

Definition of Additional Clause Identified and Defined Terms for Additional Clauses	Z No.	No.	Clause
	Z1		In these additional conditions of contract, the following terms are defined terms and shall have the meanings ascribed hereto:
		(1)	“Code” shall mean the Code of Practice for Employment published by the Equality and Human Rights Commission (as published from time to time) or any code that may replace it
		(2)	“Confidential Information” shall mean 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, properties, assets, trading practices, works, developments, trade secrets, intellectual property rights, know-how, personnel, customers and suppliers of either Party and all personal data and sensitive personal data within the meaning of the DPA
		(3)	“Contracting Authority” shall mean any contracting authority as defined in Regulation 2 of the Public Contracts Regulations 2015 other than West Swindon Parish Council
		(4)	“Data Protection Officer” shall mean the officer of West Swindon Parish Council holding the post of “Data Protection Officer”
		(5)	“DPA” shall mean the Data Protection Act 1998 as amended and will include any changes necessitated by the General Data Protection Regulation 2018.
		(6)	“EIR” shall mean the Environmental Information Regulations 2004
		(7)	“FOIA” shall mean the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation
		(8)	“Information” shall have the meaning given under section 84 of the FOIA
		(9)	“Local Commissioner” shall mean the Local Commissioner as appointed by the Commissioner for Local Administration in England or any successor body
		(10)	“Requests for Information” shall have the meaning set out in FOIA or any apparent request for information under the FOIA or the EIR
		(11)	“Subject Access Request” shall mean a request made under section 7 DPA

		(12)	“Staff” shall mean all persons employed by the <i>Contractor</i> to perform the Contract together with the <i>Contractor’s</i> servants, agents and subcontractors used in the performance of the Contract
		(13)	“Works” shall mean the <i>works</i>
		(14)	“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London
Prevention of Corruption	Z2		<p>The Employer may terminate this Contract and recover all its loss if the <i>Contractor</i>, its employees or anyone acting on the <i>Contractor’s</i> behalf do any of the following things:</p> <p>(a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Employer contract (even if the <i>Contractor</i> does not know what has been done); or</p> <p>(b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or</p> <p>(c) commit any fraud in connection with this or any other Employer contract whether alone or in conjunction with Members of the Employer, <i>Contractors</i> or employees.</p> <p>Any clause limiting the <i>Contractor’s</i> liability shall not apply to this clause.</p>
Local Commissioner	Z3	Z3.1	<p>Where the Local Commissioner conducts an investigation into a complaint out of or in connection with Providing the Works or any part of them, the <i>Contractor</i> shall:</p> <p>(a) provide any information requested by the Local Commissioner or by the Employer within the timescale allotted;</p> <p>(b) attend any meetings with the Local Commissioner and/or the Employer as required for the purposes of the investigation;</p> <p>(c) promptly allow access to and investigation of any relevant documents and data and if requested provide copies;</p> <p>(d) permit the Local Commissioner and/or the Employer to interview any members of its Staff in connection with the investigation;</p> <p>(e) permit the Local Commissioner and/or the Employer to interview any members of its Staff in connection with the investigation;</p> <p>(f) co-operate fully and promptly in every way required by the Local Commissioner during the course of the investigation; and</p>

			(g) at the request of the Employer , issue a suitable apology to the complainant.
		Z3.2	The Employer and the Contractor agree that the Employer shall take action in response: <ul style="list-style-type: none"> (a) to reports of the Local Commissioner in respect of the works which conclude that injustice has been caused to a person aggrieved in consequence of maladministration, such action to be commensurate with the findings of such reports; or (b) if, following a report referred to in Clause Z3.2(a), recommendations are made by the Local Commissioner, to comply with such recommendations.
		Z3.3	The Contractor shall be liable for and shall fully and promptly indemnify the Employer against all costs, expenses and losses properly incurred or suffered arising, be it directly or indirectly, out of or in connection with the compliance with, or the implementation of any actions in response to, a report of, or recommendations by, the Local Commissioner pursuant to Clause Z3.2 to the extent that the said costs, expenses and losses are due to the Contractor's failure (through act or omission) to exercise the level of skill, care and diligence which would be reasonably expected from an efficient and effective contractor of the works.
Data Protection	Z4	Z4.1	The <i>Contractor</i> shall (and shall procure that any of its Staff involved in Providing the Works) comply with any notification requirements under the DPA and both Parties will duly observe all their obligations under the DPA which arise in connection with the Contract.
		Z4.2	Notwithstanding the general obligation in clause Z4.1, where the <i>Contractor</i> is processing personal data (as defined by the DPA) as a data processor for the Employer (as defined by the DPA) the <i>Contractor</i> shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the personal data (and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA; and <ul style="list-style-type: none"> (a) provide the Employer with such information as the Employer may reasonably require to satisfy itself that the <i>Contractor</i> is complying with its obligations under the DPA;

(b) promptly notify the **Employer** of any breach of the security measures required to be put in place pursuant to clause Z4.2; and

(c) ensure it does not knowingly or negligently do or omit to do anything which places the **Employer** in breach of the **Employer's** obligations under the DPA.

Z4.3 The provisions of this clause shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

Z4.4 The *Contractor* acknowledges that the **Employer**, as the data controller under the DPA, may receive a Subject Access Request and as such shall assist and co-operate (at the *Contractor's* expense) with the Data Protection Officer to enable the **Employer** to comply with the Subject Access Request.

Z4.5 The *Contractor* shall and shall procure that its subcontractors shall:

(a) transfer any Subject Access Request received directly from an applicant to the Data Protection Officer as soon as practicable after receipt and in any event within 1 Working Day of receiving the request;

(b) provide the Data Protection Officer with a copy of all information required in respect of the Subject Access Request in its possession or power in the form that the **Employer** requires within 27 Calendar Days (or such other period as the **Employer** may specify) of the **Employer** requesting that information; and

(c) provide all necessary assistance as reasonably requested by the Data Protection Officer to enable the **Employer** to respond to a Subject Access Request within the timescale stipulated under the DPA.

Z4.6 Where a third party request for personal information from governmental and public bodies including but not limited to the Police or HM Revenue and Customs, is received, the *Contractor* shall:

(a) transfer the request to the Data Protection Officer who will register the request and undertake the necessary checks to ensure the authenticity of the requester;

(b) transfer the information requested to the Data Protection Officer within 3 Working Days of receiving the registered request from the Data Protection Officer.

Z4.7 Notwithstanding the general obligation relating to notification in clause Z 4.1, where the *Contractor* is processing data (as defined by the DPA) as a data processor on behalf of the **Employer** and the *Contractor* makes a change which results in a duty to notify (pursuant to the DPA and the Data Protection

(Notification and Notification Fees Regulations 2000 (as amended) (“the 2000 Regulations”)), the *Contractor* shall ensure that it:

- (a) ensures that the **Employer** has full details of changes as soon as practicable before making any such change (in any event being not less than 30 Calendar Days before making the change);
- (b) provides the **Employer** with such information and assistance as WEST SWINDON PARISH COUNCIL may reasonably require to ensure it is able to comply with its obligations under the DPA and the 2000 Regulations; and
- (c) ensures it does not knowingly or negligently do or omit to do anything that places the **Employer** in breach of the **Employer**'s obligations under either the DPA or the 2000 Regulations.

Z4.8 Where any database is used by the *Contractor* in Providing the Works, clause Z 4.7 does not give the *Contractor* any right to amend or change the database without prior written approval.

Z4.9 Without prejudice to the general obligation to provide information and assistance under clause Z 4.7(b), reference to “full details of changes” to be provided to the **Employer** in accordance with clause Z 4.7(a) shall include the provision of information in relation to:

- (a) purpose (main and any sub-purposes as well as whether it is a statutory purpose (if so, under what legislation);
- (b) data subjects;
- (c) data classes;
- (d) Sources of data;
- (e) recipients;
- (f) processing criteria required under the DPA; and

(g) whether there is any transfer of data any country outside the European Economic Area.

Z4.10 Where the **Employer** makes a notification to the Information Commissioner pursuant to its obligations under the DPA or the 2000 Regulations, the *Contractor* shall not implement any change that amends WEST SWINDON PARISH COUNCIL's details registered with the Information Commissioner's Office until such time as the Information Commissioner has updated the **Employer**'s registration details, as advised by the Data Protection Officer.

Confidentiality **Z5** Z5.1 Each Party:

(a) shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly; and

(b) shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Contract or except where disclosure is otherwise expressly permitted by the provisions of the Contract.

Z5.2 The *Contractor* shall take all necessary precautions to ensure that all Confidential Information obtained from the **Employer** under or in connection with the Contract:

(a) is given only to such of the Staff and professional advisors or consultants engaged to advise it in connection with the Contract as is strictly necessary for the performance of the Contract and only to the extent necessary for the performance of the Contract;

(b) is treated as confidential and not disclosed (without prior written approval) or used by any Staff or such professional advisors or consultants otherwise than for the purposes of the Contract.

Z5.3 The *Contractor* shall not use any Confidential Information it receives from the **Employer** otherwise than for the purposes of the Contract.

Z5.4 The provisions of clauses Z5.1 to Z5.3 shall not apply to any Confidential Information received by one Party from the other:

(a) which is or becomes public knowledge (otherwise than by breach of this clause);

(b) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

(c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

(d) is independently developed without access to the Confidential Information; or

(e) which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR pursuant to clause Z6.

Z5.5 Nothing in this clause shall prevent the **Employer**:

(a) disclosing any Confidential Information for the purpose of:

- (i) the examination and certification of the **Employer's** accounts; or
- (ii) any examination pursuant to Sections 44 and 46 of the Audit Commission Act 1998 of the economy, efficiency and effectiveness with which the **Employer** has used its resources; or
- (b) disclosing any Confidential Information obtained from the *Contractor*:
 - (i) to any government department or any other Contracting Authority. All government departments or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or
 - (ii) to any person engaged in providing any works or services to the **Employer** for any purpose relating to or ancillary to the Contract; provided that in disclosing information under subparagraph (b) the **Employer** discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

Z5.6 Nothing in this clause shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of intellectual property rights.

Z5.7 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the text of this Contract is not confidential information. The **Employer** shall be responsible for determining in its absolute discretion whether any part of the Contract is exempt from disclosure in accordance with the provisions of the Act.

Z5.8 Notwithstanding any other term of this Contract the *Contractor* hereby gives its consent for the **Employer** to publish this Contract in its entirety, including from time to time agreed changes to the Contract, to the general public in whatever form the **Employer** decides.

Publicity

Z5.9 The *Contractor* treats the contract and everything in it as confidential and does not give any information regarding the contract to any member of the Press or

general public.

Freedom of Information

Z6

- Z5.10 The *Contractor* may publicise the *works* only with the **Employer's** written agreement.
- Z6.1 The *Contractor* acknowledges that the **Employer** is subject to the requirements of the FOIA and the EIR and shall assist and cooperate with the **Employer** (at the *Contractor's* expense) to enable the **Employer** to comply with these Information disclosure requirements.
- Z6.2 The *Contractor* shall and shall procure that its subcontractors shall:
- (a) transfer the Request for Information to the **Employer** as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;
 - (b) provide the **Employer** with a copy of all Information in its possession or power in the form that the **Employer** requires within five Working Days (or such other period as the **Employer** may specify) of the **Employer** requesting that Information; and
 - (c) provide all necessary assistance as reasonably requested by the **Employer** to enable WEST SWINDON PARISH COUNCIL to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.
- Z6.3 The **Employer** shall be responsible for determining at its absolute discretion whether any Information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIR;
 - (b) is to be disclosed in response to a Request for Information, and in no event shall the *Contractor* respond directly to a Request for Information unless expressly authorised to do so by the **Employer**.
- Z6.4 The *Contractor* acknowledges that the **Employer** may, acting in accordance with the Department for Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000, be obliged under the FOIA or the EIR to disclose Information:
- (a) without consulting with the *Contractor*, or
 - (b) following consultation with the *Contractor* and having taken its views into account.
- Z6.5 The *Contractor* shall ensure that all Information produced in the course of the contract or relating to the Contract is retained for disclosure and shall permit the **Employer** to inspect such records as requested

			from time to time.
Equal Opportunities	Z7	Z6.6	The <i>Contractor</i> acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Employer may nevertheless be obliged to disclose Confidential Information in accordance with clause Z6.4.
		Z7.1	The <i>Contractor</i> must: <ul style="list-style-type: none"> (a) operate an equal opportunities policy for as long as this Contract is in force; and (b) provide the Employer with a copy of any such policy at the Employer's request
		Z7.2	The <i>Contractor</i> must use all reasonable endeavours to make sure that its equal opportunities policy complies with all statutory obligations as regards discrimination on the grounds of colour, race, nationality, cultural or ethnic origin, marital status, gender, age, disability, religion or sexual orientation in relation to: <ul style="list-style-type: none"> (a) decisions made by it in the recruitment, training or promotion of staff employed or to be employed in Providing the Works; (b) Providing the Works; and (c) the carrying out of its obligations under this Contract.
		Z7.3	In Providing the Works, the <i>Contractor</i> must observe as far as possible the Code and the Human Rights Act 1998
		Z7.4	The <i>Contractor</i> must provide the Employer with such information as it may reasonably require in order for the Employer to assess the <i>Contractor's</i> compliance with the Code.
		Z7.5	If any Court or Tribunal, or the Equality and Human Rights Commission (or any body which may replace the Commission) makes a finding that the <i>Contractor</i> has unlawfully discriminated against any person in Providing the Works then the <i>Contractor</i> must: <ul style="list-style-type: none"> (a) take all necessary steps to make sure that the unlawful discrimination does not happen again; and (b) notify the Employer in writing of the finding and the steps taken to prevent its re-occurrence.
		Right of Access and Audit	Z8

Employer Policies	Z9	Z9.1	<p>Employer, and all payments made by the Employer. The Contractor shall on request afford the Employer or the Employer's representatives such access to those records as may be required by the Employer in connection with the Contract.</p>
		Z9.1	<p>The Employer has a whistle blowing policy to encourage its employees and the public to bring into the open issues concerning dishonesty involving the Employer. The Contractor shall ensure that its Staff are made aware of this policy which is available on the Employer's website.</p>
		Z9.2	<p>Where the Employer's "Customer Services Charter" is applicable to the <i>works</i>, the Contractor shall use its best endeavours to ensure that the standards set out in the Charter are met.</p>
		Z9.3	<p>Where the Contractor has been appointed as agent for the Employer and under this Contract is required to let contracts, the Contractor shall comply with the Employer's Standing Orders relating to Contracts (contained in Part 4 of the Employer's Constitution available on the Employer's website).</p>
Assignment and Sub-Contracting	Z10	Z10.1	<p>The Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without the prior written approval of the Employer.</p>
		Z10.2	<p>The Contractor submits the names of each proposed subcontractor to the Employer for acceptance. A reason for not accepting the subcontractor is that his appointment will not allow the Contractor to Provide the Works. The Contractor does not appoint a proposed subcontractor until the Employer has accepted him.</p>
Health and Safety	Z11	Z11.1	<p>The Contractor shall promptly notify the Employer of any health and safety hazards, which may arise in connection with the performance of the Contract. The Employer shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the premises of the Employer and which may affect the Contractor in the performance of the Contract.</p>
		Z11.2	<p>While on premises of the Employer, the Contractor shall comply with any health and safety measures implemented by the Employer in respect of Staff and other persons working on those premises.</p>
		Z11.3	<p>The Contractor shall notify the Employer immediately in the event of any incident occurring in the performance of the Contract on the premises of the Employer where that incident causes any personal injury, damage to property which could give rise to personal injury or any incident falling into scope of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.</p>

Disclosure and Barring Service Z12

Z11.4 The *Contractor* shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on premises in the performance of the Contract.

Z11.5 The *Contractor* shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the **Employer** on request.

Z11.6 The *Contractor* shall at all times during the term of the Contract, provide and maintain all such vehicles, plant, machinery and equipment as are necessary for the proper performance of this Contract. Vehicles used on this Contract shall comply with the Supply of Machinery Regulations 1992 and be of a design, which is entirely suitable for the performance of this Contract.

Applicable where the works are being carried out which could affect persons as set out in Z12.1 (b) (i) or (ii) below.

Z12.1 The *Contractor* shall procure that in respect of all potential Staff before a member of Staff begins to attend the premises of the *Employer* to perform any of the *works*:

- (a) each member of Staff is questioned as to whether he or she has any convictions; and
- (b) where requested to do so by the **Employer**, the results are obtained of a check of the most extensive available kind made with the Disclosure and Barring Service in accordance with Part V of the Police Act 1997 in respect of each member of Staff. The check for each member of Staff shall include:
 - (i) arch of the list held pursuant to the Protection of Children Act 1999 where the performance of the Services may involve contact with children; and/or
 - (ii) a search of the list held pursuant to Part VII of the Care Standards Act 2000 where the performance of the Services may involve contact with vulnerable adults (as defined in the Care Standards Act).
- (c) the results of such checks are notified to the **Employer**.

The *Contractor* shall procure that no person who discloses any convictions, or who is found to have any convictions following the results of a Disclosure and Barring Service check, is employed or engaged by the *Contractor* or on the *Contractor's* behalf without approval where that conviction is incompatible with the type of work being undertaken by the member of Staff in Providing the Works.

<p>Security</p>	<p>Z13</p>	<p>The <i>Contractor</i> shall procure that the Employer is kept advised at all times of any member of Staff who, subsequent to his/her commencement of employment as a member of Staff, receives a conviction or whose previous convictions become known to the <i>Contractor</i>.</p> <p>Site admittance</p> <p>Z13.1 The <i>Contractor</i> submits to the Employer details of people who are to be employed by him and his subcontractors in connection with the <i>works</i>. The details include a list of names and addresses, the capacities in which they are employed, and other information required by the Employer.</p> <p>Z13.2 The Employer may instruct the <i>Contractor</i> to take measures to prevent unauthorised persons being admitted on to the <i>site</i>. The instruction is a compensation event if the measures are additional to those required by the Works Information.</p> <p>Passes</p> <p>Z13.3 Employees of the <i>Contractor</i> and his subcontractors are to carry an Employer's pass whilst they are on the parts of the <i>site</i> stated in the Contract Data.</p> <p>Z13.4 The <i>Contractor</i> submits to the Employer for acceptance a list of the names of the people for whom passes are required. The Employer issues the passes to the <i>Contractor</i>. Each pass is returned to the Employer when the employee no longer requires access to that part of the <i>site</i> or after the Employer has given notice that the employee is not to be admitted to the <i>site</i>.</p> <p>Photographs</p> <p>Z13.5 The <i>Contractor</i> does not take photographs of the <i>site</i> or the <i>works</i> or any part of them unless he has obtained the agreement of the Employer.</p> <p>Z13.6 The <i>Contractor</i> takes the measures needed to prevent his and his subcontractors' people taking, publishing or otherwise circulating such photographs. (Use this clause if the Employer requires such a guarantee, otherwise delete)</p>
<p>Parent Company Guarantee</p>	<p>Z14</p>	<p>Z14.1 It is a condition precedent to the obligation of the Employer to pay any sums under this contract that if the <i>Contractor</i> is a subsidiary within the meaning of the Companies Act 2006 the <i>Contractor</i> has provided to the Employer a parent company guarantee in the form set out in this contract duly executed as a deed by the <i>Contractor</i>'s ultimate parent.</p>
<p>Principal Contractor</p>	<p>Z15</p>	<p>(Use this clause if the <i>Contractor</i> will be the Principal Contractor under the CDM Regulations)</p>

		Z15.1	The <i>Contractor</i> is the Principal Contractor in terms of The Construction (Design and Management) Regulations 2015.
The Contracts (Rights of Third Parties) Act 1999	Z16	Z16.1	For the purposes of the Contracts (Rights of Third Parties) Act 1999, nothing in this contract confers or purports to confer on a third party any benefit or any right to enforce a term of this contract.
		Prevention of Corruption	Z17
Termination under Public Contracts Regulations 2015	Z18	Z17.2	Any clause limiting the <i>Contract's</i> liability shall not apply to this clause.
		Z18.1	The Employer shall be entitled by notice having immediate effect if any of the following grounds apply:- (a) Where the Agreement has been subject to a substantial modification that constitutes a new contract award (b) Where it is discovered after contract award that the Contractor should have been excluded on mandatory exclusion grounds (c) Where the Court of Justice of the European Union has declared a serious infringement by the Employer meaning that the Agreement should not have been awarded by the Employer to the Contractor
Environmental, Social and Labour Requirements	Z19	Z19.1	In performance of their obligations under the Agreement the Contractor shall comply with applicable obligations in the field of environmental, social and labour law, collective agreements and the international environmental social and labour law provisions listed in Annex X of the Public Contracts Directive
Sub Contractor Payments	Z20	Z20.1	The Contractor shall pay all the invoices of its sub-contractors within 30 days of receipt and shall ensure that the same timescale for payment is passed down its supply chain

