

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

1 DEFINITION & INTERPRETATION

- 1.1 In these Standard Terms and Conditions, unless the context otherwise requires, the following definitions and rules of interpretation apply.
- 1.2 **Associated Person** means a person (including, without limitation, an agent, subsidiary or sub-contractor (including any sub-consultant) of any tier) who performs services for and on behalf of the Consultant.
- 1.3 **Brief** means the high level and detailed description of the Company's requirements for the Consultant's Services in relation to the Project upon which the Consultant has tendered and which is identified in the Order.
- 1.4 **Business Day** means a day that is not a Saturday or a Sunday or a bank or national holiday in England.
- 1.5 **CDM Regulations** means the Construction (Design and Management) Regulations 2015 (SI2015/51).
- 1.6 **Company** means the company named as such within the Order.
- 1.7 **Company Representative** means the person named as such within the Order or such other person as the Company may appoint to fulfil the role on a permanent or temporary basis (and the Company shall notify the Consultant of such appointment), or otherwise, any director of the Company.
- 1.8 **Consultant** means the person or persons or company, partnership or corporation specified in the Order and their personal representatives, successors in title and permitted assignees (as the case may be). Where the Consultant is a partnership the term Consultant shall include all the partners at the date hereof and the obligations of the Consultant shall constitute a joint and several obligation by each of the said partners.
- 1.9 **Consultant Representative(s)** means the person named as such within the Order.
- 1.10 **Contract** means together the Order, the Contract Documents and these Standard Terms and Conditions.
- 1.11 **Contract Documents** means the Brief and the details, drawings, specifications or other documents which are identified or referred to in the Order (and which may define or relate to the Services and/or the payments to be made for undertaking the Services and may include the minutes of any pre-Contract meetings), including any additions, omissions, or variations to the same confirmed or notified to the Consultant by the Company from time to time in writing.
- 1.12 **Contract Programme** means the programme for the Project as provided by the Company within the Brief, as the same may be upgraded and/or amended from time to time by the Company and confirmed or notified to the Consultant by the Company from time to time in writing.
- 1.13 **Contract Sum** means the price/fee stated in the Order for the Services.
- 1.14 **Corrupt Activity** has the meaning given in clause 30.1.1.
- 1.15 **Cost Plan** means a document showing the estimated cost of all parts of the Project and how it is to be spent prepared by the Company as upgraded and/or amended from time to time.
- 1.16 **Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time in the United Kingdom including (i) the Data Protection Act 2018; (ii) the retained EU law ((within the meaning of the European Union (Withdrawal) Act 2018) version of the General Data Protection Regulation ((EU) 2016/679) and (iii) the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426), as amended and any laws which implement such legislation and all applicable guidance and codes of practice relating to data protection issued by the Information Commissioner or other relevant regulator related to personal data and privacy.
- 1.17 **Development** means the development or project to which the Contract relates as identified in the Order.
- 1.18 **Disbursements** means normal costs and out of pocket expenses incurred by the Consultant, including telephone, postage, printing and travel etc.
- 1.19 **Dutyholder Regulations** means Part 2A of the Building Regulations 2010 and if the Project includes any HRB Work or any Existing HRB Work, the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.
- 1.20 **HRB Work** has the same meaning as given to "HRB work" in the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.
- 1.21 **Existing HRB Work** has the same meaning as given to "work to existing HRB" in the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.
- 1.22 **Key Staff** shall be employees or consultants who are felt by the Company to be an important reason that the Order was placed with the Consultant and/or that are proposed be assigned to the Project in the Consultants tender and/or as specified within the Order.
- 1.23 **Modern Slavery Legislation** means all applicable anti-slavery and human trafficking legislation in force from time to time in the United Kingdom, including the Modern Slavery Act 2015.
- 1.24 **Making Good Notice** means the notice, certificate or other document (as applicable) under the Building Contract that confirms that defects, shrinkages or other faults that have been required to be made good have been made good
- 1.25 **Order** means the order for the Services as sent by the Company to the Consultant. Such order to the Consultant for the Services may be given in the form of (or described as) an order, a purchase order or a letter of engagement.
- 1.26 **Period for Completion** means the period in which the Services are to be carried out and completed in their entirety by the Consultant as identified in either the Order or the Contract Documents, as the same may be varied in accordance with these terms and conditions.
- 1.27 **Principal Designer (CDM)** means the person appointed by the client (as defined in the CDM Regulations) to perform the functions of a principal designer under the CDM Regulations.
- 1.28 **Principal Designer (Building Regulations)** means the person appointed by the client (as defined in the Building Regulations 2010) to perform the functions of a principal designer under the Dutyholder Regulations.
- 1.29 **Professional Team** means the other professional advisors and consultants engaged by the Company in relation to the Project (including but not limited to architects, planning supervisors, quantity surveyors and other specialist engineers).
- 1.30 **Prohibited Materials** means materials or equipment that are not in accordance with statutory requirements; or do not comply with the guidance set out in the current edition of "Good Practice in the Selection of Materials"; or are generally accepted, or generally suspected, in the construction industry at the relevant time as: (a) posing a threat to the health and safety of any person; (b) posing a threat to the structural stability, performance or physical integrity of the Development or any part or component of the Development; (c) reducing, or possibly reducing, the normal life expectancy of the Project or any part or component of the Development; or are not in accordance with any relevant British Standard,

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES*Including Architects, Designers, Engineers, Surveyors etc.*

relevant code of practice, good building practice or any applicable Agrément certificate issued by the British Board of Agrément; or are not permitted to form part of the Development pursuant to the Contract Documents.

- 1.31 **Project** means the planning, design and construction of Development on the Site.
- 1.32 **Services** has the meaning given in the Order and includes in addition all works and services necessary to satisfy the Brief.
- 1.33 **Services Documentation** has the meaning given in clause 26.1.
- 1.34 **Shared Personal Data** means any personal data shared or to be shared between the parties pursuant to this Contract.
- 1.35 **Site** means the site of the Development.
- 1.36 **Statutory Requirements** means the CDM Regulations, the Dutyholder Regulations, the Building Act 1984, the Building Regulations 2010 and all other relevant statutory requirements (including without limitation, all relevant legislation, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978 and, to the extent having effect in English law from time to time, retained EU law (within the meaning of the European Union (Withdrawal) Act 2018)), as the same may be updated, amended, repealed or replaced from time to time, and codes of practice, regulations and permissions having the force of law and applicable to the Project and/or the Site.
- 1.37 In these Standard Terms and Conditions unless the context otherwise requires:
 - 1.37.1 Words denoting the singular number include the plural and vice versa;
 - 1.37.2 Words importing one gender shall include reference to any gender and words denoting natural persons shall include references to firms, companies, corporations, bodies corporate and unincorporated bodies; and
 - 1.37.3 References to statutes or statutory instruments include references to any modification, consolidation, extension, or re-enactment of them from time to time and reference to a statute includes subordinate legislation made under it from time to time and any codes of practice made pursuant to it from time to time.
- 1.38 These terms and conditions apply to the Order to the exclusion of any other terms and conditions that the Consultant seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.39 Any offer, tender or quotation from the Consultant for the Services will constitute an invitation for the Company to issue an Order for the Services. A binding contract shall only come into existence when the Consultant signs and returns a copy of the Order as issued by the Company or the Consultant otherwise confirms its acceptance of the Order by conduct.
- 1.40 The Contract shall commence on and from the date of the Order provided that if and to the extent that any of Services are or have been performed by the Consultant or if any sums in respect of the Services have been paid prior to the date of the Order the same shall be deemed to have been performed under the Contract or treated as payments on account of the Contract Sum.
- 1.41 In the event of there being any conflict, divergence, ambiguity and/or discrepancy (as the case may be) within or between any part of the Contract the same shall be resolved by applying the following order of precedence; the Order; these terms and conditions; the Contract Documents.
- 1.42 Without prejudice to clause 1.34 above, where there is any conflict, discrepancy, ambiguity or divergence within or between any part of the Contract, the Consultant shall inform the Company in writing of its proposed amendment to remove the same and the Company shall make a decision or may accept the Consultant's proposed amendment and the Consultant shall be obliged to comply with the decision or amendment without cost to the Company and the Consultant shall not be entitled to receive and shall not make any claim for an extension of time or for any increase to the Contract Sum or for any costs, losses and/or expenses arising as a consequence.
- 1.43 All headings and sub-headings appearing in this Contract are for convenience of reference only and shall not be taken into consideration in the interpretation or construction of this Contract.
- 1.44 The Contract constitutes the entire agreement between the parties relating to its subject matter and supersedes all previous negotiations, arrangements, agreements and understandings between the Client and the Consultant in respect of the Services (whether oral or written) and represents the entire understanding between the Client and the Consultant. The Consultant warrants that, in entering into this Deed, it is not relying on any earlier representations made by or on behalf of the Client (unless and to the extent such representations are made fraudulently).

2 COMPANY'S OBLIGATIONS

- 2.1 The Company agrees to pay the Contract Sum to the Consultant all in accordance with the terms of the Order and clause 11 of these terms and conditions.
- 2.2 The Company has provided or shall provide to the Consultant such information in its possession that relates to the Project as the Consultant reasonably requires and requests for the performance of the Consultant's duties under this Contract. Any such information will be provided free of charge and at such times as shall permit the Consultant to comply with the Contract Programme.
- 2.3 The Company shall within a reasonable timescale (having regard to the nature of the request) give its decisions, instructions and approvals on any matter properly referred to the Company by the Consultant and which is required for the performance of the Services and at such times as to enable the Consultant to comply with the Contract Programme. However the Consultant is responsible for the proactive management of these requests. The Consultant is to give the Company clear details of the decision, instruction or approval required, the various options/solutions and its recommendations as far in advance as possible thus allowing the Company the greatest time to give a decision, instruction or approval without delaying the Contract Programme. The Consultant is responsible for ensuring that the subsequent decision, instruction or approval is accurately recorded in writing to the complete satisfaction of the Company and for implementing the same.
- 2.4 The Company shall perform its duties under the CDM Regulations and the Dutyholder Regulations and the Company shall co-operate with and provide information to the Consultant as necessary to enable the Consultant to meet its obligations under the CDM Regulations and the Dutyholder Regulations in relation to the Project.
- 2.5 The Company or its appointed consultant shall issue the Consultant a risk assessment for the Site, the current health and safety file and (when completed) the construction phase plan and the Consultant shall seek a copy of such documents prior to visiting Site.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

3 CONSULTANT'S OBLIGATIONS

- 3.1 The Consultant shall carry out and complete the Services; to the satisfaction of the Company, diligently and in a proper manner, in compliance with the Contract so that:
 - 3.1.1 the Services will fully comply with the provisions of the Brief, the Order, good industry practice, all relevant Statutory Requirements, British Standards and codes of practice, consents and approvals and the technical requirements specified in the Contract Documents;
 - 3.1.2 all workmanship, materials and goods specified for use and/or used or authorised for use and/or allowed to be used in the Development shall be of the kinds and standards described or referred to in the Contract or to the extent that no such standards are described shall be of a satisfactory standard appropriate to the Development and approved by the Company;
 - 3.1.3 the Consultant shall not use and/or specify or authorise, cause or allow to be used in the Development any Prohibited Materials;
 - 3.1.4 all persons employed in connection with the performance of the Services will be skilled and experienced in their several professions, trades and callings or adequately supervised by the Consultant; and
 - 3.1.5 all aspects of the Services will be supervised by a person/s having sufficient knowledge and experience of such matters for the satisfactory and safe performance of the Services in accordance with the Contract.
- 3.2 The Consultant shall not assign nor transfer its interest in the Contract or any part of it, nor any right arising under it, to any person without the prior written consent of the Company.
- 3.3 The Consultant shall not sub-contract any of its obligations under the Contract without the Company's prior written consent. Where such consent is given the Consultant shall remain directly and wholly responsible for complying with its obligations under the Contract and any work carried out by a sub-contractor shall be treated as if the Consultant itself has performed such work.
- 3.4 The Consultant shall provide all materials, plant, tools and equipment, including generators and lighting (where appropriate), required for carrying out and completing the Services including as provided for in the Contract Documents.
- 3.5 The Company makes no guarantee of continuity of work or that the Consultant will be afforded the opportunity to carry out and complete the Services in a continuous manner. The Company may at its discretion amend the timing or programme of the Services to suit the Company's requirements without adjustment to the Contract Sum or incurring any liability to the Consultant for additional costs, losses or expense.
- 3.6 The Consultant shall in the performance of the Services exercise all reasonable professional skill, judgement, care and diligence normally expected of properly qualified, competent and experienced persons carrying out services of a similar nature to the Services and to the high standards associated with the previous developments of the Company.
- 3.7 The Consultant shall in the performance of the Services give the Company 48 hours written notice before entering the Site. The Consultant shall repair any damage it causes, remove from the Site any waste arising and surplus materials and (on completion or sooner termination of the Contract) any plant, tools and equipment (where relevant) used by the Consultant and comply with all reasonable requests and instructions issued from time to time by or on behalf of the Company.
- 3.8 The Consultant acknowledges that the Company intends and will continue to rely upon the Services of the Consultant in connection with the Development and/or sale of the Site or parts thereof irrespective of any qualifications, expertise or knowledge of the Company, its servants, agents or contractors.
- 3.9 The Consultant shall forthwith upon request from the Company execute as a deed a collateral warranty in favour of any person or persons (except residential occupiers of dwellings) who have or acquire an interest in the Site (including, without limitation, any funder of the Development) in the form (if any) attached to the Order or in such other form as the Company may reasonably require.
- 3.10 The Consultant shall forthwith upon request from the Company supply a letter of reliance in favour of any person or persons (except residential occupiers of dwellings) who have or acquire an interest in the Site in the form (if any) attached to the Order or in such other form as the Company may reasonably require.
- 3.11 The Consultant shall have due regard in the performance of the Services to the Brief, the Contract Documents and the Order and shall not be reimbursed for extra work which the Consultant has to undertake for any re-workings/re-designs required to comply with same to the extent that this is a result of a failure to comply or error or omission on the part of the Consultant.
- 3.12 Where the Consultant blatantly fails to comply with the Brief or the Contract or to alter any documents or drawings in accordance with the instructions of the Company, the Consultant accepts that the Company shall be entitled to set off all the costs, losses, expenses and damages incurred by the Company or to be incurred by the Company including the time for Company employees having to mitigate the same and/or required to check the work of the Consultant due to the loss of confidence in the Consultant's ability, and to claim payment for any outstanding amounts as if a debt payable on demand.
- 3.13 The Consultant shall use reasonable endeavours to provide the Services in a manner so that the Company's Cost Plan is met or improved upon. Where the Consultant has not been given the Cost Plan then the Consultant should use best endeavours to provide the Services in a manner that achieves cost efficiency and delivers maximum financial benefit to the Company in connection with the delivery of the Project.
- 3.14 All reports prepared by the Consultant will be issued jointly in the name of the Company and the Project funder/s.
- 3.15 Nothing contained in any approval or consent given by the Company in connection with the Consultant's performance of the Services shall prejudice, modify or affect or otherwise relieve the Consultant from any of his obligations to the Company under this Contract.
- 3.16 The Consultant shall make no material alteration or addition to or omission from the Services without the knowledge and written consent of the Company, except in the case of emergency, where the Consultant shall inform the Company without delay.
- 3.17 The Consultant shall inform the Company in writing to the Company Representative on it becoming apparent that the Services and/or any part of this Contract and/or any information or approvals need to be varied. The Company shall confirm in writing any agreement reached and until such time the Consultant will comply with the Contract unless it will prejudice the overall success of the Project in anyway. In those circumstances the Consultant will have a duty to mitigate any losses whether they are financial or otherwise.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES*Including Architects, Designers, Engineers, Surveyors etc.*

- 3.18 The Consultant shall be deemed conclusively to have full knowledge of all the terms of the Development Agreement and/or Building Contract including the Employer's Requirements and the Contractor's Proposals, copies of which have been issued to the Consultant. The obligations and provisions to be performed and observed on the part of the Company contained in the Development Agreement and/or Building Contract shall be deemed to be incorporated herein and shall be performed and observed by the Consultant insofar as the same are applicable to the Services and are not inconsistent with the express terms and provisions of this Contract.
- 3.19 The Consultant shall request, receive and review the current health and safety file, the construction phase plan and a risk assessment for the Site from the Company prior to any Site visits and the Consultant shall ensure that all personnel employed by them and visiting the Site are suitably inducted and qualified to visit the Site, which normally will contain empty and dilapidated buildings in varying states of disrepair and have the potential risks associated with the same as well as those associated with a construction site. The Consultant shall procure that when attending site its personnel comply with the requirements of the construction phase plan and the Consultant's own risk assessment method statements (which shall be consistent with the Site risk assessments provided by the Company and the construction phase plan). Without prejudice to the generality of clause 3.4 and this clause 3.20, the Consultant shall provide its personnel attending Site with all appropriate personal protective equipment and which complies with any applicable requirements of the Contract Documents. Any of the Consultant's personnel found not to be in compliance with be asked to leave Site until the appropriate compliant personal protective equipment is provided.
- 3.20 The Consultant shall perform its duties so that the Project will comply insofar as is reasonably possible with all planning agreements, permissions and conditions relating to the Project.
- 3.21 The Consultant is responsible for visiting and obtaining a detailed knowledge of the Site and the buildings within the Site as necessary to ensure an understanding of the Project sufficient to deliver the requirements of the Brief.
- 3.22 The Consultant shall maintain a drawing and document register in a format agreed with the Company. Such register shall at all times identify the latest information and this information will be supplied to the architect or the nominated project coordinator so that they can ensure that all parties are aware of the latest information.
- 3.23 All drawings and other documents to be read with the Services, (e.g. local authority applications, consents and refusals, and other studies, reports etc. for the Development) are to be submitted as hard copy and electronically, in Word, Excel, Revit or AutoCAD. For drawings PDF files and Revit and/or AutoCAD drawings are to be issued, with the file name containing the drawing number, revision and brief description. Revit and AutoCAD drawings are to be stored in such a way that documents can be edited and updated by the Company during subsequent works phases. Payment of invoices will be withheld unless the Company has an electronic copy of the latest drawings and documents relevant to the payment request and in accordance with the terms of this clause.
- 3.24 Any drawings, reports and documents are to be titled by the Consultant in accordance with the naming convention(s) included in the Order or the Contract Documents (as applicable) and shall be uploaded to the Company's document management system in accordance with the procedures set out in the Order or the Contract Documents (as applicable). All drawings shall comply with and satisfy the drawing standards included in the Contract Documents. The Company's plot and accommodation template schedules will be completed and regularly maintained by the architect or project coordinator. These will include alpha-numeric plot identification, location, areas, use type, parking allocation etc. and the same numbering system will be used by all consultants, including the Consultant, throughout the Project.
- 3.25 The Consultant shall notify the Company as soon as reasonably practicable if any materials that the Consultant has specified for the Project are or become identified as hazardous before the ordering of materials.
- 3.26 The Consultant shall notify the Company as soon as reasonably practicable if any materials that the Consultant has specified for the Project become discontinued before the ordering of materials.
- 3.27 If the Development includes HRB Work or Existing HRB Work, the provisions of Annex 1 (Higher-Risk Buildings) shall apply.
- 3.28 If the Consultant is being appointed to the role of Principal Designer (Building Regulations), then the provisions of Annex 2 (Principal Designer (Building Regulations)) shall apply.

4 THE SITE

- 4.1 The Consultant shall be deemed to have visited the Site and to be fully satisfied with all local conditions, means of access, feasibility of deliveries, unloading, storage, the location of all services and drainage, the existing features, appearances and styles of the existing premises forming the Site of the Works (if any) and all other matters which may affect the carrying out of the Services. The Consultant shall not be entitled to any adjustment of the Contract Sum including (but not limited to) any costs, losses or expenses incurred by reason of any such matters.
- 4.2 The Consultant shall when visiting the Site take all reasonable steps to keep the Site clean and tidy and shall clear away all of its rubbish and waste and shall return all of its surplus usable material to a suitable store or compound in accordance with the instructions of the Company. Without prejudice to any other rights or remedies it may have the Company reserves the right to charge the Consultant for any costs incurred by the Company as a result of any breach by the Consultant of this clause.
- 4.3 Access to the Site shall not be exclusive and the Consultant shall liaise and co-operate with the Company and other consultants and contractors to ensure that the Services are co-ordinated and integrated with works and services undertaken by others.
- 4.4 Where the Consultant is carrying out Services on Site at any time in the absence of the Company's Representative, the Consultant shall make appropriate arrangements with the Company for the Consultant's arrival and departure from the Site and establish suitable emergency procedures before commencing any Services on site.
- 4.5 Where the Consultant is working alone on Site, the Consultant shall ensure that on leaving the Site it is left in a secure and safe condition.
- 4.6 Working hours on Site shall be between the hours and on the days identified in the Contract Documents or such other times as may be required by any relevant authority or as may be varied by the Company.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

5 MATERIALS, PLANT, TOOLS AND EQUIPMENT

- 5.1 Any materials, plant, tools and equipment provided by the Consultant in accordance with clause 3.4 shall remain at the risk of the Consultant who shall be responsible for any loss of or damage to such items whether on the Site, during transit or whilst at any other location. The Consultant shall ensure that such items are properly protected against any loss or damage and adequately covered by a suitable policy of insurance.

6 STATUTORY PROVISIONS

- 6.1 The Consultant shall undertake its obligations under the Contract in compliance with all current Statutory Requirements (including but not limited to Health & Safety at Work Act, the CDM Regulations and the Dutyholder Regulations). The Consultant shall provide such evidence of its compliance with Statutory Requirements as may reasonably be requested by the Company from time to time.
- 6.2 Prior to commencement of the Services the Consultant shall provide the Company with such risk assessments and method statements relating to the carrying out of the Services as the Company may require.

7 DESIGN

- 7.1 Where the Order or the Contract Documents identify that the Consultant is responsible for any element of the design or specification of the Development:
- 7.1.1 the Consultant accepts full responsibility for undertaking such design and/or specification and for ensuring that such design and/or specification will comply with and satisfy all the requirements of the Contract and acknowledges and agrees that the Company has relied on and is relying exclusively upon the Consultant in relation to all aspects of such design and/or specification;
- 7.1.2 any reference to the design and/or specification shall include any design or specification which the Consultant has caused or shall cause to be prepared and/or issued by others;
- 7.1.3 the Consultant shall be wholly responsible for any error, inaccuracy, conflict, discrepancy or inconsistency: (a) within the design and/or specification (or any part thereof) prepared by the Consultant and/or (b) between its design and/or specification and: (i) any requirement in the Contract Documents; and/or (ii) good industry practice; and/or (iii) any applicable guidance; and/or (iv) relevant Statutory Requirements; and/or (v) consents, such as planning consents;
- 7.1.4 the Consultant shall take all reasonable steps to co-ordinate and (to the fullest extent reasonably possible) to integrate the Consultant's design with the design and execution of the works for the wider Development and (subject always to co-ordinating with the Company) the Consultant shall liaise, consult and co-operate with relevant third parties who have a design responsibility in relation to the Development;
- 7.1.5 the Consultant shall review the design produced by the Company or any third parties engaged in regard to the design of the Development which interfaces with the Consultant's design (provided that the Company shall have provided such design to the Consultant) and the Consultant shall be responsible for identifying any error, inaccuracy, conflict, discrepancy or inconsistency within such other design(s) and between such other design(s) and the Consultant's design; and
- 7.1.6 the Consultant shall notify the Company upon it discovering any error, inaccuracy, conflict, omission, discrepancy, ambiguity or inconsistency within its design (or any part thereof) and/or within the design(s) of any other part or element of the Development that the Consultant becomes aware of, in which event the Company shall give an instruction to the Consultant in order to deal with the same, provided that no such instruction shall entitle the Consultant to any extension of time, or increase to the Contract Sum or to any costs, losses and/or expenses it thereby incurs.
- 7.2 Where the Consultant is responsible for developing, submitting and finalising the design of the Development (or any part thereof) as part of the Services it shall do so in accordance with the Contract Documents (including any employer's requirements or relevant extracts included in the Contract Documents) and the other applicable provisions of this Contract. Further, the Consultant shall specify as part of any design proposals any potential value engineering options for consideration by the Company.
- 7.3 The Consultant shall as part of its design provide any necessary design risk assessments and account for and/or incorporate advice or comments raised by the Principal Designer (CDM) and/or Principal Designer (Building Regulations) required for satisfaction of the CDM Regulations and/or the Dutyholder Regulations (but subject always to clause 7.5). The Consultant shall undertake its design in such manner as will ensure that the Works to which such design relates will be delivered within the agreed values.
- 7.4 The Consultant warrants to the Company that the design of all elements of the Project for which it is responsible complies with and will comply with all relevant Statutory Requirements (including, as applicable to the Project but without limitation, the Building Regulations 2010, The Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning Act 2008, the Local Government Act 2003 and the Planning and Compulsory Purchase Act 2004 and all other statutes from time to time in force relating to the control of the use or development of land including any which vary or replace the foregoing).
- 7.5 No approval, comment, suggestion, review, revision or otherwise by the Company or any other party in connection with the Consultant's design submitted in relation to the Development shall in any way relieve or affect the responsibility of the Consultant for that design.
- 7.6 The Consultant undertakes to the Company that it will perform the duties and undertake the responsibilities allocated to a designer and a "person carrying out design work" under each of the CDM Regulations and the Dutyholder Regulations and shall co-operate with and provide information to the Company, the Principal Designer (CDM), the Principal Designer (Building Regulations), the Professional Team and other dutyholders, as necessary to enable them to comply with their respective obligations under the CDM Regulations and the Dutyholder Regulations.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

- 7.7 The Consultant warrants to the Company that the Consultant (including each individual engaged by the Consultant in the performance of the Services) has the skills, knowledge, experience and behaviours and organisational capacity to fulfil the relevant competency requirements applicable to its role under regulation 11F of the Building Regulations 2010. The Consultant undertakes to the Company that it shall notify the Company and the Principal Designer (Building Regulations) if at any time the Consultant (or any individual engaged by the Consultant in performance of the Services) ceases to satisfy the competency requirements of the Building Regulations 2010. The Consultant shall, if required by the Company, replace within a reasonable period any person who does not have the skills, knowledge, experience and behaviours required to satisfy the competency requirements of the Building Regulations 2010.
- 7.8 The Consultant shall, if requested by the Company, provide the Company with a written record of the steps the Consultant took under regulation 11E(2) of the Building Regulations 2010 when appointing its officers, employees, agents and sub-consultants (including sub-consultants) in connection with the Services.

8 TIME

- 8.1 The Company will supply the Consultant with either a date, or a series of dates, or a Contract Programme by which the Services need to be accurate and completed to a high standard, in accordance with the Order and the requirements of the Company. This shall communicate the Period for Completion and the order in which the Services are to be delivered.
- 8.2 Where the Services are to be delivered over a period in excess of 4 weeks the Consultant will supply the Company a detailed programme which schedules the tasks necessary to deliver the Services in sufficient detail that allows the Consultant and the Company to monitor progress. The Consultant's programme shall not conflict with the Contract Programme so as to delay the Project. Where there is any conflict, the Consultant needs to bring it immediately to the Company Representative's attention and either amend its programme to be consistent with the Contract Programme or seek written approval from the Company that the conflict is acceptable. Until this approval has been given the Consultant shall provide the Services in accordance with the Contract Programme.
- 8.3 The Company's decision, acting reasonably given the Company's requirements and the expectations of the Brief and its Order, will be binding on all parties as to Contract Programme.
- 8.4 The Consultant shall use best endeavours to adhere to the Contract Programme.
- 8.5 The Consultant shall commence the Services either on the date specified in the Contract Documents or on the expiry of the period of notice identified in the Contract Documents or on the date specified in a notice to commence issued by the Company in accordance with the Contract Documents, whichever is applicable.
- 8.5.1 Completion of the Services shall be achieved on or before the expiry of the Period for Completion and in accordance with any programme (including stages of completion) notified in writing by the Company to the Consultant or contained within the Order or the Contract Documents or any amended or revised programme which the Company may from time to time notify in writing to the Consultant.
- 8.5.2 If at any time as a result of an event it becomes apparent to the Consultant that the progress of the Services is being delayed and/or will not be completed within the Period for Completion, or that any dates for completion of stages (as identified in the programme referred to in clause 8.5.1) may not be achieved, the Consultant shall within 7 days of any such event give notice to the Company in writing of the probable cause and duration of such delay along with a proposed programme showing the manner and the periods in which the Services will be carried out to achieve completion before the expiry of the Period for Completion and/or showing the steps which are to be taken to eliminate or reduce the delay. Should the Consultant be able to demonstrate that a delay not caused by any negligence, default, or breach of contract on the part of the Consultant, its sub-contractors (including sub-consultants), suppliers, servants or agents, then, save where these terms and conditions expressly provide otherwise, the Company shall give such an extension of time by fixing a revised Period for Completion that the Company estimates to be fair and reasonable. For the avoidance of doubt, the Consultant shall not be entitled to an extension of time for any delay caused by the Company that is concurrent with any delay caused by the Consultant.
- 8.5.3 Following service of a notice by the Consultant pursuant to clause 8.5.2 the Consultant shall promptly supply to the Company any further information relating to the delay which is requested by the Company.
- 8.5.4 The Consultant shall take all reasonable steps to mitigate the delay and consequences of any delay which is the subject of a notice pursuant to clause 8.5.2.
- 8.5.5 The Consultant acknowledges that a breach by it of its obligations under the Contract (including but not limited to failing to achieve completion before the expiry of the Period of Completion) could result in the Company suffering or incurring losses or expense and/or owing liabilities to third parties regardless of whether the particular breach by the Consultant causes delay to the completion of the Development. The Consultant shall be liable to the Company for such losses or expenses and/or liabilities which may be deducted from any monies due or to become due to the Consultant or may be recoverable from the Consultant as a debt.
- 8.5.6 Losses, expenses and/or liabilities in clause 8.5.5 could include those relating to any delay in the completion of the sale or disposal of any property forming part of the Development.
- 8.5.7 At any time the Company shall be entitled to instruct the Consultant, by notice, to immediately accelerate the performance and completion of the Services (at no additional cost to the Company) in order to ensure (a) that the programme dates are achieved and (b) that the Services achieve completion before the expiry of the Period for Completion in which event the Consultant shall (at its own expense) forthwith comply with such notice and provide the Company with the Consultant's proposed programme (including any relevant critical paths and any supporting documentation) demonstrating how such acceleration shall be achieved.
- 8.5.8 In the event of non-performance by the Consultant the Company reserves the right to supplement the Consultant's labour and/or materials plant, tools and/or equipment for the best interests of the Development at the Consultant's expense. The Consultant shall be liable to the Company for such expense which may be deducted from any monies due or to become due to the Consultant or may be recoverable from the Consultant as a debt.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES*Including Architects, Designers, Engineers, Surveyors etc.***9 LIABILITY PERIOD**

- 9.1 It is acknowledged by the parties that irrespective of the manner in which the Contract has been executed the period of limitation applicable to any claim or claims arising out of or in connection with the Contract shall, subject to clause 9.2, be twelve (12) years from the date when the cause of action arose and the Contract shall not be subject to any shorter limitation period under the Limitation Act.
- 9.2 Where the relevant claim relates to a breach of Section 1 or 2A of the Defective Premises Act 1972 or section 38 of the Building Act 1984 then (irrespective of the manner in which the Contract has been executed) the period of limitation applicable to such claim shall be fifteen (15) years from the date when the cause of action arose and the Contract shall not be subject to any shorter limitation period under the Limitation Act.

10 VARIATIONS

- 10.1 The Company may issue to the Consultant such instructions as it sees fit to vary the quantity or quality of the Services (including any design) or any other matter which may affect the carrying out of the Services including, but not limited to (a) any addition, omission or alteration made to the scope of the Services; (b) alteration of the standards applicable to the Services; and (c) obligations or restrictions relating to access to the Site.
- 10.1.1 Any instructions issued by the Company Representative to the Consultant may be given verbally or in writing. The Consultant shall comply with any such instruction from the Company immediately upon receipt of such instruction.
- 10.1.2 No instructions issued by the Company or subsequently sanctioned by it shall vitiate the Contract.
- 10.1.3 Where the Consultant believes there is a financial impact arising from the instruction against the Contract Sum, the Consultant is to notify the Company of that prior to commencing the implementation of the relevant instruction and shall provide the Company with an estimate of such financial impact.
- 10.1.4 Where the Consultant gives a notice under clause 10.1.3, the Company and the Consultant will seek to agree in writing (i) an appropriate adjustment to the Contract Sum resulting from the impact of the relevant instruction by the Company prior to Consultant commencing implementation of such instruction and (ii) the timing of any additional payments.
- 10.1.5 The Company may itself with the instruction require the financial impact of an instruction to be evaluated and this may in appropriate cases (such as where there are omissions) result in a reduction to the Contract Sum.
- 10.1.6 If an instruction requires an immediate response from the Consultant and there is no opportunity to agree on the impact of an instruction in advance of the variation being carried out, then the Consultant is to obtain an instruction from the Company to proceed without advance agreement of a price. In such event, the Consultant is to supply the following information; (a) signed time sheets for the variation with authenticated hours worked, agreed by the Company Representative; to be actual hours worked (b) description of the works and services undertaken in respect of the variation; (c) description and quantities of any materials, plant, tools and equipment used in performance of the variation including copies of any relevant invoices; and (d) description of any other costs incurred in the performance of the variation, including copies of any relevant invoices.
- 10.1.7 The instruction and time sheets and other information provided under clause 10.1.6 will be considered to be a record of time and resources spent carrying out the specified variation and the value of these will be assessed by the Company and an appropriate adjustment made to the Contract Sum. The Consultant is to submit any variation claim in respect of a month along with its application for payment for the relevant month.
- 10.1.8 The Company reserves the right not to pay for variations if not accompanied by the relevant written instructions and information.
- 10.1.9 Where the Company and the Consultant have not agreed or cannot agree an appropriate adjustment to the Contract Sum it shall be adjusted as follows; (a) where any additional, omitted or altered service is of a similar nature or character to any parts of the Services for which there is pricing information in the Contract Documents, it shall be valued by reference to the appropriate Contract Documents that include such pricing information; or (b) alternatively such work shall be valued at fair rates and prices as determined by the Company; and any payment due to the Consultant shall be made in accordance with the Contract.
- 10.1.10 The Consultant acknowledges that where any instruction results in an omission to the Services, the Company is entitled to engage another consultant or sub-contractor to carry out the applicable work or services omitted from the Services. The Consultant acknowledges that it shall have no claim for loss or damages in such circumstances.

11 PAYMENT

- 11.1 The Company shall pay the Consultant the Contract Sum (as the same may be adjusted in accordance with this Contract) for the carrying out and completion of the Services. The Contract Sum shall be paid in stage payments in accordance with the Order, the Contract Documents and the provisions of this clause 11. Any assessments required to determine any stage payment shall be carried out on the basis identified in the Order.
- 11.1.1 The Consultant shall submit its invoice/application for each stage payment of the Contract Sum in accordance with the dates for submission as set out in the payment schedule, identified in the Order or (as applicable) in the Contract Documents. The invoice/application for payment shall specify (i) the sum which the Consultant considers will become due on the payment due date in respect of the stage payment on the basis of the Services undertaken by it in the period up to and including the payment due date and (ii) the basis on which that sum is calculated. The invoice/application for payment must be accompanied by such supporting documents and other information as may be necessary to evidence its correctness.
- 11.1.2 The amount of a stage payment to which the Consultant is entitled shall be assessed in accordance with the Contract Documents based on the Services carried out in accordance with the Contract.
- 11.1.3 The due date for payment of a stage payment shall be the date identified in the payment schedule for that stage payment, provided that if the Consultant submits its invoice/application for a stage payment later than the date identified for that stage payment, then the due date for payment of that stage payment shall be

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

- deferred until the next stage payment date (as identified in the payment schedule) that occurs after the Consultant submits its invoice/application.
- 11.1.4 Not later than 5 days after the payment due date for a stage payment, the Company shall issue to the Consultant a notice specifying the sum (if any) that the Company considers to be or to have been due at the payment due date for that stage payment and the basis on which that sum is calculated (a **Payment Notice**). If it has not already done so then the Consultant shall on receipt of a Payment Notice give the Company an invoice valid for VAT purposes in the amount stated as due in the Payment Notice.
- 11.1.5 The final date for payment for a stage payment shall be the date 14 days after the payment due date for that stage payment (**Final Date for Payment**).
- 11.1.6 Unless the Company has served a Pay Less Notice in accordance with clause 11.1.7 and subject to clause 11.1.9, the Company shall pay the Consultant the sum referred to in the applicable Payment Notice (or, if the Company has not served a Payment Notice, the sum referred to in the Consultant's invoice/application for payment as provided for in clause 11.1.1) (the **Notified Sum**) on or before the relevant Final Date for Payment.
- 11.1.7 Not later than the date occurring 1 day before the Final Date for Payment of a stage payment (the **Prescribed Period**), the Company may give notice to the Consultant that it intends to pay less than the Notified Sum (a **Pay Less Notice**). Such notice shall specify the sum that the Company considers to be due on the date the Pay Less Notice is served and the basis on which that sum is calculated. If the Company gives a Pay Less Notice, then the Notified Sum to be paid on or before the Final Date for Payment shall be the sum stated in the Pay Less Notice.
- 11.1.8 All payments shall be on account, shall be subject to adjustment and review following completion of the Services and shall not signify any approval by the Company of the Services.
- 11.1.9 If the Consultant becomes insolvent within the meaning of subsections (2) to (5) of section 113 of the Housing Grants, Construction and Regeneration Act 1996 after the Prescribed Period, the Company shall not be required to pay the Consultant the Notified Sum on or before the final date for payment.
- 11.2 Unless otherwise specified in the Order, the Contract Sum shall be (i) exclusive of any applicable value added tax; and (ii) inclusive of any and all costs, Disbursements, expenses and overheads of every kind incurred by the Consultant in connection with the Services.
- 11.3 In the event that certain disbursements and out of pocket expenses have been authorised in the Order to be charged any applications for payment of the same will only be paid once the Company has received and verified to the Company's reasonable satisfaction the original (not a copy) VAT receipt to cover the expenses incurred with third parties or in the case of drawing copies, mileage or the like incurred in-house by the Consultant such substantiated records to justify the amount claimed that the Company should reasonably request. No payments will be made for first class travel, food, or any other items deemed by the Company to be an unnecessary cost or extravagance.
- 11.4 The invoice/application for payment must be laid out so that it allows for easy reconciliation with the Order. It must clearly highlight the amounts that relate to the original Order and separate those amounts that relate to subsequent Orders or instructions for any variation to the Services agreed with the Company. It may be accompanied by a breakdown of the basis upon which the amount claimed is calculated and but should include such other information the Company may reasonably require to allow for a prompt and efficient payment to be effected.
- 11.5 No payments will be made unless the Company has received current copies of the Consultant's professional indemnity insurance and public liability insurance certificates, Vat registration details, and signed copies of any requested collateral warranties and letters of reliance in the forms requested. A collateral warranty in the form as supplied with the tender will be required in favour of the funder prior to the first payment from any Consultant with a design input. Letters of reliance in the form as supplied with the tender or as requested by the Company in accordance with the Contract will be required in favour of the funder prior to the first payment from any Consultant.
- 11.6 No claim for payment shall be valid unless supported by an official Order signed by the Company. Invoices must be rendered separately for each site. Invoices must be valid for VAT purposes. The Company's Order number and/or reference must clearly be quoted in all correspondence, including invoices.
- 11.7 During the period prior to the date of issue of the Making Good Notice, each stage payment shall be subject to a deduction for retention in accordance with this clause 11.7 and the Consultant's invoices and applications for payment shall provide for such deduction of the retention. In the period until the date of practical completion of the Project, the retention that may be deducted and retained by the Company from the stage payments shall be an amount equal to 5 per cent (or such other retention percentage as may be specified for such period in the Order) of the stage payments and in the period from the date of practical completion of the Project to the date of issue of the Making Good Notice shall be 2.5 per cent (or such other retention percentage as may be specified for such period in the Order) of the stage payments. Where practical completion of the Project has occurred, the Consultant may make an application for release of one half of the total retention and the provisions of clause 11.1 shall apply to such application (as if it were application for each stage payment), save that its due date for payment shall be 35 days after the date the Company receives such application from the Consultant and its final date for payment shall be 14 days thereafter. Where the Making Good Notice has been issued the Consultant may make an application for release of the balance of the retention, and the provisions of clause 11.1 shall apply to such application (as if it were application for each stage payment), save that its due date for payment shall be 35 days after the date the Company receives such application from the Consultant and its final date for payment shall be 14 days thereafter. The Consultant must make an application for payment in accordance with this clause, in order for any retention to be released.
- 11.8 The Company's interest in the retention shall not be fiduciary and the relationship of the Company and the Consultant with regard to the retention shall be solely that of debtor and unsecured creditor. The Company shall have no obligation to invest the retention or any part of it, nor shall the Company be obliged to segregate the retention or any part of it in a separate bank account or in any other manner. The Consultant acknowledges that the full and unencumbered beneficial interest in the retention (including, without limitation, any interest of income arising on it) shall remain vested in the Company unless and until the retention is paid to the Consultant pursuant to this Contract.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

12 CONSULTANT'S RIGHT TO SUSPEND

- 12.1 Subject to clause 11.1.9, if the Company fails to pay in full the Notified Sum in respect of a stage payment on or before the applicable Final Date for Payment and the Company has not given a Pay Less Notice complying with clause 11.1.7, the Consultant shall have the right to suspend performance of any or all of his obligations under the Contract by giving not less than 14 days' notice to the Company of its intention to do so and stating the ground or grounds on which it is intended to suspend performance. The right to suspend performance shall cease when the Company makes payment in full of the amount of the payment to be made. The Consultant shall be entitled to a reasonable amount in respect of the costs and expenses reasonably incurred by it as a result of the exercise of such right. The Period for Completion shall be extended to take account of any period during which performance is suspended in pursuance of, or in consequence of the exercise of, such right to suspend.
- 12.2 The Consultant shall immediately resume performance of its obligations under this Contract within two Business Days following receipt of payment in full.

13 SET-OFF

- 13.1 The Company shall be entitled to deduct from or set-off against any payments otherwise due to the Consultant under the Contract or any other agreement between the Company and the Consultant the amount of any costs, losses, expenses or damages as the Company shall reasonably determine as being the amount actually incurred or a fair and reasonable estimate of the amount likely to be incurred and to which the Company is entitled by reason of any breach by the Consultant of any of these terms and conditions. Such right of deduction or set-off shall be in addition to all common law right of set-off or deduction and any other rights, remedies, actions, claims or demands which the Company may have against the Consultant and shall not affect the Company's right to recover any further sums due to it under the Contract or generally.

14 STATUTORY OBLIGATIONS

- 14.1 The Consultant shall at its own expense comply with and give all notices or obtain all consents required by any statute, statutory regulations, orders or the like required in connection with the Services and shall provide all relevant details to the Company.
- 14.2 The Contract Sum shall include the cost of obtaining and/or complying with all appropriate regulations and consents and the Consultant shall indemnify the Company against all costs, losses and expenses it may incur as a result of any breach by the Consultant of such regulations and consents.

15 INSURANCE

- 15.1 The Consultant shall take out and maintain insurances in respect of claims arising out of its liability at law in respect of death of or injury or illness or disease to employees and third parties and/or loss of or damage to third party property, destruction, loss of amenities, trespass, injury or any like cause all arising out of or in the course of or by carrying out the Services. Insurance in respect of claims for personal injury to, or death of any person under a contract of service or apprenticeship with the Consultant shall comply with all relevant Statutory Requirements. The insurance cover shall be not less than £5 million public liability insurance and £10 million for employer's liability (or such other sum as may be specified in the Contract Documents) for any one occurrence or series of occurrences arising out of one event.
- 15.2 The Consultant shall take out and maintain suitable insurance in respect of any loss or damage to work executed as part of the Services and loss or damage to any materials plant, tools and equipment used in connection with the Services, for their full re-instatement value or such other sum as may be specified in the Order.
- 15.3 The Consultant shall take out and maintain professional indemnity insurance for not less than £5 million (or such other sum as may be specified in the Contract Documents) for any one occurrence, or series of occurrences, arising out of any one event for a period beginning on the date of commencement of the Services or the date of this Contract, whichever is earlier and ending not earlier than 15 years after the date of practical completion of the Project and notwithstanding the termination for any reason of the Consultant's engagement under this Contract, provided that such insurance is available at commercially reasonable rates and terms. Any increase or additional premium required by insurers by reason of the Consultant's own claims record or other acts, omissions, matters or things particular to the Consultant shall be disregarded in determining whether such insurance is available at commercially reasonable rates and terms. The Consultant shall immediately inform the Company if such insurance ceases to be available at commercially reasonable rates and terms or if there is any material reduction in the scope or level of cover offered by such insurance, the Consultant shall discuss with the Company the means of best protecting their respective positions in the absence of such insurance. The Consultant shall maintain that professional indemnity insurance:
- 15.3.1 with reputable insurers lawfully carrying on insurance business in the United Kingdom;
 - 15.3.2 on customary and usual terms and conditions prevailing for the time being in the insurance market; and
 - 15.3.3 on terms that do not require the Consultant to discharge any liability before being entitled to recover from the insurers and on terms that would not adversely affect the rights of any person to recover from the insurers under the Third Parties (Rights Against Insurers) Act 2010.
- 15.4 When required to do so by the Company, the Consultant shall provide such evidence as the Company may reasonably require that the insurances required by this clause 15 are being maintained. Notwithstanding any other provision of the Contract, where the Consultant has failed to provide such evidence then the Company shall be entitled to withhold any payment of the Contract Sum pending delivery of the evidence required.
- 15.5 Should the Consultant fail to comply with the insurance requirements set out within the agreement the Consultant shall pay to the Company on demand any money reasonably expended by the Company to effect insurance against any risk or amount with respect to which such default shall have occurred.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES*Including Architects, Designers, Engineers, Surveyors etc.***16 SUSPENSION AND DETERMINATION**

- 16.1 The Company may, unilaterally and at will, suspend the carrying out and completion of the whole or any part of the Services by giving to the Consultant not less than 7 days' notice in writing of its intention to suspend.
- 16.1.1 The Company's notice shall specify which part or parts of the Services are to be suspended and the date or dates on which the same are to be suspended.
- 16.1.2 Upon receipt of the Company's notice the Consultant shall take all reasonable steps to bring the relevant Services to an end in an orderly and safe manner (but with all reasonable speed and economy) and shall comply with the Company's reasonable instructions in relation to the same.
- 16.1.3 The Company shall not be liable for any loss, claim, demand, damages or expense whatsoever and howsoever suffered or incurred by the Consultant by reason of the Company serving a notice in accordance with this clause 16.1.
- 16.1.4 The Company may, at any time following the service of a notice in accordance with the provisions of clause 16.1 give a further notice to the Consultant requiring the Consultant to resume the carrying out and completion of the whole or any part of the previously suspended Services.
- 16.1.5 Any notice given by the Company pursuant to clause 16.1.4 shall be in writing, shall specify the part or parts of the previously suspended Services to be resumed and the date or dates on which such part or parts of the Services are to be re-commenced, provided that the Consultant shall not be required to re-commence on a date earlier than 7 days from the date of the Company's notice.
- 16.1.6 Upon receipt of the Company's notice given in accordance with the provisions of clause 16.1.4 the Consultant shall resume performance of the relevant Services on the date or dates stated in the Company's notice.
- 16.1.7 The Company shall not be liable for any loss, claim, demand, damages or expense whatsoever and howsoever suffered or incurred by the Consultant by reason of the Company giving a notice in accordance with this clause 16.1.4.
- 16.1.8 Upon resumption of the previously suspended Services the provisions of this Contract including those relating to payment of any further sums due, will apply to the Services as resumed save that the Consultant shall by notice in writing to the Company be entitled to require an extension of time be granted by the Company for completion of the whole or relevant part of the Services so resumed the duration of which shall not exceed the period of suspension and where such time for completion is then later than the existing Period for Completion to a consequential extension of the Period for Completion. Within a reasonable time after receipt of such notice, the Company shall, by notice to the Consultant, grant such extension of time for completion of the whole or relevant part of the Services so resumed, and shall grant any consequential extension to the Period for Completion so required.
- 16.1.9 If the Company shall not have served a further notice requiring resumption of any previously suspended Services within a period of 6 months from the date on which the same were suspended, then either party may give notice in writing to the other stating that, unless the suspended Services are resumed by the Company giving a 7 day notice in accordance with the provisions of clause 16.1.4 then the engagement of the Consultant under this Contract will be determined under this clause 16.1.9. In default of the Company giving a notice under clause 16.1.4 within 7 days of the date of any notice given by either party to the other pursuant to the provisions of this clause 16.1.9, the Consultant's engagement under this Contract will automatically determine on expiry of the aforesaid 7 day period, without any requirement for any further notice to be given by either party.
- 16.1.10 The Company shall not be liable for any loss, claim, demand, damages or expense whatsoever and howsoever suffered or incurred by the Consultant by reason of the determination of the Consultant's engagement under clause 16.1.9.
- 16.2 Upon any such suspension the Consultant shall forthwith deliver up to the Company one copy of all Services Documentation whether in the course of preparation or completed, together with the originals of any applications, consents and refusals relating to the Project that are in its possession or control, or where it does not hold the originals but it does have a copy, then the Consultant shall provide the Company with a copy of the same.

17 EFFECT OF SUSPENSION

- 17.1 On any suspension of the Services in accordance with the provisions of clause 16.1 any other provisions of the Contract which require any further payment in respect of the suspended Services shall cease to apply.
- 17.1.1 Not later than 3 months after the whole or any part of the Services have been suspended the Company shall prepare an account (**Suspension Account**) setting out in respect of any part or parts of the Services so suspended (a) the total value of such Services that have been properly executed at the date of such suspension as aforesaid; and (b) any other sums incurred by the Consultant or for which it is legally bound to pay that relate to the suspended Services (or were incurred in anticipation of the carrying out of such suspended Services) and would otherwise, but for the suspension, have been recoverable from the Company in accordance with this Contract.
- 17.1.2 After taking into account amounts previously paid to the Consultant pursuant to this Contract in respect of the suspended Services, the Company shall pay to the Consultant the amount properly due as set out in the Suspension Account. The due date for payment of any amount properly due as aforesaid shall be 35 days following submission of the Suspension Account to the Consultant and its final date for payment shall be 7 days thereafter. Payment by the Company for any goods and materials shall be subject to such materials and goods thereupon becoming the property of the Company.

18 DETERMINATION

- 18.1 If the Consultant shall be in default in any of the following respects:-
- 18.1.1 it wholly or substantially suspends the carrying out of the Services without reasonable cause; or
- 18.1.2 it fails to proceed regularly and diligently with all or any part of the Services; or

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

- 18.1.3 it fails to undertake the Services with the standards required by this Contract; or
 - 18.1.4 it sub-contracts the whole or any part of the Services without the Company's prior written consent; or
 - 18.1.5 it fails to comply with an instruction requiring the correction of Services or the removal from use in connection with the Services of materials, plant, tools or equipment which are not in accordance with the Contract; or
 - 18.1.6 it fails to comply with any programme or any amendments or revisions to such programme or any instructions or requests from the Company; or
 - 18.1.7 it fails to proceed with the rectification of any defects, errors or omissions within the Services with reasonable diligence; or
 - 18.1.8 it fails to provide and maintain sufficient or adequate staffing on the Project to enable it to comply with any programme or to remedy any delay in respect of all or any part of the programme; or
 - 18.1.9 it causes or fails to prevent any loss or damage to the Development as a result of any act, omission or default on the part of the Consultant; or
 - 18.1.10 it fails to comply with any duties or obligations in respect of health and safety legislation; or
 - 18.1.11 it commits a material breach of any of its obligations or duties contained within the Contract,
- the Company may issue written notice to the Consultant specifying the default.
- 18.2 If the specified default is capable of being remedied within 7 days of receipt of such notice and the Consultant fails to remedy such default within that period, the Company may at any time within the next 28 days issue a further notice to the Consultant determining the Consultant's engagement under the Contract and such determination shall be effective upon issue by the Company of the second notice.
- 18.3 If the specified default is not capable of being remedied within 7 days of receipt of such notice, the Consultant shall take reasonable steps to remedy such default within that period, including providing a written action plan for its remedy to the Company's reasonable satisfaction. If the Consultant fails to take reasonable steps within that the period, the Company may at any time within the next 28 days issue a further notice to the Consultant determining the Consultant's engagement under the Contract and such determination shall be effective upon issue by the Company of the second notice.
- 18.4 The Company shall not be liable for any loss, claim, demand, damages or expense whatsoever and howsoever suffered or incurred by the Consultant by reason of the determination of the Consultant's appointment under this clause 18.

19 INSOLVENCY

- 19.1 If:
- 19.1.1 the Consultant suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - 19.1.2 the Consultant commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts or makes a proposal for or enters into any compromise or arrangement with any of its creditors (other than for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party);
 - 19.1.3 the Consultant applies to court for, or obtains a moratorium under Part A1 of the Insolvency Act 1986;
 - 19.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with its winding up of the Consultant (being a company or limited liability partnership), other than for the sole purpose of a scheme for its solvent amalgamation with one or more other companies or its solvent reconstruction;
 - 19.1.5 in respect of the Consultant an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed;
 - 19.1.6 the holder of a qualifying floating charge over the Consultant's assets has become entitled to appoint or has appointed an administrative receiver over the Consultant;
 - 19.1.7 a person becomes entitled to appoint a receiver over all or any of the Consultant's assets or a receiver is appointed over all or any of its assets;
 - 19.1.8 the Consultant is an individual and is the subject of a bankruptcy petition or order;
 - 19.1.9 a creditor or encumbrancer of the Consultant attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Consultant's assets and such attachment or process is not discharged within ten days;
 - 19.1.10 an event occurs, or proceeding is taken, with respect to the Consultant in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 19.1.1 to 19.1.9 above (inclusive); or
 - 19.1.11 the Consultant suspends or ceases, or threatened to suspend or cease, carrying on all or a substantial part of its business,
- the Company may at any time thereafter by written notice determine the Consultant's engagement under the Contract, such determination to be effective upon receipt of such notice.

20 EFFECT OF DETERMINATION

- 20.1 Upon determination of the Contract under clause 16, 18 or 19:
- 20.1.1 the Consultant shall take all reasonable steps to bring the Services to an end in an orderly and safe manner (but with all reasonable speed and economy);
 - 20.1.2 the Consultant shall forthwith deliver up to the Company one copy of all Services Documentation whether in the course of preparation or completed, together with the originals of any applications, consents and refusals relating to the Project that are in its possession or control or where it does not hold the originals but it does have a copy, then the Consultant shall provide the Company with a copy of the same;

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES**Including Architects, Designers, Engineers, Surveyors etc.**

- 20.1.3 notwithstanding anything contained in the Contract, no further sums shall become due to the Consultant until the Company has completed the remainder of the Services and has agreed the total cost of carrying out of any such services with an alternative consultant and the Company need not pay any sum that has already become due insofar as the Company gives or has given a Pay Less Notice or if the Consultant is insolvent (within the meaning of subsections (2) to (5) of section 113 of the Housing Grants, Construction and Regeneration Act 1996);
- 20.1.4 the Company shall be entitled to set-off and/or recover from the Consultant all costs, losses, damages and expenses incurred by the Company by reason of the determination including the costs incurred in completing the remainder of the Services; and
- 20.1.5 within 3 months of completing any remaining Services and agreeing the total cost of such works with an alternative consultant the Company may, or upon receipt of a written request from the Consultant shall, provide an account to the Consultant identifying any balance owing to either the Company or the Consultant. Such balance shall be treated as if an application for payment had been made for such sum under these terms and conditions, save that the due date for payment of such balance shall be the date the account is submitted to the Consultant and the final date for payment shall be 14 days after such due date.
- 20.2 These rights and remedies shall be in addition to any other rights, remedies, actions, claims or demands which the Company may have against the Consultant and shall not affect the Company's right to recover any further sums due to it under the Contract or generally.

21 SETTLEMENTS OF DISPUTES

- 21.1 If any dispute or difference arises under or in connection with the Contract, either party may at any time refer it to adjudication in accordance with the provisions set out in Part 1 of the Scheme for Construction Contracts (England and Wales Regulations) (as current at the date of reference) which shall take effect as if it was incorporated into this clause. The adjudicator shall be nominated at the request of either party by the Royal Institute of Chartered Surveyors.

22 WARRANTY AGREEMENTS, PERFORMANCE BONDS, PARENT COMPANY GUARANTEES ETC

- 22.1 Where it is stated in the Contract Documents that collateral warranty agreements, letters of reliance parent company guarantees or other similar agreements are required the Consultant shall within 14 days of receipt of the Company's written request:-
- 22.1.1 complete and enter into any such agreements in the form(s) contained in the Contract Documents (or such other similar form(s) as the Company may reasonably require); and
- 22.1.2 in the case of collateral warranty agreements, the Consultant will enter into such agreements in favour of any third party with an interest or prospective interest in the Development and procure that any sub-contractor (including any sub-consultant) engaged by the Consultant in connection with the Services enters into collateral warranty agreements in the form(s) contained in the Contract Documents (or such other similar form(s) as the Company may reasonably require) in favour of the Company and any third party with an interest or prospective interest in the Development.
- 22.2 Without prejudice to clause 11.5, if the Consultant fails to deliver any such agreements in accordance with clause 22.1, the Company shall not be obliged to make any further payment to the Consultant under this Contract until such agreements are delivered to the Company duly executed and/or the Company may make a deduction equivalent to 10% of the Contract Sum subject to issuing a Pay Less Notice, only to be reinstated on receipt of all required documents and/or to recover from the Consultant a sum equivalent to 10% of the Contract Sum, only to be repaid within 28 days of receipt of all required documents.

23 NOTICES

- 23.1 All notices under or in connection with the Contract must be sent to the addresses stated in the Order. The Company may give notice to the Consultant at either the e-mail or postal address provided by the Consultant. Notice will be deemed received and properly served 24 hours after an e-mail is sent or three days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that the letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that the e-mail was sent to the specified e-mail address of the addressee. For the avoidance of doubt, the Consultant shall not be entitled to issue notices under this Contract by email, unless this is specifically agreed by the Company in writing.

24 PERSONNEL

- 24.1 The Consultant Representative(s) (if any) specified in the Order or such other person(s) or replacement appointed by the Consultant shall direct and control the overall performance of the Services and shall have full authority to act on behalf of the Consultant for all purposes in connection with the carrying out of the Services and shall consult and co-operate with the Company Representative(s) (if any) specified in the Order or such other person or replacement appointed by the Company. Such replacement will be communicated in writing.
- 24.2 The Company shall have the right after consultation with the Consultant to require the removal of any person engaged in the performance of the Services if, in the Company's reasonable opinion, that person's performance or conduct is or has been unsatisfactory and the Consultant shall promptly remove such person and replace him or her with another person approved by the Company.
- 24.3 The Consultant shall specify the staff involved within the Project and agrees to retain the involvement of these personnel. Key Staff shall not be replaced as long as they are in the employ of the Consultant or unless specifically agreed with or directed by the Company. The Company shall be notified in writing if any change is necessary to the above staff and a suitable replacement agreed with the Company in advance (such consent not to be unreasonably withheld). The

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

Consultant is to make such adjustments to the fees payable as deemed reasonable by the Company for abortive downtime.

25 COMMUNICATION & CO-OPERATION

- 25.1 Without limitation to the Consultant's other reporting duties under this Contract, the Consultant will produce written reports on the progress of all aspects of the Project on a monthly basis.
- 25.2 The Consultant shall attend design team meetings and project or progress meetings whenever reasonably necessary.
- 25.3 The Consultant shall within its speciality co-ordinate, and integrate its designs and/or advice within the overall designs and objectives of the Project and shall liaise and communicate by all means necessary as part of its Services to perform its role, including providing such assistance as the Company may require with regard to building control applications, the giving of required notices and the obtaining of other third party consents and approvals required for the Project.
- 25.4 The Consultant shall fully consider and respond to all comments and suggestions of the other members of the Professional Team and/or the Company with regard to any matters of architectural design, service design or specification and overall project design and the Consultant shall give due account to such comments and suggestions, but subject always to clause 7.5.
- 25.5 The Consultant shall cooperate with the lead consultant of the Professional Team. Where there is any conflict with the requests of the lead consultant and the Brief and/or the Order, the Consultant shall communicate the same to the lead consultant and if this is not satisfactorily resolved so that no conflict exists, then the Consultant shall refer the issue to the Company Representative.

26 COPYRIGHT & CONFIDENTIALITY

- 26.1 The Consultant hereby grants to the Company an irrevocable non-exclusive royalty-free licence to copy and use all drawings, details, plans, models, specifications, schedules, reports, calculations, software and other documents and information, in any format, (and any designs, ideas and concepts contained in them) prepared, conceived or developed by or on behalf of the Consultant (the **Services Documentation**) and to reproduce the design and contents of the Services Documentation in whole or in part for any purpose relating to the Development and/or sale of the Site or parts thereof or in connection with any other development undertaken by the Company. Such licence shall carry the right to grant sub-licences and shall be transferable in whole or in part to third parties and shall subsist notwithstanding the expiry or termination, for any reason, of the Consultant's engagement under this Contract.
- 26.2 The Consultant warrants the accuracy of all of the Services Documentation and that the Consultant is (unless otherwise disclosed in writing) exclusively entitled to the copyright in the Services Documentation.
- 26.3 Notwithstanding that the copyright in the Services Documentation remains vested in the Consultant and notwithstanding any expiry or termination of the Consultant's engagement under this Contract, the Consultant shall use the Services Documentation only for the purposes of the Contract and shall keep all matters concerning the Company, the Project, the Site, the Contract and Services confidential, provided that the Consultant may disclose this Contract to its insurers and its legal, financial and insurance advisers.
- 26.4 The Consultant shall not without the prior written approval of the Company take or authorise the taking of any photographs of the Project for use in any publicity or advertising or publish alone or in conjunction with any other person any artistic or literary material (including but not limited to articles, photographs or other illustrations) relating to the Project or any part thereof nor shall the Consultant impart to any publication, journal or newspaper or any radio or television programme any information or opinion regarding the Project.
- 26.5 The Consultant warrants and undertakes that the Services Documentation shall be its own original work and shall not infringe the copyright, design right, moral rights or any other rights of any third party.
- 26.6 The Consultant hereby irrevocably waives any moral rights it may have pursuant to Chapter IV (Moral Rights) of Part 1 of the Copyright Designs and Patents Act 1988 in relation to the Services Documentation and the Development.

27 INDEMNITIES

- 27.1 Without prejudice to any right or remedy which the Company may have either under the Contract or otherwise, the Consultant shall fully indemnify and keep the Company fully indemnified from and against any and all proceedings, claims, losses, expenses, costs, damages, demands or other liabilities whatsoever and howsoever suffered or incurred by the Company arising as a result of or in relation to:
- 27.1.1 personal injury to or death of any person resulting from the acts or omissions of the Consultant, its servants, agents or sub-contractors (including sub-consultants) in connection with the carrying out of the Services or as a result of the Consultant's failure to comply with its obligations under the Contract;
- 27.1.2 any loss, injury or damage to any property, real or personal, resulting from any and all acts or omissions of the Consultant, its servants, agents or sub-contractors (including sub-consultants) in connection with the carrying out of the Services or as a result of the Consultant's failure to comply with its obligations under the Contract;
- 27.1.3 any breach, non-observance or non-performance by the Consultant, its servants, agents or sub-contractors (including sub-consultants) of any of the terms, conditions or provisions of the Contract;
- 27.1.4 any breach, non-observance or non-performance by the Consultant, its servants, agents or sub-contractors (including sub-consultants) of any statutory duty or any Statutory Requirement;
- 27.1.5 any defects or omissions in the Services or in any design or specification carried out or prepared by the Consultant, its servants, agents or sub-contractors (including sub-consultants);
- 27.1.6 any act error or omission of the Consultant, its servants, agents or sub-contractors ((including sub-consultants).

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

28 DATA PROTECTION

- 28.1 Unless otherwise stated, terms used in this clause 28 shall have the meaning given to them in the Data Protection Legislation.
- 28.2 The Consultant warrants and undertakes that it has in place appropriate technical and organisational measures to protect personal data and/or any Shared Personal Data against accidental or unlawful destruction or accidental loss, unauthorised disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the Shared Personal Data being processed.
- 28.3 The Consultant warrants and undertakes and shall ensure that it, its directors, officers and employees shall at all times comply with the provisions of this clause and the Data Protection Legislation generally including, without limitation, any requirement to obtain registrations, consents and/or provide notifications and/or relevant privacy information to data subjects as required.
- 28.4 Without prejudice to the generality of clause 27, the Consultant shall indemnify the Company from and against any claims, losses, expenses, costs (including but not limited to legal fees), damages, demands and other liabilities suffered or incurred by the Company as a result of:
- 28.4.1 any breach of this clause 28 by the Consultant;
- 28.4.2 any breach of provisions equivalent to clauses 28.2, 28.3, 28.6 and 28.7 in any contract with any sub-contractor (including any sub-consultant); and/or
- 28.4.3 any act or omission by a sub-processor, sub-contractor (including sub-consultants), which would have amounted to a breach of the relevant sub-contract had the Consultant complied with its undertakings.
- 28.5 The provisions of this clause 28 shall survive termination of this Contract and/or any termination or suspension of the Consultant's engagement under this Contract and/or any suspension of the Works and/or any part or parts thereof.
- 28.6 Whenever the Consultant processes any personal data as an independent controller pursuant to this Contract, the Consultant warrants and undertakes that it will notify the Company in writing without undue delay on becoming aware of any breach of the Data Protection Legislation in relation to such personal data, providing full details of the said breach.
- 28.7 Where the Consultant processes, pursuant to this Contract, the Shared Personal Data as the processor on behalf of the Company, then in such circumstances:
- 28.7.1 the Consultant shall process the Shared Personal Data only to the extent and in such a manner as is necessary for discharging its obligations under this Contract, as otherwise permitted by the Company in writing, or required by law strictly in accordance with the Data Protection Legislation and shall not cause or permit the Shared Personal Data to be transferred outside of the United Kingdom without the prior written consent of the Company, provided that any transfer from the United Kingdom to within the European Economic Area shall not require such consent;
- 28.7.2 where the Consultant sub-contracts the performance of the Services, the Consultant shall include in any sub-contract which involves the processing of personal data the same requirements for data processing to those included in this Contract and the Consultant shall remain fully liable to the Company for the performance of the obligations of such sub-processors;
- 28.7.3 the Consultant shall be entitled to disclose the Shared Personal Data to employees, agents or officers as reasonably necessary in order to perform its obligations under this Contract but only to the extent that the Consultant ensures the reliability of such persons, being under an obligation of confidentiality, having undertaken training in Data Protection Legislation and understanding the obligations upon the Consultant in relation to the Shared Personal Data;
- 28.7.4 the Consultant shall not authorise any sub-processor (including any third party provider of cloud computing technology, meaning a solution whereby the Shared Personal Data are stored on servers that are not owned, leased or operated by the Consultant) to process the Shared Personal Data other than with the prior written consent of the Company, provided that in the case of each approved sub-processor, the Consultant shall:
- (a) provide the Company with details of the processing activities to be undertaken by the sub-processor;
- (b) include terms in the contract between the Consultant and the sub-processor which offer at least the same level of protection for the Shared Personal Data as those set out in this Contract and, upon request by the Company, the Consultant shall provide a copy of its agreement with the sub-processor to the Company (which may be redacted to the extent required to remove all information not relevant to the requirements of this clause);
- (c) carry out adequate due diligence on the sub-processor to ensure that it is capable of providing the level of protection for the Shared Personal Data as is required by this Contract, including without limitation sufficient guarantees to implement appropriate technical and organisational measures in such a manner that processing will meet the requirements of the Data Protection Legislation and provide evidence of such due diligence when requested by a supervisory authority; and
- (d) not enter into such a contract which involves a transfer of any Shared Personal Data to anywhere outside of the United Kingdom or the European Economic Area where such transfer would be prohibited by Data Protection Legislation at such time (a **Restricted Transfer**), unless (to the extent required by the Data Protection Legislation) a written contract that satisfies the relevant requirements of the Data Protection Legislation in relation to a Restricted Transfer has been entered into between the Consultant and the sub-processor;
- 28.7.5 the Consultant shall notify the Company in writing within two (2) Business Days of receipt by it of a request to exercise the Data Subject's rights or a complaint or request relating to the Consultant's obligations under the Data Protection Legislation and shall take no further steps in relation to the same until such time that it receives an instruction in writing to do so from the Company;
- 28.7.6 the Company shall on giving reasonable notice to the Consultant be entitled to request that the Consultant provide evidence, and/or allows and facilitates the audit of the procedures of the Consultant (which shall include the right to enter Consultant's premises and/or view the Consultant's systems) for the purposes of ensuring compliance with this Clause and to take any reasonable steps to satisfy itself that the Consultant is complying with its obligations;

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

- 28.7.7 the Consultant will notify the Company in writing without delay on becoming aware of any unlawful or unauthorised processing or a personal data breach in relation to the Shared Personal Data providing full details of the nature and fact of such breach (including the categories and number of Shared Personal Data records and the data subjects concerned); the likely consequences of such breach; and the measures taken or proposed by the Consultant to address such breach and mitigate any possible adverse effects;
- 28.7.8 the Consultant will assist the Company in responding to any request from a data subject and in ensuring compliance with the Company's obligations under the Data Protection Legislation with respect to security, breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators and the Consultant shall keep detailed, accurate and up-to-date written records regarding any processing of the Shared Personal Data it carries out for the Company including but not limited to, the access, control and security of the personal data, any sub-processors, the processing purposes, categories of processing, and a general description of the technical and organisational security measures; and
- 28.7.9 the Consultant shall, on termination of this Contract or on termination of the Consultant's engagement under this Contract, or when requested by the Company (whichever is sooner), securely return to the Company or on instructions of the Company securely destroy the Shared Personal Data (including all copies) in the Consultant's control or possession; however, the Consultant may retain the Shared Personal Data to the extent required by law and only to the extent and for such period as required by law and always provided that the Consultant shall ensure the confidentiality of all such Shared Personal Data and shall ensure that such Shared Personal Data are only processed as necessary for the purpose(s) specified by the Data Protection Legislation requiring its storage and for no other purpose.

29 MODERN SLAVERY LEGISLATION

- 29.1 The Consultant warrants and undertakes to the Company that:
- 29.1.1 it has not and its directors, officers and employees have not and shall not engage in activity which would amount to a breach of the Modern Slavery Legislation or activity which would constitute an offence under the Modern Slavery Legislation if the conduct took place in the United Kingdom;
- 29.1.2 it has not and its directors, officers and employees have not and shall not engage in any activity, practice or conduct which could or would place the Company in breach of the Modern Slavery Legislation or activity which would constitute an offence under the Modern Slavery Legislation if the conduct took place in the United Kingdom;
- 29.1.3 it has and shall maintain and implement adequate procedures to ensure compliance with the Modern Slavery Legislation and prevent conduct that would give rise to an offence under the Modern Slavery Legislation;
- 29.1.4 it shall include undertakings similar to those contained in clauses 29.1 and 29.3 in any contract it may enter into with sub-contractors (including sub-consultants) and suppliers and provisions similar to those contained in clauses 29.2 and 29.4; and
- 29.1.5 from time to time, at the reasonable request of the Company, it will confirm in writing that it has complied with its undertakings under this clause 29 and will provide any information reasonably requested by the Company in support of such compliance.
- 29.2 The Consultant shall maintain adequate records to assist in verifying its compliance with the provisions of this clause 29 and shall permit the Company and its representatives immediately upon request during normal business hours to access and take copies of such records and to meet with the Consultant's personnel to audit the Consultant's compliance with its obligations under this clause 29. The Consultant shall give all necessary assistance to conduct of such audits.
- 29.3 The Consultant further undertakes to the Company that:
- 29.3.1 if required by law to do so, it shall, for each and every financial year of the Consultant, comply with its obligations under section 54 of the Modern Slavery Act 2015 by publishing a Human Trafficking Statement; and
- 29.3.2 it shall include an undertaking similar to that contained in this clause in any contract it may enter into with sub-contractors (including sub-consultants) and suppliers.
- 29.4 Without prejudice to the generality of clause 27, the Consultant shall indemnify the Company from and against any claims, losses, expenses, costs (including but not limited to legal fees), damages, demands and other liabilities suffered or incurred by the Company as a result of:
- 29.4.1 any breach of this clause 29 by the Consultant;
- 29.4.2 any breach of provisions equivalent to clauses 29.1, 29.2 and/or 29.3 in any contract with a sub-contractor (including any sub-consultant) or supplier;
- 29.4.3 any act or omission by a sub-contractor (including any sub-consultant) or supplier which would have amounted to a breach of the relevant sub-contract has the Consultant complied with its undertaking set out in clause 29.1.4.

30 ANTI-CORRUPTION AND FAILURE TO PREVENT FACILITATION OF TAX EVASION

- 30.1 The Consultant warrants that:
- 30.1.1 it has not and shall not engage in any extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence, money laundering and/or any similar activity, bribery and/or corruption including, without limitation, any activity, practice and/or conduct which would constitute an offence under sections 1, 2 and/or 6 of the Bribery Act 2010 and/or would constitute a UK or foreign tax evasion offence or UK or foreign tax evasion facilitation offence under sections 45 and 46 of the Criminal Finances Act 2017 and/or in relation to overseas companies local laws (**Corrupt Activity**) whether in relation to the Services, the Project and/or the Contract;
- 30.1.2 it has not and shall not engage in any activity, practice and/or conduct which could result in the Company being guilty of an offence under section 7(1) of the Bribery Act 2010 or sections 45(1) or 46(1) of the Criminal Finances Act 2017; and

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

- 30.1.3 It has and will maintain in place (in the case of section 7 of the Bribery Act 2010) adequate procedures and (in the case of sections 45 and 46 of the Criminal Finances Act 2017) reasonable procedures in all the circumstances that are, in each case, designed to prevent any Associated Person from undertaking any conduct that would give rise to an offence under any of those sections in relation to the Services, the Project and/or the Contract.
- 30.2 The Consultant warrants that it has complied with its undertakings under this clause 30 and expressly acknowledges that the Company is entitled to rely on such warranty for the purposes of its compliance with its obligations under and/or pursuant to the Bribery Act 2010, the Criminal Finances Act 2017 and legislation governing any Corrupt Activity.
- 30.3 The Consultant undertakes to inform the Company immediately in writing should the Consultant's warranty and acknowledgement under clause 30.2 change or cease to be an accurate and complete representation of the Consultant's engagement in any Corrupt Activity in such manner and at such times with the intent that no omission and/or default of the Consultant in relation thereto shall constitute, cause or contribute to any breach by the Company of its obligations under or pursuant to the Bribery Act 2010, the Criminal Finances Act 2017 and/or any legislation in respect of Corrupt Activity.
- 30.4 The Consultant shall take all appropriate steps to satisfy itself, acting reasonably, that any Associated Person has not and shall not engage in any Corrupt Activity in relation to the Services, the Project and/or its contract with the Consultant and for which purpose the Consultant shall obtain undertakings similar to those contained in clause 30.1 from any such Associated Person.

31 MISCELLANEOUS

- 31.1 It is not intended that should have the right to enforce any of the provisions of the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 31.2 The Contract is subject to English law and the parties submit to the non-exclusive jurisdiction of the English courts.
- 31.3 The Company shall be entitled to charge this Contract and/or assign it by way of security to any person having or acquiring a charge over the Project or any part thereof without the Consultant's consent.
- 31.4 No act, omission, approval, consent, request, instruction, suggestion, requirement, delay or forbearance by or on behalf of the Company or reliance thereon by the Consultant shall absolve or relieve the Consultant from its responsibilities, duties or obligations under the Contract or operate as a waiver in whole or in part of any right power or privilege the Company may have under or in respect of the Contract

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES*Including Architects, Designers, Engineers, Surveyors etc.***Annex 1: Higher-Risk Buildings****1. Definitions**

In this Annex 1, the definitions in clause 1 of the terms and conditions shall apply, together with the following additional definitions:

Building Safety Legislation: the Regulatory Reform (Fire Safety) Order 2005, The Fire Safety (Employee's Capabilities) (England) Regulations 2010, the Fire Safety Act 2021, the CDM Regulations, the Defective Premises Act 1972, the Building Safety Act 2022 and any secondary legislation made under the Building Safety Act 2022, including without limitation The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations, 2023, The Building (Higher Risk Buildings Procedures) (England) Regulations 2023 and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023), the Building Act 1984, the Building Regulations and associated guidance and/or codes of practice (including without limitation PAS9980:2022), and such other legislation (including secondary legislation) and associated guidance and codes of practice (and/or any amendments, updates or replacements thereof) concerning fire safety and/or the requirements of buildings applicable to the Project and in force from time to time

Building Safety Regulator means the Health and Safety Executive or such other body or individual as may be appointed from time to time to fulfil the role of building safety regulator for the purposes of the Building Safety Act 2022 which term shall include any registered building inspectors and any other specialists appointed to assist such regulator in the carrying out of its regulatory duties in relation to the Project

Golden Thread Facility means the electronic facility to be created and maintained for the purpose of holding Golden Thread Information in accordance with the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023

Golden Thread Information: means information and documents (including previous versions of any document which has been updated) required in relation to the Project and which are required to be included in an electronic facility by the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023

Golden Thread Procedures means the procedures and requirements for use of the Golden Thread Facility, including the procedures for including or updating Golden Thread Information on the Golden Thread Facility

Mandatory Occurrence Reporting System: means the mandatory occurrence reporting system required for the Project by the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023

2. Building Safety Obligations

The Consultant shall provide the Company with such assistance as the Company may require:

- 2.1 in connection with the issue to the Building Safety Regulator of any building control approval application, change control application or completion certificate application or any other notification requirements under the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023:
- 2.2 for the purposes of liaison with the Building Safety Regulator in relation to any such application, as may be required by the Building Safety Regulator and/or the Statutory Requirements.
- 2.3 for the purposes of satisfying any statutory requirements applicable to the Project in accordance with the Building Safety Act 2022 or other Statutory Requirements.

3. Golden Thread

3.1 Documents produced by the Consultant that include Golden Thread Information shall be provided to the Company and the Consultant shall ensure that they are included on the Golden Thread Facility in accordance with the Golden Thread Procedures. Such documents produced by the Consultant shall be:

- (a) kept in an electronic format;
- (b) capable of being transferred electronically to other persons without the document or the data or information in it being lost or corrupted;
- (c) accurate and updated as and when necessary, and when updated submitted to the Company and included on the Golden Thread Facility in accordance with the Golden Thread Procedures;
- (d) made available for inclusion on the Golden Thread Facility in a readable format which is intelligible to the intended readers of the data, and any key needed to understand the data in a document is provided within such document;
- (e) secure from unauthorised access;
- (f) changed only in accordance with procedures which record the person who made the change and the date of the change;

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

(g) so far as reasonably practicable prepared using language, terminology and definitions that are consistent (including so far as reasonably practicable being consistent with other documents containing Golden Thread Information whether prepared by the Consultant or others).

- 3.2 The Consultant shall provide Golden Thread Information as soon as reasonably practicable following a request from the Company to enable the Company to comply with its obligations under Statutory Requirements.
- 3.3 The Company shall procure that the Consultant is granted access to the Golden Thread Facility and a copy of the Golden Thread Procedures.
- 3.4 The Consultant shall ensure that when it accesses the Golden Thread Procedures, it complies with the Golden Thread Procedures.
4. Safety Occurrences
- 4.1 The Consultant shall promptly report safety occurrences as required in accordance with the Mandatory Occurrence Reporting System established for the Project.
- 4.2 If the Consultant is not the Principal Designer (Building Regulations), then the Consultant shall, before beginning any work, attend training on the Mandatory Occurrence Reporting System and the incidents or situations that should be reported as safety occurrences.
5. Principal Designer (Building Regulations)
- 5.1 This paragraph 5 only applies where the the Development includes HRB Work or Existing HRB Work and the Consultant is appointed as the Principal Designer (Building Regulations).
- 5.2 Before the construction phase begins, the Consultant shall, with the person appointed as the principal contractor under the Building Regulations 2010 (the **BR Principal Contractor**), establish and thereafter maintain a Mandatory Occurrence Reporting System and Mandatory Occurrence Reporting Plan in accordance with Building Safety Legislation.
- 5.3 The Consultant shall take reasonable steps to ensure that designers, contractors and other periodic visitors to the Site are provided with adequate instruction and information on the Mandatory Occurrence Reporting System before beginning any work or in the case of periodic visitors, before they first enter the site.
- 5.4 The Consultant shall ensure that its officers, employees, agents and sub-contractors (including sub-consultants) attend training on the Mandatory Occurrence Reporting System and the incidents or situations that should be reported as safety occurrences.
- 5.5 Throughout the construction phase, the Consultant shall ensure an appropriate frequency of inspections of the design work is undertaken by the Consultant for safety occurrences.
- 5.6 Where a safety occurrence occurs during the construction phase, the Consultant shall comply with the reporting procedures in accordance with Building Safety Legislation on becoming aware of the occurrence,
- 5.7 If requested to do so by the Company, the Consultant shall provide the Company with a compliance declaration in accordance with the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.

STANDARD TERMS AND CONDITIONS FOR PROFESSIONALS, CONSULTANTS AND PROVIDERS OF SERVICES

Including Architects, Designers, Engineers, Surveyors etc.

Annex 2: Principal Designer (Building Regulations)

1. Without prejudice to its other obligations under the Contract, the Consultant shall comply with all obligations placed on a principal designer by the Dutyholder Regulations.
2. The Consultant:
 - 2.1 warrants that the Consultant (and each individual engaged by the Consultant in the performance of the Services) has the skills, knowledge, experience and behaviours and organizational capacity to fulfill the relevant competency requirements applicable to its role as principal designer under regulations 11F and 11G of the Building Regulations 2010;
 - 2.2 undertakes to notify the Company if at any time the Consultant (or any individual engaged by the Consultant in the performance of the Services) ceases to satisfy the applicable competency requirements of the Dutyholder Regulations; and
 - 2.3 warrants that it has not been the subject of any sanction by the Building Safety Regulator (as defined in Annex 1) or any local or public authority within the five years prior to the date of the Contract.
- 3 The Consultant shall, if required by the Company, replace within a reasonable period any person who does not have the skills, knowledge, experience and behaviours required to satisfy the applicable competency requirements of the Dutyholder Regulations.
- 4 The Consultant shall if required by the Company, provide to the Company a written notice of the steps the Consultant took under regulation 11E(2) of the Building Regulations 2010 when appointing each of its officers, employees, agents or sub-contractors (including sub-consultants) in connection with the Services.