

Dated

2010

- (1) NORTH EAST LINCOLNSHIRE COUNCIL
- (2) BALFOUR BEATTY WORKPLACE LIMITED

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Price Performance Mechanism  
Schedule 13

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1. **Introduction, background and context**

This Schedule 13 (Price Performance Mechanism) defines how the Partner's delivery of the Services will be monitored and how the Council and Partner will deal with variations in performance, increases and decreases, from the service levels specified in Schedules 27 to 30 (Services Schedules).

2. **Definitions**

2.1 In this Schedule the following expressions shall have the following meanings unless inconsistent with the context:-

Expression	Meaning
Agreed Deductions	Deductions from the Periodic Payment, to be deducted as a Service Credit calculated in accordance with <b>paragraphs 4.1 to 4.9</b> ;
At Risk Fee	For each of the Service Areas, for each month of the Term, ■ of the Periodic Payment for that Service Area;
Basis Point	One hundredth of one percentile;
Exceptional Fee Deduction	The additional amount to be deducted from the Periodic Payment which is over and above the At Risk Fee which is deducted as a Service Credit calculated in accordance with <b>paragraph 4.12</b> ;
Extension Criteria	<p>the following KPI s by the end of Year 8:</p> <ul style="list-style-type: none"><li>▪ KPI 1: £135m of additional public and private investment in regeneration projects</li><li>▪ KPI 3: 3,100 net number of jobs created through the construction, occupation and operation of regeneration projects</li><li>▪ KPI 6: 2,900 net new or improved homes</li><li>▪ KPI 22: at least 22% reduction in the number of people killed or seriously</li></ul>

	<p>injured</p> <p>For the avoidance of doubt the measurement of the KPI will be in accordance with the definitions as set out in appendix 1 part 2 of <b>Schedules 27 to 30</b> (Services Schedules).</p>
Floor Performance Target	For each KPI the Floor Performance Target set out in the tables in <b>paragraph 12</b> ;
KPI Basket	A group of KPIs the overall performance of which can result in a Service Credit, as described in <b>paragraph 3.2 and 4</b> ;
KPI Basket Weighted Total	The sum of Weighted Performance Failure Points for all KPIs within a KPI Basket as calculated in accordance with <b>paragraph 4.6</b> ;
Obligation Performance Target	For each KPI the Obligation Performance Target set out in the tables in <b>paragraph 12</b> ;
Performance Failure Point	The points awarded pursuant to <b>paragraphs 4.4 and 4.5</b> for performance that is less than the Obligation Performance Target;
Super KPI	The KPIs set out in <b>paragraph 4.14</b> that are subject to the Exceptional Fee Deduction;
Weighted Performance Failure Point	For any KPI for which actual performance generates Performance Failure Points, the value generated after applying the relevant weighting set out in the tables in <b>paragraph 12</b> .

- 2.2 Where defined terms are used within this Schedule and these terms are not set out within the table in **paragraph 2.1** then reference should be made to **clause 1.1** of the Agreement (Definitions).

### 3. **Monitoring and Measurement**

3.1 The Partner shall monitor and measure its performance in respect of the Services on a monthly and annual basis from the Service Commencement Date as against the KPI tables set out in **paragraph 12**. At the end of each Quarter the Partner shall report on performance for each of the Periods in the Quarter in accordance with Clause 35 and at the end of each Year the Partner shall report on performance for the full Year and for each of the Periods in the Year in accordance with Clause 35.

3.2 Each of the following is a KPI Basket for the purposes of this schedule:

- Renaissance Annual KPIs (as set out in the tables in paragraph 12a)
- Highways, Transport and Planning Monthly KPIs (as set out in the tables in paragraph 12b)
- Highways, Transport and Planning Annual KPIs (as set out in the tables in paragraph 12c)
- Asset Management Monthly KPIs (as set out in the tables in paragraph 12d)
- Asset Management Annual KPIs (as set out in the tables in paragraph 12e)
- Architecture Monthly KPIs (as set out in the tables in paragraph 12f)

3.3 The process for conducting the review of the Services pursuant to **paragraph 3.1** shall be as set out in **clause 24** (Partner's Plans and Performance Reviews) and Schedule 17 (Reporting and Review).

3.4 The provisions of **clause 34.3.4** (Contract Price and Payment Terms) shall apply in respect of the Partner presenting the outcome of its review of the Services as part of the Statement of Account submission (as detailed in **clause 34.3** (Contract Price and Payment Terms)).

3.5 A failure by the Partner to achieve the KPI Obligation Performance Targets set out in the tables in **paragraph 12** shall constitute a service failure and **paragraph 4** shall apply in this regard.

### 4. **Calculation of Performance Failure Points and Service Credits**

The following provisions of this **paragraph 4** and **clause 35** (Price Performance Mechanism) shall apply in respect of the calculation of Performance Failure Points.

4.1 Performance Failure Points shall be calculated for each KPI Basket on a monthly or annual basis (as applicable).

- 4.2 For each KPI, Performance Failure Points will only be calculated for the periods set out in the tables in **paragraph 12**.
- 4.3 The provisions of **clauses 35.1 to 35.3** (Price Performance Mechanism) shall apply in relation to the process for calculating and applying Service Credits to the Periodic Payment for each Service Area.
- 4.4 Where the Partner's performance against a KPI equals or falls below the Floor Performance Target then the Partner will earn [REDACTED] Performance Failure Points for that KPI. Where the Partner's performance against a KPI equals or is above the Obligation Performance Target then no Performance Failure Points will be incurred.
- 4.5 Where the Partner's performance falls within the bands set out in the tables in **paragraph 12**, the Partner will earn Performance Failure Points dependent upon which performance band the actual performance falls into as follows:

Performance Band	Performance Failure Points/Bonus Points
Performance Failure Point Band 1	[REDACTED]
Performance Failure Point Band 2	[REDACTED]
Performance Failure Point Band 3	[REDACTED]
Performance Failure Point Band 4	[REDACTED]
Performance Failure Point Band 5	[REDACTED]

- 4.6 The Performance Failure Points calculated in accordance with **paragraphs 4.4 to 4.5** shall be weighted according to the weighting for each KPI, as set out in the tables in **paragraph 11** to generate the Weighted Performance Failure Points for

each KPI. For each KPI Basket the KPI Basket Weighted Total will be the sum of Weighted Performance Failure Points for the KPIs in the KPI Basket.

- 4.7 The maximum level of Service Credit that may be made by the Council in connection with **clause 35** (Price Performance Mechanism) and this Schedule 13 is the At Risk Fee for the relevant Service Area except where **paragraphs 4.12 and 4.13** apply. The proportion of At Risk Fee that is allocated to each KPI Basket (the "Apportioned At Risk Fee") is as follows:

KPI Basket	Apportioned At Risk Fee
Renaissance Annual KPIs	
Highways Transport and Planning Monthly KPIs	
Highways Transport and Planning Annual KPIs	
Asset Management Monthly KPIs	
Asset Management Annual KPIs	
Architecture Monthly KPIs	

- 4.8 Where the KPI Basket Weighted Total for a KPI Basket is greater than zero then the Service Credit for that KPI Basket will be calculated as follows:

KPI Basket Weighted Total	Service Credit as a percentage of Apportioned At Risk Fee
>0 and <1	
≥1 and <2	
≥2 and <3	
≥3 and <4	
≥4 and <5	

≥5	■
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- 4.9 If one event triggers the failure to achieve KPI Obligation Performance Targets in more than one Service Area then Performance Failure Points will be calculated accordingly for all affected Service Areas.
- 4.10 Where the Partner fails to achieve the Obligation Performance Target for a KPI its Performance Reviews and reports under **clause 24** (Partner's Plans and Performance Reviews) shall identify any action required to rectify its performance in relation to the KPI as set out in **clause 24**.
- 4.11 Where the Partner's performance against the KPIs set out in **paragraph 4.12** falls below the Floor Performance Target then the Council may, at its sole discretion, claim an Exceptional Fee Deduction calculated according to **paragraph 4.12** as an additional amount to the Service Credit calculated in accordance with **paragraphs 4.1 to 4.10**.
- 4.12 The Exceptional Fee Deduction shall apply only to the Super KPIs set out in this **paragraph 4.12**. The Exceptional Fee Deduction is calculated as a percentage of the Periodic Payment for the relevant Service Area. In any one Year, the total Exceptional Fee Deduction for any Service Area cannot exceed ■ of the annual fee for that Service Area. The value of the Exceptional Fee Deduction shall be calculated as follows:

- 4.12.1 KPI 3: cumulative net number of jobs created through construction, occupation and operation of regeneration projects

Actual Performance	Exceptional Fee Deduction
Upto 5% below the floor target	■
Between 6% and 10% below the floor target	■
Between 11% and 15% below the floor target	■
Between 16% and 20% below the floor target	■
More than 20% below the floor target	■

- 4.12.2 KPI 1: cumulative public and private investment secured in wider regeneration projects by the Partner

Actual Performance	Exceptional Fee Deduction
Upto 5% below the floor target	■
Between 6% and 10% below the floor target	■
Between 11% and 15% below the floor target	■
Between 16% and 20% below the floor target	■
More than 20% below the floor target	■

4.12.3 KPI 22: percentage reduction in people killed or seriously injured in Road Traffic Accidents

Actual Performance	Exceptional Fee Deduction
Between 1 and 3 percentage points above floor target	■
Between 4 and 7 percentage points above floor target	■
Between 8 and 11 percentage points13% above floor target	■
Between 12 and 15 percentage points above floor target	■
More than 15 percentage points above floor target	■

4.13 Where the Council claims an Exceptional Fee Deduction (calculated according to **paragraph 4.12**) the Management Board shall consider the relevant issues relating to the Partner's performance (which gave rise to the Council's claim), including proposals for improving future performance.

5. **Baselining**

5.1 The Partner shall undertake baselining for the following KPIs:-

5.1.1 percentage reduction in carbon footprint for the services within six (6) months of Service Commencement Date;



- 5.1.2 improvement in overall customer satisfaction with the services within three (3) months of Service Commencement Date;

in order that the Partner may be measured against these KPIs during the Term.

**6. Investment Targets**

- 6.1 The parties acknowledge that there are two KPIs relating to investment as at the Commencement Date: KPI1 £170M of additional public and private investment in regeneration projects in the Area and KPI2 £400M other inward investment secured into the Area.
- 6.2 The parties acknowledge that the planning, timing and delivery of major investments is complex and difficult to accurately predict over Term, so the assessment of the KPI over a longer time period of time (as opposed to on an annual basis) is more appropriate. The provision in Paragraph 6.3 should provide sufficient flexibility to minimise the need for adjustments to the KPIs each Year.
- 6.3 For the purposes of the calculating Service Credits and Performance Failure Points progress against KPI2 (£400M other inward investment secured into the Area), the KPI will be measured at the end of Year 3 (target £120M) as part of the step back process (set out in clause 53.7 (Step Back)), the end of Year 5 (target (£200M) , the end of Year 7 (target £280M) the end of Year 9 (target £320M) and at the end of the Term (target £400M). For the Years 3, 5, 7, 9 and 11, the Council and Partner will need to allow for (i) the inclusion of KPI 2 in the relevant KPI basket and the KPI weightings shall be adjusted accordingly in accordance with paragraph 9.2 and (ii) any revision to the Performance Failure Point bands.
- 6.4 The Partner shall ensure that the Inward Investment Strategy is aligned with the delivery of the Regeneration Framework and will propose any adjustments required to either the Investment Strategy and table 12a of this Schedule (KPI 1 and 2) through the annual Service Development Plan and in accordance with paragraph 9 of the schedule.

**7. Excusing Causes**

The provisions of **clause 8.2** (Excusing Causes) shall apply and be taken into account when calculating Performance Failure Points and Service Credits pursuant to **clause 35** (Price Performance Mechanism) and this Schedule 13.

**8. Performance reporting**

- 8.1 The Partner shall complete the following proforma performance report for each KPI Basket every month or Year as appropriate as part of complying with its obligations in this Schedule.

KPI ref and description	Measurement Period	KPI Obligation Performance Target	Actual Performance	Variation from KPI	Weighted Performance Failure Points
<i>Enter KPI number and description in this column - copied from the KPI Table below</i>	<i>Enter measurement period i.e. monthly or Annual here - copied from the KPI Table below</i>	<i>Enter measurement criteria here - copied from the KPI Table below</i>	<i>Enter the measured score/performance for each KPI for the relevant period</i>	<i>Enter the difference between actual performance and the KPI</i>	<i>Enter the weighted Performance Failure Points as calculated in accordance with <b>paragraphs 4.4 to 4.6</b></i>

8.2 The Partner shall provide the Council with online portal access to the KPI information for purposes of monitoring performance in respect of the Services and auditing the information provided to the Council each month in respect of Partner performance.

8.3 The Partner shall retain performance reports completed and provided pursuant to **paragraph 6.1** for Council review inspection in accordance with **clauses 44** (Provisions of Accounts/Records) and **45** (Audit Rights).

## 9. Review of KPIs

9.1 The Partner shall review the Service Levels and KPIs in Schedule 27 to 30 (Services) in accordance with the terms of this Agreement. Changes to the Service Levels and/or KPIs will be made in accordance with the provisions of **clause 24** (Partner's Plans and Performance Reviews) and **clause 28** (Variation and Change Control).

9.2 The Council and the Partner may suggest the introduction of new KPIs or the amendment of the definition of existing KPIs as described in Schedule 27 to 30 (Services). Where a new KPI is introduced or an existing KPI is no longer to be monitored the Council and Partner will agree revised weightings for the remaining KPIs for the relevant KPI Basket such that the sum of the weighting in the KPI Basket remains at one (1).

9.3 Where a KPI is defined by reference to a Third Party or Third Party documentation and there is a change made by the Third Party then the Council and Partner will agree reasonable changes to the definition of the KPI or the substitution of an alternative KPI.

## 10. **Termination Triggers**

### 10.1 Material Breach

The occurrence of the following matters shall constitute a Material Breach as referred to in **clause 53.2.1.1** (Material Breach):

- 10.1.1 for a KPI Basket made up of monthly KPIs, the KPI Basket Weighted Total score is more than [REDACTED] points for three (3) months in succession or any four (4) months in a period of six (6) consecutive months;
- 10.1.2 for a KPI Basket made up of annual KPIs, the KPI Basket Weighted Total score is more than [REDACTED] points in any one (1) Year and more than [REDACTED] points in the following Year; or
- 10.1.3 for all KPI Baskets made up of monthly KPIs, the KPI Basket Weighted Total score is more than [REDACTED] for three (3) consecutive months in succession or any four (4) months in a period of six (6) consecutive months.

## 11. **Final Year**

- 11.1 The process of measuring and reporting performance set out in **clause 35** (Price Performance Mechanism) and **paragraph 4** of this Schedule will continue for all Periods of the contract with the final modifications in the final Year.
- 11.2 For monthly KPIs, the Partner's performance in the final three (3) months before expiry or termination shall be reported in accordance with **clause 35** (Price Performance Mechanism). If the Council determines under **clause 35.2** (Measurement and Calculation) that Service Credits shall be applied to any or all Service Areas then the Partner shall amend its final invoice for the Service Areas accordingly.
- 11.3 If the contract ends on 31 March then the process in **paragraph 10.2** shall also apply to Annual KPIs. If the contract ends on any other date then prior to the 1 April preceding the expiry or termination of the contract, or as soon as reasonable practicable thereafter, the Council and Partner shall agree Obligation Performance Targets, Floor Performance Targets and Performance Bands for the period from 1 April to the expiry or termination date.
- 11.4 The Partner shall measure and report its performance in relation to the KPI targets agreed under **paragraph 10.3** within one (1) month of the termination or expiry date. If the Council determines under **clause 35.2** (Measurement and Calculation) that Service Credits shall be applied to any or all Service Areas then the Partner shall amend its final invoice for the Service Areas accordingly.

11.5 Service Credits calculated in accordance with **paragraph 10.4** shall be applied to the fee for the period from 1 July to the termination or expiry date.

12. **KPI Tables**

12.1 The following tables in paragraph 12.3 set out the KPIs which form each KPI Basket with the Obligation and Floor Targets for the first Year of the Agreement and the ten year target. In the event of a discrepancy between these KPIs and any KPIs shown elsewhere in this Agreement, the KPIs shown in the tables in **paragraph 12** take precedence.








































































12.2 The tables in paragraph 12.3 shall be agreed prior to each Year in accordance with performance trajectory set out in Schedule 27 to 30 (Services Schedules), the ten year target and the principles used to produce the tables for the first Year.

12.3 The definitions of the KPIs and PIs referred to in the following tables 12a to 12f, are contained in Schedule 27 to 30 (Services Schedules).

For the avoidance of doubt where a KPI actual performance falls on or between a Performance Failure Point Band the higher band will apply in relation to the calculation of Failure Points.

For the avoidance of doubt the 'End of Year 10 Target' in the annual KPI tables refers to the period up to 31<sup>st</sup> March 2020 and the 'Year 11 Target' in the monthly KPI tables refers to the period up to 30<sup>th</sup> June 2020.

Table 12a : Renaissance Annual KPIs : 1 July 2010 to 31 March 2011

Ref	KPI	End of Year 10 Target	Weight	Performance Targets		Performance Failure Point Bands				
				Floor	Obligation	Band 1	Band 2	Band 3	Band 4	Band 5
1	Cumulative public and private investment secured in wider regeneration projects by the Partner									
2	Other Inward Investment secured into the Area									
3	Cumulative net number of jobs created through construction, occupation and operation of regeneration projects									
4	Cumulative net number of jobs created through construction, occupation of the Learning Hub									
5 (Local PI)	Cumulative net number of jobs created in the Partner in NELC									
6	Number of new or improved homes in the Area									
7	Percentage of vulnerable households living in private sector accommodation that meets the Decency Standard									
8 (H23)	Number of vacant dwellings demolished or brought back into use per									

	annum									
9	% of people receiving income based benefits living in homes with a SAP ≤35									
10	% of people receiving income based benefits living in homes with a SAP ≥65									
11	Cumulative number of current or potential businesses directed to appropriate sources of business advice									
12	Cumulative number of training sessions, apprenticeships or work placements for young people provided									
13	Cumulative number of training sessions or work placements for school children provided									
14	Cumulative sqm of non-residential (commercial and retail) floorspace created in the Area									
15	Improvement in overall Customer Satisfaction with the Services									

Table 12b : Highways, Transport and Planning Monthly KPIs : 1 July 2010 to 31 March 2011

Ref	KPI	Year 11 Target	Weight	Performance Targets		Performance Failure Point Bands				
				Floor	Obligation	Band 1	Band 2	Band 3	Band 4	Band 5
16 (BV105)	Percentage of repairs to unsafe highway made within 24 hours of notification									
17 (BV215a)	Average number of days taken to repair street lights									
18 (NI157a)	Percentage of major applications determined within 13 weeks									
19 (NI157b)	Percentage of minor applications determined within 8 weeks									
20 (NI157c)	Percentage of other applications determined in 8 weeks									
21 (BV204)	Percentage of appeals allowed									

Table 12c : Highways, Transport and Planning Annual KPIs : 1 July 2010 to 31 March 2011

Ref	KPI	End of Year 10 Target	Weight	Performance Targets		Performance Failure Point Bands				
				Floor	Obligation	Band 1	Band 2	Band 3	Band 4	Band 5
22 (NI47)	Percentage reduction in people killed or seriously injured in RTAs from average of 2004/05 to 2008/09									
23 (NI 148)	Percentage reduction in children killed or seriously injured in RTAs compared to the average of 2004/05 to 2008/09									

24	Percentage of principal roads where maintenance should be considered									
25	Percentage of non-principal roads where maintenance should be considered									
26	Percentage of unclassified road where maintenance should be considered									
27	1,1a & 2 Footway condition									
28	DfT judgement on the quality of the LTP Annual Progress Report (or equivalent replacement under LTP3 process)									
29	Total number of bus passenger trips taken in the Area									
30	Reduce the no. of days of temporary traffic closures or road closures on traffic sensitive roads									
31	Customer satisfaction with the Planning Services									



Table 12d : Asset Management Monthly KPIs : 1 July 2010 to 31 March 2011

Ref	KPI	Year 11 Target	Weight	Performance Targets		Performance Failure Point Bands				
				Floor	Obligation	Band 1	Band 2	Band 3	Band 4	Band 5
31 (Local PI)	Rent arrears on market units as percentage of gross debit									
32 (Local PI)	Rent arrears on business centres as percentage of gross debit									
33	Rent arrears on factory units as percentage of gross debit									
34	Percentage of Priority A calls responded to within standard time									
35	Percentage of non-urgent (Priority B to F) calls responded to within standard time									

Table 12e : Asset Management Annual KPIs : 1 July2010 to 31 March 2011

Ref	KPI	End of Year 10 Target	Weight	Performance Targets		Performance Failure Point Bands				
				Floor	Obligation	Band 1	Band 2	Band 3	Band 4	Band 5
36 PMI 5B3	Average office floor space per person									
37	Average annual occupation rate in Council owned business centres (calculated as average of % monthly occupation rates across all business centres)									

38 (PMI 3Ci)	Percentage of properties graded as Good or Satisfactory									
39	% reduction in the Carbon Footprint of the Services									
40	Rating for Asset Management under the annual Use of Resources judgement or its equivalent in the CAA									

Table 12f : Architecture Monthly KPIs : 1 July 2010 to 31 March 2011

Ref	KPI	Year 11 Target	Weight	Performance Targets		Performance Failure Point Bands				
				Floor	Obligation	Band 1	Band 2	Band 3	Band 4	Band 5
41	Time predictability of projects									
42	Cost predictability of projects									
43	End User Satisfaction with Building Design Projects carried out by the Partner									