

Construction agreement for D.I Khan Spoke

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 operating through its local office at The British Council, c/o British High Commission, Diplomatic Enclave, Ramna 5, Islamabad, Pakistan (hereinafter referred to as “BC”)

The Contractor:

[Insert Contractor Name], [Insert address] (hereinafter referred to as “the Contractor”).

Date:

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 limited renovation and construction work in different areas of its premise. The scope of work includes construction of classrooms, a smart lab, and related renovation works, including ceiling works, painting, flooring, branding works, and solar panel installation. (the “**D.I Khan- Spoke**”) 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 Government Polytechnical Institute, (Women) Dera Ismail Khan – KPTEVTA - University Road Qaiser Abad, Dera Ismail Khan.

3 Date for Completion

- 3.1 The Date for Completion of the Works is **75 calendar days** (including weekends / nonworking days) from the start of mobilization.

4 Liquidated Damages

- 4.1 The amount of Liquidated Damages is PKR 100,000 (Pakistani Rupees One Hundred Thousand) per week or pro rata thereof

5 Rectification Period

- 5.1 The Rectification is 6 months from the Handing over / Completion Date unless otherwise specified here.

6 Equipment or Onsite Facility

- 6.1 The Campus will provide the Contractor with the following equipment to be used by the Contractor, reasonably electricity for temporary works, access to washrooms and water as required.

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 35, notices are to be sent to the following addresses:

To the British Council	To the Contractor
The British Council <i>[Attention: insert name <u>and</u> job title]</i> <i>Email:</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 / Workers' Compensation	In the line appropriate legislation
Contractors Work/All Risk	£50,000 per occurrence and in the aggregate (annual total of all losses)

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 that Working Hours will be 24 hours, seven days a week.
- 10.2 All equipment being used by the contractor is to be PAT tested.

Schedule 2

Terms of Reference

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:

Refer Attached

Annex 3 – Pricing Approach / Consolidated Bill of Quantities (BOQ) – D.I Khan

Detail design

Refer Attached

Annex 4 – Scope of Work (Tender Drawings Package) – D.I Khan

Construction Drawings

Will be provided at the time of contractor's mobilization on site.

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, all drawing, specifications and BOQ are Annex 3, Annex 4.

Timescales

Date	Stage/Milestone
6 th March 2026	Contract Commencement/ Mobilisation on site. Delivery equipment. Site Set up. Kick off meeting.

15 th April 2026	Mid-Point
23 rd May 2026	Construction Completed
06 th June 2026	Snagging & Practical Completion
6 th Dec 2026	End of Retention Period

Health and Safety

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

Schedule 3

Part 1

Charges

The total Charges for the Works exclusive of VAT are: Pakistani Rupees XXXXX (Pakistani Rupees in words Only).

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 (against undisputed invoices only) of the agreed charges at each stage of the Payment Schedule detailed below following the certification of Satisfactory Work Completed in accordance with desired quality and duly reviewed/approved by the British Council contracted architect (hereby referenced to as "Surround") and the 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

Tentative Date	Stage/Milestone	% of Charges	Amount exclusive VAT	Amount inclusive VAT (If applicable)
Following full mobilization on site and start construction	7 day payment cycle only, after undisputed invoice (other Payment will be as per contract 30 days cycle)	20%	x	x
15 th April 2026	Mid-Point	30%	x	x
23 rd May 2026	Completion Date	40%	x	x
6 th June 2026	Snags / Handing Over / Defects Completion Date	5%	x	x
6 th Dec 2026	Retention (6 months)	5%	x	
Total in PKR	100%	100%	x	x
Total in £			x	x

Exchange rate at time of contract is PKR 347

Surround (a British Council appointed consultant), shall certify each stage of the Project payments 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 Government Polytechnical Institute, (Women) Dera Ismail Khan – KPTEVTA - University Road Qaiser Abad, Dera Ismail Khan. 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. A The first payment (commencement and mobilisation) will be due within 7 days of work starting on site, along with proof that equipment is on site, some materials have been delivered, and demolition has commenced. The remaining payments will be due 30 days after the date on which the British Council receives the application for payment or an undisputed invoice.
 - Before first payment is processed the contractor need also to share proof of agreed insurances with Surround (a British Council appointed Consultant).
 - Vendor registration and the Purchase Order (PO) shall be issued within 7 to 10 working days of the contract being signed by both parties. First payment shall only be made after issuance of the PO.
2. B The Contractor's second payment shall be released at the midpoint, equivalent to 30% of the full contract price, as specified in the Payment Schedule section of the Construction Agreement.
2. C The Contractor's third payment, equivalent to 40% of the full contract price, shall be released upon completion of the construction Works, as specified in the Payment Schedule section of the Construction Agreement.
2. D The Contractor's fourth payment, equivalent to 5% of the full contract price, shall be released upon completion of the Snag List works, as specified in the Payment Schedule section of the Construction Agreement.
2. E The retention amount shall be limited to 5% of the full contract price and shall be released upon completion of the 180-day Retention Period.
- 2 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.
- 3 The final date for payment of a sum set out in an application for payment or an undisputed invoice will be 17 days after the payment due date.

- 4 Subject to paragraph 7, and unless the British Council has given a notice under paragraph 6, the British Council shall pay the Contractor:
- 4.1 the sum set out in the British Council 's notice given under paragraph 3; or
 - 4.2 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 undisputed invoice.
- 5 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:
- 5.1 the sum that the British Council considers is due on the date the notice is served; and
 - 5.2 the basis on which that sum has been calculated.
- 6 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 29.
- 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 29.

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 **Error! Reference source not found.** (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 34.1), 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 Audit

- 19.1 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.
- 19.2 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.

20 Publicity

- 20.1 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.

21 Health and Safety

- 21.1 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.

- 21.2 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.

22 Employees

- 22.1 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.

23 Safeguarding and Protecting Children and Vulnerable Adults

- 23.1 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.

24 Anti-slavery and human trafficking

- 24.1 The Contractor shall:
- 24.1.1 ensure that slavery and human trafficking is not taking place in any part of its business or in any part of its supply chain;
 - 24.1.2 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;
 - 24.1.3 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
 - 24.1.4 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.
- 24.2 If the Contractor fails to comply with any of its obligations under clause 24.1, without prejudice to any other rights or remedies which the British Council may have, the British Council shall be entitled to:
- 24.2.1 terminate this Agreement without liability to the Contractor immediately on giving notice to the Contractor; and/or

- 24.2.2 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
- 24.2.3 reduce, withhold or claim a repayment (in full or in part) of the charges payable under this Agreement; and/or
- 24.2.4 share with third parties information about such non-compliance.

25 Equality, Diversity, Inclusion and the Environment

- 25.1 The Contractor shall ensure that it does not, whether as an employer or provider of works, discriminate within the meaning of the Equality Legislation.
- 25.2 The Contractor shall comply with any equality or diversity policies or guidelines included in the British Council Requirements.
- 25.3 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.
- 25.4 The Contractor shall comply with any environmental policies or guidelines included in the British Council Requirements as amended from time to time.
- 25.5 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.

26 Assignment

- 26.1 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.
- 26.2 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 26.2.

27 Waiver and non-waiver

- 27.1 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.
- 27.2 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.

- 27.3 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.

28 Entire agreement

- 28.1 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.

29 Variation

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

30 Severance

- 30.1 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.

31 Counterparts

- 31.1 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.

32 Third party rights

- 32.1 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 26 is a permitted successor or assignee of the rights or benefits of a party may enforce such rights or benefits.

- 32.2 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).

33 No partnership or agency

- 33.1 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.

34 Force Majeure

- 34.1 Subject to clauses 34.2 and 34.3, 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.
- 34.2 A party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
- 34.2.1 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;
 - 34.2.2 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
 - 34.2.3 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.
- 34.3 Nothing in this clause 34 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 34.1).

35 Notice

- 35.1 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:
- 35.1.1 personally, in which case the notice will be deemed to have been received at the time of delivery;
 - 35.1.2 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;
 - 35.1.3 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
 - 35.1.4 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.
- 35.2 To prove service of notice under clauses 35.1.1 to 35.1.3 above, it is sufficient to prove that the envelope containing the notice was properly addressed and posted or handed to the courier.

36 Governing Law and Dispute Resolution Procedure

- 36.1 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.
- 36.2 Subject to the remainder of this clause 36, 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.
- 36.3 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 36.3, either party may commence proceedings in accordance with clause 36.2.

- 36.4 Nothing in this clause 36 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 (N/A)

Part A

Description	Not applicable-(D.I Khan Spoke)
Duration of Processing	Not applicable
The frequency of the transfer	Not applicable
Nature and purpose of Processing	Not applicable
Type of Personal Data	Not applicable
Categories of Data Subjects	Not applicable
Sensitive data transferred (if applicable) and applied restrictions or safeguards	Not applicable
Countries or International Organisations Personal Data will be transferred to	Not applicable
Sub-Processors	Not applicable

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. Roof work

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 wall, 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.