]	Construction Completed
[Insert]	Snagging & Practical Completion
[Insert]	End of Rectification Period

Health and Safety

The health and safety procedures appended to this Agreement should be followed while working on the British Council Location(s).

[To be appended] The Contractor and British Council to clarify and set out in Schedule 7 in accordance with local regulations high level roles and responsibilities for Health and Safety during the term of the Agreement.

[The British Council designated Health & Safety Co-ordinator for Contractor [***].

Schedule 3

Part 1

Charges

The total Charges for the Works exclusive of VAT are: ***[insert total contract price in local currency]***.

The Charges have been calculated as a fixed lump sum price exclusive of VAT which will be paid by the British Council to the Contractor as full consideration for the provision of the Works described in this Agreement. For avoidance of doubt references in this Agreement to fixed lump sum price or sum as related to the Charges shall be read in accordance with Schedule 4 and Clauses 5.1.

The Contractor shall be entitled to apply for payment of the agreed charges at each stage of the Payment Schedule detailed below following the certification of Work Completed in accordance with British Council Manager. All payments shall be paid in accordance with the Payment Terms of this Agreement. Clarification of the defined terminology *Completion* more particularly defined in Schedule 4 at clause 10 of this Agreement.

Payment Schedule [Internal Note: This table needs to be modified according to the scope by the British Council Manager]

Date	Stage/Milestone	% of Charges	Amount exclusive VAT	Amount inclusive VAT (If applicable)
[Insert]	Commencement	0%	N/A	NA
[Insert]	Mid-Point <i>[please define for your project]</i>	50%	x	x
[Insert]	Completion Date	45%	x	x
[Insert]	Defects Completion Date	5%	x	x
Total (local currency)	100%	x	x	x
Total in £				

Exchange rate at time of contract ()

The above payments are subject to retention of 10% from each payment made to the Contractor (“**Retention**”). The British Council shall release 50% of the Retention within 30 days of the Completion Date and the other 50% of the Retention within 30 days of the Defects Completion Date.

The British Council Manager shall certify each stage of the Project and will confirm acceptance on behalf of the British Council when each stage and/or milestone has been reached.

The Charges set out above are an all-inclusive fee and cover all preparation, report writing and all other work, which is carried out in [***]. It is expected that the Contractor will meet all costs and expenses necessary to provide the Works under this Agreement, including, but not restricted to: the costs of salaries, bonuses, superannuation medical and travel insurance, insurance for personal possessions or of any fees payable to personnel employed, or engaged by the Contractor. The Charges are also deemed to cover the cost of personal equipment, non-Working Days and all other costs including clothing, passports and vaccinations, travel to and from the airport, accommodation costs, overheads and expenses of whatsoever nature that may be incurred except those otherwise specifically provided for in this Agreement.

Part 2

Payment Terms

- 1 When giving the British Council a monthly application for payment/or other method for application for payment or an invoice, the Contractor shall also give the British Council the supporting documents and information that the British Council reasonably requires to enable it to evaluate the application for payment or invoice. The application for payment or invoice and the supporting documents and information (if any) shall specify the sum that the Contractor considers will be due on the payment due date for that instalment of the Charges, and the basis on which that sum has been calculated.
- 2 The payment due date will be 30 days after the date on which the British Council receives the application for payment or invoice.
- 3 No later than 5 days after the payment due date, the British Council shall give notice to the Contractor of the sum, which may be zero, that the British Council considers was due on the payment due date in respect of that instalment and of the basis on which that sum has been calculated.
- 4 The final date for payment of a sum set out in an application for payment or an invoice will be 17 days after the payment due date.
- 5 Subject to paragraph 7, and unless the British Council has given a notice under paragraph 6, the British Council shall pay the Contractor:
 - 5.1 the sum set out in the British Council 's notice given under paragraph 3; or
 - 5.2 if the British Council has not given a notice under paragraph 3, the sum set out in the Contractor's application for payment or invoice given under paragraphs 1 and 2("Notified Sum"), on or before the final date for payment of the application for payment or invoice.
- 6 Not later than 5 days before the final date for payment of the Notified Sum ("**Prescribed Period**"), the British Council may give the Contractor notice that it intends to pay less than the Notified Sum. The notice shall specify:
 - 6.1 the sum that the British Council considers is due on the date the notice is served; and
 - 6.2 the basis on which that sum has been calculated.
- 7 Notwithstanding paragraphs 5 and 6, if the Contractor becomes Insolvent after the Prescribed Period, the British Council need not pay the Contractor the Notified Sum.

Schedule 4

Standard Terms

1 Interpretation

1.1 In this Agreement:

“Background IPR” means any Intellectual Property Rights (other than Project IPR) belonging to either party before the Commencement Date or not created in the course of or in connection with the Project;

“British Council Entities” means the subsidiary companies and other organisations Controlled by the British Council from time to time, and any organisation which Controls the British Council (the **“Controlling Entity”**) as well as any other organisations Controlled by the Controlling Entity from time to time;

“British Council’s Manager” means the British Council’s manager for the Works appointed in accordance with clause 3.1.1;

“British Council Requirements” means the instructions, requirements, policies, codes of conduct, guidelines, forms and other documents notified to the Contractor in writing or set out on the British Council’s website at http://www.britishcouncil.org/new/about-us/jobs/folder_jobs/register-as-a-consultant/policies-for-consultants-and-associates/ or such other web address as may be notified to the Contractor from time to time (as such documents may be amended, updated or supplemented from time to time during the Term);

“British Council Specification” means the specifications and drawings set out in Schedule 2;

“CDM Regulations” means the Construction (Design and Management) Regulations 2015 as amended and updated from time to time, if relevant to the Project;

“Charges” means the charges, fees and any other sums payable by the British Council to the Contractor as set out in Schedule 3;

“Confidential Information” means any information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, finances, properties, assets, trading practices, Goods/Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, and customers of the British Council or the Contractor (as the case may be) and all personal data and special categories of personal data within the meaning of the Data Protection Legislation;

“Contractor’s Equipment” means any equipment described as “Contractor’s Equipment” in Schedule 1 and any other equipment, including tools, systems (including laptops), cabling or facilities provided by the Contractor or its sub-contractors and used directly or indirectly in the supply of the provision of the Works which are not the subject of a separate agreement between the parties under which title passes to the British Council;

“Contractor’s Proposals” means the proposals submitted by the Contractor as part of its tender for the Works;

“Contractor’s Team” means the Contractor and, where applicable, any Relevant Person, and all other employees, consultants, agents and sub-contractors which the Contractor engages in any way in relation to the provision of the Works

“Control” means the ability to direct the affairs of another party whether by virtue of the ownership of shares, contract or otherwise (and **“Controlled”** shall be construed accordingly);

“Document” means (whether in hard copy or electronic format) any document, drawing, map, plan, diagram, design, picture or other image, tape, disk, or other device or record embodying information in any form including any web page, information portal, “blog”, online content or electronic file;

“Environmental Information Regulations” means the Environmental Information Regulations 2004;

“Equality Legislation” means any and all legislation, applicable guidance and statutory codes of practice relating to diversity, equality, non-discrimination and human rights as may be in force from time to time in England and Wales or in any other territory in which, or in respect of which, the Contractor provides carries out the Works;

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;

“Information Disclosure Requirements” means the requirements to disclose information under:

- (a) the FOIA;
- (b) the Environmental Information Regulations; and
- (c) any applicable codes of practice issued under the FOIA;

“Intellectual Property Rights” means any copyright and related rights, patents, rights to inventions, registered designs, database rights, design rights, topography rights, trade marks, service marks, trade names and domain names, trade secrets, rights in unpatented know-how, rights of confidence and any other intellectual or industrial property rights of any nature including all applications (or rights to apply) for, and renewals or extensions of such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

“Practical Completion” means the Works are complete and free from apparent defects save for any minor issues with the Works, the existence or completion or rectification of which in the opinion of the British Council (acting reasonably) would not prevent or interfere with the use (or the fitting-out or equipping for use) of the Works for the intended purpose as indicated in the British Council Specification;

“Premises” means, where applicable, the premises or location where the Works are to be provided, as notified by the British Council to the Contractor;

“Project” means the project in connection with which the Contractor provides the Works as further described in the Schedule 1 and/or the Schedule 2;

“Project IPR” means all Intellectual Property Rights that arise or are obtained or developed by either party, or by a contractor on behalf of either party, in respect of the Documents in the course of or in connection with the Project;

“Relevant Person” means any individual employed or engaged by the Contractor and involved in the provision of the Works, or any agent or contractor or sub-contractor of the Contractor who is involved in the provision of the Works and includes the Key Personnel (if any);

“Request for Information” means a request for information (as defined in the FOIA) relating to or connected with this Agreement or the British Council more generally or any apparent request for such information under the Information Disclosure Requirements;

“Site” means *[insert address of site]*;

“Statutory Requirements” means:

- (a) all planning and/or other permissions, consents, approvals, permits, licences and certificates which are necessary lawfully to design, construct, complete, commission, maintain and use the Project;
- (b) any statute, regulation or subordinate legislation, the common law, any treaty or European Union law or any other law which relates to the protection of the environment or health and safety whether administrative, civil or criminal;
- (c) any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the Project or the performance of any of the obligations under this Agreement;
- (d) any regulation or bye-law of any local authority, statutory undertaker or similar body or organisation which has any jurisdiction with regard to the Project or with whose systems the Project is connected, including any statutory provisions and any decision of a relevant authority under them which controls the right to develop the Site; and
- (e) the consents of all persons having rights or interests in or over the Project or the Site who by the lawful exercise of their powers in the absence of such consents could delay or disrupt the carrying out or progress of the Project or the use or enjoyment of the Site; and

“Third Party IPR” means any Intellectual Property Rights not belonging to either party to this Agreement but used by the Contractor in the creation of the Documents and/or in the course of or in connection with the Project.

1.2 In this Agreement:

- 1.2.1 any headings in this Agreement shall not affect the interpretation of this Agreement;

- 1.2.2 a reference to a statute or statutory provision is (unless otherwise stated) a reference to the applicable UK statute as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;
- 1.2.3 where the words “include(s)” or “including” are used in this Agreement, they are deemed to have the words “without limitation” following them, and are illustrative and shall not limit the sense of the words preceding them;
- 1.2.4 without prejudice to clause 1.2.5, except where the context requires otherwise, references to:
- (i) services being provided to, or other activities being provided for, the British Council;
 - (ii) any benefits, warranties, indemnities, rights and/or licences granted or provided to the British Council; and
 - (iii) the business, operations, customers, assets, Intellectual Property Rights, agreements or other property of the British Council,
- shall be deemed to be references to such services, activities, benefits, warranties, indemnities, rights and/or licences being provided to, or property belonging to, each of the British Council and the British Council Entities and this Agreement is intended to be enforceable by each of the British Council Entities; and
- 1.2.5 obligations of the British Council shall not be interpreted as obligations of any of the British Council Entities.

2 Contractor's Obligations

- 2.1 The Contractor shall provide and complete the Works in accordance with the terms of this Agreement and using all the reasonable skill, care, diligence and best up-to-date practice to be expected of a properly qualified and competent contractor provision of the works for projects of similar size, nature, scope and complexity to the Project and shall allocate sufficient resources to the Works to enable it to comply with this obligation.
- 2.2 The Contractor confirms that it has read and understood the British Council Specification and unconditionally assumes and accepts responsibility for the contents of the British Council Specification and the Contractor's Proposals and for any mistake, discrepancy or omission contained in the British Council Specification and/or the Contractor's Proposals.
- 2.3 If the Contractor discovers a discrepancy within the British Council Specification and/or the Contractor's Proposals or between the British Council Specification and the Contractor's Proposals, the Contractor shall inform the British Council in writing of its proposed amendment to remove the discrepancy.
- 2.4 The British Council shall decide between the discrepant items referred to in clause 2.3 or otherwise may accept the Contractor's proposed amendment and the Contractor shall be obliged to comply with the decision or acceptance by the British Council

without any adjustment of the Charges or any extension of time to the Date for Completion.

- 2.5 The Contractor warrants that all Contractor's Equipment, plant, materials and goods it selects for the Works shall be of new and satisfactory quality, shall be free from defects and shall comply with the standards, specifications and/or requirements set out in the British Council Specification and/or the Contractor's Proposals. The Contractor shall not substitute any materials or goods so described without the British Council's prior consent (acting reasonably).
- 2.6 Prior to the date on which the Contractor takes possession of the Site, the Contractor and the British Council shall finalise a works programme ("**Contractor's Programme**") containing such information as is necessary for the Contractor to provide the Works in accordance with the Timescales stated in Schedule 2. The Contractor's Programme shall set out the Contractor's intentions for carrying out the design, installation and commissioning of the Works by the Date for Completion, and shall clearly show the critical paths, earliest and latest start and finish dates for all activities, and identify any activity float. Immediately following the granting of any extension of time by the British Council in accordance with this Agreement, the Contractor shall revise the Contractor's Programme and issue it to the British Council providing the updated information in exactly the same format as the original.
- 2.7 The Contractor undertakes and warrants to the British Council that (unless otherwise instructed or authorised by or on behalf of the British Council), the Contractor:
- 2.7.1 has not specified, selected and/or approved and shall not specify, select and/or approve for use; and
 - 2.7.2 has used and shall use the level of skill, care and diligence referred to in clause 2.1 to ensure that there shall not be used in the Project:
any material, substance, building practice or technique which is:
 - 2.7.3 prohibited by this Agreement;
 - 2.7.4 not in accordance with any relevant British Standard, Eurocode, code of practice, best up-to-date building practice or agrément certificate issued by the British Board of Agrément or any other relevant guidance or practice of the country in which the Project is located;
 - 2.7.5 not in accordance with the guidance and comment contained in the British Council for Offices' publication: "Good Practice in the Selection of Construction Materials 2011" or the guidance and comment relevant to the country in which the Works are to be provided; or
 - 2.7.6 generally known within the Contractor's profession at the time of specification, selection, approval or use (as the case may be) to:
 - (i) be deleterious;
 - (ii) be harmful to the health or safety of any person;

- (iii) threaten the structural stability, physical integrity or performance of the Project or any part or component of the Project; or
 - (iv) reduce the normal life-expectancy of the Project or any part or component of the Project.
- 2.8 In providing the Works, the Contractor shall comply with, and give all notices required by the Statutory Requirements and, using the level of skill, care and diligence referred to in clause 2.1 shall advise the British Council of its duties and obligations under them.
- 2.9 The Contractor confirms that it is competent and shall allocate sufficient resources to, and it shall comply with, its obligations under the CDM Regulations or the relevant health and safety regulations of the country in which the Project is located. Where the Contractor is, and while it remains the Principal Designer, it shall comply with the duties of a Principal Designer and shall without charge prepare and deliver to the British Council the health and safety file.
- 2.10 If the Contractor requires any advance payment by the British Council in relation to the Works, the Contractor shall procure an on-demand advance payment bond from a reputable bank or financial institution to be approved by the British Council. Ownership of any goods purchased as part of an advanced payment shall transfer to the British Council upon payment under the advance payment bond and the Contractor confirms that such goods shall be properly identified as belonging to the British Council, separately stored, insured by the Contractor and free from any encumbrances.
- 2.11 [The Contractor shall be deemed to have ascertained fully and shall accept full responsibility for ascertainment of the physical and surrounding conditions that affect the Site including without limitation the ground to be excavated and/or built upon and any existing structures on the site. The Contractor shall not be entitled to rely on any surveys, reports or other documents supplied to him by or on behalf of the British Council regarding such physical and surrounding conditions. The Contractor shall not be entitled to any addition to the Charges or to any extension of time for completion of the Works as a result of any such physical or surrounding conditions.]
- 2.12 In provision of the Works, the Contractor shall at all times prevent any nuisance (including but without limitation noisy work operations) or other interference with the rights of any adjoining land owner, tenant or occupier or any statutory undertaker arising out of the provision of the Works and shall assist the British Council in defending any action or proceedings which may be instituted in relation thereto. The Contractor shall be responsible for and shall indemnify the British Council from and against any and all expenses, liabilities, losses, claims and proceedings whatsoever resulting from any failure or default by the Contractor in this regard.
- 2.13 The Contractor shall, at no cost to the British Council, obtain all necessary consents and licences for the provision of the Works (with the exception of such consents and licences being obtained by the British Council as notified to the Contractor by the British Council), including any consents and licences which may be required, from the adjoining owners, tenants or occupiers. Without prejudice to the generality of the foregoing, the Contractor shall carry out all negotiations with adjoining owners, tenants or occupiers and obtain any consents or licences which may be required for the over-

sailing of tower crane jibs and shall thereafter comply in all respects with the terms thereof and any conditions contained therein.

2.14 The Contractor shall:

2.14.1 meet any dates related to the performance of the Works under this Agreement and time shall be of the essence in respect of such dates; and

2.14.2 shall use the level of skill care and diligence referred to in clause 2.1 to ensure that insofar as by performing the Works it is able to do so, the Project is completed within any other reasonable time and financial limits of which the British Council may notify the Contractor.

2.15 The Contractor shall comply with, and complete and return any forms or reports from time to time required by, the British Council Requirements.

2.16 Where applicable, the Contractor shall, subject to the prior written approval of the British Council, appoint or, at the written request of the British Council, replace without delay any member of the Contractor's Team, each such member to be suitably skilled, experienced and qualified to provide the Works. The Contractor shall not, without the British Council's prior written consent (not to be unreasonably withheld or delayed), replace any of the Key Personnel. The British Council acknowledges that the Contractor will have to replace a member of the Key Personnel where such person leaves the employment of the Contractor, in which case the British Council shall have a right of approval over the proposed replacement (such approval not to be unreasonably withheld or delayed).

2.17 The Contractor shall:

2.17.1 observe, and ensure that, where applicable, the Contractor's Team observes, the British Council's Acceptable Usage Policy, Roam User Policy (where access to the relevant information technology systems has been granted), Information Security Policy and any applicable security policy or health and safety policy notified to the Contractor (including such policies as may be applicable at the Premises) and any reasonable verbal or written instructions or policies issued to the Contractor at any time and shall comply with the legal requirements of any country in which the Works are being provided and, if the Contractor fails to do so, the British Council reserves the right to refuse the Contractor's Team access to the Premises and/or to suspend the provision of the Works until such time as the Contractor (and, where applicable, the Contractor's Team) is compliant with such policies, instructions or requirements and the British Council shall not be required to pay the Charges in respect of the period of such suspension; and

2.17.2 prior to the date on which the Works are to start, obtain and at all times maintain and comply with all licences and consents required to enable the Contractor to provide the Works (including in relation to the installation of the Contractor's Equipment) and goods in accordance with this Agreement.

2.18 If the Contractor is unable to provide the Works due to its own illness or injury or the illness or injury of any Relevant Person, the Contractor shall advise the British Council

of that fact as soon as reasonably practicable and shall provide such evidence of any Relevant Person's or its own (as the case may be) illness or injury as the British Council may reasonably require. For the avoidance of doubt, no Charges shall be payable to the Contractor in respect of any period during which the Works are not provided.

- 2.19 Where the Contractor is not an individual, it shall provide one or more Relevant Person(s) to provide the Works and shall procure that such Relevant Person(s) comply with the terms of this Agreement to the extent that such terms are applicable to such Relevant Person(s). Notwithstanding the deployment of any such Relevant Person(s), the Contractor shall remain wholly liable to the British Council and shall be responsible for all acts and omissions (howsoever arising) in the performance of the Works. The British Council may, in its discretion, require the Relevant Person(s) to enter into direct undertakings with the British Council including with regard to confidentiality and intellectual property.
- 2.20 The Contractor shall use its reasonable endeavours to ensure that it does not become involved in any conflict of interests between the interests of the British Council and the interests of the Contractor itself or any client of the Contractor. The Contractor shall notify the British Council in writing as soon as is practically possible of any potential conflict of interests and shall follow the British Council's reasonable instructions to avoid, or bring to an end, any conflict of interests. In the event that a conflict of interests does arise, the British Council shall be entitled to terminate this Agreement on immediate written notice.
- 2.21 The Contractor shall ensure that it carries out the Works in accordance with Environmental Standards Protection Schedule set out in Schedule 6 of this Agreement.

3 The British Council's Obligations

- 3.1 The British Council shall:
- 3.1.1 co-operate with the Contractor in all matters relating to the Works and appoint the British Council's Manager in relation to the Works, who shall have the authority to represent the British Council on day-to-day matters relating to this Agreement; and
 - 3.1.2 inform the Contractor of all health and safety rules and regulations and any other reasonable security requirements, policies and British Council instructions that apply at the Premises and/or in the country in which the Works are being provided from time to time during the Term.
- 3.2 The Contractor acknowledges and agrees that if it considers that the British Council is not or may not be complying with any of the British Council's obligations, it shall only be entitled to rely on this as relieving the Contractor's performance under this Agreement:
- 3.2.1 to the extent that it restricts or precludes performance of the Works by the Contractor; and
 - 3.2.2 if the Contractor, promptly after the actual or potential non-compliance has come to its attention, has notified details to the British Council in writing.

4 Status

- 4.1 The relationship of the Contractor to the British Council will be that of independent contractor and nothing in this Agreement shall render the Contractor or any Relevant Person an employee, worker, agent or partner of the British Council and the Contractor shall not hold itself out as such.
- 4.2 This Agreement constitutes a contract for the provision of works and not a contract of employment and accordingly the Contractor shall be fully responsible for and shall indemnify the British Council for and in respect of payment of the following within the prescribed time limits:
- 4.2.1 any income tax, national insurance and social security contributions and any other employment related liability, deduction, contribution, assessment or claim in any applicable jurisdiction arising from or made in connection with either the performance of the Works, or any payment or benefit received by the Contractor (or, where applicable, any Relevant Person) in respect of the Works, where such recovery is not prohibited by law and the Contractor shall further indemnify the British Council against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the British Council in connection with or in consequence of any such liability, deduction, contribution, assessment or claim other than where the latter arise out of the British Council's negligence or wilful default; and
- 4.2.2 any liability for any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Contractor (or, where applicable, any Relevant Person) against the British Council arising out of or in connection with the provision of the Works, except where such claim is as a result of any act or omission of the British Council.
- 4.3 The British Council may at its option satisfy the indemnities referred to in clause 4.2 above (in whole or in part) by way of deduction from any outstanding Charges or other payments due to the Contractor.
- 4.4 Where applicable, the Contractor:
- 4.4.1 acknowledges and agrees that it is intended that all employees of the Contractor (if any) shall remain employees of the Contractor and that termination of this Agreement (or any part of it) shall not operate to transfer the contracts of employment of any employees to the British Council or any third party; and
- 4.4.2 shall use all reasonable endeavours to ensure that no member of its staff is deployed in the performance of the Works to such an extent that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (or any applicable equivalent legislation in any relevant jurisdiction, including in the European Union the Acquired Rights Directive (Council Directive 77/187 as amended) and any national legislation enacting to such Directive) may operate to transfer the employment of such member of staff

to the British Council or any successor service provider upon termination of this Agreement.

5 Price and Payment

- 5.1 Unless stated otherwise, the Charges are exclusive of value added tax (VAT) or any equivalent sales tax in any applicable jurisdiction, which, if properly chargeable, the British Council shall pay at the prevailing rate within 30 days following receipt from the Contractor of a valid and accurate tax invoice. In the event that the British Council is required by the laws or regulations of any applicable jurisdiction to deduct any withholding tax or similar taxes from the Charges, the British Council shall deduct and account for such taxes before paying the remainder of the Charges to the Contractor and shall notify the Contractor in writing of all such sums properly deducted.
- 5.2 Under current UK legislation it is the responsibility of a contractor to assess its VAT liability for the provision of works. Where UK VAT is applicable, the Contractor's invoice should show all the necessary entries thereon to make it a valid tax invoice for VAT purposes; and in particular it must show the amount of VAT charged separately. However, the British Council may be of the opinion that the Works being carried out under this Agreement may not be subject to UK VAT, due to the location of the works not being the UK, and the charging of UK VAT would therefore be inappropriate. The British Council reserves the right to dispute payment of the UK VAT charged by the Contractor until the issue has been resolved by a ruling in writing obtained from HM Revenue & Customs by the Contractor, and that ruling shown to the British Council.
- 5.3 The Contractor shall indemnify and keep indemnified the British Council from and against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the British Council at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under this Agreement. Any amounts due under this clause 5.3 shall be paid in cleared funds by the Contractor to the British Council not less than 7 days before the date on which the tax or other liability is payable by the British Council. The British Council may grant the Contractor further time to pay where this is deemed appropriate by the British Council taking account of the relevant circumstances.
- 5.4 Unless stated otherwise in this Agreement, the Contractor shall invoice for the Charges monthly in arrears and all such invoices shall be accompanied by a statement setting out the Works carried out in the relevant month in sufficient detail to justify the Charges charged (including any timesheets or other information required by, and to be provided in the format set out in, the British Council Requirements).
- 5.5 Subject to clauses 5.6 to 5.8 below, the British Council shall, unless agreed otherwise by the parties in writing, pay each of the Contractor's valid and accurate invoices by automated transfer into the Contractor's nominated bank account no later than 30 days after the invoice is received.
- 5.6 Provided that it notifies the Contractor in writing in advance, and works in good faith to resolve any issues or disputes, the British Council shall be entitled to withhold payment of any sums in respect of the Works which have not been carried out by the Contractor to the British Council's satisfaction and in accordance with the terms of this Agreement.

- 5.7 In the event that the British Council makes any overpayment in connection with this Agreement (or any other agreement between the parties), the British Council may, upon written notice to the Contractor, deduct the amount of such overpayment from any future invoice or require repayment of such sum within 30 days after the date on which it serves written notice on the Contractor.
- 5.8 If the British Council fails to pay any sum properly due and payable (other than any sum disputed in good faith) by the due date for payment, the Contractor may charge interest on the amount of any such late payment at the rate of 4% per annum above the official bank rate set from time to time by the Bank of England. Such interest will accrue from the date on which payment was due to the date on which payment is actually made. The parties hereby acknowledge and agree that this rate of interest is a substantial remedy for any late payment of any sum properly due and payable.
- 5.9 If Part II of the Housing Grants, Construction and Regeneration Act 1996 incorporating amendments in the Local Democracy, Economic Development and Construction Act 2009 applies, the payment terms set out in Schedule 3, Part 2 shall apply in lieu of clauses 5.4 and 5.6 of this Agreement.
- 5.10 If the British Council instructs the Contractor to omit part of the Works, the British Council shall be entitled to reduce the Charges proportionately.

6 Site Access and Attendance at Meetings

- 6.1 The British Council shall at all reasonable times have access to the Site and meet with the Contractor on a daily basis or other such regular intervals as may be appropriate and requested by the British Council:
- 6.1.1 to view the state and progress of the Works; and
 - 6.1.2 to inspect the workmanship; and
 - 6.1.3 to ascertain generally that the provisions of this Agreement have been and are being duly performed and observed by the Contractor.
- 6.2 In addition to its obligations under clause 6.1, the Contractor shall provide the British Council with sufficient notice of:
- 6.2.1 all site and progress meetings relating to the Works; and
 - 6.2.2 all meetings to discuss costs and financial issues relating to the Works
- and the British Council shall be entitled to attend such meetings and to receive minutes of such meetings without delay.
- 6.3 During any of the meetings described in clauses 6.1 and 6.2, the British Council shall be entitled to make reasonable representations relating to the Works and the Contractor shall implement without delay as appropriate any such reasonable representations.
- 6.4 The Contractor shall at all times ensure that it has on the Site a competent representative and any instructions given to that representative by the British Council shall be deemed to have been issued to the Contractor.

7 Change Control

- 7.1 If either party wishes to change the scope or provision of the Works, it shall submit details of the requested change to the other in writing and such change shall only be implemented if agreed in accordance with the remainder of this clause.
- 7.2 If the British Council requests a change to the scope or provision of the Works:
- 7.2.1 the Contractor shall, within a reasonable time (and in any event not more than 14 days after receipt of the British Council's request), provide a written estimate to the British Council of:
 - (i) the likely time required to implement the change;
 - (ii) any reasonable variations to the Charges arising directly as a result of the proposed change; and
 - (iii) any other impact of the change on the terms of this Agreement.
 - 7.2.2 if, following receipt of the Contractor's written estimate submitted in accordance with clause 7.2.1, the British Council does not wish to proceed, there shall be no change to this Agreement; and
 - 7.2.3 if the British Council wishes the Contractor to proceed with the change, the Contractor shall do so only after agreement on the necessary variations to the Charges, the Works and any other relevant terms of this Agreement to take account of the change following which this Agreement shall be varied by the parties setting out in writing, and signing, the agreed changes in accordance with clause 30.
- 7.3 If the Contractor requests a change to the scope or provision of the Works, it shall send such request to the British Council in writing, accompanied by a written statement of the matters referred to in clause 7.2.1, and the British Council shall withhold or give its consent to such change in its sole discretion. If the British Council wishes the Contractor to proceed with the change, the Contractor shall do so, following a variation of this Agreement in writing in accordance with clause 30.

8 Premises

- 8.1 Subject to clause 2.17.1, the Contractor shall be entitled to use such parts of the Premises as the British Council may from time to time designate as are necessary for the performance of the Works provided that use of the Premises is to be solely for the purposes of providing the Works and the Contractor shall neither have nor acquire any right to exclusive possession of part or all of the Premises nor any separate right to occupy or possess part or all of the Premises and nothing in this Agreement shall create a lease or other greater interest in any premises.
- 8.2 The British Council may refuse to admit to, or order the removal from, the Premises any member of the Contractor's Team or person otherwise acting on behalf of the Contractor who, in the opinion of the British Council, is not behaving in accordance with the requirements of this Agreement or whose behaviour, conduct or dress, whether at the time the person is seeking admittance to, or at any time the person is present on, the Premises or otherwise, renders that person unfit to be on the Premises

or is inappropriate in the context of the country in which the Premises are located. Costs associated with any such refusal of admittance or removal and with the provision of a suitable replacement shall be met by the Contractor and the British Council shall not be required to pay the Charges in respect of any period during which the Contractor is refused admittance to, or removed from, the Premises as a result of this clause.

9 The Equipment

- 9.1 The British Council Equipment shall remain the property of the British Council and shall be used by the Contractor in the performance of the Works and for no other purposes.
- 9.2 The British Council shall be responsible for the repair or replacement of the British Council Equipment unless the need for repair or replacement is caused by the Contractor's failure to comply with clause 9.3 or by the negligence or default of the Contractor.
- 9.3 The Contractor shall maintain all of the British Council Equipment in good and serviceable condition (fair wear and tear excepted) and shall only use the British Council Equipment in accordance with the British Council Equipment manufacturers' recommendations.
- 9.4 The Contractor shall be liable for any loss of or damage to any of the British Council Equipment caused by the negligence or default of the Contractor.
- 9.5 The Contractor shall not in any circumstances have any right to refuse to return to the British Council any of the British Council Equipment and shall take steps necessary to ensure that the title of the British Council and the British Council's right to repossess the British Council Equipment are effectively brought to the attention of any third party dealing with any of the British Council Equipment.

10 Completion

- 10.1 The Contractor shall give the British Council no fewer than 14 days' written notice of the date upon which the Contractor anticipates that Practical Completion shall be reached. The British Council shall then be entitled to inspect the Works and shall issue a certificate of completion to the Contractor ("**Completion Certificate**") when in its opinion the Works have reached Practical Completion, specifying the date on which the Works reached Practical Completion ("**Completion Date**").
- 10.2 With effect from the Completion Date, risk of loss or damage to the Works shall pass to the British Council and it shall take possession thereof.
- 10.3 The British Council may at its sole discretion issue a list of minor items of outstanding, incomplete or defective work ("**Snagging Items**") before or at the time of issuing the Completion Certificate. The Contractor shall complete and/or remedy the Snagging Items after the Completion Date at no cost to the British Council and at such times and within such periods as may be required by the British Council (acting reasonably). Prior to the issuing of the Completion Certificate, the Contractor shall confirm in writing its agreement to complete and/or remedy the Snagging Items and the Completion Certificate shall not be issued before such confirmation is received by the British Council.

- 10.4 In the event that the Contractor fails to complete and/or remedy the Snagging Items, the British Council may arrange for the Snagging Items to be carried out and the cost of so doing shall be deducted from the Charges.
- 10.5 In carrying out and/or remedying any Snagging Items, the Contractor shall cause as little disturbance and inconvenience as possible to the British Council and any other occupier of the premises comprising the Works and the Contractor shall fully co-operate with the British Council in working only in restricted areas, at holiday periods, outside normal working hours, at weekends and on bank holidays.

11 Extensions of Time and Damages for Late Completion

- 11.1 The Contractor shall complete the Works on the date stated in Schedule 1 ("**Date for Completion**"). If it becomes apparent that the Works will not be completed by the Date for Completion, the Contractor shall notify the British Council in writing. Where the delay occurs for reasons beyond the control of the Contractor that are not caused by a default of the Contractor to the full satisfaction of the British Council (acting reasonably), the British Council shall give such extension of time for completion to the Date for Completion as may be reasonable and shall notify the Contractor accordingly. The British Council shall make an allowance for any reasonable direct loss and expense suffered by the Contractor as a result any such extension of time.
- 11.2 If the Contractor fails to complete the Works on the Date for Completion, the Contractor shall pay or allow to the British Council to deduct the amount of Liquidated Damages stated in Schedule 1 for the period from the Date for Completion to the Completion Date.

12 Defects

- 12.1 If any defects, shrinkages or other faults in the Works ("**Defects**") appear during a period which lasts for 12 months (or such other period stated in Schedule 1) from the Completion Date ("**Rectification Period**") due to a failure of the Contractor to comply with its obligations under this Contract, such Defect shall be specified by the British Council in a schedule of Defects which the British Council shall deliver to the Contractor not later than 14 days after the expiry of the Rectification Period.
- 12.2 Within a reasonable time after receipt of such schedule, the Contractor shall make good the Defects at no cost to the Client, unless the British Council shall otherwise instruct. If the British Council does otherwise instruct, an appropriate deduction shall be made from the Contract Sum in respect of the Defects not made good.
- 12.3 The Rectification Period shall be extended by a period equal to the period during which the Works, or the part of the Works to which the Defect relates, cannot be used by reason of that Defect.
- 12.4 When all Defects have been made good by the Contractor to the satisfaction of the British Council (acting reasonably), the British Council shall issue a written notice to this effect ("**Notice of Defects Completion**"). Such notice shall not be unreasonably withheld or delayed and completion of the Defects shall for the purposes of this Contract be deemed to have taken place on the date stated in the Notice of Defects Completion ("**Defects Completion Date**").

- 12.5 The Notice of Defects Completion shall not be issued until all Snagging Items have been completed and/or remedied to the full satisfaction of the British Council (acting reasonably).
- 12.6 The British Council shall retain 10% from each payment made to the Contractor under this Agreement ("**Retention**"). The British Council shall release 50% of the Retention within 30 days of the Completion Date and the other 50% of the Retention within 30 days of the Defects Completion Date.

13 Intellectual Property Rights

- 13.1 Subject to clause 15, each party shall give full disclosure to the other of all Background IPR owned by it which is relevant to the Project (and the Contractor shall give the British Council full disclosure of any Third Party IPR it intends to use).
- 13.2 All Background IPR and Third Party IPR is and shall remain the exclusive property of the party owning it.
- 13.3 Each party warrants to the other party that its Background IPR does not, so far as it is aware, infringe the rights of any third party and none of its Background IPR is the subject of any actual or, so far as it is aware, threatened challenge, opposition or revocation proceedings.
- 13.4 The Contractor hereby assigns to the British Council with full title guarantee by way of present and future assignment all its right, title and interest in and to the Project IPR.
- 13.5 The Contractor shall procure the waiver in favour of the British Council of all moral rights arising under the Copyright, Designs and Patents Act 1988, as amended or revised, or any similar provisions of law in any jurisdiction, relating to the Documents.
- 13.6 The British Council hereby grants to the Contractor an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use the Project IPR and the British Council's Background IPR in, and to the extent necessary for, the performance of the Works.
- 13.7 The Contractor hereby grants to the British Council an irrevocable, royalty-free, non-exclusive, worldwide right and licence to use the Contractor's Background IPR for any purpose relating to the Project and/or the British Council's interest in the Project including, but not limited to, the advertisement, alteration, building information modelling, completion, construction, demolition, design, development, disposal, extension, fitting-out, funding, letting, maintenance, modification, promotion, reconstruction, refurbishment, reinstatement, repair, sale.
- 13.8 Notwithstanding the completion of the Works or the termination of the Contractor's appointment under this Agreement, the Contractor shall give to the British Council any paper copies and electronic copies of the Documents that the British Council reasonably requests. The Contractor shall give these copies to the British Council within 7 days of any request, and the British Council shall pay the Contractor's reasonable copying costs. The Contractor shall provide any password, code or other data required to access, decrypt or reproduce any electronic copies of the Documents that the Contractor gives to the British Council.

- 13.9 The Contractor is responsible for obtaining any licences, permissions or consents in connection with any Third Party IPR required by the Contractor and the British Council for use of the Documents (such licences, permissions or consents to be in writing, copies of which the Contractor shall provide to the British Council on request). In addition, the Contractor warrants that the performance of the Works, the Documents does not and will not infringe any third party's Intellectual Property Rights.
- 13.10 The Contractor warrants that it has in place contractual arrangements with all members of the Contractor's Team assigning to the Contractor their Intellectual Property Rights and waiving their moral rights (if any) in the Documents such that the Contractor can enter into the assignments, licences and waivers set out in this clause 13.
- 13.11 The Contractor undertakes at the British Council's request and expense to execute all deeds and documents which may reasonably be required to give effect to this clause 13.
- 13.12 Nothing in this Agreement shall prevent the Contractor from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business, to the extent that it does not result in a disclosure of the British Council's Confidential Information or an infringement of Intellectual Property Rights.
- 13.13 Each party shall promptly give written notice to the other party of any actual, threatened or suspected infringement of the Project IPR or the other party's Background IPR of which it becomes aware.

14 Limitation of Liability

- 14.1 Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from negligence or for fraudulent misrepresentation or in any other circumstances where liability may not be limited under any applicable law.
- 14.2 Subject to clauses 14.1 and 14.3, neither party shall be liable to the other whether in contract, tort, negligence, breach of statutory duty or otherwise for any indirect loss or damage, costs or expenses whatsoever or howsoever arising out of or in connection with this Agreement.
- 14.3 Nothing in this Agreement shall exclude or restrict the liability of the Contractor to the British Council for any breach by the Contractor of clause 15 (Confidentiality) or clause 19 (Data Processing).
- 14.4 The Contractor shall take out and maintain adequate insurance cover at least to the level described in the Schedule 1. The Contractor shall provide to the British Council forthwith upon request copies of the relevant certificates and details of any of the insurance cover that it is obliged to have under this clause 14.4.
- 14.5 Subject to clauses 14.1 and 14.2, the British Council's liability to the Contractor in respect of any one claim or series of linked claims under this Agreement (whether in contract, tort, negligence, breach of statutory duty or otherwise) shall not exceed an amount equal to the sum of the Charges paid or properly invoiced and due to be paid under this Agreement, plus any late payment interest properly chargeable under the

terms of this Agreement, in the 12 month period immediately preceding the event which gives rise to the relevant claim or series of linked claims.

- 14.6 The Contractor shall indemnify the British Council from and against all loss or liability in connection with physical damage to property, death or personal injury caused by or arising out of the negligence of, or breach of this Agreement by, the Contractor or any member of the Contractor's Team.
- 14.7 The provisions of this clause 14 shall survive the termination of this Agreement, however arising.

15 Confidentiality

- 15.1 For the purposes of this clause 15:

15.1.1 the "**Disclosing Party**" is the party which discloses Confidential Information to, or in respect of which Confidential Information comes to the knowledge of, the other party; and

15.1.2 the "**Receiving Party**" is the party which receives Confidential Information relating to the other party.

- 15.2 The Receiving Party shall take all necessary precautions to ensure that all Confidential Information it receives under or in connection with this Agreement:

15.2.1 is given only to such of its staff (or, in the case of the Contractor, the Contractor's Team) and professional advisors or consultants engaged to advise it in connection with this Agreement as is strictly necessary for the performance of this Agreement and only to the extent necessary for the performance of this Agreement; and

15.2.2 is treated as confidential and not disclosed (without the prior written consent of the Disclosing Party) or used by the Receiving Party or any member of its staff (or, in the case of the Contractor, the Contractor's Team) or its professional advisors or consultants otherwise than for the purposes of this Agreement.

- 15.3 The Contractor shall ensure that all members of the Contractor's Team or professional advisors or consultants are aware of the Contractor's confidentiality obligations under this Agreement.

- 15.4 The provisions of clauses 15.2 and 15.3 shall not apply to any Confidential Information which:

15.4.1 is or becomes public knowledge (otherwise than by breach of this clause 15);

15.4.2 was in the possession of the Receiving Party, without restriction as to its disclosure, before receiving it from the Disclosing Party;

15.4.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

- 15.4.4 is independently developed without access to the Confidential Information;
or
- 15.4.5 must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Receiving Party.
- 15.5 In the event that the Contractor fails to comply with this clause 15, the British Council reserves the right to terminate this Agreement by notice in writing with immediate effect.
- 15.6 To the extent any provisions of the Official Secrets Act 1989 or the National Security Act 2023 are applicable to any Confidential Information, nothing in this clause 15 will change those provisions applicable under that legislation.
- 15.7 The Contractor acknowledges that the British Council is subject to the Information Disclosure Requirements and shall assist and co-operate with the British Council to enable the British Council to comply with those requirements.
- 15.8 Where the British Council receives a Request for Information in relation to information that the Contractor or any of its sub-contractors is holding on behalf of the British Council and which the British Council does not hold itself, the British Council shall as soon as reasonably practicable after receipt and in any event within 5 days of receipt, forward the Request for Information to the Contractor and the Contractor shall:
 - 15.8.1 provide the British Council with a copy of all such information in the form that the British Council requires as soon as practicable and in any event within 10 days (or such other period as the British Council acting reasonably may specify) of the British Council's request; and
 - 15.8.2 provide all necessary assistance as reasonably requested by the British Council to enable the British Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations, as applicable.
- 15.9 The Contractor acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the British Council may nevertheless be obliged to disclose the Contractor's Confidential Information in accordance with the Information Disclosure Requirements:
 - 15.9.1 in certain circumstances without consulting the Contractor; or
 - 15.9.2 following consultation with the Contractor and having taken its views into account,

provided always that where clause 15.9.1 above applies, the British Council shall, in accordance with the recommendations of the applicable codes of practice issued under the FOIA, take reasonable steps to draw this to the attention of the Contractor after any such disclosure.
- 15.10 The provisions of this clause 15 shall survive the termination of this Agreement, however arising.

16 Termination

- 16.1 Without prejudice to any other rights or remedies which the British Council may have, the British Council may terminate this Agreement without liability to the Contractor immediately on giving notice to the Contractor if:
- 16.1.1 the provision of the Works is delayed, hindered or prevented whether by a Force Majeure Event (as defined in clause 35.1), through material non-provision of the Works by the Contractor or otherwise for a period in excess of 28 days;
 - 16.1.2 the Contractor commits a material breach of the health and safety requirements of this Agreement or fails to comply with local health and safety legislation;
 - 16.1.3 the Contractor breaches any of the representations and warranties set forth in the Anti-Corruption, Collusion and Tax Evasion section of this Agreement;
 - 16.1.4 where the Contractor is a company, there is a change of Control of the Contractor; or
 - 16.1.5 the Contractor or any Relevant Person:
 - (i) is incapacitated (including by reason of illness or accident) from providing the Works for an aggregate period of 5 Working Days in any 2 week consecutive period;
 - (ii) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed); or
 - (iii) is in the reasonable opinion of the British Council (if any) negligent and incompetent in the provision of the Works.
- 16.2 Either party may give notice in writing to the other terminating this Agreement with immediate effect if:
- 16.2.1 the other party commits any material breach of any of the terms of this Agreement and that breach (if capable of remedy) is not remedied within 30 days of notice being given requiring it to be remedied (and where such breach is not capable of remedy, the terminating party shall be entitled to terminate the Agreement with immediate effect);
 - 16.2.2 an order is made or a resolution is passed for the winding-up of the other party or an administrator is appointed by order of the court or by other means to manage the affairs, business and property of the other party or a receiver and/or manager or administrative receiver is validly appointed in respect of all or any of the other party's assets or undertaking or circumstances arise which entitle the Court or a creditor to appoint a receiver and/or administrative receiver or which entitle the Court to make a winding-up or bankruptcy order or the other party takes or suffers any similar or analogous action (in any jurisdiction) in consequence of debt; or

- 16.2.3 the other party ceases, or threatens to cease, to carry on business.
- 16.3 The British Council shall be entitled to terminate this Agreement at any time with immediate effect (or with effect from such time as the British Council specifies in its notice of termination) by serving written notice on the Contractor if:
- 16.3.1 a provider of funding to the British Council for the Works instructs the British Council in writing to terminate this Agreement; or
- 16.3.2 the funding for the Project is otherwise withdrawn or ceases.
- 16.4 The British Council may at any time by notice in writing terminate this Agreement with immediate effect if the Contractor is in persistent breach of any of its obligations under this Agreement, whether or not such breach is capable of remedy. For the purposes of this clause 16.4, three or more non-material breaches of the terms of this Agreement may together constitute a persistent breach.
- 16.5 In any circumstances where the British Council has the right to terminate this Agreement it may instead, by serving written notice on the Contractor, opt to suspend the provision of the Works for a reasonable period and the British Council shall not be required to pay any Charges in respect of such period of suspension.
- 16.6 On termination of this Agreement for any reason the Contractor shall immediately deliver to the British Council:
- 16.6.1 all copies of information and data provided by the British Council to the Contractor for the purposes of this Agreement and the Contractor shall certify to the British Council that it has not retained any copies of such information or data, except for one copy which the Contractor may use for audit purposes only and subject to the confidentiality obligations in clause 15; and
- 16.6.2 all specifications, programs (including source codes) and other documentation comprised in the Documents and existing at the date of such termination, whether or not then complete and all Intellectual Property Rights in such materials shall automatically pass to the British Council (to the extent that they have not already done so by virtue of clause 13.4).
- 16.7 If the Contractor fails to fulfil its obligations under clause 16.6, the British Council may enter the Contractor's premises and take possession of any items which should have been returned under it. Until they have been returned or repossessed, the Contractor shall be solely responsible for their safe keeping.
- 16.8 During the period between service of a notice of termination and the effective date of termination, the Contractor shall provide the British Council with all reasonable assistance and information to enable an efficient handover to a new service provider (or to the British Council).
- 16.9 Termination of this Agreement, however it arises, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

- 16.10 The British Council shall pay the Charges up to the effective date of termination. In addition, if the Agreement is terminated by the British Council pursuant to paragraph 1.3 of Schedule 1 or by the Contractor pursuant to clause 16.2 above, the British Council shall reimburse the Contractor for the reasonable costs or expenses that the Contractor can demonstrate that it has properly incurred specifically for the purposes of the Project and which it cannot recover or which it cannot utilise in connection with another British Council project provided that the Contractor shall use its reasonable endeavours to mitigate the level of such costs and expenses.

17 Sub-Contracting

- 17.1 The Contractor may not sub-contract the provision of any material part of the Works without the prior written consent of the British Council, such consent not to be unreasonably withheld or delayed.
- 17.2 Notwithstanding any sub-contracting permitted under clause 17.1, the Contractor shall remain wholly liable and responsible for all acts and omissions (howsoever arising) of its sub-contractors in the provision of the Works.
- 17.3 Where the Contractor enters into a Sub-Contract, the Contractor shall:
- 17.3.1 pay any valid invoice received from its subcontractor within 30 days following receipt of the relevant invoice payable under the Sub-Contract; and
 - 17.3.2 include in that Sub-Contract a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clause 17.3.1 of this Agreement.
- 17.4 In clause 17.3, “**Sub-Contract**” means a contract between two or more contractors, at any stage of remoteness from the British Council in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 17.5 The British Council reserves the right to request the replacement of any approved sub-contractor on reasonable grounds.

18 Anti-Corruption, Anti-Collusion and Tax Evasion

- 18.1 The Contractor undertakes and warrants that it has not offered, given or agreed to give (and that it will not offer, give or agree to give) to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do anything in relation to the obtaining of this Agreement or the performance by the Contractor of its obligations under this Agreement.
- 18.2 The Contractor warrants that it, and any Relevant Person, has and will retain in place, and undertakes that it, and any Relevant Person, will at all times comply with, policies and procedures to avoid the risk of bribery (as set out in the Bribery Act 2010), tax evasion (as set out in the Criminal Finances Act 2017) and fraud within its organisation and in connection with its dealings with other parties, whether in the UK or overseas.
- 18.3 The Contractor warrants that:

- 18.3.1 it, and any Relevant Person, has not colluded, and undertakes that it will not at any time collude, with any third party in any way in connection with this Agreement (including in respect of pricing under this Agreement); and
- 18.3.2 it, and any Relevant Person, has not engaged, and will not at any time engage, in any activity, practice or conduct which would constitute either:
 - (i) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
 - (ii) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017.

Nothing under this clause 18.3 is intended to prevent the Contractor from discussing the terms of this Agreement and the Contractor's pricing with the Contractor's professional advisors.

- 18.4 The Contractor acknowledges and agrees that British Council may, at any point during the Term and on any number of occasions, carry out searches of relevant third party screening databases (each a "Screening Database") to ensure that neither the Contractor, the Contractor's Team nor any of the Contractor's Team's directors or shareholders (where applicable), is or have been listed:

- 18.4.1 as an individual or entity with whom national or supranational bodies have decreed organisations should not have financial dealings;
- 18.4.2 as being wanted by Interpol or any national law enforcement body in connection with crime;
- 18.4.3 as being subject to regulatory action by a national or international enforcement body;
- 18.4.4 as being subject to export, trade or procurement controls or (in the case of an individual) as being disqualified from being a company director; and/or
- 18.4.5 as being a heightened risk individual or organisation, or (in the case of an individual) a politically exposed person,

(together the "**Prohibited Entities**").

- 18.5 The Contractor warrants that it will not make payment to, transfer property to, or otherwise have dealings with, any Prohibited Entity.

- 18.6 If any of the Contractor, the Contractor's Team or the Contractor's Team's directors or shareholders (where applicable) is:

- 18.6.1 listed in a Screening Database for any of the reasons set out in clause 0,
or

- 18.6.2 breaches any of its obligations set out in clauses 18.1, 18.2, 18.3 or 18.4;

then the Contractor shall promptly notify the British Council of any such breach(es) and the British Council shall be entitled to take the steps set out at clause 18.6 below.

- 18.7 In the circumstances described at clause 18.6.1 and/or 18.6.2, and without prejudice to any other rights or remedies which the British Council may have, the British Council may:
- 18.7.1 terminate this Agreement without liability to the Contractor immediately on giving notice to the Contractor; and/or
 - 18.7.2 require the Contractor to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Contractor (and the Contractor shall take all such steps and shall provide evidence of its compliance if required); and/or
 - 18.7.3 reduce, withhold or claim a repayment (in full or in part) of the charges payable under this Agreement; and/or
 - 18.7.4 share such information with third parties.
- 18.8 The Contractor shall provide the British Council with all information reasonably requested by the British Council to complete the screening searches described in clause 18.4.
- 18.9 Without limitation to clauses 18.1, 18.2, 18.3, 18.4, 18.5, 18.6, 18.7 and 18.8 above, the Contractor shall:
- 18.9.1 ensure that all Relevant Persons involved in providing the Works or with this Agreement have been vetted and that due diligence is undertaken on a regular continuing basis to such standard or level of assurance as is reasonably necessary in relation to a person in that position in the relevant circumstances; and
 - 18.9.2 maintain accurate and up to date records of:
 - (i) any requests to facilitate any UK tax evasion offence or any foreign tax evasion offence made to the Contractor or any Relevant Person in connection with the Works or with this Agreement either in the United Kingdom or elsewhere;
 - (ii) any action taken by the Contractor or any Relevant Person to inform the relevant enforcement bodies or regulatory authorities that the Contractor or any Relevant Person has been requested to facilitate a UK tax evasion offence or a foreign tax evasion offence (except to the extent that the Contractor or any Relevant Person is prevented by law from doing so);
 - (iii) its compliance with its obligations under this clause 18.9.2 and all training and guidance provided to Relevant Persons in respect of the obligations under this clause and applicable laws for the prevention of tax evasion;
 - (iv) the Contractor's monitoring of compliance by Relevant Persons with applicable policies and procedures; and

- 18.9.3 the measures that the Contractor has taken in response to any incidence of suspected or actual tax evasion or facilitation of tax evasion or breach of this clause 18.9.2;
- 18.9.4 maintain and provide such access to the records or information referred to in clause 18.9.2; and
- 18.9.5 ensure that all Relevant Persons involved in performing services in connection with this Agreement are subject to and at all times comply with equivalent obligations to the Contractor under this clause 18.9.4.
- 18.10 For the purposes of this clause 18.10, the expression “**Relevant Person**” shall mean all or any of the following: (a) Relevant Persons; and (b) any Relevant Person employed or engaged by a Relevant Person.

19 Data Processing

- 19.1 Clauses 19.1 to 19.14 apply to the Processing of Personal Data within the United Kingdom (UK) or the European Economic Area or any country deemed to provide an adequate level of protection under Article 45 of the EU GDPR and Article 45 of the UK GDPR.

- 19.2 In this clause:

“**Controller**” means a “controller” for the purposes of the GDPR (as such legislation is applicable);

“**Data Protection Legislation**” shall mean any applicable law relating to the processing, privacy and use of Personal Data, as applicable to either party or the Services under this Agreement, including the DPA and/or the GDPR, and /or any corresponding or equivalent national laws or regulations; and any laws which implement any such laws; and any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; all guidance, guidelines, codes of practice and codes of conduct issued by any relevant regulator, authority or body responsible for administering Data Protection Legislation (in each case whether or not legally binding);

“**Data Subject**” has the same meaning as in the Data Protection Legislation;

“**DPA**” means the UK Data Protection Act 2018;

“**EU GDPR**” means the General Data Protection Regulation (EU) 2016/679;

“**GDPR**” means, as applicable, the EU GDPR or the UK GDPR;

“**International Organisation**” has the same meaning as in the GDPR;

“**Personal Data**” means “personal data” (as defined in the Data Protection Legislation) that are Processed under this Agreement;

“**Personal Data Breach**” means a breach of security leading to the accidental or unlawful destruction, corruption, loss, alteration, unauthorised disclosure of, unauthorised access, attempted access (physical or otherwise) or access to, Personal Data transmitted, stored or otherwise processed;

“Processing” has the same meaning as in the Data Protection Legislation and “Process” and “Processed” shall be construed accordingly;

“Processor” means a “processor” for the purposes of the GDPR (as such legislation is applicable);

“Sub-Processor” means a third party engaged by the Processor for carrying out processing activities in respect of the Personal Data on behalf of the Processor;

“Supervisory Authority” means any independent public authority responsible for monitoring the application of the Data Protection Legislation in the UK or any member state of the European Union;

“Third Country” means a country or territory outside the UK; and

“UK GDPR” has the meaning given in section 3(10) of the DPA (as amended).

- 19.3 For the purposes of the Data Protection Legislation, the British Council is the Controller and the Contractor is the Processor in respect of the Personal Data.
- 19.4 Details of the subject matter and duration of the Processing, the nature and purpose of the Processing, the type of Personal Data and the categories of Data Subjects whose Personal Data is being Processed in connection with the Services are set out in Schedule 5 to this Agreement.
- 19.5 The Contractor shall:
 - 19.5.1 Process the Personal Data only to the extent, and in such manner, as is necessary for the purpose of carry out its duties under this Agreement and in accordance with the British Council's written instructions and this clause (unless otherwise required by applicable laws as referred to in clause 19.6.3);
 - 19.5.2 implement appropriate technical and organisational measures in accordance with the Data Protection Legislation to ensure a level of security appropriate to the risks that are presented by such Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data, taking into account the state of the art, the costs of implementation, the nature, scope, context and purposes of Processing and the likelihood and severity of risk in relation to the rights and freedoms of the Data Subjects;
 - 19.5.3 ensure it has taken all reasonable steps to ensure the reliability and integrity of any employees or other persons authorised to Process the Personal Data;
 - 19.5.4 ensure that any employees or other persons authorised to Process the Personal Data are:
 - (i) subject to appropriate obligations of confidentiality, and
 - (ii) subject to adequate training in the use, protection and handling of personal data;

- 19.5.5 not engage any Sub-Processor to carry out its Processing obligations under this Agreement without obtaining the prior written consent of the British Council and, where such consent is given, the Contractor procuring by way of a written contract that such Sub-Processor will, at all times during the engagement, be subject to data Processing obligations equivalent to those set out in this clause. The British Council reserves the right during this Agreement to request evidence from the Contractor to support compliance with this clause 19.5.5 and the Contractor shall provide such evidence within three working days;
- 19.5.6 assist and co-operate with the British Council as requested to ensure the British Council's compliance with its obligations under the Data Protection Legislation with respect to:
- (i) carrying out and/or reviewing data protection impact assessments where necessary in accordance with Article 35 of the GDPR;
 - (ii) implementing such technical and organisational measures to enable the British Council to respond to requests from Data Subjects exercising their rights under the Data Protection Legislation, which shall include but not be limited to:
 - (A) providing Personal Data and details of the Processing of Personal Data to the British Council in response to Data Subjects' exercising their rights of access; and
 - (B) deleting and/or rectifying Personal Data in response to a request from a Data Subject; and
- 19.5.7 not Process or otherwise transfer any Personal Data to any Third Country without prior written consent from the British Council and, where such consent is given, (whether in Schedule 5 or separately), the Contractor shall comply with the following conditions;
- (i) ensure the Data Subject has enforceable rights and effective legal remedies;
 - (ii) comply with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
 - (iii) comply with reasonable instructions notified to it in advance by the British Council with respect to the Processing of the Personal Data; and
 - (iv) only transfer Personal Data to the relevant Third Country where the relevant requirements under Articles 44 to 50 of the GDPR are met.
- 19.6 The Contractor shall notify the British Council promptly:
- 19.6.1 if it becomes aware that in following the instructions of the British Council, it shall be breaching the Data Protection Legislation;

- 19.6.2 on receipt of notice of any complaint made to a Supervisory Authority or any finding by a Supervisory Authority in relation to its Processing of Personal Data, whether it is Personal Data being Processed under this Agreement or otherwise;
- 19.6.3 if the Contractor believes it is under a legal obligation to Process the Personal Data other than in accordance with the British Council's instructions and provide the British Council with details of such legal obligation, unless the law prohibits such information on important grounds of public interest;
- 19.6.4 (and in any event within 3 days) of:
- (i) a request received by the Contractor or a Sub-Processor from a Data Subject for access to that person's Personal Data; and
 - (ii) a complaint or request received by the Contractor or a Sub-Processor from a Data Subject relating to the British Council's obligations under the Data Protection Legislation;
- and the Contractor shall provide the British Council with full co-operation and assistance in relation to any such complaint or request including where the complaint or request was received by the Associate, a Sub-Processor or the British Council.
- 19.7 The Contractor shall:
- 19.7.1 notify the British Council promptly (and in any event within 24 hours) of becoming aware of any actual, suspected or threatened Personal Data Breach of any component of the Personal Data;
- 19.7.2 ensure that such notice includes details of the nature of the breach, including the categories and approximate number of Data Subjects and records concerned and the remediation measures being taken to mitigate and contain the breach; and
- 19.7.3 provide prompt assistance as requested by the British Council following the notification of an actual, suspected or threatened Personal Data Breach referred to in clause 19.7.1.
- 19.8 In the event of a notification under clause 19.7, the Contractor shall not notify the Data Subject or any third party unless such disclosure is required by Data Protection Legislation or other law or is otherwise approved by the British Council.
- 19.9 The Contractor and its Sub-Processors shall maintain accurate written records of the Processing it carries out in connection with this Agreement and on request by the British Council, make available all information necessary to demonstrate the Contractor's compliance under Data Protection Legislation and the terms of this Agreement.
- 19.10 The Contractor and its Sub-Processors shall allow for and contribute to audits, including inspections, by the British Council (or its authorised representative) in relation

to the Processing of the British Council's Personal Data by the Contractor and its Sub-Processors to support the Contractor in their compliance of clause 19.9.

- 19.11 The Contractor warrants that in carrying out its obligations under this Agreement it will not breach the Data Protection Legislation or do or omit to do anything that might cause the British Council to be in breach of the Data Protection Legislation.
- 19.12 The Contractor shall indemnify and keep indemnified the British Council and the British Council Entities against all Personal Data losses suffered or incurred by, awarded against or agreed to be paid by, the British Council or British Council Entities arising from a breach by the Contractor (or any Sub-Processor) of (a) its data protection obligations under this Agreement; or (b) the Contractor (or any Sub-Processor) acting outside or contrary to the lawful instruction of the British Council.
- 19.13 On termination or expiry of this Agreement, the Contractor (or any Sub-Processor) shall, except to the extent it is required to retain a copy by law, stop Processing the Personal Data and return and/or destroy it at the request of the British Council. The Contractor shall return the Personal Data in an open machine-readable format, via a secure agreed route at no cost to the British Council and the Contractor shall provide confirmation of destruction of any other copies including details of the date, time and method of destruction.
- 19.14 These clauses may be amended at any time by the British Council giving at least 30 days' written notice to the other party stating that applicable controller to processor standard clauses laid down by the European Commission or adopted by the UK Information Commissioner's office or other Supervisory Authority are to be incorporated into this Agreement and replace clauses 19.2 to 19.8 and clause 19.13 above.

20 Audit

- 20.1 The Contractor will fully co-operate with and assist the British Council in meeting its audit and regulatory requirements by providing access for the British Council, the End Client, their internal auditors (which shall include, for the purposes of this Agreement the British Council's internal audit, security and operational risk functions), their external auditors or any agents appointed by the British Council or their regulators (or any person appointed by such body) to conduct appropriate reviews and inspections of the activities and records of the Contractor (and to take copies of records and documents and interview members of the Contractor's Team) relating to the provision of the Works and to the accuracy of the Charges. The Contractor shall maintain all records relating to this Agreement (including the provision of the Works and the payment of all Charges and expenses) for a period of 7 years following the year in which the provision of the Works under this Agreement is completed or such longer period as the British Council may notify to the Contractor in writing from time to time.
- 20.2 The Contractor shall bear its own cost in relation to any reasonable number of audits carried out by the British Council and/or the End Client. Where any audit reveals any breach or non-compliance by the Contractor, the Contractor shall also bear the costs of the British Council carrying out such audit.

21 Publicity

- 21.1 The Contractor shall not publicise the terms of this Agreement or use the name of the British Council or any trade name or trade mark used by the British Council or refer to the British Council in any other way in any press release, promotional literature, publications or advertising material, including any website, “blogs”, social media or other online services, without the prior written consent of the British Council.

22 Health and Safety

- 22.1 The Contractor shall promptly notify the British Council of any health and safety hazards which may arise in connection with the performance of this Agreement, take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by the provision of the Works and notify the British Council of any incident occurring on the Premises or otherwise in connection with the provision of the Works which causes or could give rise to personal injury.
- 22.2 The Contractor shall take all necessary measures to comply with the requirements of the Health & Safety at Work Etc Act 1974 (or any equivalent legislation in any applicable jurisdiction) and any other acts, orders, regulations and codes of practice (including any approved codes of practice) relating to health and safety, which may apply to the performance of this Agreement.

23 Employees

- 23.1 The Contractor agrees that it will not, without the prior written consent of the British Council, whether directly or indirectly, and whether alone or in conjunction with, or on behalf of, any other person during the Term or for a period of 6 months following termination, solicit or entice, or endeavour to solicit or entice away from the British Council any person employed by the British Council and involved directly in the receipt or use of the Works.

24 Safeguarding and Protecting Children and Vulnerable Adults

- 24.1 The Contractor will comply with all applicable legislation and codes of practice, including, where applicable, all legislation and statutory guidance relevant to the safeguarding and protection of children and vulnerable adults and with the British Council’s Child Protection Policy, as notified to the Contractor and amended from time to time, which the Contractor acknowledges may include submitting to a check by the UK Disclosure & Barring Service (DBS) or the equivalent local service. In addition, the Contractor will ensure that, where it engages any other party to provision of any of the Works under this Agreement, that that party will also comply with the same requirements as if they were a party to this Agreement.

25 Anti-slavery and human trafficking

- 25.1 The Contractor shall:
- 25.1.1 ensure that slavery and human trafficking is not taking place in any part of its business or in any part of its supply chain;

- 25.1.2 implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains;
 - 25.1.3 respond promptly to all slavery and human trafficking due diligence questionnaires issued to it by the British Council from time to time and ensure that its responses to all such questionnaires are complete and accurate; and
 - 25.1.4 notify the British Council as soon as it becomes aware of any actual or suspected slavery or human trafficking in any part of its business or in a supply chain which has a connection with this Agreement.
- 25.2 If the Contractor fails to comply with any of its obligations under clause 25.1, without prejudice to any other rights or remedies which the British Council may have, the British Council shall be entitled to:
- 25.2.1 terminate this Agreement without liability to the Contractor immediately on giving notice to the Contractor; and/or
 - 25.2.2 require the Contractor to take any steps the British Council reasonably considers necessary to manage the risk to the British Council of contracting with the Contractor (and the Contractor shall take all such steps); and/or
 - 25.2.3 reduce, withhold or claim a repayment (in full or in part) of the charges payable under this Agreement; and/or
 - 25.2.4 share with third parties information about such non-compliance.

26 Equality, Diversity, Inclusion and the Environment

- 26.1 The Contractor shall ensure that it does not, whether as an employer or provider of works, discriminate within the meaning of the Equality Legislation.
- 26.2 The Contractor shall comply with any equality or diversity policies or guidelines included in the British Council Requirements.
- 26.3 The Contractor and any third party services procured by the Service Provider under this Agreement shall comply with all applicable legislation, codes of practice and statutory guidance (together, the “Legislative Position”) relevant to the protection of the environment. For the avoidance of doubt, the default applicable Legislative Position in England and Wales will prevail over any local Legislative Position unless the latter is more stringent, in which case it shall take precedence.
- 26.4 The Contractor shall comply with any environmental policies or guidelines included in the British Council Requirements as amended from time to time.
- 26.5 The Contractor shall ensure that any Service or where applicable, Goods, are designed, sourced and delivered in a manner which is environmentally and socially responsible. For the avoidance of doubt, ISO 14001 and ISO 26000 may be used as guidance for meeting the obligations under this provision.

27 Assignment

- 27.1 The Contractor shall not, without the prior written consent of the British Council, assign, transfer, charge, create a trust in, or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 27.2 The British Council may assign or novate this Agreement to: (i) any separate entity Controlled by the British Council; (ii) any body or department which succeeds to those functions of the British Council to which this Agreement relates; or (iii) any provider of outsourcing or third party services that is employed under a service contract to provide services to the British Council. The Contractor warrants and represents that it will (at the British Council's reasonable expense) execute all such documents and carry out all such acts, as reasonably required to give effect to this clause 27.2.

28 Waiver and non-waiver

- 28.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 28.2 No acknowledgement, admission, advice, approval, comment, confirmation, consent, direction, enquiry, guideline, indication of satisfaction, inspection, instruction or anything similar, given or made by or on behalf of the British Council, any of other contractors or any of their agents, or failure to give or make any of these, shall exclude, limit, modify, qualify or reduce the Contractor's obligations or liability under this Agreement.
- 28.3 Any forbearance, relaxation, indulgence or delay ("**indulgence**") of a party in exercising any right shall not be construed as a waiver of the right and shall not affect the ability of that party subsequently to exercise that right or to pursue any remedy, nor shall any indulgence constitute a waiver of any other right, whether against that party or any other person.

29 Entire agreement

- 29.1 This Agreement and any documents referred to in it constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersede, cancel and replace all prior agreements, licences, negotiations and discussions between the parties relating to it. Each party confirms and acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) not expressly incorporated into it. However, nothing in this Agreement purports to exclude liability for any fraudulent statement or act.

30 Variation

- 30.1 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

31 Severance

- 31.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Agreement, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

32 Counterparts

- 32.1 This Agreement may be executed in counterparts, each of which when executed shall constitute a duplicate original, but all counterparts shall together constitute one agreement. Where this Agreement is executed in counterparts, following execution each party must promptly deliver the counterpart it has executed to the other party. Transmission of an executed counterpart of this Agreement by email in PDF, JPEG or other agreed format shall take effect as delivery of an executed counterpart of this Agreement.

33 Third party rights

- 33.1 Subject to clause 1.2.4, this Agreement does not create any rights or benefits enforceable by any person not a party to it except that a person who under clause 27 is a permitted successor or assignee of the rights or benefits of a party may enforce such rights or benefits.
- 33.2 The parties agree that no consent from the British Council Entities or the persons referred to in this clause is required for the parties to vary or rescind this Agreement (whether or not in a way that varies or extinguishes rights or benefits in favour of such third parties).

34 No partnership or agency

- 34.1 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

35 Force Majeure

- 35.1 Subject to clauses 35.2 and 35.3, neither party shall be in breach of this Agreement if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control (a "**Force Majeure Event**") including (insofar as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, volcanic ash, earthquake, explosion, terrorist act, epidemic, pandemic or other spread of infectious disease or the imposition of any measures to prevent the spread of disease, nuclear, chemical or biological contamination, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

- 35.2 A party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
- 35.2.1 it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
 - 35.2.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
 - 35.2.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 35.3 Nothing in this clause 35 shall excuse a party for non-performance (or other breach) of this Agreement if such non-performance (or other breach) results from the acts or omissions of any of that party's consultants and/or sub-contractors (except where such acts or omissions are caused by any of the circumstances specifically listed in clause 35.1).

36 Notice

- 36.1 Notice given under this Agreement shall be in writing, sent for the attention of the person signing this Agreement on behalf of the recipient party and to the address given on the front page of this Agreement (or such other address or person as the relevant party may notify to the other party), or by email, and shall be delivered:
- 36.1.1 personally, in which case the notice will be deemed to have been received at the time of delivery;
 - 36.1.2 by pre-paid, first-class post if the notice is being sent to an address within the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the second (2nd) normal working day in the country specified in the recipient's address for notices after the date of posting;
 - 36.1.3 by international standard post if being sent to an address outside the country of posting, in which case the notice will be deemed to have been received at 09:00 in the country of receipt on the seventh (7th) normal working day in the country specified in the recipient's address for notices after the date of posting; or
 - 36.1.4 by email to the relevant email address specified in Schedule 1 (or such other email address as the relevant party may notify to the other party), in which case, the notice will be deemed to have been received at the time of transmission, or if this time falls outside of Working Hours, when Working Hours resume, in each case provided that no out of office auto-reply or error message is received by the sender in response within one hour after transmission of the notice. If an out of office auto-reply or error message is received by the sender in response within one hour after transmission of

the notice, then no valid notice has been delivered and the notice must be sent by one of the alternative methods listed above.

- 36.2 To prove service of notice under clauses 36.1.1 to 36.1.3 above, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.

37 Governing Law and Dispute Resolution Procedure

- 37.1 This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales.
- 37.2 Subject to the remainder of this clause 37, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement or its subject matter.
- 37.3 In the event that any claim or dispute arises out of or in connection with this Agreement, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 14 days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim in accordance with this clause 37.3, either party may commence proceedings in accordance with clause 37.2.
- 37.4 Nothing in this clause 37 shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this Agreement or infringement, or threatened infringement, of the applicant's Intellectual Property Rights.

Schedule 5

Data Processing Schedule

Part A

Description	Details
Duration of Processing	<i>[Clearly set out the duration of the processing including dates]</i>
The frequency of the transfer	<i>[Clearly set out if the data is transferred on a one-off or continuous basis]</i>
Nature and purpose of Processing	<i>[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, marketing, statutory obligation, grant distribution and management, event management recruitment assessment etc]</i>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, National identification number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subjects	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, students / pupils, members of the public, users of a particular website etc]</i>
Sensitive data transferred (if applicable) and applied restrictions or safeguards	<i>[The restrictions and safeguards fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures]</i>

Countries or International Organisations Personal Data will be transferred to	<i>[name the countries and International Organisations (where applicable). Where not applicable state N/A. NB: "International Organisation" is defined in the GDPR as "an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries."]</i>
Sub-Processors	<i>[name and contact address of Sub-Processor(s) (where applicable) and brief description of the nature of processing of personal data that they are undertaking under this agreement, where not applicable state N/A]</i>

Part B

[Guidance notes for Part B

When to include this Part B:

- (1) *This Part B must be included if personal information or data will be transferred from the British Council (UK charity) to the Contractor where the Contractor will store, host, access or use or otherwise process that information or data in a country that is **not** listed in the Note for Data Protection in the Special Terms (Schedule 1); and where the British Council is a **controller** and the Contractor is a **processor**.*
- (2) *If the Contractor is not a processor, then please contact the British Council's Information Governance & Risk Management Team (InfoGovernance@britishcouncil.org) for further guidance, as amendments will be required to this Part B.*
- (3) *If the Contractor will only store, host, access or use or otherwise process personal data or information only in a country or countries that **are** listed in the Note for Data Protection in the Special Terms (Schedule 1), then this Part B can be deleted entirely.*

How to complete this Part B:

- (1) *Details that need to be completed by users of this Global Model Contracts Portal template in this Part B are highlighted in **yellow**. **No other amendments may be made to this Part B without approval from the British Council's Information Governance & Risk Management Team.***
- (2) *If you have questions about the information that needs to be added where highlighted in **yellow**, please contact the British Council's Information Governance & Risk Management Team (InfoGovernance@britishcouncil.org) for further guidance.*

Delete these guidance notes before finalising and signing the Agreement.]

Part B

International Data Transfer Addendum to the EU Commission Standard Contractual Clauses

VERSION B1.0, in force 21 March 2022

This Addendum has been issued by the Information Commissioner for Parties making Restricted Transfers. The Information Commissioner considers that it provides Appropriate Safeguards for Restricted Transfers when it is entered into as a legally binding contract.

Part 1: Tables

Table 1: Parties

Start date	As stated on the front page of the wider contract into which this Addendum is incorporated	
The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
Parties' details	Full legal name: British Council Trading name (if different): N/A Main address (if a company registered address): 1 Redman Place, Stratford, London E20 1JQ Official registration number (if any) (company number or similar identifier): Incorporated by Royal Charter and registered as a charity under number 209131 in England & Wales and number SC037733 in Scotland	Full legal name: As stated on the front page of the wider contract into which this Addendum is incorporated Trading name (if different): Main address (if a company registered address): As stated on the front page of the wider contract into which this Addendum is incorporated Official registration number (if any) (company number or similar identifier): As stated on the front page of the wider contract into which this Addendum is incorporated
Key Contact	Full Name (optional): Job Title: Contact details including email:	Full Name (optional): Job Title: Contact details including email:
Signature (if required for the	Not required	Not required

purposes of Section 2)		
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Table 2: Selected SCCs, Modules and Selected Clauses

Addendum EU SCCs		<input checked="" type="checkbox"/> The version of the Approved EU SCCs which this Addendum is appended to, detailed below, including the Appendix Information: Date: Approved EU SCCs of 4.6.2021 Reference (if any): N/A Other identifier (if any): Set out in Schedule 5, Part C to the wider contract into which this Addendum is incorporated Or <input type="checkbox"/> the Approved EU SCCs, including the Appendix Information and with only the following modules, clauses or optional provisions of the Approved EU SCCs brought into effect for the purposes of this Addendum:				
Module	Module in operation	Clause 7 (Docking Clause)	Clause 11 (Option)	Clause 9a (Prior Authorisation or General Authorisation)	Clause 9a (Time period)	Is personal data received from the Importer combined with personal data collected by the Exporter?
1						
2						
3						
4						

Table 3: Appendix Information

“Appendix Information” means the information which must be provided for the selected modules as set out in the Appendix of the Approved EU SCCs (other than the Parties), and which for this Addendum is set out in:

Annex 1A: List of Parties: Refer to the completed Approved EU SCCs in Schedule 5, Part C to the wider contract into which this Addendum is incorporated

Annex 1B: Description of Transfer: Refer to the completed Approved EU SCCs in Schedule 5, Part C to the wider contract into which this Addendum is incorporated

Annex II: Technical and organisational measures including technical and organisational measures to ensure the security of the data: Refer to the completed Approved EU SCCs in Schedule 5, Part C to the wider contract into which this Addendum is incorporated

Annex III: List of Sub processors (Modules 2 and 3 only): Refer to the completed Approved EU SCCs in Schedule 5, Part C to the wider contract into which this Addendum is incorporated

Table 4: Ending this Addendum when the Approved Addendum Changes

Ending this Addendum when the Approved Addendum changes	<p>Which Parties may end this Addendum as set out in Section 19:</p> <p><input type="checkbox"/> Importer</p> <p><input checked="" type="checkbox"/> Exporter</p> <p><input type="checkbox"/> neither Party</p>
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Part 2: Mandatory Clauses

Entering into this Addendum

- Each Party agrees to be bound by the terms and conditions set out in this Addendum, in exchange for the other Party also agreeing to be bound by this Addendum.
- Although Annex 1A and Clause 7 of the Approved EU SCCs require signature by the Parties, for the purpose of making Restricted Transfers, the Parties may enter into this Addendum in any way that makes them legally binding on the Parties and allows data subjects to enforce their rights as set out in this Addendum. Entering into this Addendum will have the same effect as signing the Approved EU SCCs and any part of the Approved EU SCCs.

Interpretation of this Addendum

- Where this Addendum uses terms that are defined in the Approved EU SCCs those terms shall have the same meaning as in the Approved EU SCCs. In addition, the following terms have the following meanings:

Addendum	This International Data Transfer Addendum which is made up of this Addendum incorporating the Addendum EU SCCs.
Addendum EU SCCs	The version(s) of the Approved EU SCCs which this Addendum is appended to, as set out in Table 2, including the Appendix Information.
Appendix Information	As set out in Table 3.
Appropriate Safeguards	The standard of protection over the personal data and of data subjects' rights, which is required by UK Data Protection Laws when you are making a Restricted Transfer relying on standard data protection clauses under Article 46(2)(d) UK GDPR.
Approved Addendum	The template Addendum issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18.

Approved EU SCCs	The Standard Contractual Clauses set out in the Annex of Commission Implementing Decision (EU) 2021/914 of 4 June 2021.
ICO	The Information Commissioner.
Restricted Transfer	A transfer which is covered by Chapter V of the UK GDPR.
UK	The United Kingdom of Great Britain and Northern Ireland.
UK Data Protection Laws	All laws relating to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in the UK, including the UK GDPR and the Data Protection Act 2018.
UK GDPR	As defined in section 3 of the Data Protection Act 2018.

4. This Addendum must always be interpreted in a manner that is consistent with UK Data Protection Laws and so that it fulfils the Parties' obligation to provide the Appropriate Safeguards.
5. If the provisions included in the Addendum EU SCCs amend the Approved SCCs in any way which is not permitted under the Approved EU SCCs or the Approved Addendum, such amendment(s) will not be incorporated in this Addendum and the equivalent provision of the Approved EU SCCs will take their place.
6. If there is any inconsistency or conflict between UK Data Protection Laws and this Addendum, UK Data Protection Laws applies.
7. If the meaning of this Addendum is unclear or there is more than one meaning, the meaning which most closely aligns with UK Data Protection Laws applies.
8. Any references to legislation (or specific provisions of legislation) means that legislation (or specific provision) as it may change over time. This includes where that legislation (or specific provision) has been consolidated, re-enacted and/or replaced after this Addendum has been entered into.

Hierarchy

9. Although Clause 5 of the Approved EU SCCs sets out that the Approved EU SCCs prevail over all related agreements between the parties, the parties agree that, for Restricted Transfers, the hierarchy in Section 10 will prevail.
10. Where there is any inconsistency or conflict between the Approved Addendum and the Addendum EU SCCs (as applicable), the Approved Addendum overrides the Addendum EU SCCs, except where (and in so far as) the inconsistent or conflicting terms of the Addendum EU SCCs provides greater protection for data subjects, in which case those terms will override the Approved Addendum.
11. Where this Addendum incorporates Addendum EU SCCs which have been entered into to protect transfers subject to the General Data Protection Regulation (EU) 2016/679 then the Parties acknowledge that nothing in this Addendum impacts those Addendum EU SCCs.

Incorporation of and changes to the EU SCCs

12. This Addendum incorporates the Addendum EU SCCs which are amended to the extent necessary so that:
 - a. together they operate for data transfers made by the data exporter to the data importer, to the extent that UK Data Protection Laws apply to the data exporter's processing when making that data transfer, and they provide Appropriate Safeguards for those data transfers;
 - b. Sections 9 to 11 override Clause 5 (Hierarchy) of the Addendum EU SCCs; and
 - c. this Addendum (including the Addendum EU SCCs incorporated into it) is (1) governed by the laws of England and Wales and (2) any dispute arising from it is resolved by the courts of England and Wales, in each case unless the laws and/or courts of Scotland or Northern Ireland have been expressly selected by the Parties.
13. Unless the Parties have agreed alternative amendments which meet the requirements of Section 12, the provisions of Section 15 will apply.
14. No amendments to the Approved EU SCCs other than to meet the requirements of Section 12 may be made.
15. The following amendments to the Addendum EU SCCs (for the purpose of Section 12) are made:
 - a. References to the "Clauses" means this Addendum, incorporating the Addendum EU SCCs;
 - b. In Clause 2, delete the words:

"and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679";
 - c. Clause 6 (Description of the transfer(s)) is replaced with:

"The details of the transfers(s) and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred) are those specified in Annex I.B where UK Data Protection Laws apply to the data exporter's processing when making that transfer.";
 - d. Not applicable;
 - e. Clause 8.8(i) of Modules 2 and 3 is replaced with:

"the onward transfer is to a country benefitting from adequacy regulations pursuant to Section 17A of the UK GDPR that covers the onward transfer;"
 - f. References to "Regulation (EU) 2016/679", "Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)" and "that Regulation" are all replaced by "UK Data Protection Laws". References to specific Article(s) of "Regulation (EU) 2016/679" are replaced with the equivalent Article or Section of UK Data Protection Laws;
 - g. References to Regulation (EU) 2018/1725 are removed;
 - h. References to the "European Union", "Union", "EU", "EU Member State", "Member State" and "EU or Member State" are all replaced with the "UK";
 - i. Not applicable;

- j. Clause 13(a) and Part C of Annex I are not used;
- k. The “competent supervisory authority” and “supervisory authority” are both replaced with the “Information Commissioner”;
- l. In Clause 16(e), subsection (i) is replaced with:

“the Secretary of State makes regulations pursuant to Section 17A of the Data Protection Act 2018 that cover the transfer of personal data to which these clauses apply,”;
- m. Clause 17 is replaced with:

“These Clauses are governed by the laws of England and Wales.”;
- n. Clause 18 is replaced with:

“Any dispute arising from these Clauses shall be resolved by the courts of England and Wales. A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of any country in the UK. The Parties agree to submit themselves to the jurisdiction of such courts.”; and
- o. The footnotes to the Approved EU SCCs do not form part of the Addendum, except for footnote 2.

Amendments to this Addendum

- 16. The Parties may agree to change Clauses 17 and/or 18 of the Addendum EU SCCs to refer to the laws and/or courts of Scotland or Northern Ireland.
- 17. If the Parties wish to change the format of the information included in Part 1: Tables of the Approved Addendum, they may do so by agreeing to the change in writing, provided that the change does not reduce the Appropriate Safeguards.
- 18. From time to time, the ICO may issue a revised Approved Addendum which:
 - a. makes reasonable and proportionate changes to the Approved Addendum, including correcting errors in the Approved Addendum; and/or
 - b. reflects changes to UK Data Protection Laws;

The revised Approved Addendum will specify the start date from which the changes to the Approved Addendum are effective and whether the Parties need to review this Addendum including the Appendix Information. This Addendum is automatically amended as set out in the revised Approved Addendum from the start date specified.

- 19. If the ICO issues a revised Approved Addendum under Section 18, if any Party selected in Table 4 “Ending the Addendum when the Approved Addendum changes”, will as a direct result of the changes in the Approved Addendum have a substantial, disproportionate and demonstrable increase in:
 - a. its direct costs of performing its obligations under the Addendum; and/or
 - b. its risk under the Addendum,

and in either case it has first taken reasonable steps to reduce those costs or risks so that it is not substantial and disproportionate, then that Party may end this Addendum at the end of a reasonable notice period, by providing written notice for that period to the other Party before the start date of the revised Approved Addendum.

20. The Parties do not need the consent of any third party to make changes to this Addendum, but any changes must be made in accordance with its terms.

Alternative Part 2 Mandatory Clauses:

Mandatory Clauses	Part 2: Mandatory Clauses of the Approved Addendum, being the template Addendum B.1.0 issued by the ICO and laid before Parliament in accordance with s119A of the Data Protection Act 2018 on 2 February 2022, as it is revised under Section 18 of those Mandatory Clauses.
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Part C

[Guidance notes for Part C

When to include this Part C:

- (1) *This Part C must be included if information relating to identified or identifiable living people will be transferred from the British Council (UK charity) to the Contractor where the Contractor will store, host, access or otherwise use that information in a country that is **not** listed in the Note for Data Protection in the Special Terms (Schedule 1) and the Contractor will only store, host, access or otherwise use that information in accordance with the British Council's instructions.*
- (2) *If the Contractor will store, host, access or otherwise use that information for its own purposes and is not intending only to follow the British Council's instructions in relation to the information, then please contact the British Council's Information Governance & Risk Management Team (InfoGovernance@britishcouncil.org) for further guidance, as a different set of standard contractual clauses will be necessary to include in this Part C.*
- (3) *If the Contractor will only store, host, access or otherwise use that information in a country that **is** listed in the Note for Data Protection in the Special Terms (Schedule 1), then this Part C can be deleted entirely.*

How to complete this Part C:

- (1) *Details that need to be completed by users of this Global Model Contracts Portal template in this Part C are highlighted in **yellow**. **No other amendments may be made to this Part C without approval from the British Council's Information Governance & Risk Management Team.***
- (2) *If you have questions about the information that needs to be added where highlighted in **yellow**, please contact the British Council's Information Governance & Risk Management Team (InfoGovernance@britishcouncil.org) for further guidance.*

Delete these guidance notes before finalising and signing the Agreement.]

Part C

STANDARD CONTRACTUAL CLAUSES

SECTION I

Clause 1

Purpose and scope

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) for the transfer of personal data to a third country.
- (b) The Parties:
 - (i) the natural or legal person(s), public authority/ies, agency/ies or other body/ies (hereinafter “**entity/ies**”) transferring the personal data, as listed in Annex I.A. (hereinafter each “**data exporter**”), and
 - (ii) the entity/ies in a third country receiving the personal data from the data exporter, directly or indirectly via another entity also Party to these Clauses, as listed in Annex I.A. (hereinafter each “**data importer**”)have agreed to these standard contractual clauses (hereinafter: “**Clauses**”).
- (c) These Clauses apply with respect to the transfer of personal data as specified in Annex I.B.
- (d) The Appendix to these Clauses containing the Annexes referred to therein forms an integral part of these Clauses.

Clause 2

Effect and invariability of the Clauses

- (a) These Clauses set out appropriate safeguards, including enforceable data subject rights and effective legal remedies, pursuant to Article 46(1) and Article 46 (2)(c) of Regulation (EU) 2016/679 and, with respect to data transfers from controllers to processors and/or processors to processors, standard contractual clauses pursuant to Article 28(7) of Regulation (EU) 2016/679, provided they are not modified, except to select the appropriate Module(s) or to add or update information in the Appendix. This does not prevent the Parties from including the standard contractual clauses laid down in these Clauses in a wider contract and/or to add other clauses or additional safeguards, provided that they do not contradict, directly or indirectly, these Clauses or prejudice the fundamental rights or freedoms of data subjects.
- (b) These Clauses are without prejudice to obligations to which the data exporter is subject by virtue of Regulation (EU) 2016/679.

Clause 3

Third-party beneficiaries

- (a) Data subjects may invoke and enforce these Clauses, as third-party beneficiaries, against the data exporter and/or data importer, with the following exceptions:
 - (i) Clause 1, Clause 2, Clause 3, Clause 6, Clause 7;
 - (ii) Clause 8 - Clause 8.1(b), 8.9(a), (c), (d) and (e);

- (iii) Clause 9 - Clause 9(a), (c), (d) and (e);
 - (iv) Clause 12 - Clause 12(a), (d) and (f);
 - (v) Clause 13;
 - (vi) Clause 15.1(c), (d) and (e);
 - (vii) Clause 16(e);
 - (viii) Clause 18 - Clause 18(a) and (b).
- (b) Paragraph (a) is without prejudice to rights of data subjects under Regulation (EU) 2016/679.

Clause 4

Interpretation

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.
- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

Clause 5

Hierarchy

In the event of a contradiction between these Clauses and the provisions of related agreements between the Parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

Clause 6

Description of the transfer(s)

The details of the transfer(s), and in particular the categories of personal data that are transferred and the purpose(s) for which they are transferred, are specified in Annex I.B.

Clause 7 - Optional

Docking clause

- (a) An entity that is not a Party to these Clauses may, with the agreement of the Parties, accede to these Clauses at any time, either as a data exporter or as a data importer, by completing the Appendix and signing Annex I.A.
- (b) Once it has completed the Appendix and signed Annex I.A, the acceding entity shall become a Party to these Clauses and have the rights and obligations of a data exporter or data importer in accordance with its designation in Annex I.A.
- (c) The acceding entity shall have no rights or obligations arising under these Clauses from the period prior to becoming a Party.

SECTION II – OBLIGATIONS OF THE PARTIES

Clause 8

Data protection safeguards

The data exporter warrants that it has used reasonable efforts to determine that the data importer is able, through the implementation of appropriate technical and organisational measures, to satisfy its obligations under these Clauses.

8.1 Instructions

- (a) The data importer shall process the personal data only on documented instructions from the data exporter. The data exporter may give such instructions throughout the duration of the contract.
- (b) The data importer shall immediately inform the data exporter if it is unable to follow those instructions.

8.2 Purpose limitation

The data importer shall process the personal data only for the specific purpose(s) of the transfer, as set out in Annex I.B, unless on further instructions from the data exporter.

8.3 Transparency

On request, the data exporter shall make a copy of these Clauses, including the Appendix as completed by the Parties, available to the data subject free of charge. To the extent necessary to protect business secrets or other confidential information, including the measures described in Annex II and personal data, the data exporter may redact part of the text of the Appendix to these Clauses prior to sharing a copy, but shall provide a meaningful summary where the data subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the Parties shall provide the data subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the data exporter under Articles 13 and 14 of Regulation (EU) 2016/679.

8.4 Accuracy

If the data importer becomes aware that the personal data it has received is inaccurate, or has become outdated, it shall inform the data exporter without undue delay. In this case, the data importer shall cooperate with the data exporter to erase or rectify the data.

8.5 Duration of processing and erasure or return of data

Processing by the data importer shall only take place for the duration specified in Annex I.B. After the end of the provision of the processing services, the data importer shall, at the choice of the data exporter, delete all personal data processed on behalf of the data exporter and certify to the data exporter that it has done so, or return to the data exporter all personal data processed on its behalf and delete existing copies. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit return or deletion of the personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 14, in particular the requirement for the data importer under Clause 14(e) to notify the data exporter throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 14(a).

8.6 Security of processing

- (a) The data importer and, during transmission, also the data exporter shall implement appropriate technical and organisational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter “**personal data breach**”). In assessing the appropriate level of security, the Parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the data subjects. The Parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the personal data to a specific data subject shall, where possible, remain under the exclusive control of the data exporter. In complying with its obligations under this paragraph, the data importer shall at least implement the technical and organisational measures specified in Annex II. The data importer shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- (b) The data importer shall grant access to the personal data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- (c) In the event of a personal data breach concerning personal data processed by the data importer under these Clauses, the data importer shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. The data importer shall also notify the data exporter without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of data subjects and personal data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- (d) The data importer shall cooperate with and assist the data exporter to enable the data exporter to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected data subjects, taking into account the nature of processing and the information available to the data importer.

8.7 Sensitive data

Where the transfer involves personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter “**sensitive data**”), the data importer shall apply the specific restrictions and/or additional safeguards described in Annex I.B.

8.8 Onward transfers

The data importer shall only disclose the personal data to a third party on documented instructions from the data exporter. In addition, the data may only be disclosed to a third party located outside the

European Union¹ (in the same country as the data importer or in another third country, hereinafter “**onward transfer**”) if the third party is or agrees to be bound by these Clauses, under the appropriate Module, or if:

- (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;
- (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or
- (iv) the onward transfer is necessary in order to protect the vital interests of the data subject or of another natural person.

Any onward transfer is subject to compliance by the data importer with all the other safeguards under these Clauses, in particular purpose limitation.

8.9 Documentation and compliance

- (a) The data importer shall promptly and adequately deal with enquiries from the data exporter that relate to the processing under these Clauses.
- (b) The Parties shall be able to demonstrate compliance with these Clauses. In particular, the data importer shall keep appropriate documentation on the processing activities carried out on behalf of the data exporter.
- (c) The data importer shall make available to the data exporter all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the data exporter's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the data exporter may take into account relevant certifications held by the data importer.
- (d) The data exporter may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of the data importer and shall, where appropriate, be carried out with reasonable notice.
- (e) The Parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

Clause 9

Use of sub-processors

- (a) The data importer shall not sub-contract any of its processing activities performed on behalf of the data exporter under these Clauses to a sub-processor without the data exporter's prior specific written authorisation. The data importer shall submit the request for specific authorisation at least 30 days prior to the engagement of the sub-processor, together with the information necessary to enable the data exporter to decide on the authorisation. The list of

¹ The Agreement on the European Economic Area (EEA Agreement) provides for the extension of the European Union's internal market to the three EEA States Iceland, Liechtenstein and Norway. The Union data protection legislation, including Regulation (EU) 2016/679, is covered by the EEA Agreement and has been incorporated into Annex XI thereto. Therefore, any disclosure by the data importer to a third party located in the EEA does not qualify as an onward transfer for the purpose of these Clauses.

sub-processors already authorised by the data exporter can be found in Annex III. The Parties shall keep Annex III up to date.

- (b) Where the data importer engages a sub-processor to carry out specific processing activities (on behalf of the data exporter), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding the data importer under these Clauses, including in terms of third-party beneficiary rights for data subjects.² The Parties agree that, by complying with this Clause, the data importer fulfils its obligations under Clause 8.8. The data importer shall ensure that the sub-processor complies with the obligations to which the data importer is subject pursuant to these Clauses.
- (c) The data importer shall provide, at the data exporter's request, a copy of such a sub-processor agreement and any subsequent amendments to the data exporter. To the extent necessary to protect business secrets or other confidential information, including personal data, the data importer may redact the text of the agreement prior to sharing a copy.
- (d) The data importer shall remain fully responsible to the data exporter for the performance of the sub-processor's obligations under its contract with the data importer. The data importer shall notify the data exporter of any failure by the sub-processor to fulfil its obligations under that contract.
- (e) The data importer shall agree a third-party beneficiary clause with the sub-processor whereby - in the event the data importer has factually disappeared, ceased to exist in law or has become insolvent - the data exporter shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the personal data.

Clause 10

Data subject rights

- (a) The data importer shall promptly notify the data exporter of any request it has received from a data subject. It shall not respond to that request itself unless it has been authorised to do so by the data exporter.
- (b) The data importer shall assist the data exporter in fulfilling its obligations to respond to data subjects' requests for the exercise of their rights under Regulation (EU) 2016/679. In this regard, the Parties shall set out in Annex II the appropriate technical and organisational measures, taking into account the nature of the processing, by which the assistance shall be provided, as well as the scope and the extent of the assistance required.
- (c) In fulfilling its obligations under paragraphs (a) and (b), the data importer shall comply with the instructions from the data exporter.

Clause 11

Redress

- (a) The data importer shall inform data subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a data subject.
- (b) In case of a dispute between a data subject and one of the Parties as regards compliance with these Clauses, that Party shall use its best efforts to resolve the issue amicably in a timely

² This requirement may be satisfied by the sub-processor acceding to these Clauses under the appropriate Module, in accordance with Clause 7.

fashion. The Parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.

- (c) Where the data subject invokes a third-party beneficiary right pursuant to Clause 3, the data importer shall accept the decision of the data subject to:
 - (i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 13;
 - (ii) refer the dispute to the competent courts within the meaning of Clause 18.
- (d) The Parties accept that the data subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- (e) The data importer shall abide by a decision that is binding under the applicable EU or Member State law.
- (f) The data importer agrees that the choice made by the data subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

Clause 12

Liability

- (a) Each Party shall be liable to the other Party/ies for any damages it causes the other Party/ies by any breach of these Clauses.
- (b) The data importer shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data importer or its sub-processor causes the data subject by breaching the third-party beneficiary rights under these Clauses.
- (c) Notwithstanding paragraph (b), the data exporter shall be liable to the data subject, and the data subject shall be entitled to receive compensation, for any material or non-material damages the data exporter or the data importer (or its sub-processor) causes the data subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the data exporter and, where the data exporter is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.
- (d) The Parties agree that if the data exporter is held liable under paragraph (c) for damages caused by the data importer (or its sub-processor), it shall be entitled to claim back from the data importer that part of the compensation corresponding to the data importer's responsibility for the damage.
- (e) Where more than one Party is responsible for any damage caused to the data subject as a result of a breach of these Clauses, all responsible Parties shall be jointly and severally liable and the data subject is entitled to bring an action in court against any of these Parties.
- (f) The Parties agree that if one Party is held liable under paragraph (e), it shall be entitled to claim back from the other Party/ies that part of the compensation corresponding to its / their responsibility for the damage.
- (g) The data importer may not invoke the conduct of a sub-processor to avoid its own liability.

Clause 13

Supervision

- (a) The supervisory authority of one of the Member States in which the data subjects whose personal data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.
- (b) The data importer agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, the data importer agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

SECTION III – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES

Clause 14

Local laws and practices affecting compliance with the Clauses

- (a) The Parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the personal data by the data importer, including any requirements to disclose personal data or measures authorising access by public authorities, prevent the data importer from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- (b) The Parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
 - (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred personal data; the economic sector in which the transfer occurs; the storage location of the data transferred;
 - (ii) the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards³;

³ As regards the impact of such laws and practices on compliance with these Clauses, different elements may be considered as part of an overall assessment. Such elements may include relevant and documented practical experience with prior instances of requests for disclosure from public authorities, or the absence of such requests, covering a sufficiently representative time-frame. This refers in particular to internal records or other documentation, drawn up on a continuous basis in accordance with due diligence and certified at senior management level, provided that this information can be lawfully shared with third parties. Where this practical experience is relied upon to conclude that the data importer will not be prevented from complying with these Clauses, it needs to be supported by other relevant, objective elements, and it is for the Parties to consider carefully whether these elements together carry sufficient weight, in terms of their reliability and representativeness, to support this conclusion. In particular, the Parties have to take into account whether their practical experience is corroborated and not contradicted by publicly available or otherwise accessible, reliable information on the existence or

- (iii) any relevant contractual, technical or organisational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the personal data in the country of destination.
- (c) The data importer warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the data exporter with relevant information and agrees that it will continue to cooperate with the data exporter in ensuring compliance with these Clauses.
- (d) The Parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.
- (e) The data importer agrees to notify the data exporter promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).
- (f) Following a notification pursuant to paragraph (e), or if the data exporter otherwise has reason to believe that the data importer can no longer fulfil its obligations under these Clauses, the data exporter shall promptly identify appropriate measures (e.g. technical or organisational measures to ensure security and confidentiality) to be adopted by the data exporter and/or data importer to address the situation. The data exporter shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses. If the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 16(d) and (e) shall apply.

Clause 15

Obligations of the data importer in case of access by public authorities

15.1 Notification

- (a) The data importer agrees to notify the data exporter and, where possible, the data subject promptly (if necessary with the help of the data exporter) if it:
 - (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of personal data transferred pursuant to these Clauses; such notification shall include information about the personal data requested, the requesting authority, the legal basis for the request and the response provided; or
 - (ii) becomes aware of any direct access by public authorities to personal data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.
- (b) If the data importer is prohibited from notifying the data exporter and/or the data subject under the laws of the country of destination, the data importer agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as

absence of requests within the same sector and/or the application of the law in practice, such as case law and reports by independent oversight bodies.

soon as possible. The data importer agrees to document its best efforts in order to be able to demonstrate them on request of the data exporter.

- (c) Where permissible under the laws of the country of destination, the data importer agrees to provide the data exporter, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular, number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).
- (d) The data importer agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
- (e) Paragraphs (a) to (c) are without prejudice to the obligation of the data importer pursuant to Clause 14(e) and Clause 16 to inform the data exporter promptly where it is unable to comply with these Clauses.

15.2 Review of legality and data minimisation

- (a) The data importer agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. The data importer shall, under the same conditions, pursue possibilities of appeal. When challenging a request, the data importer shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the personal data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of the data importer under Clause 14(e).
- (b) The data importer agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the data exporter. It shall also make it available to the competent supervisory authority on request.
- (c) The data importer agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

SECTION IV – FINAL PROVISIONS

Clause 16

Non-compliance with the Clauses and termination

- (a) The data importer shall promptly inform the data exporter if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that the data importer is in breach of these Clauses or unable to comply with these Clauses, the data exporter shall suspend the transfer of personal data to the data importer until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 14(f).
- (c) The data exporter shall be entitled to terminate the contract, insofar as it concerns the processing of personal data under these Clauses, where:

- (i) the data exporter has suspended the transfer of personal data to the data importer pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
- (ii) the data importer is in substantial or persistent breach of these Clauses; or
- (iii) the data importer fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two Parties, the data exporter may exercise this right to termination only with respect to the relevant Party, unless the Parties have agreed otherwise.

- (d) Personal data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the data exporter immediately be returned to the data exporter or deleted in its entirety. The same shall apply to any copies of the data. The data importer shall certify the deletion of the data to the data exporter. Until the data is deleted or returned, the data importer shall continue to ensure compliance with these Clauses. In case of local laws applicable to the data importer that prohibit the return or deletion of the transferred personal data, the data importer warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.
- (e) Either Party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of personal data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the personal data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

Clause 17

Governing law

These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of Ireland.

Clause 18

Choice of forum and jurisdiction

- (a) Any dispute arising from these Clauses shall be resolved by the courts of an EU Member State.
- (b) The Parties agree that those shall be the courts of Ireland.
- (c) A data subject may also bring legal proceedings against the data exporter and/or data importer before the courts of the Member State in which he/she has his/her habitual residence.
- (d) The Parties agree to submit themselves to the jurisdiction of such courts.

APPENDIX

EXPLANATORY NOTE:

It must be possible to clearly distinguish the information applicable to each transfer or category of transfers and, in this regard, to determine the respective role(s) of the Parties as data exporter(s) and/or data importer(s). This does not necessarily require completing and signing separate appendices for each transfer/category of transfers and/or contractual relationship, where this transparency can be achieved through one appendix. However, where necessary to ensure sufficient clarity, separate appendices should be used.

ANNEX I

A. LIST OF PARTIES

Data exporter(s):

1. Name: British Council

Address: 1 Redman Place, Stratford, London E20 1JQ

Contact person's name, position and contact details: Jonathan Gray, Group Data Protection Officer (InfoGovernance@britishcouncil.org)

Activities relevant to the data transferred under these Clauses: The British Council is a registered charity, an executive non-departmental public body and a public corporation and builds connections, understanding and trust between people in the UK and other countries through arts and culture, education and the English language. It works on the ground in more than 100 countries

Signature and date:

Role (controller/processor): Controller

Data importer(s): *[Identity and contact details of the data importer(s), including any contact person with responsibility for data protection]*

1. Name: The Contractor, as defined in the wider contract into which these Clauses are incorporated

Address: As stated on the front page of the wider contract into which these Clauses are incorporated

Contact person's name, position and contact details:

Activities relevant to the data transferred under these Clauses:

Signature and date:

Role (controller/processor): Processor

B. DESCRIPTION OF TRANSFER

Categories of data subjects whose personal data is transferred

As specified in Part A of Schedule 5 to the wider contract into which these Clauses are incorporated

Categories of personal data transferred

As specified in Part A of Schedule 5 to the wider contract into which these Clauses are incorporated

Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.

.....

The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).

.....

Nature of the processing

As specified in Part A of Schedule 5 to the wider contract into which these Clauses are incorporated

Purpose(s) of the data transfer and further processing

As specified in Part A of Schedule 5 to the wider contract into which these Clauses are incorporated

The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period

As specified in Part A of Schedule 5 to the wider contract into which these Clauses are incorporated

For transfers to (sub-) processors, also specify subject matter, nature and duration of the processing

As specified in Part A of Schedule 5 to the wider contract into which these Clauses are incorporated

C. COMPETENT SUPERVISORY AUTHORITY

Identify the competent supervisory authority/ies in accordance with Clause 13

Data Protection Commission of Ireland

ANNEX II - TECHNICAL AND ORGANISATIONAL MEASURES INCLUDING TECHNICAL AND ORGANISATIONAL MEASURES TO ENSURE THE SECURITY OF THE DATA

EXPLANATORY NOTE:

The technical and organisational measures must be described in specific (and not generic) terms. See also the general comment on the first page of the Appendix, in particular on the need to clearly indicate which measures apply to each transfer/set of transfers.

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

*If you have enquiries about the British Council possible measure for this Agreement, then please contact the British Council's Information Governance & Risk Management Team (InfoGovernance@britishcouncil.org) for further guidance - **Delete this paragraph before finalising and signing the Agreement***

[Examples of possible measures:

Measures of pseudonymisation and encryption of personal data

Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services

Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident

Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing

Measures for user identification and authorisation

Measures for the protection of data during transmission

Measures for the protection of data during storage

Measures for ensuring physical security of locations at which personal data are processed

Measures for ensuring events logging

Measures for ensuring system configuration, including default configuration

Measures for internal IT and IT security governance and management

Measures for certification/assurance of processes and products

Measures for ensuring data minimisation

Measures for ensuring data quality

Measures for ensuring limited data retention

Measures for ensuring accountability

Measures for allowing data portability and ensuring erasure]

For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter

.....

ANNEX III – LIST OF SUB-PROCESSORS

The controller has authorised the use of the following sub-processors:

1. Name:

Address:

Contact person's name, position and contact details:

Description of processing (including a clear delimitation of responsibilities in case several sub-processors are authorised):

2. ...

Schedule 6

Environmental Standards Protection Schedule

1. The Contractor should identify, mitigate, and minimise negative environmental impact resulting from the construction phase by considering the following guidance, including but not limited to:
 - i. British Council best practice is to achieve equivalent of BREEAM 'excellent' unless site constraints or project objectives mean that this requirement conflicts with the obligation to achieve value for money. Where an alternative environmental assessment methodology is used, project construction should seek to reflect the equivalent of these ratings.
 - ii. before starting construction create, submit and follow an Environmental Sustainability Action Plan, including Risk Assessment.
 - iii. maximise re-use of existing site fabric, where legal and safe to do so, and minimise use of new materials/equipment
 - iv. use construction materials that have low negative environmental sustainability impact/high environmental sustainability credentials
 - v. not use construction materials that contain hazardous materials
 - vi. minimise the risk of pollution during construction for example maintaining good air quality and using pollution prevention techniques
 - vii. seek to minimise water/electricity/gas use during construction
 - viii. seek to reduce transport emissions
 - ix. minimise overall waste arising from the project and where waste is generated maximise recycling/minimise waste to landfill
2. The Contractor shall take account of the following when obtaining materials and supplies:
 - i. **Timber:** Only timber and timber products originating either from independently verified legal and sustainable sources or from a licensed Forest Law Enforcement Governance and Trade (FLEGT) partner can be purchased. Recycled timber is also accepted.
 - ii. **Paint:** Wall paints must have a 'Low' VOC content of 7.99% or less. Other paints and all other products must have a 'Medium' VOC content of 24.99% or less.
 - iii. **Taps and Sprays:**
 - i. Kitchen flow rates of between 4 to 6 litres/minute with all mixers having a clear indication of hot and cold with hot tap or lever position to the left.
 - ii. Bathroom taps to come with flow rates less than 4 litre/minute delivered through either automatic shut off, screw down/lever, or spray.

Schedule 7

Health and Safety Schedule

The Contractor must comply with any/all local Health and Safety (H&S) legislation and obtain any relevant approvals before commencing the work.

[British Council project manager may provide input into local H&S considerations, but the Contractor shall remain responsible and liable for any incidents]

If no relevant legislation or guidance exists locally, the following should be followed (if applicable) as a minimum which aims to protect any staff working on British Council projects.

1. Employment

Staff must be trained, competent and fit to do the job safely and without putting their own or others' health and safety at risk.

Staff must be properly supervised and given clear instructions.

Staff must have access to washing and toilet facilities.

Staff must have the right tools, equipment, plant and personal protective clothing.

Staff (or their representatives) should have an appropriate process to report and discuss health and safety issues or concerns.

There should be arrangements for employees' health surveillance where required.

2. Site Access

Staff should be able to get to their place of work safely – and work there safely.

Access routes should be in good condition and clearly signposted.

Edges or drops should be protected with guard rails or other suitable barriers to prevent falls.

The site should be tidy with all materials stored safely.

Adequate lighting should be provided depending on local site conditions and time of day/night.

3. Welfare

Toilets should be readily available and kept clean and properly lit.

Washbasins, running water, soap and towels should be provided.

Washbasins should be large enough to wash up to the elbow and kept clean.

Facilities to change, dry and store clothing should be provided.

Drinking water and cups should be provided.

Facilities should be provided where workers can sit, make drinks and prepare food.

Everyone who needs to access welfare facilities should be able to do so easily and safely.

Welfare facilities should be kept warm and well ventilated.

4. Working at height

The Contractor must plan the work and identify suitable precautions to ensure all tasks can be carried out safely.

The Contractor should avoid working at height wherever possible and consider using different equipment or a different work method.

The Contractor should use equipment that will prevent falls from happening, such as scaffolding or a mobile elevating work platform (if and where appropriate).

The Contractor should put in place measures to reduce the distance and consequences of a fall should one happen, such as nets, soft landing systems or safety decks (if and where appropriate).

The Contractor must assess local weather conditions if they threaten the health and safety of those carrying out the work, and either postpone the works or put in place appropriate mitigation measures.

The Contractor must consider all options and be certain that you are gaining access to height using the safest means possible.

5. Scaffolds

All scaffolds must be erected, altered and dismantled by competent people.

All uprights must be provided with base plates (and, where necessary, timber sole plates).

All uprights, ledgers, braces and struts should be in position.

The scaffold must be secured to the building or structure in enough places to prevent collapse.

Guard rails and toe boards, or other suitable protection, must be provided to prevent falls.

Additional guards must be provided to prevent materials falling from scaffolds.

All working platforms must be fully boarded, with the boards arranged to avoid tipping or tripping.

Effective barriers or warning notices must be in place to stop people using an incomplete scaffold, e.g. where working platforms are not fully boarded.

The scaffold must be strong enough to carry the weight of materials stored on it and be evenly distributed.

The scaffolds must be properly maintained.

A competent person must inspect the scaffold regularly, e.g. at least once a week; and always after it has been altered, damaged and following bad weather.

6. Ladders

Ladders and stepladders should only be used as a last resort. Alternative equipment could be hired or purchased that would provide a safer means of access.

Ladders and stepladders should only be used if the work is of short duration and low risk.

Any ladders and stepladders must be in good condition.

When in use, ladders must rest against a solid surface and not on fragile or insecure materials.

Ladders must be secured at the top and bottom to prevent them slipping sideways and outwards.

Ladders must rise at least a metre above their landing place. If not, other handholds should be provided.

Ladders must be positioned so that users don't have to overstretch.

You must not use the top three rungs of a stepladder. If you have to use the top three rungs of a stepladder your stepladder is too short and alternative access arrangements must be sought.

7. Roofwork

Edge protection must be used to stop people or materials falling.

During industrial roofing, nets must be provided to stop people falling from the leading edge of the roof and from partially fixed sheets.

Where nets are used, they must be hung safely.

The Contractor must identify fragile materials such as cement sheets and roof lights which could be fragile.

When identified, suitable precautions must be taken to stop people falling through fragile materials when working on the roof, e.g. by providing barriers, covers or working platforms.

People must be kept away from the area below the roof work, or suitable precautions put in place to prevent injury or death.

8. Excavations

There must be enough support for any excavation way, or it must be sloped or battered back to a safe angle.

The Contractor must use a safe method for putting in any support, without people working in an unsupported trench.

There must be safe access into the excavation, e.g. a sufficiently long, secured ladder.

Barriers or other protections must be used to stop people and vehicles falling in.

Properly secured stop blocks must be provided to prevent tipping vehicles falling in.

The excavation must not affect the stability of neighbouring structures or services.

Materials, spoil and plant must be stored away from the edge of the excavation to reduce the chance of a collapse.

The excavation must be regularly inspected by a competent person.

9. Manual handling

Heavy materials such as roof trusses, lintels, or bagged products could cause problems if they have to be moved by hand.

If so, you should:

- choose lighter materials;
- use trolleys, hoists, telehandlers and other plant or equipment so that manual lifting of heavy objects is kept to a minimum;
- order materials such as cement and aggregates in 25 kg bags;
- avoid the repetitive laying of heavy building blocks or other masonry units weighing more than 20 kg.

Staff must have been instructed and trained how to use lifting aids and other handling equipment safely.

Staff must have been trained how to lift safely.

10. Loading and unloading goods

Staff must check that any load has not moved or destabilised during the journey to site.

There must be an exclusion zone around the loading/unloading area to keep people who are not involved away from the work.

You must plan the method of unloading, taking account of any identified risks.

Lifting equipment should have a current examination certificate.

You should have to access the back of the lorry, unless the preparation work can be done from ground level. If not:

- you must have a safe way of getting up and down from the back of the vehicle;
- you must put in place protections to prevent workers from falling off the back of the vehicle.

Staff should have sensible safety footwear with a good grip.

11. Traffic, vehicles and plant

Vehicles and pedestrians should be kept apart.

If not, you must:

- provide barriers to separate them as much as you can;
- tell people (e.g. your workers and anyone who lives or works in the property where you are working) about the problem, and what they need to do about it;
- display warning signs.

People should be kept away from slewing vehicles or, if not possible, can you use a zero tail-swing machine?

Reversing should be avoided, e.g. by using a one-way system or a turning area. If not possible, a properly trained banksmen must be used.

Vehicles and plant must be properly maintained, e.g. steering, brakes, hydraulics, mirrors and any other vision aid work must work properly. Tyres must be in good condition and at the correct pressure.

Drivers must receive proper training and be competent and fit to use the vehicles or plant they are operating.

Loads must be properly secured.

Passengers must only be carried on vehicles designed to carry them.

Plant and vehicles should not be used on dangerous slopes.

If you need to work on or drive across sloping ground, you must check that the plant and vehicles are safe to use.

12. Tools and machinery

The right tools or machinery must be used for the job.

All dangerous parts must be guarded to prevent injury, e.g. gears, chain drives, projecting engine shafts.

All guards must be secured and in good repair.

All tools and machinery must be maintained in good repair and all safety devices operating correctly.

All operators must be trained and competent.

13. Hoists

All equipment must be installed by a competent person.

All operators must be trained and competent.

The rated capacity must be clearly marked.

The hoist must have a current report of thorough examination and a record of inspection.

There must be a suitable base enclosure to prevent people from being struck by any moving part of the hoist.

The landing gates should be kept shut except when the platform is at the landing.

14. Emergencies

You must have emergency procedures clearly documented, e.g. for evacuating the site in case of fire.

People on site must know what the procedures are.

There must be a documented way of raising the alarm, which works.

There must be a way to contact the emergency services from site.

There must be enough suitable escape routes and these must be kept clear.

There must be a suitable first-aid provision on site.

15. Fire

The quantity of flammable materials, liquids and gases should be kept to a minimum.

All flammable materials must be properly stored.

Flammable gas cylinders must be returned to a ventilated store at the end of the shift.

Smoking and other ignition sources must be banned in areas where gases or flammable liquids are stored or used.

Gas cylinders, associated hoses and equipment must be properly maintained and in good condition.

When gas cylinders are not in use, the valves must be fully closed.

Flammable and combustible waste must be removed regularly and stored in suitable bins or skips.

Suitable fire extinguishers must be provided.

16. Hazardous substances

All harmful substances and materials, such as asbestos, lead, solvents, paints, cement and silica dust (e.g. from kerb or paving cutting) must be identified.

You must check whether a licensed contractor is needed to deal with asbestos on site. (Most work with asbestos requires a licence, although you can do some very limited work with materials that contain asbestos without one.)

You must identify and put into place precautions to prevent or control exposure to hazardous substances, by:

- doing the work in a different way, to remove the risk entirely;
- using a less hazardous material;
- using tools fitted with dust extraction;
- using tools fitted with water suppression.

Workers must have received information and training on the potential risks from the hazardous substances used and produced on site, and must know what they need to do to avoid the risks.

You must have procedures to prevent contact with wet cement (as this can cause dermatitis and cement burns).

You must arrange health surveillance for people using certain hazardous substances (e.g. lead, silica, cement, sensitisers such as two-pack adhesives or coatings).

17. Noise

You must identify and assess workers' exposure to noise.

Workers must have received information and training so they know what the risks are from noise on site, and what they need to do to avoid those risks.

Noise levels should be reduced by using different working methods or selecting quieter plant, e.g. by fitting breakers and other plant or machinery with silencers.

People not involved in the work must be kept away from the source of the noise.

Suitable hearing protection must be provided and worn in noisy areas.

Hearing protection zones must be identified and marked.

You must arranged health surveillance for people exposed to high levels of noise.

18. Hand-arm vibration (HAV)

Exposure to HAV must be avoided or reduced as much as possible by selecting suitable work methods and plant.

You should chose the lowest vibration tool that is suitable and can do the job efficiently.

You should limit the time that each worker uses high vibration tools such as concrete breakers, angle grinders or hammer drills as far as possible.

Workers must have received information and training so they know what the risks are from hand-arm vibration on site, and what they need to do to avoid those risks.

Vibrating tools must be properly maintained including keeping bits and drills sharp.

You must arrange health surveillance for people exposed to high levels of hand-arm vibration, especially when exposed for long periods.

19. Electricity and other services

All necessary services must be provided on site before work begins and all pre-existing services identified (e.g. electric cables or gas mains) with effective steps (if necessary), taken to prevent danger from them.

You must use low voltage for tools and equipment, e.g. battery-operated tools or low-voltage systems.

Cables and leads must be protected from damage.

All connections to the system must be properly made with suitable plugs used.

Tools and equipment must be checked by users, visually examined on site and regularly inspected and tested by a competent person.

Hidden electricity cables and other services must be located (e.g. with a locator and plans) and marked on site, with suitable precautions for safe working.

If there are overhead lines, the electricity supply must be turned off unless other precautions have been taken, such as providing 'goal posts' or taped markers to mitigate the risks.

20. Protecting the public

The work must be fenced off from the public.

Roadworks must be barriered off and appropriately lit.

The public must be protected from falling material.

When work has stopped for the day:

- the boundary must be secure;
- all ladders must be removed or their rungs secured so that they cannot be used;
- excavations and openings must be securely covered or fenced off;
- all plant must be immobilised to prevent unauthorised use;
- bricks and materials must be safely stacked;
- flammable or dangerous substances must be locked away in secure storage places.