

NR6(Cabins)

Network Rail Agreement

for

Hire of Cabins

[Brief description]

Agreement No.: [Insert]

SIGNED for and on behalf of)
NETWORK RAIL INFRASTRUCTURE)
LIMITED

by:

Authorised signatory

Printed Name:.....

SIGNED for and on behalf of)
[Insert])

by:

Authorised signatory

Printed Name:.....

APPENDIX

1 **Hirer's Representative** (Clause 1):

Name [Insert]

Position [Insert]

Address [Insert]

Telephone [Insert]

Email [Insert]

2 **Supplier's Representative** (Clause 1):

Name [Insert]

Position [Insert]

Address [Insert]

Telephone [Insert]

Email [Insert]

3 **Hire Period for each Cabin** (Clause 1):

[Insert details for each cabin]

4 **Site locations** (Clause 1):

[Insert details for delivery and collection]

5 **Minimum Hire Period** (Clause 1):

[Insert details of minimum Cabin hire period if any]

6 **Delay damages** (Clause 8):

[Insert rate per day / a week free hire for each day of delay subject to a cap in 4 weeks free hire]

7 **CDM** (Clause 9):

The Principal Contractor is [Not applicable/ Supplier/ Hirer]

The Principal Designer is [Not applicable/ Supplier/ Hirer]

8 **Limitation of liabilities** (Clause 12):

In respect of damage to physical property [one million pounds (£1,000,000)]

in respect of all liability (other than damage to physical property and excluded matters) [one hundred per cent (100%) of the amounts paid by the Hirer to the Supplier during the Hire Period]

NR6(Cabins)

CONTRACT SPECIFIC CONDITIONS

None

CONDITIONS OF CONTRACT

Contents

1	Definitions and Interpretation	1
2	Duties of the Supplier	2
3	Duties of the Hirer	3
4	Representatives	4
5	Hirer's Representative Instructions	4
6	Ground Works and Installation Services	4
7	Delivery in Good Order.....	4
8	Handover.....	5
9	CDM Regulations.....	5
10	Breakdown, Repairs and Adjustment.....	5
11	Payment	7
12	Limitation of liabilities	7
13	Insurances	7
14	Intellectual Property	8
15	Title.....	8
16	Assignment and Sub-Contracting	8
17	Set-Off	9
18	Confidentiality.....	9
19	Freedom of Information	10
20	Information Security	10
21	Notice and Consequences of Termination or Cancellation	10
22	Adjudication	11
23	Governing Law and Jurisdiction.....	11
24	Entire Agreement.....	11

CONDITIONS OF CONTRACT

1 Definitions and Interpretation

1.1 In this Agreement:

- 1.1.1 **“Agreed Rail Industry Period”** means each or any of the Hirer’s thirteen accounting periods in its financial year beginning 1st April;
- 1.1.2 **“Appendix”** means the Appendix referred to in this Agreement;
- 1.1.3 **“Confidential Information”** means any information which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential, however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel, affiliates and suppliers (including Sub-Contractors) of either Party, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as “confidential”) or which ought reasonably to be considered to be confidential;
- 1.1.4 **“Agreement Duration”** means the period set out in the Contract Agreement;
- 1.1.5 **“Cabins”** means the buildings, internal and external fittings relating to the buildings (including air conditioning, alarms, internal and external furniture) and other physical items detailed within the Technical Workslope and Supplier’s Scope;
- 1.1.6 **“Cancellation Charges”** means all monies owing at the time of cancellation of a Cabin hire, plus all other monies that would have been payable under the Agreement had the cancellation not occurred until the end of the Minimum Hire Period;
- 1.1.7 **“Contract Requirements - HSEA”** means the requirements referred to in Schedule 2 of this Agreement;
- 1.1.8 **“Contracting Authority”** means any contracting authority as defined in Regulation 4 of The Utilities Contracts Regulations 2016;
- 1.1.9 **“Corporate Social Responsibility”** means the requirements referred to in Schedule 3 of this Agreement;
- 1.1.10 **“Crown”** means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Government and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government and particular bodies and government agencies;
- 1.1.11 **“Force Majeure Event”** means any event or events beyond the reasonable contemplation or control of the party suffering the event, including industrial action, failure or delay of suppliers or contractors, acts of God, war, civil disturbance, terrorism, epidemic, pandemic, restriction of supplies, failure of machinery or power, government intervention or guidance, compliance with laws, rules or regulations, accident, malicious damage, fire, explosion, flood, natural disaster strike, lockout or boycott or other industrial action involving the Supplier or its supplier’s workforce which could not have been foreseen or prevented by the Supplier;
- 1.1.12 **“Ground Works”** means works in (or connected with) the ground at the Site which the Supplier is to provide as part of the Installation Services (if any), as described in the Technical Workslope or Supplier’s Scope;
- 1.1.13 **“Handover”** means the acceptance of the Cabins and Installation Services by the Hirer as defined in this Agreement;
- 1.1.14 **“Hire Period”** means the hire period for each Cabin on an individual basis as stated in the Appendix or as extended by mutual agreement of the Parties and which commences upon Handover;
- 1.1.15 **“Hirer’s Representative”** means the person named in the Appendix;
- 1.1.16 **“Hirer’s Representative Assistants”** means the persons notified by the Hirer’s Representative to

the Supplier from time to time to assist the Hirer's Representative carry out the duties defined in this Agreement;

- 1.1.17 **"Installation Services"** means the works and services carried out by the Supplier relating to the transportation and installation of the Cabins at the Site. It includes any Ground Works and associated construction services, connection and/or disconnection of services, services relating to transportation and delivery (including road transport and closure of roads), craneage, removal of obstacles, external landscaping, craneage services, administration services and any other installation services specified within the Technical Workslope or Supplier's Scope;
- 1.1.18 **"Minimum Hire Period"** means the minimum Cabin hire period stated in the Appendix;
- 1.1.19 **"Network Rail Standards"** means the Network Rail Standards published by the Hirer;
- 1.1.20 **"Price"** means the price determined in accordance with Schedule 4 of this Agreement;
- 1.1.21 **"Pricing Document"** means the pricing document referred to in Schedule 4 of this Agreement;
- 1.1.22 **"Services"** means the services, duties and responsibilities to be provided, performed and observed by the Supplier pursuant to this Agreement and in particular the supply, installation and maintenance of the Cabins together with all necessary equipment and facilities;
- 1.1.23 **"Site"** means the places specified by the Hirer and stated in the Appendix where the Cabins are to be delivered to and collected from;
- 1.1.24 **"Sub-Contractor"** means any person, firm or company who enters into an agreement with the Supplier to provide goods or services to enable the Supplier to meet its obligations under this Agreement;
- 1.1.25 **"Supplier's Documentation"** means all bills, calculations, designs, drawings, maps, models, plans, programmes, reports, specifications, data, software, working papers and other documents, matters or things required to be provided by the Supplier in connection with the provision of the Cabins;
- 1.1.26 **"Supplier Personnel"** means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier's obligations under this Agreement;
- 1.1.27 **"Supplier's Representative"** means the person named in the Appendix; and
- 1.1.28 **"Technical Workslope"** means the requirements referred to in Schedule 1 of this Agreement.

2 Duties of the Supplier

The Supplier:

- 2.1 uses the reasonable skill and care normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type and complexity to the Installation Services;
- 2.2 provides Cabins in good working order and performs the Installation Services in accordance with the requirements of this Agreement so that the Cabins can be used safely and without risk to health;
- 2.3 acts in accordance with all reasonable written instructions and directions of the Hirer or the Hirer's Representative;
- 2.4 complies with all applicable laws, enactments and regulations;
- 2.5 complies with Schedule 2 Contract Requirements - HSEA;
- 2.6 complies with Schedule 3 – Corporate Social Responsibility;
- 2.7 provides the safety and operating information for the Cabins required by this Agreement;
- 2.8 provides suitably qualified and competent personnel; and
- 2.9 complies with the security vetting procedures below:
 - 2.9.1 The Supplier assures the Hirer that Supplier Personnel have been subject to legally required pre-employment screening. As a minimum this includes identity verification and UK right to work checks.

NR6(Cabins)

- 2.9.2 To control risk to the railway associated with unsupervised access to sensitive information (OFFICIAL-SENSITIVE or above), Critical National Infrastructure sites and associated systems, certain Supplier Personnel may be required to pass additional checks such as employment history check, confirmation of UK residency, disclosure of unspent convictions and National Security Vetting (NSV). Roles that require additional checks are notified to the Supplier by the Hirer.
- 2.9.3 The Supplier does not use Supplier Personnel who are unable to comply with sub-clauses 2.9.1 & 2.
- 2.9.4 Supplier Personnel;
- that have access to Hirer infrastructure and premises complete Railway Counter Terrorism training,
 - that are given a log in to the Hirer's corporate IT system complete Security on the Railway training,
- both renewed biennially with training records kept by the Supplier for five years and made available to the Hirer on request. The Hirer provides the training material at no additional cost to the Supplier.
- 2.10 ceases to employ in connection with this Agreement, and to replace, any employee of the Supplier whose continued employment thereon is, in the written opinion of the Hirer's Representative, undesirable.

3 Duties of the Hirer

The Hirer:

- 3.1 gives the Supplier, subject to reasonable notification, such written instructions and / or decisions as are required at such a time and in such a manner to enable the Supplier properly to provide the Cabins and Installation Services;
- 3.2 makes available all data and information in its possession, which the Supplier reasonably requires, provided always that the Supplier requests such information a reasonable time before it is required;
- 3.3 does not move the Cabins from the site to which it was delivered or installed;
- 3.4 ensures that the Cabins do not become permanently affixed to any land or building or incapable of being removed without damage to any land or buildings;
- 3.5 promptly notifies the Supplier if there is any accident resulting in injury to persons or damage to property. No admission of liability, offer, promise of payment or indemnity shall be made by the Hirer without the Supplier's prior written permission (acting reasonably);
- 3.6 does not assign, re-hire, sub-let, on-hire, cross-hire, sell, mortgage, charge, pledge or otherwise deal with the Cabins in any way inconsistent with the ownership of the Cabins by the Supplier;
- 3.7 does not allow the Cabins to become subject to any charge, lien or encumbrance and will protect the Cabins from any execution, distress or seizure;
- 3.8 does not remove or allow to be removed from the Cabins the Supplier's name, identifying plate, mark or trade mark nor alter the same. Any Hirer board, name, mark or sign to the Cabins is not to cause deception, confusion or suggestion of any connection between the Hirer and Supplier, other than that of hirer of the Cabins;
- 3.9 pays all rent and other outgoings due by the Hirer for the use of the Site and ensures that the Supplier has rights to access to the Site at all times on reasonable notice to inspect or remove the Cabins;
- 3.10 complies with all applicable laws, enactments and regulations;
- 3.11 keeps the Cabins clean, maintained and secured at all times during the Hire Period in accordance with good industry practice; and
- 3.12 leaves the Cabins secure, clean and tidy at the end of the Hire Period, removes all of the Hirer's fixtures and fittings and returns all keys for the Cabins.

4 Representatives

- 4.1 The Hirer's Representative may from time to time delegate any of its duties and may at any time revoke such delegation. Any delegation or revocation is in writing and no such delegation or revocation has effect until a copy thereof has been delivered to the Supplier.
- 4.2 The Supplier's Representative may from time to time delegate any of its duties and may at any time revoke such delegation. Any delegation or revocation is in writing and no such delegation or revocation shall have effect until a copy thereof has been delivered to the Hirer's Representative.

5 Hirer's Representative Instructions

- 5.1 If any Hirer's Representative Instruction issued under this Agreement:
 - 5.1.1 requires the Supplier to undertake Services not provided for in this Agreement; or
 - 5.1.2 imposes any additional obligation or restriction or requires the omission of any Services or of any obligation or restriction;then provided that the Hirer's Representative Instruction does not arise from any direct act or omission by the Supplier of any provision of this Agreement, the Price is adjusted and the provisions of Clauses 5.2 and 5.3 apply.
- 5.2 The Hirer's Representative, after consultation with the Supplier and within a reasonable time after the issue of such Hirer's Representative Instruction, ascertains a fair and reasonable adjustment to the Price based on prices or rates analogous to those included in the Pricing Document.
- 5.3 If there are no analogous prices or rates in the Pricing Document the Hirer's Representative determines fair rates and prices.
- 5.4 Verbal instructions have no effect unless confirmed in writing by the Hirer's Representative.

6 Ground Works and Installation Services

- 6.1 The Hirer provides the Supplier with reasonable assistance and delivery instructions relevant to the delivery of the Cabins and performance of the Installation Services, including:
 - 6.1.1 providing safe and adequate access from the public highway to the Site in accordance with the agreed programme for all staff and vehicles required to complete delivery of the Cabins and/or performance of the Installation Services;
 - 6.1.2 preparing the Site for delivery of the Cabins including providing adequate hard standing for vehicles and a crane alongside the area where the Cabins are to be delivered and installed; and
 - 6.1.3 providing appropriate temporary water and power supplies adjacent to where the Cabins are to be delivered and installed.
- 6.2 If the Supplier is performing any Ground Works as Installation Services and encounters adverse physical conditions, (including the sub-surface conditions), artificial obstructions and other unforeseen conditions affecting the Site the Supplier is entitled to:
 - 6.2.1 an extension of time to the start of the Hire Period equivalent to the length of any delay caused (and such delay will constitute (and will be treated as) a Force Majeure Event); and
 - 6.2.2 payment from the Hirer of any reasonable additional costs and direct loss and/or expense as a result of such delay.

7 Delivery in Good Order

- 7.1 The Supplier supplies the Cabins to the Hirer in good order in accordance with the Technical Worksopce and the Supplier's Scope and in compliance with the provisions of this Agreement.
- 7.2 The Hirer is responsible for the safe keeping of the Cabins, its use in a workmanlike manner within the manufacturer's rated capacity and in accordance with the manufacturer's and/or the Supplier's recommendations, and making it available for collection on completion of the Hire Period in equal

NR6(Cabins)

good order (fair wear and tear excepted).

- 7.3 The Hirer takes reasonable steps to keep itself acquainted with the state and condition of the Cabins. If the Cabins are found to be in an unsafe or unsatisfactory state, the Hirer is solely responsible for any damage, loss, cost, expense or accidents whether directly or indirectly arising therefrom.
- 7.4 The risk of all claims for injury to person or property or damage to the Cabins caused by or in connection with the manufacture, storage, transport, loading and unloading and installation and dismantle of the Cabins:
- 7.4.1 is borne by the Supplier:
- until the date of Handover (or partial Handover); and
 - from the date following the last date of the Hire Period to the date on which all of the Cabins have been removed from the Site
- (except where the same are caused by the act or omission of the Hirer); and
- 7.4.2 is borne by the Hirer following Handover (or partial Handover) until the last date of the Hire Period.

8 Handover

- 8.1 Handover of the Cabins occurs,
- 8.1.1 if the Cabins are a single or linked pre-fabricated stand-alone cabin(s), on the later of delivery or the date on which the Supplier confirms that all Installation Services (if any) have been completed and accepted by the Hirer;
- 8.1.2 if the Cabins are modular buildings (comprising of individual modules assembled into buildings) on the earlier of the Cabins being made available by the Supplier for occupation or signature by the Hirer confirming acceptance; and
- 8.1.3 if any defects and/or incorrect provision of the Installation Services reported in accordance with Clause 10 means that the Cabins are unfit for beneficial occupation by the Hirer, when such Defects and/or incorrect provision of the Installation Services has been remedied,
- 8.2 If Handover does not occur on or before the start of the planned Hire Period the Hirer is, as its sole and exclusive remedy, entitled to delay damages as stated in the Appendix.
- 8.3 The Supplier will not be liable for any delay in Handover caused by: (i) any changes requested by the Hirer to the terms of the Agreement (including changes to the Site, the Specification, or the project timescale; (ii) any Hirer default; (iii) the acts or omissions of utilities suppliers, local government authorities or other third parties; (iv) the existence of any adverse physical conditions (including sub-surface conditions) or artificial obstructions affecting the Site; (v) any Force Majeure Event (including road closures or any non-availability of suitable delivery escort providers, or where the Cabins cannot be delivered or craned onto the Site as a result of adverse weather); (vi) as a result of any failure to obtain any consents, permissions or approvals (unless due the fault of the Supplier); or (vii) as a result of the Supplier suspending its obligations pursuant to this Agreement, and the start of the Hire Period will be extended accordingly.

9 CDM Regulations

Where applicable:

- 9.1 the Principal Contractor is as stated in the Appendix. The party fulfilling the role warrants that it is competent to act as Principal Contractor and that it will properly perform all the duties required of a principal contractor under CDM 2015, and
- 9.2 the "Principal Designer" (for the purposes of and as defined in CDM 2015) is as stated in the Appendix.

10 Breakdown, Repairs and Adjustment

- 10.1 The Hirer, as soon as reasonably practical, notifies the Supplier in writing of any defects and/or incorrect provision of the Installation Services and/or repairs required to the Cabins.

NR6(Cabins)

- 10.2 Upon being informed or otherwise becoming aware of any Defects and/or incorrect provision of the Installation Services and/or Cabins requiring repair, the Supplier, subject to Clauses 10.3 and 10.4, remedies the incorrect provision of the Installation Services and in respect of any defects either (at its option):
- 10.2.1 remedies any defects or carries out such repair services; or
 - 10.2.2 replaces the affected Cabins, without charge to the Hirer within a reasonable time of becoming aware of such defect, incorrect provision of Installation Services and/or repair requirement;
- and in such event, the Hirer, at the request of the Supplier, provides all information, layouts, drawings and facilities requested by the Supplier in order for the repair or replacement to be completed.
- 10.3 If the defect or repair requirement is due to fair wear and tear, the Supplier carries out the repair without charge to the Hirer.
- 10.4 The Supplier is not liable for any defects and/or incorrect provision of the Installation Services and/or repairs, if it arises due to the:
- 10.4.1 Hirer failing to follow the written instructions given by the Supplier, including as to the commissioning, use and maintenance of the Cabins;
 - 10.4.2 Supplier following any instructions, requirements, drawings or designs supplied by the Hirer;
 - 10.4.3 Hirer's default, any act or omissions of any third party, or the Hirer's or any third party's willful damage or negligence;
 - 10.4.4 Hirer failing to inform the Supplier within a reasonable time of any defects and/or incorrect provision of the Installation Services and/or items requiring repair and/or the Hirer continues to use the affected Cabins, so that such item(s) deteriorate (including in circumstances where a repair is no longer of normal wear and tear); or
 - 10.4.5 Hirer (or a third party) altering or repairing the affected Cabins,
- and in which case, the Supplier charges the Hirer the reasonable costs of repair or replacement, including any removal charges or Installation Charges if the Cabins have to be removed from the Site for repair. The hire charges continue to be payable throughout the reasonable period during which the Cabins are taken for repair.
- 10.5 The Hirer's sole and exclusive remedy (to the fullest extent permitted by law) in relation to Defects or the incorrect provision of the Installation Services or in respect of the repair or replacement of Cabins are as set out in these Conditions.
- 10.6 The Hirer secures any Cabins that are broken into or vandalised as soon as reasonably practicable, but otherwise does not itself repair, or engage a third party to repair, the Cabins.
- 10.7 If mains services (including electricity and water) are to be connected to the Cabins, the Hirer satisfies itself of the suitability of such services and carry out all appropriate tests and completes the connections and disconnections, together with all necessary documentation in respect of such connections and the Supplier is not liable to the Hirer for any losses it may suffer as a result of such main services being unsuitable for the Cabins, save to the extent that this work is being carried out by the Supplier under this Agreement.
- 10.8 The Supplier carries out periodic testing of any equipment in the Cabins, including fire and intruder alarms and electrical equipment, as set out in the Technical Workslope and Supplier's Scope. Save as set out in the Technical Workslope and Supplier's Scope, it is the Hirer's responsibility to ensure that all periodic inspection and testing required during the Hire Period, by law and good industry practice, is done in relation to any installations or equipment in the Cabins.
- 10.9 The Supplier may enter the Hire Site at any time upon reasonable notice to inspect the condition of the Cabins, to carry out servicing or repairs or to remove them for repair if necessary in accordance with the terms of this Agreement.

11 Payment

- 11.1 In consideration of the supply of the Cabins and Installation Services, the Supplier submits invoices and the Hirer pays the Supplier in accordance with the Pricing Document.
- 11.2 The Hirer pays the Supplier within twenty-eight days of receipt by the Hirer of a valid, undisputed invoice, in cleared funds to the Supplier's account as notified to the Hirer.
- 11.3 Invoices shall include the correct Agreement reference and purchase order numbers and addressed to "Network Rail, Accounts Payable, P.O. Box 4145, Manchester M60 7WZ" or original computer-generated pdf invoices can be emailed to invoices@networkrail.co.uk.
- 11.4 If the Hirer fails to pay the Supplier any sum properly payable under this Agreement on or before the final date for payment of it, the Hirer pays the Supplier simple interest on that sum from the relevant final date for payment until the actual date of payment calculated at a rate of 4% above the Bank of England Base Rate.

12 Limitation of liabilities

- 12.1 The total liability of the Supplier to the Hirer:
 - 12.1.1 in respect of damage to physical property arising under or in connection with this Agreement, whether in contract, tort, (including negligence), breach of statutory duty or otherwise is as stated in the Appendix; and
 - 12.1.2 in respect of all liability (other than damage to physical property and excluded matters) arising under or in connection with this Agreement, whether in contract, tort (including negligence) breach of statutory duty, or otherwise is as stated in the Appendix.
- 12.2 The excluded matters are (and no limit or exclusion of liability in the Agreement applies to);
 - 12.2.1 any liability in respect of death or personal injury resulting from a negligent act or omission or breach of statutory duty by the Supplier or any person for whom the Supplier is responsible, and
 - 12.2.2 any losses directly caused by the fraud of the Supplier.
- 12.3 In no event is the Supplier liable to the Hirer, including by way of indemnity, for any:
 - (a) loss of profits;
 - (b) loss of business or production;
 - (c) loss of revenue;
 - (d) loss of or damage to goodwill;
 - (e) loss of use;
 - (f) loss of savings (whether anticipated or otherwise); and/or
 - (g) any indirect, special or consequential loss or damage.
- 12.4 The Supplier indemnifies the Hirer against any and all loss, damage, liability, claims, proceedings, legal costs and professional and other expenses of any nature whatsoever incurred or suffered by the Hirer in connection with any claims made or proceedings brought by reason of any such death or personal injury and any damage to property that the Supplier is liable for this under this Agreement provided always that the Supplier's liability to the Hirer for property damage is subject to the cap in liability as set in the Appendix.
- 12.5 In all cases the party claiming a breach of this Agreement or a right to be indemnified in accordance with this Agreement uses reasonable endeavours to mitigate the loss or damage that has occurred or may occur.

13 Insurances

- 13.1 Other than as specifically stated herein and without prejudice to the Supplier's obligations hereunder,

NR6(Cabins)

the Hirer takes out and maintains:

- 13.1.1 a policy in the joint names of the Supplier, Sub-Contractors and the Hirer against liabilities for death of or injury to any person (other than any person in the employment of the Hirer or of the Supplier) or loss of or damage to any property (other than the Cabins or other property of the Hirer or the Supplier) arising out of the provision of the Cabins and Installation Services, for a sum not less than £155,000,000 (one hundred and fifty five million pounds) for any one occurrence or series of occurrences arising out of one event;
- 13.1.2 a policy or policies of insurance (or self-insurance arrangements) in respect of loss or damage to property of the Hirer arising out of or in connection with the provision of the Cabins and Installation Services, with a waiver of subrogation in favour of the Supplier and Sub-Contractors. The Supplier's liability under this Agreement shall exclude loss or damage to such property of the Hirer to the extent of the insurance (or self-insurance) provided for in this Clause 13.1.2 except for the first £75,000 of each and every occurrence of such loss or damage. The Hirer is not responsible for any amounts in excess of the limits of indemnity and sums insured or any excess or retained liability or risks not insured or excluded by the terms, exceptions or conditions of such insurance policies.

13.2 As and when it is reasonably required to do so by the Supplier, the Hirer shall produce for inspection by the Supplier documentary evidence that the insurance required by Clause 13.1 is properly maintained.

13.3 The Hirer:

- 13.3.1 at its expense, insure the Cabins: (i) against all risks of loss or damage for the replacement cost; and (ii) to the amount of one million pounds (£1,000,000) against the risk of all claims for injury to person or property; in each case with a reputable insurance company and covering claims caused by, or in connection with, the use or occupation of the Cabins. The Hirer ensures that the interest of the Supplier is noted on any such insurance policies and will, upon request, provide the Supplier with a copy of all such policies of insurance; and
- 13.3.2 reimburse the Supplier for the full replacement value of new equivalent Cabins if the Cabins (or any part of them) are either destroyed or beyond economic repair.

13.4 If the Supplier is not satisfied as to the insurance arrangements made by the Hirer, it may take out insurance itself and the cost will be recoverable from the Hirer, but this will not relieve the Hirer of its obligations under this Agreement.

13.5 The Hirer informs the Supplier in writing immediately if any event occurs whereby the Hirer makes a claim on its insurance and takes note of any requirements of the Supplier and keeps the Supplier informed of the progress of any such claim.

14 Intellectual Property

14.1 New IPR created solely by the Supplier under this Agreement is owned by the Supplier. The Supplier gives the Hirer a non-exclusive, perpetual, royalty-free, irrevocable, transferable, licence to use, change and sub-license the Supplier's new and existing IPR made available to the Hirer under this Agreement to enable it to receive and use the Cabins and Installation Services.

14.2 The Hirer hereby grants the Supplier a non-exclusive, irrevocable, royalty free licence to use and reproduce any drawings, materials or specifications provided by the Hirer to the Supplier in connection to the Cabins and Installation Services for the purpose of the Supplier providing the Cabins and Installation Services to the Hirer.

15 Title

Property in, title and ownership of the Cabins always remains with the Supplier.

16 Assignment and Sub-Contracting

Neither party shall assign, transfer, or in any other manner make over to any third party the benefit of this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed).

17 Set-Off

Without prejudice to the Hirer's other rights and remedies, the Hirer may deduct from any sums payable to the Supplier under this Agreement an amount equivalent to any sum payable by or recoverable from the Supplier to the Hirer (whether such sums are payable by or recoverable from the Supplier under this Agreement or under any other agreement between the Supplier and the Hirer) and may also deduct any sum then payable by or recoverable from the Supplier or which at any time thereafter may be payable by or recoverable from the Supplier under any other agreement between the Supplier and the Hirer. The Hirer shall give to the Supplier notice of any such deduction or set-off five days before the final date for payment and such notice shall specify:

- the sum that the Hirer considers to be due on the date the notice is served having taken account of any amount to be withheld from the payment; and
- the basis on which that sum is calculated including the grounds for any sums withheld.

18 Confidentiality

18.1 Each Party:

- (i) keeps all Confidential Information it receives confidential and secure;
- (ii) does not disclose, use or exploit the disclosing party's Confidential Information without the disclosing party's prior written consent, except for the purposes anticipated under this Agreement; and
- (iii) immediately notifies the disclosing party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

18.2 In spite of Clause 18.1, a Party may disclose Confidential Information which it receives from the disclosing party in any of the following instances:

- (i) where disclosure is required by applicable law, a regulatory body or a court with the relevant jurisdiction if the recipient party notifies the disclosing party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (ii) if the recipient party already had the information without obligation of confidentiality before it was disclosed by the disclosing party;
- (iii) if the information was given to it by a third party without obligation of confidentiality;
- (iv) if the information was in the public domain at the time of the disclosure;
- (v) if the information was independently developed without access to the disclosing party's Confidential Information;
- (vi) on a confidential basis, to its auditors;
- (vii) on a confidential basis, to its professional advisers on a need-to-know basis; and
- (viii) to the UK's Serious Fraud Office where the recipient party has reasonable grounds to believe that the disclosing party is involved in activity that may be a criminal offence under the Bribery Act 2010.

18.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier staff on a need-to-know basis to allow the Supplier to meet its obligations under this Agreement.

18.4 The Hirer may disclose Confidential Information in any of the following cases:

- (i) on a confidential basis to the employees, agents, consultants and contractors of the Hirer;
- (ii) on a confidential basis to any Central Government Body, any successor body to a Central Government Body or any company that the Hirer transfers or proposes to transfer all or any part of its business to;
- (iii) if the Hirer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- (iv) where requested by Parliament;
- (v) on a confidential basis to an actual or prospective supplier of replacement services, such

information as the Hirer shall reasonably require in order to facilitate the preparation by the Hirer of any invitation to tender and/or to facilitate any potential replacement suppliers preparing or submitting tenders or undertaking due diligence in respect of replacement services, to the extent that such disclosure is necessary in connection therewith; and

(vi) under Clause 19.

18.5 For the purposes of Clauses 18.2 to 18.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 18.

18.6 The Supplier does not make any press announcement or publicise this Agreement or any part of it in any way, without the prior written consent of the Hirer and uses all reasonable endeavours to ensure that Supplier staff do not either.

19 Freedom of Information

19.1 The Supplier acknowledges that:

19.1.1 the Hirer may be required, under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 (collectively, the “**Information Acts**”), to disclose information relating to the subject matter of this Agreement; and

19.1.2 notwithstanding any other provision in this Agreement, the Hirer is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Information Acts.

19.2 The Supplier provides all necessary assistance and cooperation as reasonably requested by the Hirer to enable it to comply with its obligations under the Information Acts.

20 Information Security

The Supplier complies with the Hirer’s security policies and procedures including:

- NR/L1/SCT/002 Cyber security and resilience for digital systems; and
- Supplier (Supply Chain) Security Policy.

21 Notice and Consequences of Termination or Cancellation

21.1 The Supplier may, at its sole option, accept cancellation of a Cabin hire conditional upon the Hirer paying the Cancellation Charges, which the Supplier will invoice to the Hirer following its acceptance of the cancellation request. Such invoice will be payable by the Hirer in accordance with this Agreement.

21.2 Either party has the right to terminate this Agreement forthwith by notice in writing to the other party if the other party:

21.2.1 commits a material breach of this Agreement which the defaulting party has not remedied within 14 days of a written notice to do so; or

21.2.2 is unable to pay its debts or enters into compulsory or voluntary liquidation (other than for the purposes of effecting a reconstruction or amalgamation in such manner that the company resulting from such reconstruction or amalgamation if a different legal entity shall agree to be bound by and assume the obligations of the relevant party under this Agreement) or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed or ceases for any reason to carry on business or takes or suffers any similar action which in the opinion of the party giving notice means that the other may be unable to pay its debts.

21.3 The Supplier may terminate this Agreement 14 days after written notice to the Hirer if the Hirer has not paid any undisputed amounts within 14 days of them falling due.

21.4 The party terminating this Agreement, without prejudice to any other claims which it might have, is entitled to claim from the other party the reasonable additional costs, expenses and/or damages sustained by it arising from such termination. No claim for loss of overheads and profit is recoverable for termination under Clause 21.1.

NR6(Cabins)

- 21.5 On termination of this Agreement for any reason:
- 21.5.1 the Hirer:
- 21.5.1.1 immediately gives to the Supplier access to the Site and complies with all instructions given by the Supplier to enable the Supplier to collect the Cabins from the Site;
- 21.5.1.2 attends the Site (or such location as the Supplier designates if the Cabins have been recovered by the Supplier) with a representative of the Supplier, who will prepare a damage report in relation to the Cabins; and
- 21.5.1.3 without prejudice to the other rights and remedies available to the Supplier, immediately pays to the Supplier all outstanding sums already invoiced to it by the Supplier and, in respect of goods or services supplied but for which no invoice has yet been submitted, pay the further invoice(s) submitted by the Supplier in accordance with this Agreement.
- 21.5.2 the Supplier, as soon as reasonably practicable:
- 21.5.2.1 attends the Site to remove the Cabins and, either on the Hire Site or at such location as the Supplier designates, prepares a damage report and thereafter sends a copy to the Hirer; and
- 21.5.2.2 issues an invoice for any damage repair costs and other outstanding charges payable by the Hirer in accordance with this Agreement.
- 21.6 The accrued rights and remedies of the parties as at termination will not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

22 Adjudication

- 22.1 Both parties to this Agreement have a right to refer any difference or dispute arising under or in connection with this Agreement to adjudication and the procedure set out in Part 1 of the Scheme for Construction Contracts (England and Wales) Regulations 1998 (or any amendment or re-enactment thereof for the time being in force) applies. The specified nominating body to select adjudicators is the Construction Cabins-hire Association acting by its President or Chief Executive for the time being.
- 22.2 The Supplier and the Hirer comply forthwith with any decision of the adjudicator and submit to summary judgment and enforcement in respect of all such decisions, in each case, without any defence, set-off, counterclaim, abatement or deduction.

23 Governing Law and Jurisdiction

This Agreement is governed by and construed in accordance with the laws of England and Wales and subject to Clause 22 the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

24 Entire Agreement

This Agreement is the entire agreement between the Parties.

NR6(Cabins)

SCHEDULE 1 - TECHNICAL WORKSCOPE

Insert details

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SCHEDULE 2 - CONTRACT REQUIREMENTS - HSEA

Insert Mandatory schedule published on the Procurement Operations NR Suite Hub page

NR6(Cabins)

SCHEDULE 3 – CORPORATE SOCIAL RESPONSIBILITY

Insert Mandatory schedule published on the Procurement Operations NR Suite Hub page

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SCHEDULE 4 - PRICING DOCUMENT

Insert as required

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SCHEDULE 5 – SUPPLIER’S SCOPE

Insert details if applicable.