

Project: Deconstruction Works, 48-49 Brooks Mews, Mayfair, London.

Appendix 3

SBC/Q 2011

Articles of Agreement, Contract Particulars and Amendments to the JCT Standard Building Contract With Quantities 2011 Edition as amended and supplemented by the Schedule of Amendments Including all Annexes and Appendices referred to therein.

Employer: 41-43 Brook Street LLP

Contractor: Drive Edgware Ltd

Architect/Contract Administrator: Blair Associates Architecture Limited

Quantity Surveyor: Rainey & Best Limited

Articles of Agreement

This Agreement is made the _____ 20 _____

Between **The Employer** _____ 41-43 Brook Street LLP

_____ (Company No.) _____

of/whose registered office is at _____ 41-43 Brook Street, London, W1K 4HK

And

The Contractor _____ Drive Edgware Ltd

(Company No. _____ 04119206

of/whose registered office is at _____ 56 Mill Way, Mill Hill, London NW7 3RA

Recitals

Whereas

- First** the Employer wishes to have the following work carried out:
- Deconstruction Works as more fully described in the Contract Documents**
- at
- 48-49 Brooks Mews, Mayfair, London, W1K 4HJ** ('the Works')
- and has had drawings and Bill of Quantities prepared which show and describe the work to be done;
- Second** the Contractor has supplied the Employer with a fully priced copy of the bills of quantities, which for identification has been signed or initialled by or on behalf of each Party ('the Contract Bills);
- and has provided the Employer with the priced schedules of activities annexed to this Contract ('the Activity Schedule);
- Third** the drawings are listed in appendix 6 of the Bills of Quantities annexed to this Contract ('the Contract Drawings')
- and have for identification been signed or initialled by or on behalf of each Party;
- Fourth** for the purposes of the Construction Industry Scheme (CIS) under the Finance Act 2004, the status of the Employer is, as at the Base Date, that stated in the Contract Particulars;
- Fifth** ~~the Employer has provided the Contractor with a schedule ('the information Release Schedule') which states the information the Architect/Contract Administrator will release and the time of that release~~
- Sixth** ~~the division of the Works into Sections is shown in the Contract Bills and/or the Contract Drawings or in such other documents as are identified in the Contract Particulars;~~
- Seventh** ~~where so stated in the Contract Particulars, this Contract is supplemented by the Framework Agreement identified in those particulars;~~
- Eighth** the Supplemental Provisions and Amendments to the Contract identified in the Contract Particulars apply;
- The Ninth to Twelfth Recitals apply only where there is a Contractor's Designed Portion*
- Ninth** the Works include the design and construction of
- works described in the Bills of Quantities as Contractor Designed ('the Contractor's Designed Portion' and listed in appendix 4
- Tenth** the Employer has supplied to the Contractor documents showing and describing or otherwise stating his requirements for the design and construction of the Contractor's Designed Portion ('the Employer's Requirements');

- Eleventh** in response to the Employer's Requirements the Contractor has supplied to the Employer;
- documents showing and describing the Contractor's proposals for the design and construction of the Contractor's Designed Portion ('the Contractor's Proposals'); and
 - an analysis of the portion of the Contract Sum relating to the Contractor's Designed Portion ('the CDP Analysis');
- Twelfth** the Employer has examined the Contractor's Proposals and, subject to the Conditions, is satisfied that they appear confirms that the Employer's Requirements. The Employer's Requirements, the Contractor's Proposals and the CDP Analysis have each for identification been signed or initialled by or on behalf of each Party and particulars of each ae given in the Contract Particulars;
- Thirteenth** the Contractor in commencing the Works during the COVID – 19 pandemic accepts that the restrictions, recommendations, regulations and legislation in place at the date of Contract may remain in place for the duration of the Contract and he has taken account of all of these obligations imposed upon him as a result.

Articles

Now it is hereby agreed as follows

Article 1: Contractor's obligations

The Contractor shall carry out and complete the Works in accordance with the Contract Documents.

Article 2: Contract Sum

The Employer shall pay the Contractor at the times and in the manner specified in the Conditions the VAT-exclusive sum of

One million, sixty three thousand ,nine hundred and thirty two pounds and sixty five pence (£1,063,932.65) ('the Contract Sum')

or such other sum as shall be come payable under this Contract.

Article 3: ~~Architect~~/Contract Administrator

For the purposes of this Contract the ~~Architect~~/Contract Administrator is

Blair Associates Architecture Limited

of

88 Golden Lane, London, EC1Y 0UA

or; if he ceases to be the ~~Architect~~/Contract Administrator, such other person as the Employer shall nominate in accordance with clause 3.5 of the Conditions.

Article 4: Quantity Surveyor

For the purposes of this Contract the Quantity Surveyor is

Rainey & Best Limited

of

64 Donegall Pass, Belfast, BT7 1BU

or, if he ceases to be the Quantity Surveyor, such other person as the Employer shall nominate in accordance with clause 3.5 of the Conditions.

Article 5: Principal Designer

The Principal Designer for the purposes of the CDM Regulations is

Kilcollum Principal Designers

of

The Coach House, Handsworth Parish Centre, Handsworth, Sheffield, S13 9BZ

or, if he ceases to be the Principal Designer such other person as the Employer shall appoint pursuant to regulation 14(3) of those regulations.

Article 6: Principal Contractor

The Principal Contractor for the purposes of the CDM Regulations and the SWMP Regulations is the Contractor

(or) _____

of _____

or, if he ceases to be the Principal Contractor , such other contractor as the Employer shall appoint pursuant to regulation 14(3) of the CDM Regulations and/or Regulation 4 of the SWMP Regulations.

Article 7: Adjudication

If any dispute or difference arises under this Contract, either Party may refer it to adjudication in accordance with clause 9.2.

Article 8: Arbitration

Delete and insert “Number not used”

~~Where Article 8 applies, then, subject to Article 7 and the exceptions set out below, any dispute or difference between the Parties of any kind whatsoever arising out of or in connection with this Contract shall be referred to arbitration in accordance with clauses 9.3 to 9.8 and the JCT 2011 edition of the Construction Industry Model Arbitration Rules (CIMAR). The exceptions to this Article 8 are:~~

- ~~• any disputes or differences arising under or in respect of the Construction Industry Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; and~~
- any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

Article 9: Legal proceedings

Subject to Article 7 and (where it applies) to Article 8, the English courts shall have jurisdiction over any dispute or difference between the Parties which arises out of or in connection with this Contract.

Add New Article 10 - Incorporation and amendment of JCT SBC/Q 2011

This Contract shall incorporate all the provisions of the Joint Contracts Tribunal Standard Building Contract With Quantities 2011 (SBC/Q 2011) as amended by the Supplemental Provisions and Schedule of Amendments to the Condition of Contract attached hereto.

[Note: This amendment should be (and, if it is not, shall be deemed to be) endorsed on the printed conditions].

Where there is a discrepancy between the Conditions of Contract and the Schedule of Amendments the Schedule of Amendments shall take precedence.

Article 11 - Amendment 1: CDM Regulations - Incorporation

This Agreement and the Conditions shall have effect as modified by the amendments set out in the attached Amendment 1: CDM Regulations

Article 12: Amendment 1: CDM Regulations – incorporation

This Agreement and the Conditions shall have effect as modified by the amendments set out in the attached Amendment 1: CDM Regulations.

Where there is any discrepancy between Amendment 1: CDM Regulations and these Schedule of Amendments, the Schedule of Amendments shall take precedent.

Article 13: Progress of the Works

If the Contract Administrator instructs the Contractor in writing to temporarily suspend all or part of the Works, the Contractor shall immediately (provided the Works have been made safe) suspend such part of the works notified to it until it receives an instruction from the Contract Administrator to proceed with the suspended part of the Works. The Contractor shall use its reasonable and proper efforts to mitigate the effects of any consequential delay and disruption.

If the Contract Administrator instructs in writing the Contractor not to carry out all or any part of the Works which the Contract Administrator reasonably believes will cause a disturbance to the guests of the Employer or adjacent occupiers, the Contractor shall not perform such part of the Works during such times as are contained in the instruction. The Contract Administrator shall instruct the lifting of this restriction in writing. The Contractor shall use its reasonable and proper efforts to mitigate the effects of any consequential delay or disruption.

Article 14: Personnel

The Contractor acknowledges the business operations carried out at the Site and the importance of the Employer's reputation. The Employer shall have the right after consultation with the Contractor to require the removal of any person engaged in the performance of the Works (or any part thereof) or sub-contracted by the Contractor to perform the Works (or any part thereof) if in the Employer's reasonable opinion such person's performance or conduct is or has been unsatisfactory and the Contractor shall promptly remove such person and replace him with a substitute. The Contractor shall not be entitled to an extension of time, any loss and/or expense or additional payment as a consequence of the Employer exercising its rights under this Article 14.

Attestation

The Agreement is to be executed as a deed

Contract Particulars

Note: An asterisk * indicates text that is to be deleted as appropriate.

Part 1: General

Clause etc	Subject	
Fourth Recital and clause 4.7	Construction Industry Scheme (CIS)	* Employer at the Base Date is a 'contractor' / is not a 'contractor' for the purposes of the CIS
Sixth Recital	Description of Sections (if any) <i>(If not shown or described in the Contract Drawings or Contract Bills, state the reference number and dates or other identifiers of documents in which they are shown.)</i>	Not Applicable
Seventh Recital	Framework Agreement (if applicable) <i>(State date, title and parties).</i>	Not Applicable
Eighth Recital and Schedule 8	Supplemental Provisions <i>(Where neither entry against an item below is deleted, the relevant paragraph applies)</i>	
	Collaborative working	* Paragraph 1 applies/ does not apply
	Health and safety	* Paragraph 2 applies/ does not apply
	Cost savings and value improvements	* Paragraph 3 applies/ does not apply
	Sustainable development and environmental considerations	* Paragraph 4 applies/ does not apply
	Performance Indicators and monitoring	* Paragraph 5 applies /does not apply
	Notification and negotiation of disputes	* Paragraph 6 applies/ does not apply
	Where paragraph 6 applies, the respective nominees of the Parties are	Employer's nominee Mr L Cunningham, 41-43 Brook Street LLP, 27 Knightsbridge, London SW1X 7LY Contractor's nominee Paul Tobin, Drive Edgware Ltd 56 Mill Way, Mill Hill, London, NW7 3RA or such replacement as each Party may notify to the other from time to time

Tenth Recital	Employer's Requirements <i>(State reference numbers and dates or other identifiers of documents in which these are contained.)</i>	All of the documents contained in the Invitation to Tender Package
Eleventh Recital	Contractor's Proposals <i>(State reference numbers and dates or other identifiers of documents in which these are contained.)</i>	The Contractor's submissions in respect of the Employer's Requirements
Eleventh Recital	CDP Analysis <i>(State reference numbers and dates or other identifiers of documents in which these are contained.)</i>	Not provided
Article 8	Arbitration <i>(If neither entry is deleted, Article * and clauses 9.3 to 9.8 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it <u>must</u> be stated that Article 8 and clauses 9.3 to 9.8 apply)</i>	Article 8 and clauses 9.3 (<i>Arbitration</i>) * applies /does not apply
1.1	Base Date	23 June 2020
1.1	CDM Planning Period	Shall mean the period of _____ <u>Fourteen (14)</u> _____ * days/ weeks * ending on the Date of Possession/ * beginning/ending on _____ 20 _____
1.1	Date for Completion of the Work <i>(where completion by sections does not apply)</i> Sections: Date for Completion of Sections	5 Working weeks from the Date of Possession Section Section Section
1.7	Addresses for service of notices by the Parties <i>(If none is stated, the address in each case, subject to clause 1.7.3, shall be that shown at the commencement of the Agreement.)</i>	Employer: Mr L Cunningham, 41-43 Brook Street LLP, 27 Knightsbridge, London SW1X 7LY Contractor: Paul Tobin, Drive Edgware Ltd 56 Mill Way, Mill Hill, London, NW7 3RA
2.4	Date of Possession of the Site <i>(where possession by Sections does not apply)</i> Sections: Date of Possession of Sections	10 th February 2021 Section Section Section
2.5	Deferment of possession of the Site <i>(where possession by Sections does not apply)</i> Sections: deferment of possession of Sections	Clause 2.5 * applies/does not apply Maximum period of deferment (if less than 6 weeks) is Clause 2.5

* applies/does not apply

Maximum period of deferment (if less than 6 weeks) is

Section _____ : _____

Section _____ : _____

Section _____ : _____

2.9.1.2	Master programme	* Critical paths are/ are not required to be shown
2.19.3	Contractor's Designed Portion: limit of Contractor's liability for loss of use etc. (if any)	£ Unlimited
2.32.2	Liquidated damages (where completion by Sections does not apply)	at the rate of £5,000 per Calendar Day
	Sections: rate of liquidated damages/for each Section	Section :£ _____ per Section :£ _____ per Section :£ _____ per
2.37	Section: Section Sums	Section : _____ £ Section : _____ £ Section : _____ £
2.38	Rectification Period (where completion by Sections does not apply) (If no other period is stated, the period is 6 months.)	<u>12 Months from the date of practical completion of the Works</u>
	Sections: Rectification Periods (If no other period is stated, the period is 6 months.)	Section _____ : _____ months Section _____ : _____ months Section _____ : _____ months
		from the date of practical completion of each Section
4.8	Advance Payment (Not applicable where the Employer is a Local Authority)	* Clause 4.8 applies/does not apply
		If applicable: the advance payment will be
		£ _____ / per cent of the Contract Sum and will be paid to the Contractor on
		_____ ; It will be reimbursed to the Employer in the following amount(s) and at the following time(s)
		_____ _____ _____
4.8	Advance Payment Bond (Not applicable where the Employer is a Local Authority)	* An advance payment bond -is/is not required

(Where an advance payment is to be made, an advance payment bond is required unless stated that it is not required.)

4.9.1	Interim payments – due dates <i>(If no date is stated, the first due date is the one month after the Date of Possession).</i>	The first due date is four (4) weeks from the Date of Possession and thereafter on approximately the same date in each month with the exact dates shall be agreed between the Quantity Surveyor and the Contractor within four(4) weeks of the Date of Possession. In the absence of agreement between the Quantity Surveyor and the Contractor the subsequent due dates will be on the same date in each month (or on the nearest business day thereto) as that on which the first payment becomes due.
4.17.4	Listed Items – uniquely identified <i>(Delete the entry if no bond is required.)</i>	* For uniquely identified Listed Items a bond in respect of payment for such items is required for £ _____
4.17.5	Listed Items – not uniquely identified <i>(Delete the entry if clause 4.17.5 does not apply.)</i>	* For Listed Items that are not uniquely identified a bond in respect of payment for such items is required for £ _____
4.19	Contractor's Retention Bond <i>(Not applicable where the Employer is a Local Authority) (Not applicable unless stated to apply and relevant particulars are given below)</i>	<p>* Clause 4.19 applies/does not apply</p> <p>If clause 4.19 applies, the maximum aggregate sum for the purposes of clause 2 of the bond is £ _____</p> <p>For the purposes of clause 6.3 of the bond, the expiry date shall be</p>
4.20.1	Retention Percentage <i>(The percentage is 3 per cent unless a different rate is stated; if no retention is required, insert "Nil" or "0".)</i>	<u>Three (3) per cent – See also clause 4.20.1 Amendment</u>
4.21 and Schedule 7	Fluctuations Options <i>(If no Fluctuations Option is selected, Option A applies.)</i>	<p>Not Applicable – This is a Fixed Price Contract</p> <p>Schedule 7: Fluctuations Option A applies/ Fluctuations Option B applies/ Fluctuations Option C applies</p>

	Percentage addition for Fluctuations Option A, paragraph A.12 or Option B, paragraph B.13	_____ per cent
	Formula Rules for Fluctuations Option C, paragraph C.1.2	Rule 3: Base Month _____ 20 _____
	<i>(For Local Authorities only)</i>	Rule 3: Non-Adjustable Element _____ per cent
	<i>(Unless Part II is stated to apply, Part I applies.)</i>	* Rules 10 and 30(i): Part I/Part II of section 2 of the Formula Rules applies
6.4.1.2	Contractor's insurance: injury to persons or property – insurance cover <i>(for any one occurrence or series of occurrences arising out of one event)</i>	£ Ten (10) Million Pounds
6.5.1	Insurance – liability of Employer <i>(Not required unless it is stated that it may be required and the minimum amount of indemnity is stated)</i>	* Insurance may be required/ is not required * Minimum amount of indemnity for any one occurrence or series of occurrences arising out of one event £ <u>Fifty (50) Million Pounds</u>
6.7 and Schedule 3	Insurance of the Works – Insurance Options	Schedule 3: * Insurance Option A applies/ * Insurance Option B applies/ * Insurance Option C applies
6.7 and Schedule 3 Insurance Option A (paragraphs A.1 and A.3), B (paragraph B.1) or C (paragraph C.2)	Percentage to cover professional fees (If no other percentage is stated, it shall be 15 per cent.)	<u>Fifteen per cent (15%)</u>
6.7 and Schedule 3 Insurance Option A (paragraph A.3)	Annual renewal date of insurance <i>(as supplied by the Contractor)</i>	<u>11th December 2021</u>
6.10 and Schedule 3	Terrorism Cover – details of the required cover <i>(State reference numbers and dates or other identifiers of documents setting out the requirements. Unless otherwise stated, Pool Re Cover is required.)</i>	Required

6.12	<p>Contractor’s Designed Portion (CDP) Professional Indemnity Insurance</p> <p>Level of cover <i>(If an alternative is not selected the amount shall be the aggregate amount for any one period of insurance. A period of insurance for these purposes shall be one year unless otherwise stated).</i></p> <p><i>(If no amount is stated, insurance under clause 6.12 shall not be required.)</i></p> <p>Cover for pollution and contamination claims <i>(If no amount is stated, such cover shall not be required; unless otherwise stated, the required limit of indemnity is an annual aggregate amount.)</i></p> <p>Expiry of required period of CDP Professional Indemnity Insurance <i>(If no period is selected, the expiry date shall be 6 years from the date of practical completion of the Works.)</i></p>	<p>Amount of indemnity required</p> <p>* Relates to claims or series of claims arising out of one event/</p> <p>* is the aggregate amount for any one period of insurance</p> <p>and is</p> <p>£ <u>Five (5) Million Pounds</u></p> <p>* is required, with a sub-limit of indemnity of</p> <p>£ <u>One (1) Million Pounds</u> / *</p> <p>Is not required</p> <p>* 6 years/</p> <p>* 12 years/ _____ Years (not exceeding 12 years)</p>
6.14	<p>Joint Fire Code</p> <p>If the Joint Fire Code applies, state whether the insurer under Schedule 3, Insurance Option A, B or C (paragraph C.2) has specified that the Works are a ‘Large Project’:</p>	<p>The Joint Fire Code</p> <p>* applies/does not apply</p> <p>* Yes/No</p>
6.17	<p>Joint Fire Code – amendments/revisions <i>(The cost shall be borne by the Contractor unless otherwise stated.)</i></p>	<p>The cost, if any, of compliance with amendment(s) or revision(s) to the Joint Fire Code shall be borne by</p> <p>* the Employer/the Contractor</p>
7.2	<p>Assignment/grant by Employer of rights under clause 7.2 <i>(If neither entry is deleted, clause 7.2 applies)</i></p> <p>Sections: rights under clause 7.2 <i>(If clause 7.2 applies, amend the entry if rights under that clause are to apply to certain Sections only.)</i></p>	<p>Clause 7.2</p> <p>* applies/does not apply</p> <p>* Rights under clause 7.2 apply to each Section</p>
8.9.2	<p>Period of suspension <i>(If none is stated, the period is 2 months.)</i></p>	
8.11.1.1 to 8.11.1.5	<p>Period of suspension <i>(If none is stated, the period is 2 months.)</i></p>	

9.2.1	Adjudication	The Adjudicator is _____
	Nominating Body	<ul style="list-style-type: none">* Royal Institute of British Architects* The Royal Institution of Chartered Surveyors* Construction adjudicators.com* Association of Independent Construction Adjudicators* Chartered Institute of Arbitrators
9.4.1	Arbitration – appointer of Arbitrator (and of any replacement)	<p>President or Vice-President</p> <ul style="list-style-type: none">* Royal Institute of British Architects* The Royal Institution of Chartered Surveyors* Chartered Institute of Arbitrators

Part 2: Third Party Rights and Collateral Warranties

If such rights or warranties are required from the Contractor, complete the particulars in (A) to (D) below:

Forms of Collateral Warranty are as appended to this Contract.

For a list of consultants and sub-contractors from whom Collateral Warranties may be required refer to appendix 28 of the Bills of Quantities. Collateral Warranties are required from all consultants and sub-contractors with responsibility for the design of any part of the Works.

All Collateral Warranties shall be approved by the Employer in relation to each consultant and sub-contractor.

For these purposes and for the purposes of any other document identified above, unless otherwise stated where clause 7E is stated to apply, the Employer, the Owner, all purchasers and tenants shall be entitled to Collateral Warranties in accordance with clause 7E from each identified consultant and sub-contractor.

P&T Rights Particulars

(A) Identity of Purchasers/Tenants on whom P&T Rights may be conferred, and whether (in the case of the Contractor) those rights are to be conferred as third party rights (clause 7A) or by Collateral Warranty (clause 7C)

Clauses 7A, 7C and 7E of the Conditions	Name, class or description of person	The part of the Works to be purchased or let	State in each case which of clause 7A or 7C applies
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(P&T Rights are conferred only on persons who are sufficiently identified in the first column. If in relation to an identified person it is not stated whether P&T Rights from the Contractor are to be conferred under clause 7A (Third Party Rights) or under clause 7C (Collateral Warranty), clause 7A applies.

Paragraph of
Schedule 5, Part 1
or Clause of
CWa/P&T

(B) P&T Rights from the Contractor

1.1.2	<p>Applicability of paragraph 1.1.2</p> <p>Maximum liability (Unless paragraph/clause 1.1.2 is stated to apply and the maximum liability is stated, paragraph/clause 1.1.2 does not apply.)</p> <p>Type of maximum liability <i>(If not stated, it shall be an aggregate limit on liability.)</i></p>	<p>* Paragraph/clause 1.1.2 applies/does not apply</p> <p>The maximum liability is £ _____</p> <p>* Maximum liability is in respect of each breach/ * Maximum liability is an aggregate limit on liability</p>
1.3.1	<p>Net Contribution: Consultants <i>(If none are specified, these shall be the Architect/ Contract Administrator and the Quantity Surveyor (including any replacements), together with any other consultants who agree to give third party rights or collateral warranties (or undertakings in similar terms) to any Purchaser(s) and/or Tenants(s).)</i></p>	<p>For the purposes of paragraph/clause 1.3.1 'the Consultants' are:</p> <p>_____</p> <p>_____</p> <p>_____</p>
1.3.2	<p>Net Contribution: Sub-Contractors <i>(If none are specified, these shall be such as agree to give third party rights or collateral warranties (or undertakings in similar terms) to any Purchaser(s) and/or Tenant(s).)</i></p>	<p>For the purposes of paragraph/clause 1.3.2 'the Sub-Contractors' are:</p> <p>_____</p> <p>_____</p>

Funder Rights Particulars

Clauses 7B, 7D and 7E of the Conditions **(C) Identity of Funder in whom Funder Rights may be vested under this Contract** _____
(If not identified by name, class or description, Funder Rights shall not be required from the Contractor.)

Paragraph of Schedule 5, Part 2 or Clause of CWa/F **(D) Funder Rights from the Contractor**

Nature of Funder Rights from the Contractor *(If neither clause reference is deleted, clause 7B applies.)* * Clause 7B (Third Party Rights) applies/
 Clause 7D (Collateral Warranty) applies

1.1 Net Contribution: Consultants and Sub-Contractors _____
(Unless otherwise stated, these shall be those specified (or deemed to be specified) under (B) above.)

Collateral Warranties from Sub-Contractors

(E) If warranties are required from sub-contractors, complete the particulars below:

Clauses 3.7 and 3.9 of the Conditions	Sub-contractors from whom Warranties may be required	Type(s) of warranty (SCWa/P&T, SCWa/F, SCWa/E required from each sub-contractor	Levels of Professional Indemnity insurance required (if applicable)
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For these purposes, unless otherwise stated:

- (i) all Purchasers and Tenants identified at (A) above, any Funder identified at (C) above and the Employer shall be entitled to a warranty from a sub-contractor where the appropriate type is shown above as required from him;
- (ii) **if applicable, the levels of Professional Indemnity insurance must be specified;** the basis of that cover shall be whichever applies under the Contract Particulars for clause 6.12;
- (iii) if a maximum liability is specified under (B) above, that shall also supply in relation to all sub-contractors' Collateral Warranties unless a lower amount is specified.
- (iv) "the Consultants" for sub-contractors' Collateral Warranties shall be those stated in (B) above;

Performance Guarantee Bond

The Contractor shall immediately upon execution of the Contract enter into and procure that a surety which is a major insurance company or clearing bank approved by the Employer enters into a bond in the form set out in appendix 26 to this Contract.

The sum appearing in that Bond shall not be less than ten percent of the Contract Sum. The Contractor shall pay all fees, premiums and stamp duty in connection with the bond.

The Tenderer is to submit with his tender an undertaking from their proposed surety that they will execute a bond in this form not later than 7 days after being requested to do so by the Employer.

The Employer reserves the right to reject the surety proposed by the Contractor and will have no requirement to provide reasons to the Contractor for so doing. In addition to the Retention held by the Employer under Clause 4.20.1 the Employer will retain a further 10% of each amount due for payment until the time when a Bond acceptable to the Employer has been executed by the Contractor.

Parent Company Guarantee

The Contractor shall upon execution of the Contract procure that the ultimate parent company shall enter into a Parent Company Guarantee in the form set out in appendix 27 to this Contract. The Contractor shall pay all fees, premiums, etc payable in connection with the guarantee.

Attestation

Note on Execution

This Agreement should be executed by both the Employer and the Contractor either under hand or as a deed. As to factors relevant to that choice, see the Standard Building Contract Guide.

Execution under hand

If this Agreement is to be executed under hand, use the form set out on the following page. Each Party or his authorised representative should sign where indicated in the presence of a witness who should then sign and set out his name and address..

Execution as a Deed

If this Agreement is to be executed as a deed, each Party should use the relevant form marked 'Execution as a Deed' in accordance with the notes provided.

Other forms of Attestation

In cases where the forms of attestation set out are not appropriate, e.g. in the case of certain housing associations and partnerships or if a Party wishes an attorney to execute this Agreement on his behalf, the appropriate form(s) may be inserted in the vacant space opposite and/or below.

Execution under hand

~~As witness~~ _____ the hands of the Parties
_____ of their duly authorised representative

~~Signed by or on behalf
of the Employer~~

~~in the presence of:~~

~~witness' signature~~

~~witness' name~~

~~witness' address~~

~~Signed by or on behalf
of the Contractor~~

~~in the presence of:~~

~~witness' signature~~

~~witness' name~~

~~witness' address~~

Notes on Execution as a Deed

- 1 For the purposes of execution as a deed, two forms are provided for execution, one for the Employer and the other for the Contractor. Each form provides four methods of execution, (A) to (D), for use as appropriate. The full name of the Employer or Contractor (whether an individual, a company or other body) should be inserted where indicated at the commencement of the relevant form. This applies irrespective of the method use.
- 2 For public and private companies incorporated and registered under the Companies Acts, the three principal methods of execution as a deed are:
 - (A) through signature by a Director and the Company Secretary or by two Directors;
 - (B) by affixing the company's common seal in the presence of a Director and the Company Secretary or of two Directors or other duly authorised officers; or
 - (C) signature by a single Director in the presence of a witness who attests the signature.

Methods (A) and (C) are available to public and private companies whether or not they have a common seal. (Method (C) was introduced by section 44(2)(b) of the Companies Act 2006.) Methods (A) and (C) are not available under companies legislation to local authorities or to certain other bodies corporate, eg bodies incorporated by letters patent or private Act of Parliament that are not registered under companies legislation and such bodies may only use method (B).
- 3 Where method (A) is being used, delete the inappropriate words and insert in the spaces indicated the names of the two Directors, or of the Director and the Company Secretary, who are to sign.
- 4 If method (B) (affixing the common seal) is adopted in cases where either or both the authorised officers attesting its affixation are not themselves a Director or the Company Secretary, their respective office(s) should be substituted for the reference(s) to Director and/or to Company Secretary/Director. (In the case of execution by bodies that are not companies, the reference to "Company" under the second signature should be deleted where appropriate.)
- 5 Method (C) (execution by a single Director) has been introduced primarily, but not exclusively, for 'single officer' companies. The Director should sign where indicated in the presence of a witness who should then sign and set out his name and address.
- 6 Where the Employer or Contractor is an individual, he should use method (D) and sign where indicated in the presence of a witness who should then sign and set out his name and address.

Execution as a Deed

Executed as a Deed by the Employer

namely **41-43 BROOK STREET LLP**

(A) acting by a Director and the Company Secretary/two Directors **of the company**

(Print name of signatory)	and	(Print name of signatory)
Signature	Director	Signature Company Secretary/Director

(B) by affixing hereto the common seal **of the company/other body corporate**
in the presence of

Signature	Director	
Signature	Company Secretary/Director	

[Common seal of company]

(C) by attested signature of a single Director **of the company**

	Signature	Director
in the presence of		
Witness Signature	_____	(Print Name) _____
Witness Address		

(D) by attested signature **of the individual**

in the presence of		
Witness Signature	_____	(Print Name) _____
Witness Address		

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Execution as a Deed

Executed as a Deed by the Contractor

namely **DRIVE EDGEWARE LTD**

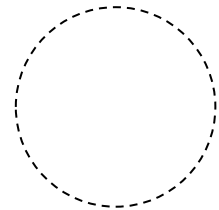
(A) acting by a Director and the Company Secretary/two Directors **of the company**

(Print name of signatory)		and		(Print name of signatory)
Signature	Director		Signature	Company Secretary/Director

(B) by affixing hereto the common seal **of the company/other body corporate**

in the presence of

Signature	Director
Signature	Company Secretary/Director



[Common seal of company]

(C) by attested signature of a single Director **of the company**

Signature Director

in the presence of

Witness Signature _____ (Print Name) _____

Witness Address

(D) by attested signature **of the individual**

in the presence of

Witness Signature _____ (Print Name) _____

Witness Address

Note: The numbers on this page refer to the numbered paragraphs in the Notes on Execution as a Deed.

Conditions of Contract: - Supplemental Provisions and Schedule of Amendments thereto

Supplemental Provisions and Amendments to the Conditions of Contract are detailed below. Allow for the obligations, liabilities and services described therein.

Conditions

Section 1 Definitions and Interpretation

1.1 Definitions

Amend existing definitions and **insert** new definitions, as follows:

"Affiliate: the Owner or any Related Company of the Employer or any other entity (whether a body corporate, trust, partnership, unincorporated association or otherwise) which is legally or beneficially owned or controlled directly or indirectly by the Employer or a Related Company of the Employer or which is in the common control of the Employer or a Related Company of the Employer. For the purposes of this definition, an entity is controlled by a person if such person has control of a majority of the voting rights ordinarily exercisable at shareholder, partnership, beneficiary or members' meetings of the relevant entity; "Related Company" means any subsidiary undertaking of the relevant undertaking, any parent undertaking of the relevant undertaking and any subsidiary undertaking of that parent undertaking where the expressions "parent undertaking" and "subsidiary undertaking" have the meaning given to them in Section 1162 of the Companies Act 2006 and the expression "undertaking" has the meaning given to it in Section 1161 of that Act;

"Appendices: the appendices to the Schedule of Amendments (and **"Appendix"** means any of the Appendices, as the context so permits).

Delete the word **"Arbitrator"** and its definition. The Contract Documents shall be construed accordingly.

"CDM Co-ordinator" Delete.

"CDM Regulations"

": delete the words "Construction (Design and Management) Regulations 2007" and replace with "Construction (Design and Management) Regulations 2015)".

"Conditions"

After the word "Conditions", add the words "as amended by the Schedule of Amendments attached hereto."

"Construction Phase Plan": delete the words "regulation 23" and replace with "regulation 4(5)".

Consultant Team: the Architect, contract administrator, quantity surveyor, CDM coordinator/principal designer, mechanical and electrical engineer and structural engineer together with any other consultants engaged by the Employer in relation to the Works and notified to the Contractor from time to time.

"Contract: the JCT Standard Building Contract with Quantities 2011 Edition.

"Contractor Services": those services set out in Schedule 9.

“Contractor’s Design Documents” – delete the definition and replace the definition with “all drawings, reports, specifications, calculations and other documents, information and databases (including any stored electronically) prepared or provided by the Contractor or on the Contractor’s behalf in connection with the Works and the designs contained in them.”

"Contractor's Persons": In lines 2 and 3 of the definition, after "any part of them", **insert** "(including, without limitation, the Contractor's sub-contractors)".

"Covid-19" means the virus strain known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) and the disease known as coronavirus disease 2019 (Covid-19) including, in both instances, any mutations thereof.

"EPB Regulations: the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 and any modification or replacement of the same together with any guidance thereto from time to time published by any government department, body or agency."

"Employer": add at the end “and its successors in title and assigns.”

"Employer’s Persons”: means properly authorised or statutory bodies or Persons Authorised or employed or licenced by The Employer in the execution on or near the site of any work not contained in this Contract."

"Funder”:

Delete definition and **replace with**

"any person or bank (acting for himself and, where such person leads for a syndicate of persons, as agent and trustee for such other persons) who has entered into or intends to enter into an agreement or agreements for the provision of finance towards the Works and such person or persons as may be named or identified as such in the Funder Rights Particulars set out in Part 2 of Schedule 5".

"Good Building Practice: compliance with all BSI Group and other appropriate standards and codes of practice and proven up-to-date practices that are in force at the date of this Contract, applicable to the UK construction industry and relevant to the Works".

"Group Company: any subsidiary or holding company of the Contractor or another subsidiary or holding company of such company, as ‘subsidiary’ and ‘holding company’ are defined in s.1159 Companies Act 2006."

"Intellectual Property Rights: copyright, moral rights, related rights, patents, trademarks, trade names, service marks, design rights, database rights, semiconductor topography rights and any undisclosed or confidential information such as know how, trade secrets or inventions (whether patentable or not)".

"Interest Rate": delete “5%” and replace with “2%”.

"Limitation Period: a period of 12 years from Practical Completion or, if sooner, 12 years following termination of the employment of the Contractor under this Contract".

"Master Programme: the master programme for the Works to be prepared and updated by the Contractor in accordance with clause 2.9."

"Owner”: means 41-43 Brook Street LLP or such other party or person with a legal or beneficial interest in the Property from time to time as notified by the Employer, including Grosvenor Properties as landlord of the Development.

"Pandemic Event” means:

- i) any pandemic (including, but not limited to, the COVID-19 coronavirus outbreak and/or any mutation thereof and any other outbreak of an infectious human disease),
- ii) any measures, recommendations, regulations and legislation issued by the government and/or public authorities in relation to any pandemic from time to time and which are additional to or amend those in existence at the tender date, and/or
- iii) any consequences of any pandemic, except those which at the Contract date are known or should reasonably be known to the Contractor and/or his sub-Contractors, Suppliers and the Statutory Authorities, and which are outside the reasonable control of the Contractor and/or his sub-Contractors, Suppliers and the Statutory Authorities and the Employer, which affects the Works including without limitation the Contractor being unable to reasonably access the Site, causes delay in or non-delivery of any materials required for the Works and the Contractor being unable to reasonably adequately resource the Works.”

“**Postponement**” for the purposes of this contract means “any action required to be taken as a consequence of a Pandemic Event shall not be treated as Postponement but will be treated as Suspension”.

“Practical Completion:

means “a state in which the Works are complete in all respects and free from patent defects save for any minor items of incomplete works the existence of which in the opinion of the Architect/Contract Administrator would not prevent or interfere with the use of the Works for their intended purposes as indicated in the Contract Documents.

Such minor items shall be deemed for the purposes of clause 2.38.1 to be defects appearing within the Rectification Period. Provided that where it is stated in the Contract Documents that the testing, commissioning or adjustment of any mechanical or electrical services is to be completed before Practical Completion, the Works shall not be considered to be practically complete until such testing, commissioning or adjustment has been concluded.”

“**Principal Designer**” means the person so described in The Construction (Design and Management) Regulations 2015 who has accepted the obligations and duties contained therein.

“**Project Agreements**”: means each of:

- a) Westminster Planning Approval and conditions (attached at appendix 21 to the Bills of Quantities);
- b) The Development Deed entered into or shortly to be entered into between Grosvenor Properties (1), Grosvenor (Mayfair) Estate (2) and Bluedraft Limited and Claridges Hotel Holdings Limited (3) connection with the Site;
- c) Grosvenor Specification for the Erection of New Buildings and so far as applicable for Alterations and Additions to Existing Buildings (August 2019);
- d) Grosvenor Environmental Guidelines for Working on the Buildings on the Grosvenor Estate (2019);
- e) Grosvenor Specification for the erection of Scaffolding Towers Cradles and other Access Equipment (January 2018);
- f) Grosvenor Sustainability Policy (July 2016);
- g) The Considerate Builders Scheme operating in the City of Westminster.

“**Property**”: the property comprised of the completed Works or, as the case may be, a relevant Section.”

"Schedule of Amendments: the Schedule (including the appendices) of Supplemental Provisions and Amendments, modifications and changes to the Contract, agreed between the Employer and the Contractor and annexed hereto to the Conditions."

"Site: the property at 48-49 Brooks Mews, London, W1K 4HR upon which the Works are to be carried out and the extent of which is shown, for identification purposes only, edged red on the plan annexed at appendix 8 to the Bills of Quantities. All references to "site" in this Contract are deemed to be a reference to the defined term "Site".

"Statutory Requirements"

On line 2 after "the force of law", **insert** "and any accompanying code of practice or guidance".

"Sub-Contractor: any person engaged as an independent contractor by the Contractor to carry out and complete all or any part of the Works".

"Supplier: any person engaged by the Contractor to provide goods or materials required by the Contractor for incorporation into the Works or any part thereof".

"Third Party Agreements: any agreement between the Employer and a third party relating to the Works or the Site and of which:

- (a) a copy, or relevant extract, is included in the Employer's Requirements; or
- (b) the Employer notifies the Contractor in writing after the date of this Contract, enclosing a copy or relevant extracts."

Interpretation

1.2 Reference to clauses, etc.

1.3 Agreement etc. to be read as a whole

Renumber existing clause 1.3 as clause 1.3.1 and **insert** a new clause 1.3.2 as follows:

"1.3.2 Subject to clause 1.3.1, where there is a discrepancy or conflict between the Contract Documents, the priority of the documents will be as follows:

- 1.3.2.1 first: the Agreement;
- 1.3.2.2 second: the Conditions;
- 1.3.2.3 third: the Employer's Requirements;
- 1.3.2.4 fourth; the Contractor's Proposals;
- 1.3.2.5 fifth: the Contract drawings which have priority over the Bills of Quantities.

1.4 Headings, reference to persons, legislation, etc.

1.4.4 At the end of this clause, **insert** "where a Party comprises two or more person:

- 1.4.4.1 any obligations on the part of that Party contained or implied in this Contract are deemed to be joint and several obligations on the part of those persons; and
- 1.4.4.2 references to that Party include references to each and any of those persons;".

- 1.4.5 At the end of this clause, **delete** the full stop and **insert** “and”.
- Insert** new clause:
- 1.4.6 reference to any agreement or document is to that agreement or document as may from time to time be amended or varied in accordance with the terms of such agreement or document or, as the case may be, the agreement of the Parties.”
- 1.5 Reckoning periods of days.**
- 1.6 Contracts (Rights of Third Parties) Act 1999**
- 1.7 Notices and other communications**
- 1.8 Issue of Architect/Contract Administrator’s certificates**
- 1.9 Effect of Final Certificate**
- 1.9.1 On line 3 delete “arbitration”
- 1.9.1.1 **Delete** this clause and replace it with “NOT USED”
- 1.10 Effect of certificates other than Final Certificate**
- delete** “Save as stated in clause 1.9”.
- 1.11 Applicable law**
- Insert** new clauses 1.12 to 1.15 as follows:
- 1.12 For the avoidance of doubt all of the Works whether carried out before or after the date of this Contract shall be deemed to have been carried out upon the terms and conditions of this Contract.
- 1.13 The obligations and liabilities of the Contractor under this Contract shall not be released, diminished or in any other way affected by:
- 1.13.1 any enquiry, inspection, acknowledgement, admission, advice or comment made or given by or on behalf of the Employer or the Architect/Contract Administrator and/or any independent consultant appointed by the Employer;
- 1.13.2 the Employer or the Architect/Contract Administrator or Quantity Surveyor including the value of any work, materials or goods in any certificate or statement or any interim or final payment or issuing the Practical Completion Certificate or any Section Completion Certificate or the Certificate of Making Good on respect of the Works or any Section;
- 1.13.3 the appointment by the Employer of (or failure by the Employer to appoint) any clerk of works to inspect or otherwise report in respect of the Works, or by any act or omission of any clerk of works; or
- 1.13.4 any approval by the Employer or the Architect/Contract Administrator and/or any independent consultant appointed by the Employer.
- 1.14** Notwithstanding any other provision of this Contract, the term “approval” when used in the context of any approval to be given by or on behalf of the Employer or the Architect/Contract Administrator and/or any independent consultant appointed by the

Employer shall have the meaning ‘acceptance of general principles only’, and no such approval shall diminish or relieve the Contractor from any of his obligations or liabilities under this Contract.

- 1.15** No amendment to this Contract shall be effective unless in writing and executed as a deed by authorised representatives of the parties.”

Section 2 Carrying out the Works

Contractor’s Obligations

2.1 General obligations

Renumber existing clause 2.1 as clause 2.1.1 and in line 2, after "the Construction Phase Plan", **delete** "and" and **insert** ", the Consents and".

in line 3, after the words “required by”, insert the words “and provide the Employer with evidence that he has complied with”.

Insert a new second sentence: "The Contractor acknowledges that it is the "relevant person" referred to in Regulation 2 of the EPB Regulations and will provide the energy performance certificate required by Regulation 9 of the EPB Regulations."

Insert new clause 2.1.2 as follows:

- 2.1.2
- 2.1.2.1 The Contractor, if required and as detailed in the contract particulars, shall carry out and complete the Works in conformity with the Employer's obligations under the Employer's Third Party Agreements and without infringing any right, reservation, covenant, restriction, stipulation or other encumbrance that is binding upon or affects the Site and which has been notified by the Employer to the Contractor.
- 2.1.2.2 The Contractor, if so required, undertakes to the Employer that he has performed and shall continue to perform his obligations under this Contract in such a manner and at such times that no act, omission or default on the part of the Contractor or any of his professional consultants (including the Professional Team) or their respective employees, agents or sub-contractors shall cause or contribute to any breach by the Employer of any of its obligations under the Employer's Third Party Agreements and, to the extent that the Contractor causes or contributes to any breach by the Employer of any of its obligations under the Employer's Third Party Agreements, the Contractor shall indemnify the Employer against any liability, claims, damages, costs and losses that the Employer may incur as a result of or arising out of a breach by the Contractor of its obligations under this clause 2.1.2."

Insert new clause 2.1.3 as follows:

- “2.1.3
- 2.1.3.1 The Contractor shall, at all times, prevent any public or private nuisance (including, without limitation, any such nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway) or other interference with the rights of any adjoining or neighbouring landowner, tenant or occupier or any statutory undertaker arising out of the carrying out of the Works or of any obligation pursuant to clause 2.38 and shall assist the Employer in defending any action or proceedings which may be instituted in relation thereto.

- 2.1.3.2 The Employer shall, if so requested by the Contractor, supply to the Contractor in such time as may be reasonable, having regard to the time and nature of any such request, any relevant information in the possession of the Employer relating to the rights of such third parties.
- 2.1.3.3 The Contractor shall be responsible for and shall indemnify the Employer from and against any and all expenses, liabilities, losses, claims and proceedings whatsoever resulting from any such nuisance or interference, save only where such nuisance or interference is the consequence of an instruction of the Employer.
- 2.1.3.4 Without prejudice to the Contractor's obligations under clause 2.1.3.1, the Contractor shall ensure that there is no trespass on or over any adjoining or neighbouring property arising out of or in the course of or caused by the carrying out of the Works or of any obligation pursuant to clause 2.38. If the carrying out of the Works or of any obligation pursuant to clause 2.38 is likely to necessitate any interference (including, without limitation, the over-sailing of tower crane jibs) with the rights of adjoining or neighbouring owners or occupiers, then the Contractor shall, at no cost to the Employer, obtain the prior written agreement of such owners and/or occupiers thereto, and such agreement shall be subject to the approval of the Employer before execution. The Contractor shall comply in every respect with any conditions contained in any such agreement."

Insert new clause 2.1.4 as follows:

- "2.1.4
- 2.1.4.1 The Contractor has been afforded the opportunity to inspect the physical and other conditions (including sub-surface conditions) of the Site and its surrounds and the available means of access to and egress from the Site and shall be deemed to have fully acquainted himself with the same and to have obtained all necessary information as to concerning any associated risks, contingencies and other circumstances that may influence or affect the execution of the Works or Section of the Works. No failure on the part of the Contractor to discover or foresee any such condition, risk, contingency or circumstance (whether or not the same ought reasonably to have been discovered or foreseen) nor any misunderstanding in respect of any matter affecting the Site and its surrounds and the available means of access thereto shall relieve the Contractor from any risks or obligations imposed on or undertaken by him, nor shall the Contractor be entitled to an addition to the Contract Sum or to an adjustment of the Completion Date for the Works or Section.
- 2.1.4.2 The Contractor may at his own risk and expense rely upon and use any survey, report or other document prepared by or on behalf of the Employer regarding any such matter as is referred to in this clause 2.1.4, but the Employer makes no representation or warranty as to the accuracy or completeness of any such survey, report or document or any representation or statement contained therein. The Employer shall have no liability arising out of or in relation to any such survey, report or document or from any representation or statement."

Insert new clause 2.1.5 as follows:

- "2.1.5
- No limitation of liability**
- No inspection, test, review, consent, notice, permission, payment, certificate or other approval made or given by or on behalf of the Employer under the Contract, or any failure to make or give the same, shall relieve the Contractor in whole or in part of any of his obligations or liabilities under this Contract, whether by way of contribution or otherwise".

2.2 Contractor's Designed Portion

In sub-clause 2.2.1 in line 2 after the words “they are relevant)” **insert** the words “carry out and”

In sub-clause 2.2.1 at the end of clause **insert** the following

“All materials and goods shall be new, of satisfactory quality and reasonably fit for their respective purposes

In sub-clause 2.2.2 in line 2, **delete** the words “subject to the provisions of clause 3.10.3”.

2.2.3 – delete the words “regulations 11, 12 and 18” and replace with “regulations 8, 9 and 10”.

Insert new clause 2.2A as follows:

2.2A

“The Contractor acknowledges that the Contract Sum makes all due allowance for design development including any changes brought about as a result of the issue of further design information for the purpose of explanation, development and/or clarifications of the design proposals and/or the Employer’s Requirements. Such design development shall not amount to a Variation and such design development includes anything which could reasonably be expected by an experienced designer or contractor to be covered by, or deducible, or anything necessary and reasonable for the proper operation of the Works when completed or anything necessary to accommodate Statutory Requirements and/or other relevant legislation. Such design development shall also include any changes in the design or specification of the Works which are properly considered by the Employer to be reasonably necessary or beneficial to the appearance and/or for the operation of the Works having regard to the design intent of the part of the Works in question. For the avoidance of doubt, no change made to the Works at the request of the local authority, fire officer or other regulatory authority will be deemed to be a Variation and no changes to the Works made at the request of other regulatory authority will be deemed to be a Variation pursuant to this Contract except as set out in these Conditions.”

2.3

Materials, goods and workmanship

2.3.1

In line 1, after "shall" **insert** "(unless otherwise specified in the Employer's Requirements) be new and adhere to Good Building Practice, be appropriate for use in the Works, be of a satisfactory quality and".

In line 7, **delete** “but” and **insert** “and”.

at the end of the clause **insert**: “Subject to the foregoing, all materials and goods shall be new (save where expressly provided to the contrary in the Contract Documents), of the highest quality and in accordance with the Contract Documents and any approved samples contained therein.”

2.3.2

at the end of the clause insert: “Subject to the foregoing, all materials and goods shall be new (save where expressly provided to the contrary in the Contract Documents), of the highest quality and in accordance with the Contract Documents and any approved samples contained therein. All workmanship shall be of satisfactory quality and reasonably fit for its purpose.”

2.3.3

at the end of the first sentence **insert** “having regard to the design intent of the part of the Works in question”.

Insert a new clause 2.3.6 as follows:

- “2.3.6 The Contractor warrants to the Employer that the Contractor shall not specify or approve for use, use or permit to be used in connection with the Works any materials which at the time of specification or use (as the case may be):
- 2.3.6.1 are known to be deleterious (either to health and safety or to the durability of the Works); or
 - 2.3.6.2 contravene any relevant or standard code of practice issued from time to time by the BSI Group or under a European directive relating to standards or good building practice; or
 - 2.3.6.3 do not accord with the guidelines contained in the edition of the publication *Good Practice in Selection of Construction Materials* (Ove Arup & Partners), current at the date of specification or use.”

Possession

2.4 Date of Possession – progress

In line 4 after “relevant Completion Date” **insert** “and in accordance with the Master Programme.”

In line 11, after “clause 2.33”, **insert** “, clause 2.4A”.

Insert a new clauses 2.4A – 24C as follows:

- “2.4A.1 In addition to carrying out the Works, the Contractor shall perform the Contractor Services. For the avoidance of doubt the performance of the Contractor Services is included within the Contract Sum.
- 2.4A.2 The Contractor warrants to the Employer that it has exercised and will continue to exercise in the performance of the Contractor Services all the reasonable skill, care and diligence to be expected of a properly qualified and competent contractor (and insofar as the Contractor Services require the Contractor to undertake or accept responsibility for works of design, all the skill, care and diligence to be reasonably expected of a properly qualified and competent architect or other appropriate professional designer) experienced in carrying out duties and management services similar to the Contractor Services for projects of a similar size type scope and complexity to the Works.
- 2.4A.3 The Contractor shall perform the Contractor Services regularly and diligently so as to comply with and attain the requirements of the Master Programme.
- 2.4A.4 If the Contractor is prevented or delayed in the performance of the whole or any part of the Contractor Services for any reason the Contractor shall notify the Employer forthwith and shall use all reasonable endeavours to resume and expedite the performance of the Contractor Services to mitigate the effects of any such delay.
- 2.4A.5 The Contractor shall at all times collaborate and consult fully with the Employer and the Consultant Team and keep the Employer and the Consultant Team properly informed of all matters arising in relation to the Contractor Services.
- 2.4A.6 The Contractor shall provide to the Employer at its request such copies of all or any of the documents comprising all technical information drawings, models, bills of quantities, specifications, schedules, details, plans, programmes, budgets, reports, calculations, working papers or other documents work or things whatsoever provided or to be provided

by the Contractor in connection with its performance of the Contractor Services as are required by the Employer.

2.4B If for any reason which does not entitle the Contractor to an extension of time the rate of progress of the Works or any Section is at any time in the opinion of the Employer (acting reasonably) too slow to achieve practical completion by the relevant Completion Date the Employer may notify the Contractor in writing and the Contractor shall thereupon take such steps as are necessary and to which the Employer may consent to expedite the progress of the Works or any Section so as to achieve practical completion of the Works or the relevant Section by the relevant Completion Date. The Contractor shall not be entitled to any additional payment for taking such steps.

2.4C Upon determination of this Contract or the Contractor's employment under it, and notwithstanding that the validity thereof may be disputed by the Contractor, the Contractor shall vacate the site and shall immediately deliver to the Employer possession of the site and the Works in a secure and safe condition."

2.5 **Deferment of possession**

2.6 **Early use by Employer**

2.7 **Work not forming part of the Contract**

2.7 - **Delete** all of clause 2.7 and **substitute** the following:

"The Contractor shall permit the execution of work omitted from or not forming part of this Contract by any of the Employer's Persons and any other properly authorised authorities or statutory bodies employed in the execution on or near the site of any work not contained in this Contract. The Employer and/or the Employer's Persons may at any time enter the site and any part of the Works for the purposes of executing any work or installing any goods, equipment or other articles or for fitting out subject to the Contractor's reasonable requirements as to security and health and safety. The Contractor shall allow use of existing facilities and provide every reasonable facility for such persons to execute their work, provided that the Contractor will, subject to the timely submission of invoices in accordance with the Contract, be entitled to the reasonable cost of reimbursement for providing facilities that are not already on site or adapting any facilities. For the avoidance of doubt, the Contractor shall not be entitled to an extension of time in respect of such work where the same was referred to in the Employer's Requirements or an experienced contractor could have foreseen the extent of such work and could have made provision for it on the Master Programme."

Supply of Documents, Setting Out, etc.

2.8 **Contract Documents**

2.9 **Construction information and Contractor's master programme**

2.9.1 In line 1 **delete** "as soon as possible" **and insert** "not later than seven (7) days"

2.9.1.2 **Delete clause 2.9.1.2 and replace with the following:**

"in any event within seven days after the execution of this Contract, the Contractor shall provide to the Architect/Contract Administrator two copies of his Master Programme for the execution of the Works. The Master Programme shall set out the Contractor's detailed overall programme for the undertaking and completing the Works clearly showing the

construction sequences, periods, logic, constraints and key milestones and critical path required to achieve completion within the time stated within the Contract Particulars. The Contractor shall from this programme provide summary programmes, including a critical path summary, a detailed design programme, a detailed package procurement programme, a detailed commissioning and testing programme and a detailed programme/schedule which sets the dates and periods for approval by the Employer, and any other third party, covering the developing designs, contractors proposals, material samples and the like. The Contractor shall also provide each month a drop line programme against the Master Programme for the previous month. The Master Programme and all other programmes (including but not limited to the drop line programme) and schedules shall be submitted in hard and soft copy to the Employer for agreement and in a format to be specified, with all logic links, constraints and critical path clearly identified, accessible and unmodified. Weekly, monthly and three-monthly programmes (or such other periods) shall be provided as requested by the Employer. Where requested to do so the Contractor shall submit for agreement updates and revisions of such programmes and schedules. Where requested to do so the Contractor shall submit for agreement updates and revisions of such programmes and schedules and in any event will do so within 14 days of a decision by the Architect/Contract Administrator pursuant to clause 2.28.1 and within 14 days of it becoming apparent that the progress of the Works or any Section is being

delayed by any circumstance, or that a change of programme is necessary to avoid or minimise delay or anticipated delay. If the Contractor fails to comply with its obligations under this clause 2.9.1.2 in relation to the provision of any programme (including but not limited to the Master Programme), the Employer shall be entitled to instruct its own programmer to prepare updated programmes in accordance with this clause and shall be entitled to recover the costs of preparing such programmes from the Contractor as a debt due to the Employer. The Contractor shall co-operate and liaise with any programmer so appointed by the Employer and provide the programmer with such information as it requires in order to produce such up to date programmes.

2.9.4 delete the words “regulations 11, 12 and 18” and replace with “clause 2.2”.

Insert new clause 2.9.1.6 as follows:

2.9.1.6 “The Contractor in submission of his master programme has made all due allowance for the extent of delays currently being experienced and evident in the supply and delivery of materials generally in the construction industry and specifically those that will be required for the Works”

2.9.1A **Add new clause 2.9.1A** as follows:

“The Contractor shall make due allowance in the Master Programme for any work to be undertaken by any relevant local authority or statutory undertaker and shall give sufficient notice in writing to each of them of the dates and times when their work can be undertaken on site without causing any delay or disruption to the Works. The Contractor shall be responsible for co-ordinating their work with the Works.”

Insert new clause 2.9.1B as follows:

2.9.1B Each month the Contractor shall report to the Employer and the Architect/Contract Administrator in writing comparing the progress of the Works with the master programme current at that time, and promptly advise the Employer and the Architect/Contract

Administrator in writing of any delay or disruption to the Works, setting out the measures he is taking or proposes to take to minimise or make good such delay or disruption."

2.10 Levels and setting out of the Works

2.11 Information Release Schedule

Delete

2.12 Further drawings, details and instructions

Delete and Insert as follows

2.12.1 "As and when from time to time may be necessary the Architect without charge to the Contractor shall provide the Contractor with two copies of such further drawings or details as are reasonably necessary either to explain and amplify the Contract Drawings or to enable the Contractor to carry out and complete the Works in accordance with the Conditions provided that the Contractor shall request such drawings or details on a date which having regard to the Completion Date for any Section is neither unreasonably distant from nor unreasonably close to the date on which it is necessary for him to receive the same".

2.12.2 If following the execution of this Agreement the Employer provides the Contractor with a copy of any agreements between itself and others which impose obligations on the Employer regarding the Works the Contractor shall be deemed to have full knowledge of the same and shall so perform the Works that the Employer shall not be in breach of any such obligations, provided that if such agreements impose material additional obligations upon the Contractor, such additional obligations shall be instructed as a Variation."

Errors, Discrepancies and Divergences

2.13 Preparation of Contract Bills and Employer's Requirements

2.13.1 In line 3 after the words "Standard Method of Measurement" **insert** the words "7th Edition"

Delete clause 2.13.2 and Substitute the following

"The Contractor accepts entire responsibility for the contents of the Employer's Requirements and the adequacy of any design contained within them."

2.14 Contract Bills of CDP Documents – errors and inadequacy

"Delete sub-clause 2.14.2 and replace with:

"Subject to clause 2.17, if any inadequacy is found in any design in the Employer's Requirements, if or to the extent that that inadequacy is not dealt with in the Contractor's Proposals, the Employer's Requirements shall be corrected, altered or modified accordingly. That correction, alteration or modification shall not be treated as a Variation and there shall be no addition to the Contract Sum in respect of that correction, alteration or modification or in respect of any instruction requiring a Variation of work not comprised in the Contractor's Designed Portion that is necessitated by any such correction, alteration or modification.

Delete sub-clause 2.14.3 and replace with:

"Not used"

Delete sub-clause 2.14.4 and replace with:

“Any error in description or in quantity in the Contractor’s Proposals or in the CDP Analysis or any error consisting of an omission of items from them shall be corrected. That correction shall not be treated as a Variation and there shall be no addition to the Contract Sum in respect of that correction or in respect of any instruction requiring a Variation of work not comprised in the Contractor’s Designed Portion that is necessitated by any such correction, alteration or modification.”

2.15 Notification of discrepancies etc.

2.15.1 In clause 2.15.1 after “Contract Drawings”, **insert** “(including any Variation)”.

In line 8, after “who” **insert** “ subject to clause 2.14”

2.16 Discrepancies in CDP Documents

Delete clauses 2.16.and **substitute the following**

“2.16.1 The Contractor shall inform the Employer in writing as soon as reasonably practicable of any mistake, inaccuracy or omission in the Contractor’s Proposals. The Contractor accepts entire responsibility for the contents of the Contractor’s Proposals and for any mistake, inaccuracy or omission therein which shall be corrected by the Contractor following written notice to the Employer at no cost to the Employer.

2.16.2 Immediately following execution of this Contract, the Contractor shall undertake a review of the Employer’s Requirements, the Contractor’s Proposals and the Statutory Requirements for the purpose of identifying any discrepancies within or between them (‘the Contractor’s Review’). The Contractor shall inform the Employer of the results of his review as soon as reasonably practicable, and in any event within two weeks from the date of this Contract.

2.16.3 Where the Contractor identifies any discrepancy within the Contractor’s Proposals and/or within the Employer’s Requirements and/or between the Contractor’s Proposals and the Employer’s Requirements (to the extent that such a discrepancy has not already been identified in accordance with clause 2.16.2), the Contractor shall inform the Employer in writing of his proposed amendment to remove the discrepancy; and (subject to compliance with Statutory Requirements) the Employer shall decide between the discrepant items or otherwise may accept the Contractor’s proposed amendment and the Contractor shall be obliged to comply with the decision or acceptance by the Employer without cost to the Employer. The Employer shall note any such amendment on the documents referred to in clause 2.8.1.

2.16.4 The Contractor shall not have or make any claim for an extension of time under clause 2.28 or for loss and/or expense under clause 4.23 and clause 8.9 shall not have effect where and to the extent that the cause of the progress of the Works having been delayed, affected or suspended is any mistake, inaccuracy, discrepancy or omission as is referred to in clause 2.16 or in any of the drawings or documents referred to in clause 2.9.5 or any failure by the Contractor to provide necessary drawings or documents in due time”.

2.17 Divergences from Statutory Requirements

At the end of clause 2.17.1 insert the following:

“If as a result of the Contractor’s Review or following any instruction effecting a Variation in the Employer’s Requirements the Contractor finds any divergence between the Statutory Requirements and either the Employer’s Requirements (including any Variation in the Employer’s Requirements) or the Contractor’s Proposals, he shall immediately give to the

Employer written notice specifying the divergence; the Contractor shall inform the Employer in writing of his proposed amendment for removing the divergence, and with the Employer's consent (which shall not be unreasonably delayed or withheld) the Contractor shall entirely at his own cost save as provided in clause 2.17.2 complete the design and construction of the Contractor's Designed Portion in accordance with the amendment and the Employer shall note the amendment on the documents referred to in clause 2.8.1".

2.17.2.1 - in line 1 after "Requirements" add the words "which could not reasonably have been foreseen by the Contractor at the date of tender".

2.18 Emergency compliance with Statutory Requirements

CDP Design Work

2.19 Design liabilities and limitation

Delete clause 2.19.1 and substitute the following:

2.19.1 "Where there is a Contractor's Designed Portion, in so far as the design of the Contractor's Designed Portion is comprised in the Contractor's Proposals and in what the Contractor is to complete under clause 2 and in accordance with the Employer's Requirements and this Contract (including any design which the Contractor is to carry out as a result of a Variation) (the "**Contractor's Design**"), the Contractor warrants and undertakes to the Employer that:

2.19.1.1 the design will be fully in accordance with this Contract;

2.19.1.2 it has exercised and will continue to exercise in relation to the preparation of such design all reasonable skill and care to be expected of a properly qualified and competent professional designer in each of the disciplines required for the Works who is experienced in preparing such design in relation to works of a similar size, scope, nature, complexity and value as the Works and who has supplied such design for or in connection with works to be carried out by a building contractor not being the supplier of the design; and

2.19.1.3 it shall ensure the proper co-ordination and integration of the various elements of and shall have sole responsibility for the Contractor's Design and

2.19.1.4 the Contractor's Designed Portion when completed will comply in all respects with the Employer's Requirements, the Contractor's Proposals, the Statutory Requirements and these Conditions."

Delete clause 2.19.3

Insert new clause 2.19A as follows:

2.19A "For the avoidance of doubt approvals issued by the Employer or the Architect/Contract Administrator and/or any independent consultant appointed by the Employer shall not mitigate, affect, diminish or reduce the responsibilities or liabilities of the Contractor in relation to its obligations under this Contract."

2.20 Errors and failures – other consequences

2.20.1 – in line 1 delete "the Contractor's Proposals" and replace with "the CDP Documents" and in line 3 delete the words "regulations 11, 12 and 18" and replace with "clause 2.2.3".

Fees Royalties and Patent Rights

- 2.21 Fees or charges legally demandable**
- 2.22 Royalties and patent rights – Contractor’s indemnity**
- 2.23 Patent Rights – Instructions**
- Unfixed Materials and Goods – property, risk, etc.**
- 2.24 Materials and goods – on site**
- 2.25 Materials and goods – off site**

Delete and **replace** with:

"The Contractor shall indemnify the Employer from and against any and all losses, expenses, liabilities, claims, costs or proceedings whatsoever arising from any failure by the Contractor to perform fully his obligations under clauses 2.24 and 4.17 and in particular, but without limitation, forthwith to pass to the Employer a complete and unencumbered title in and to any materials or goods which pursuant to clauses 2.24 and 4.17 are to become the property of the Employer".

Adjustment of Completion Date

- 2.26 Related definitions and interpretation**
- 2.27 Notice by Contractor of delay to progress**
- 2.28 Fixing Completion Date**

In line 3 (clause 2.28.1.2) after “Section” **insert** “has been or”

- 2.28.1.2 In line 2, after “date” **insert**

“and provided the Contractor has complied with his obligations under clause 2.28.6”. and provided that (a) the Contractor has made reasonable and proper efforts to mitigate such delay and the effects of such delay; and (b) any period of delay caused by a Relevant Event which is concurrent with another period of delay or relevant concurrent part of such period for which the Contractor is responsible shall not be taken into account,”

At the end of clause 2.28.1, after “reasonable”**insert:**

"provided that, where there is a pre-agreed adjustment or agreement is reached between the Employer and the Contractor under any other provision of the Contract as to the nature and extent of any adjustment to any Completion Date the Architect/Contract Administrator shall grant an extension of time of the agreed length and shall fix a new Completion Date accordingly and no further or other extensions shall be made in respect of such instruction".

- 2.28.2 **insert** the following new sentence at the end of the clause:

“Upon fixing a new Completion Date pursuant to clause 2.28.1 the Contractor shall also make such adjustments to the Master Programme as are necessary for the Master Programme to take account of the new Completion Date”.

- 2.28.5.1 in lines 3 and 4 **delete** “and whether or not the Relevant Event has been specifically notified by the Contractor under clause 2.27.1” and **insert** “that has been notified to the Employer strictly in accordance with clause 2.27”.

- 2.28.6.1 in line 1 after “prevent” **insert** “and mitigate the effects of”.

Insert new clauses 2.28.6.5 and 2.28.6.6 as follows:

“2.28.6.5 There shall be no entitlement to an extension of time to the extent that any Relevant Event (other than the occurrence of a Specified Peril) is consequent upon or made necessary as a result of any act, omission, negligence, default or breach of contract by the Contractor his servants or agents, or any sub-contractor or supplier or their respective servants or agents.

2.28.6.6 No Completion Date shall be fixed (pursuant to clause 2.28 or otherwise) later than that previously fixed to the extent that any Relevant Event (other than one which is an act of prevention by the Employer) operates concurrently or overlaps with any other event which causes or is likely to cause delay in completion of the Works.”

2.29 Relevant Events

2.29.2 In clause 2.29.2.1 **delete** “3.16 (excluding an instruction for expenditure of a Provisional Sum for defined work)”.

In Clause 2.29.2.2 - after the words “inspection or test” in line 2 **insert** the words “or series thereof

2.29.8 – after “work” in line 1 insert:

“in respect of which the Contractor has used (and has procured that all sub-contractors use) best endeavours to avoid (and, if unavoidable, to minimise) any delay (including ensuring that the appropriate notices are served in a timely manner) and provided always that such matters are not matters for which the Contractor is otherwise responsible under this Contract“.

2.29.9 **Delete**

2.29.10 **Delete**

2.29.12 **insert** at end of clause the words “save where such events arise upon the site or concern the Contractor’s employees and do not arise out of or in connection with a national labour dispute.”

2.29.13 In line 2 after “Works” **insert** “excluding that which relates to any matter concerning a Pandemic Event”

Add a new clause

2.29.15 “a Pandemic Event.”

Practical Completion, Lateness and Liquidated Damages

2.30 Practical completion and certificates

At the beginning of the clause insert the following:

“The Contractor shall notify the Employer in writing at least 10 working days in advance of the date on which he considers that the Works are likely to reach Practical Completion”

Delete references to “practical completion” and **replace** with “Practical Completion”.

Insert new clauses 2.30.3 and 2.30.4 as follows:

- 2.30.3 “The Contractor shall procure that on or before practical completion of the Works, the Works are cleared and free from any rubbish generated by or resulting from the Works and that all of the Contractor’s plant and excess building materials shall have been removed from the Works.”
- 2.30.4 “The Contractor acknowledges that following practical completion, entry to any part or parts of the Works to carry out and complete any snagging works or remedy any defects, shrinkages or other faults in the Works shall be by appointment with the Employer only and the Contractor will comply with all reasonable requirements of the Employer in relation to such entry (including without limitation in relation to the storage of materials, noisy working, the timing and duration of works, security and cleaning).”
- 2.31 Non-Completion Certificates**
- In line 2, after “(a Non-Completion Certificate).”, insert a new second sentence as follows:
- “Such Certificate shall (unless cancelled as herein after provided or revised in proceedings pursuant to Article 9) be conclusive and binding on the Contractor until final ascertainment or agreement between the Parties as to the matters to which it relates.”
- 2.32 Payment or allowance of liquidated damages**
- 2.32.1** **delete** the words “not later than five days before” from line 6 and substitute “not later than the day before”.
- Insert** new clause 2.32.5
- 2.32.5** Any monies payable under this clause 2.32 shall be paid or allowed by the Contractor without any deduction, withholding or set off, notwithstanding any claim or counterclaim that the Contractor may have against the Employer”.
- Partial Possession by Employer**
- 2.33 Contractor’s consent**
- Insert** the following after the words “such part or parts.” in line six of clause 2.33:
- “Following possession of any such part or parts of the Works by the Employer, the Contractor shall make reasonable provision for access to the relevant part for the benefit of the Employer and/or any person authorised by him provided always that any reasonable costs properly incurred by the Contractor arising from the provision for and use of such access shall be payable by the Employer to the Contractor. If the Employer takes possession of any part or parts of the Works”
- 2.34 Practical completion date**
- Insert** the following at the end of clause 2.34: “provided however that the Rectification Period for the Relevant Part shall run until the expiry of the Rectification Period in respect of the whole of the Works”.
- 2.35 Defects etc. – Relevant Part**
- At the end of clause 2.35 **insert** as follows:
- “Provided that the Architect/Contract Administrator shall not be required to issue such certificate any earlier than 14 days after the end of the Rectification Period applicable to such Relevant Part.”

2.36 Insurance – Relevant Part

2.37 Liquidated damages – Relevant Part

Defects

2.38 Schedules of defects and instructions

In line 1, after "Works or a Section" **insert** "remain at Practical Completion or".

In line 2, after "with this Contract", **insert** "or to frost occurring before Practical Completion of the Works or such Section"

In line 10, (clause 2.38.2) **delete** "after delivery of a schedule of defects or".

In line 11, **delete** "Within a reasonable time" and **replace** with "As soon as practicable".

In line 12, after "the Contractor", **insert** "(and if the Architect/Contract Administrator so directs, outside the normal working hours of the Contractor) to the satisfaction of the Architect/Contract Administrator".

delete the first sentence in the fourth paragraph and insert the following:

"Unless the Employer shall instruct otherwise, the Contractor shall at no cost to the Employer make good within the reasonable period specified in such schedule or instructions the defects, shrinkages and other faults and without prejudice to the generality of the foregoing the Contractor shall comply with the following time limits for remedying defects notified by the Employer as:

- 2.38.3 Urgent – the Contractor is to attend site within 2 hours and take reasonable steps to mitigate the effect of the defect forthwith and (subject to the availability of materials) is to rectify the defect within 24 hours of notification.
- 2.38.4 Priority - the Contractor is to attend site within 24 hours and take reasonable steps to mitigate the effect of the defect forthwith and is to rectify the defect within 7 days of notification.
- 2.38.5 Routine - the Contractor is to attend site within 3 days and take reasonable steps to mitigate the effect of the defect forthwith and is to rectify the defect within 28 days of notification.

and where the Contractor is not able to remedy or mitigate the effects of the defects within the time limits set out in clause 2.38.3 – 2.38.5 the Employer shall be entitled to carry out such works as may be reasonably required to mitigate or remedy the defect and the Contractor will pay to the Employer within 10 working days of written demand as a debt due the cost properly incurred by the Employer in carrying out such works. The Contractor acknowledges that any work carried out by the Employer to mitigate or remedy any defect in accordance with this clause 2.38 shall not affect in any way the liability of the Contractor in respect of the Works or the defect in question."

2.39 Certificate of Making Good

In line 2, after "have been made good", **insert** "to the satisfaction of the Architect/Contract Administrator and provided that a period of at least 12 months has expired from the date stated in the Practical Completion Certificate issued in accordance with clause 2.30".

At the end of the clause **insert** as follows:

“Provided that the Architect/Contract Administrator shall not be required to issue any certificate to that effect any earlier than 14 days after the end of the relevant Rectification Period”.

Contractor’s Design Documents

2.40 As-built drawings

Delete clause 2.40 and insert the following:

- 2.40.1 The Contractor shall without charge provide the Employer with drawings and other information relating to the Works as the Employer may properly require (in two hard copies (bound) and three electronic copies on CD ROM) which together contain sufficient information to enable the Works or any Section to be properly, efficiently and safely fitted-out, maintained and operated in their entirety as from the date of Practical Completion of the Works or the relevant Section as follows:
- 2.40.1.1 in final draft form by such date as the Employer may reasonably require to enable the Employer to produce or procure the production of draft operating and maintenance manuals for the Works or any Section by the date of Practical Completion of the Works or the relevant Section; and
- 2.40.1.2 in final form by the date one month after the date of Practical Completion of the Works or the relevant Section to enable the Employer to produce or procure the production of final operating and maintenance manuals for the Works or that Section.
- 2.40.2 Subject to clause 2.40.3, on or before the date of Practical Completion of the Works or any Section, the Contractor shall without charge provide the Employer:
- 2.40.2.1 with two hard copies and three electronic copies on CD ROM containing all such drawings, specifications and other details and 2 hard copies of all record drawings reduced to size A3/2 showing or describing accurately the Works or the relevant Section (including details of all materials used therein) constructed in accordance with the Contractor’s Design as-built; and
- 2.40.2.2 with two hard copies and three electronic copies on CD ROM of such other information as is required by the CDM Co-ordinator for the health and safety file required by the CDM Regulations.
- 2.40.3 Where the Employer takes possession of any part or parts of the Works pursuant to clause 2.33, the Contractor shall no later than the date on which the Employer takes possession of such part or parts or, if this is agreed to be impracticable, as soon as reasonably practicable thereafter but in any event within one month of the date when the Employer took possession of such part or parts and without charge provide the Employer with all such drawings, specifications, details, manuals and other information as are referred to in clause 2.40.2 and which refer to such part or parts of the Works.
- 2.40.4 The Employer shall be entitled to retain twenty thousand pounds (£20,000) from any amounts payable to the Contractor at Practical Completion until such time as the Contractor complies with its obligations under clause 2.40.”

2.41 Copyright and use

- 2.41.2 **delete** “Subject to all sums due and payable under this Contract to the Contractor having been paid,” from the beginning of the clause. In line 2 after “irrevocable,” **insert** “perpetual,”.

At the end of the clause, add the words “Such licence shall also include the right to grant sub-licences.”

insert new clauses 2.41.4 and 2.41.5 as follows:

“2.41.4 The Contractor undertakes to procure that there shall be granted to the Employer an irrevocable, perpetual, non-exclusive licence as referred to in clause 2.41.2 in relation to any documents of the same nature as the Contractor’s Design Documents provided by any party other than the Contractor for the purposes of or in connection with this Contract.

2.41.5 If the use of any such Contractor’s Design Documents/documents or the designs contained in them for the said purposes infringes the rights of any third party, the Contractor shall indemnify the Employer against all resulting costs, damages and expense.”

insert new clauses 2.42 to 2.45 as follows:

“2.42 The Contractor warrants that, insofar as it is responsible for the specification of substances and materials, it has not specified and will not specify for use and it has exercised and will continue to exercise the standard of skill, care and diligence required by this Contract, to see that there are not used in the construction of the Works any substances and materials not in conformity with any relevant British or European Standards or Codes of Practice or which are generally known to the UK building industry at the time of specification or use to be deleterious to health and safety or to the durability of the Works in the particular circumstances in which they are used, or which are not used in accordance with the guidance contained in the publication “Good Practice in the Selection of Construction Materials” (2011, British Council of Offices).

2.43 The Contractor shall perform the Works and its obligations under this Contract so it shall not put the Employer or any Affiliate in breach of its obligations under:

2.43.1 the Project Agreements; and

2.43.2 any other agreement(s) entered into by the Employer or any Group Company following execution of this Contract which impose obligations on the Employer or the Group Company regarding the Works provided that the Employer provides the Contractor with copies or relevant extracts of the same.

2.44 If the Contractor identifies any discrepancy between the requirements of this Contract and the requirements of any Project Agreement it shall promptly notify the Employer and comply with any instruction issued by the Employer in respect of such matter at no cost to the Employer and without any entitlement to an extension of time.

2.45 The Contractor acknowledges that any failure by him to comply with his obligations under clauses 2.43 and 2.44 may result in the Employer or the relevant Group Company committing breaches of and/or becoming liable under or pursuant to the Project Agreements (or any of them) or any other agreements referred to in clause 2.43 and any such liability is agreed as being within the contemplation of the parties as being the probable result of any such failure by the Contractor.”

Section 3 Control of the Works

Access and Representatives

3.1 Access for Architect/Contract Administrator

3.2 Person-in-charge

Renumber clause 3.2 as clause 3.2.1 and insert new clauses as follows:

“3.2.2.1 The Contractor shall appoint the following key personnel to act full time on its behalf in the carrying out and completion of the Works performing the relevant function attributed to each of them:

Project director: []

Project manager (full time on site): []

Technical services manager: []

3.2.2.2 The Contractor shall not except in emergency remove any of the persons referred to in clause 3.2.2.1 for so long as such persons remain engaged by the Contractor without the prior written approval of the Employer which approval shall not be unreasonably withheld or delayed.

If such approval is given the Contractor shall replace such person with a person who shall have been previously approved by the Employer in writing which approval shall not be unreasonably withheld or delayed.

3.2.2.3 The Employer may request the Contractor to remove any person engaged in the carrying out or completion of the Works if in the reasonable opinion of the Employer that person’s performance or conduct has been unsatisfactory and the Contractor shall promptly remove such person and replace him with a person approved by the Employer as aforesaid.

3.2.2.4 If for any reason any of the individuals set out in clause 3.2.2.1 cease to be involved in the Works, save for as a result of death, long term illness or any reason which (in the Employer’s opinion) is outside the control of the Contractor, the Employer shall be entitled to terminate the employment of the Contractor and clause 8.7 shall apply.

3.3 Employer’s representative

3.4 Clerk of works

3.5 Replacement of Architect/Contract Administrator or Quantity Surveyor

3.6 Contractor’s responsibility

Sub-Contracting

3.7 Consent to sub-contracting

3.7.1 In the second sentence, **delete** "clause 2.1" and **insert** "this Contract".

3.7.3 Delete

3.8 List in Contract Bills

3.9 Conditions of sub-contracting

Insert new clauses 3.9.3, 3.9.4 and 3.9.5 as follows:

- 3.9.3 the sub-contract shall be executed as a deed;
- 3.9.4 for each sub-contractor that has design obligations in respect of the Works, prior to any sub-letting approved by the Employer pursuant to clause 3.7.1 or clause 3.7.2 above the Contractor shall produce a copy of the agreed form of sub-contract to the Employer for its approval (such approval not to be unreasonably withheld) provided that the giving of such approval shall not in any way mitigate, affect, reduce or diminish the Contractor's responsibilities or liability under this Contract and in particular without prejudice to the generality of the foregoing under clause 2.19;
- 3.9.5 forthwith following the entering into of any sub-contract approved as aforesaid the Contractor shall deliver to the Employer a certified copy of the relevant sub-contract executed by the subcontractor."

Architect/Contractor Administrator's Instructions

3.10 Compliance with instructions

Delete clause 3.10.1 and insert "on the grounds of a risk to Health and Safety or some other breach of Statutory Requirement" after "reasonable objection" on the second line.

Delete clause 3.10.3 and insert "reasonable" after "Contractor's" in the first line. In the third line delete "including" and insert "specifically"

3.11 Non-compliance with instructions

3.12 Instructions other than in writing

Delete clauses 3.12.2 to 3.12.4 inclusive.

3.13 Provisions empowering instructions

Delete

3.14 Instructions requiring Variations

3.14.2 **Delete** and insert (Not used)

3.14.4 at the end of the clause **insert:**

"provided that the Contractor shall not be entitled to claim any extension of time or any addition to the Contract Sum by reason of any sanction given by the Architect/Contract Administrator unless the Contractor shall have requested such sanction from the Architect/Contract Administrator in writing prior to the commencement of the relevant work."

3.15 Postponement of work

Delete clause 3.15 and replace with the following:

"The Architect/Contract Administrator may, from time to time and for any reason, instruct the Contractor to defer or suspend the progress of the Works. The Contractor shall comply with all such instructions and shall promptly commence or recommence work under this Contract upon being instructed by the Architect/Contract Administrator so to do. The extra cost incurred by the Contractor, if any, in completing the Works shall be ascertained by the Architect/Contract Administrator as if it were a Variation and shall be reimbursed by the

Employer unless the deferment or suspension is due to an act, default or omission of the Contractor or any of the sub-contractors or other Persons for whom the Contractor is responsible.”

3.16 Instructions on Provisional Sums

3.17 Inspection – tests

Renumber the existing clause 3.17 as 3.17.1 and Insert new clause 3.17.2 as follows:

“None of the elements of the Works which are stated in the Employer’s Requirements to be subject to this clause 3.17.2 shall be covered up or put out of view without the prior approval of the Employer. The Contractor shall give due notice to the Employer whenever such work is ready or about to be ready for examination and shall afford full opportunity for Employer to examine any such element of the Works which is about to be covered up. If the Employer has not responded to a notice issued by the Contractor under this clause 3.17.2 or otherwise commented on the element of the works in question within five days of receipt of such notice the Contractor shall be entitled to proceed with such work. Neither any comments nor any lack of comments by the Employer pursuant to this clause 3.17.2 shall relieve the Contractor of any of its obligations under this Contract.”

3.18 Work not in accordance with the Contract

3.18.1 - Between the words “site” and “of” **insert** “or rectification

3.18.4 – in lines 6 after “to the Contract Sum” delete the remainder of the clause and add “and no extension of time shall be given

3.19 Workmanship not in accordance with the Contract

3.20 Executed work

3.21 Exclusion of persons from the Works

3.22 Antiquities

CDM Regulations

3.23 Undertakings to comply

3.23.4 At the end of the clause, **delete** the full stop and **replace** it with “; and”.

Insert new clause 3.25.5 as follows:

"3.23.5 the Contractor warrants and undertakes to the Employer that:

- 3.23.5.1 he has performed and fulfilled and will continue to perform and fulfil the duties imposed on him by the CDM Regulations, both in his capacity as a "contractor" (as defined in the CDM Regulations) and as the Principal Contractor;
- 3.23.5.2 he has performed and fulfilled and will continue to perform and fulfil the duties imposed by the CDM Regulations on a "designer" (as defined in the CDM Regulations);
- 3.23.5.3 he is competent to perform all duties imposed on him by the CDM Regulations;
- 3.23.5.4 he has allocated and will continue to allocate both sufficient time and adequate resources to ensure that he performs and fulfils his duties under the CDM Regulations properly; and

- 3.23.5.5 he has advised and supported and will continue to advise and provide support to the Employer to assist the Employer in performing the duties imposed by the CDM Regulations on a "client" (as defined by the CDM Regulations)."
- 3.23.5.6 he shall and shall procure that its design sub-contractors cooperate with the Employer and the CDM Co-ordinator/principal designer so as to enable all parties to discharge their respective obligations under the CDM Regulations."

3.24 Appointment of successors

Section 4 Payment

Contract Sum and Adjustments

4.1 Work included in Contract Sum

Insert new clause 4A as follows:

- 4A "The Employer shall be entitled to make payment of any monies due to any sub-contractor directly to the sub-contractor instead of through the Contractor. If the Employer elects to make such direct payments the amount paid by the Employer to the sub-contractor shall be deducted from any amount that would otherwise become payable to the Contractor."

4.2 Adjustment only under the Conditions

4.3 Items included in adjustments

Delete clause 4.3.1.3

Insert new sub-clause 4.3.2.5 as follows:

"Any amount being the sum of the charges in respect of the "Contractor's Information Required Schedule" as described in appendix 2 to the Bills of Quantities arising as a result of the failure by the Contractor to submit the information within the required timescale and calculated at the rate of £500 per day for each day of delay in its submission".

Insert new sub-clause 4.3.2.6 as follows

"Any amount being the sum of the penalty charges in respect of the "Programme of the Works" as described in Clause 2.9.1.2 and in appendix 2 to the Bills of Quantities arising as a result of the failure by the Contractor to submit the Programme for review at each and every Site meeting and calculated at the rate of £500 per day for each day of delay in its submission".

Clause 4.3.3.5 – delete the reference to clause 6.10.3

4.4 Taking adjustments into account

4.5 Final adjustment

Payments, Certificates and Notices

4.6 VAT

Insert new clauses 4.6.3 – 4.6.5 as follows:

“4.6.3 The Contractor will work with the Employer’s tax advisers to review the rates of VAT applicable to the Works and shall assist in any discussions or negotiations with HMRC regarding rates of VAT relating to the Works.

4.6.4 The Contractor will use all reasonable endeavours to identify where rates of VAT lower than the standard rate of VAT (currently 20%) may apply to the Works and its services and will apply those rates to its charges. The Contractor will apply appropriate expertise, competence and experience to establish the correct VAT treatment of its charges. Each time the Contractor issues an invoice in relation to the Works, it will provide an analysis of the VAT treatment of its charges together with a written summary of the rationale used to arrive at determining the VAT treatment of its charges.”

4.7 Construction Industry Scheme (CIS)

4.8 Advance payment

4.9 Interim Payments – due dates and amounts due

Insert new clause 4.9.3 as follows:

“4.9.3 Notwithstanding any other term of this Contract, it shall be a condition precedent to any interim payment becoming due under this Contract that the Contractor provides the Employer:

4.9.3.1 with a signed letter from its finance director confirming that all sums forming part of the previous interim payment relating to the payment of sub-contractors have been paid to the sub-contractors in full; and

4.9.3.2 where the sum forming part of the previous interim payment relating to the payment of any given sub-contractor exceeds £50,000.00 a letter from the sub-contractor in question confirming that the sub-contractor has received payment of the sum in question in full.”

4.10 Interim Certificates and Valuations

4.11 Contractors Interim Applications and Payment Notices

4.12 Interim payments – final date and amount

4.12.1 In line 1 **delete** “14 days from its due date” and **insert** “28 days from receipt of a VAT invoice for the sum set out in the Interim Certificate”.

4.13 Pay less notices and general provisions

4.13.3 On line 1 **delete** "Notwithstanding the fiduciary interest of the Employer in the Retention as stated in clause 4.18, the" and **insert** "The".

In line 2 after "this Contract", **insert** "or at common law or in equity"

4.12.5 In line 2, replace “5” with “3”.

4.12.6 At the end of the clause **insert** as follows:

The Parties agree that this clause 4.13.6 is a substantial remedy for late payment of any sum payable under this Contract in accordance with the provisions of s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

Insert a new clause 4.12.8 as follows:

4.12.8 The issue by or on behalf of the Employer of any written notice pursuant to this clause 4.12.3 or the payment of any amount by the Employer to the Contractor pursuant to this clause 4.12 shall not constitute or imply or be evidence of the Employer's approval or acceptance of any design, work, materials or equipment forming part of the Works or any Section or relieve the Contractor of any of his obligations under this Contract."

4.13.3 **Delete clause 4.13.3** and substitute the following:

"Any right of the Employer to deduct or set off any amount (whether arising under any provision of this Contract or under any rule of law or equity) shall be exercisable against any monies due or to become due to the Contractor, whether or not such monies include or consist of any Retention."

4.14 Contractor's right of suspension

4.14.1 In line 4 **delete** "7" and **insert** "14".

4.14.3 – in line 1 **delete** "shall" and replace with "may". In line 2 **insert** "in any subsequent Interim Application" after "Contract Administrator".

4.15 Final Certificate and final payment

4.15.4 - in line 2, replace "5" with "3".

4.15.6.3 – in line 1 replace "5" with "3".

4.15.7 At the end of the clause **insert**:

"but shall be without prejudice to the Employer's right to set-off or otherwise recover any liability of the Contractor to the Employer arising in respect of the Works"

Gross Valuation

4.16 Ascertainment

4.16.1.2 In line 1, **delete** "or adjacent to".

In line 5, after "casualties", **insert** "and upon the Contractor providing the Employer with reasonable proof that the property in such unfixed materials or goods is vested in him and that no Sub-Contractor or Supplier of any tier has validly retained title to the same."

4.16.1.3 **Delete**

4.16.2.1 – **delete** the reference to clause 6.10.3.

4.17 Off-site materials and goods

Delete "shall" in line 1 and replace with (may (subject to the Employer's consent in writing".

Retention

4.18 Rules on treatment of Retention

Delete and insert (Not Used)

4.19 Retention Bond

4.20 Retention – amounts and periods

4.20.1 At the end of clause 4.20.1 after “Particulars” **insert**

In addition to the Retention held by the Employer under this sub-clause the Employer will retain a further 10% of each amount due for payment until the time when a Performance Guarantee Bond as detailed in Clause 7G and acceptable to the Employer has been executed by the Contractor or until the works have reached Practical Completion, whichever is the earlier”.

4.20.3 In line 2, **delete** "practical completion and **replace** with "Practical Completion".

At the end of the clause, **insert**

"provided that it is a condition precedent to the release of any part of the Retention Percentage (with the exception only of so much of the Retention Percentage as may become due for release as a result of Practical Completion of a Relevant Part occurring on a Relevant Date in accordance with clause 2.34) that the Contractor shall have complied with his obligations pursuant to clause 2.40 ”.

Fluctuations

4.21 Choice of fluctuation provisions

Delete clauses 4.21 and Schedule 7.

4.22 Applicability to variation quotations

Delete clauses 4.22 and Schedule 7.

Loss and Expense

4.23 Matters materially affecting regular progress

4.23.1 In line 1 **delete** "as soon as" and **insert** “not later than 14 days after”.

4.23.3 At the end, delete the full stop and **replace** it with a semi-colon.

Insert new clauses 4.23.4 to 4.23.8 as follows:

4.23.4 advise the Employer of all measures that are necessary to avoid or minimise the delay and the consequences of such measures on the Contractor's programme and the Contractor shall take all steps to avoid or minimise such delay;

4.23.5 not be entitled to any loss and/or expense in relation to a delay in the regular progress of the Works or any Section caused by a Relevant Matter which is concurrent with another delay for which the Contractor is wholly responsible;

4.23.6 not be entitled to (and the Employer shall not be obliged to make) any adjustment to the Contract Sum for the purposes of clause 4.15 in relation to any entitlement to loss and/or expense for any Relevant Matter, where and to the extent that the Contractor fails to comply with the provisions of clauses 4.23.1 to 4.23.4 inclusive in relation to such Relevant Matter. Such adjustment shall not in any event include any addition in respect of loss of interest of financing charges suffered or incurred by the Contractor between the date of the Contractor's failure so to comply and such adjustment following Practical Completion;

4.23.7 not be entitled to any addition of any amount to the Contract Sum or to any other financial adjustment under this clause 4.23 to the extent that the same is due to any breach of this Contract by the Contractor or any negligence or default of the Contractor (or any

Sub-Contractor or Supplier) for whom the Contractor is responsible under this Contract, or their respective servants or agents; and

4.23.8 constantly use best endeavours to prevent or minimise any disruption to the regular progress of the Works and each Section as aforesaid and to mitigate any loss and/or expense incurred by him".

4.24 Relevant Matters

4.24.2.1 In line 1 after "3.15" **insert** "(excluding any matter relating to a Pandemic Event)" and **delete** "or 3.16 (excluding an instruction for expenditure of a Provisional Sum for defined work)".

4.24.2.2 - after the words "inspection or test" in line 3 **insert** "or series thereof" and in line 3 after the words "with this Contract" **insert** the words "unless the inspection or test was reasonably required as a result of a previous inspection or test or series thereof";

4.25 Amounts ascertained – addition to Contract Sum

4.26 Reservation of Contractor's rights and remedies

Delete and **replace** with:

4.26 "Reimbursement of the Contractor for loss and/or expense under clause 4.23 shall be full compensation for the Contractor in respect of the Relevant Matters, and the Employer shall have no further liability to the Contractor therefor."

Insert new clauses 4.27 and 4.28 as follows:

4.27 No loss and/or expense shall be added to the Contract Sum which the Contractor could have avoided or reduced by reasonable efforts or to the extent that the matter in clause 4.24 identified as giving rise to the application has been caused or contributed to by any act or omission, negligence, default or breach of contract of the Contractor his servants or agents or any sub-contractor or supplier, their servants or agents.

4.28 No loss and/or expense shall be added to the Contract Sum to the extent that any Relevant Matter (other than one which is an act of prevention by the Employer) operates concurrently or overlaps with any other event which causes or is likely to cause delay in completion of the Works"

Insert new clause 4.29 as follows:

4.29 "Where the Employer has reasonable grounds to believe the Contractor is at risk of becoming Insolvent or where the Contractor has not complied with clause 4.10.3, then the Employer shall be entitled to make payment of any monies due to any sub-contractor directly to the sub-contractor instead of through the Contractor. If the Employer elects to make such direct payments the amount paid shall reduce the amount payable by the Employer to the Contractor in accordance with the other provisions of this Contract."

Section 5 Variations

5.1 Definition of Variations

5.1.1.1 - add the following words after the word "omission":

“(whether or not the Employer requires the same work to be carried out by others and if the same work is carried out by others the Contractor shall have no entitlement to loss of profit in respect of the same.)”

5.1.2.3 After "limitation of working hours" **insert**:

", (except where the Employer requires the Contractor, during the Rectification Period, to remedy any defect, shrinkage or other fault outside the normal working hours of the Contractor)."

5.1.2.4 - **insert** the word “, timing” after the words “the execution”, and **insert** the words “or to any specific timescale” after the words “in any specific order”.

5.2 Valuation of Variations and provisional sum work

5.2.1 At the start of this clause **delete** “Subject” and **insert**:

"In the absence of any prior agreement between the Employer and the Contractor as to any adjustment to be made to the Contract Sum by reason of any Variation, and subject"

5.3 Variation Quotation

5.3.1 – **delete** from the words “, unless within” to the end of the clause.

5.3.2 – **delete**.

5.4 Contractor’s right to be present at measurement

5.5 Giving effect to Valuations, agreements, etc

The Valuation Rules

5.6 Measurable Work

5.7 Daywork

In line 14 after “that” insert “before work which is to be carried out on a daywork basis is commenced, the Architect or his Site representative is notified in writing by the Contractor of his intention so to do and the Architect or his Representatives comments thereon are obtained and”

On line 16 delete “7” and insert “2”

On line 17 after “executed” insert “Strict adherence to the above notification/comment procedure is a condition precedent to payment”.

5.8 Contractor’s Designed Portion – Valuation

5.9 Change of conditions for other work

5.10 Additional provisions

Section 6 Injury, Damage and Insurance

Injury to Persons with Property

6.1 Liability of Contractor – personal injury or death

In line 3, after "the Works", **insert** “including the performance of the Contractor’s obligations under clause 2.38”. In lines 4 and 5 **delete** “or of any Statutory Undertaker”.

6.2 Liability of Contractor – injury or damage to property

In line 4, after "the Works", **insert** "including the performance of any obligation pursuant to clause 2.38".

6.3 Injury or damage to property – Works and Site materials excluded

Insurance against Personal Injury and Property Damage

6.4 Contractor's insurance of his liability

6.4.1 – in line 3 after "6.2" **insert** the words "and 6.17".

6.5 Contractor's insurance of liability of Employer

6.5.1.1 – after "6.2" **insert** the words "and 6.17".

6.6 Excepted Risks

Insurance of the Works

6.7 Insurance Options

Insert a new second sentence as follows:

"In this Section 6 and in Option A, Option B or Option C all references to 'full reinstatement value' are to be read as references to 'full reinstatement cost'".

At the end, **insert** a new third sentence as follows:

"The application of Option A, Option B or Option C (as the case may be) shall not affect the responsibility of the Contractor under this Contract for any loss or damage not insured by any Joint Names Policy described therein".

6.8 Related definitions

"All Risks Insurance"

In line 2 of the definition, after "Site Materials", **insert** the words "and also the increased cost of construction of the incomplete Works".

"Joint Names Policy"

In line 2 of the definition, after "Contractor", **insert** the words " and any other persons specified in writing by the Employer to the Contractor, who have an interest in or mortgage or charge over the site."

6.9 Sub-contractors – Specified Perils cover under Joint Names All Risks Policies

6.10 Terrorism Cover – policy extensions and premiums

6.11 Terrorism Cover – non-availability – Employer's options

CDP Professional Indemnity Insurance

6.12 Obligation to insure

6.13 Increased cost and non-availability

6.13 - renumber this clause as clause 6.13.1 and **delete** from and including “so that the Contractor and the Employer can discuss” to the end of the clause and **replace** with “and shall obtain in respect of such period such reduced level of professional indemnity insurance as is available and as would be fair and reasonable in the circumstances for the Contractor to obtain.

6.13.2 **Insert new clause 6.13.2** as follows:

“Any increased or additional premium required by reason of the Contractor’s own claims record or other acts, omissions, matters or things particular to the Contractor shall be deemed to fall within commercially reasonable rates for the purposes of clauses 6.12 and 6.13.1.”

Joint Fire Code - compliance

6.14 **Application of clauses**

6.15 **Compliance with Joint Fire Code**

6.16 **Breach of Joint Fire Code – Remedial Measures**

6.17 **Joint Fire Code – Amendments/Revisions**

Insert new clauses 6.18 to 6.20 to read as follows:

6.18 The Contractor shall be liable for, and shall indemnify the Employer against, any expense, liability, loss, claim or proceedings whatsoever arising resulting from any nuisance (including any such nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris) or other interference with the rights of any neighbouring landowner, tenant, occupier or statutory authority arising out of the carrying out of the Works or of any obligation pursuant to clause 2.38. The Contractor shall defend or, at the Employer’s option, assist the Employer in defending any such claim or proceedings be instituted in relation thereto howsoever such action may arise. Provided that this liability and indemnity shall not apply to any such nuisance or interference which is the direct and unavoidable consequence of a Variation or other instruction of the Architect and provided further that the Architect may issue to the Contractor such instructions as he considers necessary if any injunction is granted or court order made as a result of any such nuisance or interference. The Contractor shall alter its hours and method of working as and where necessary in order to ensure its full compliance with the Statutory Requirements and to such extent as may reasonably be expected to ensure its full compliance with this clause 6.18.

6.19 If the carrying out of the Works or any obligation under clause 2.38 may necessitate interference with the rights of neighbouring landowners and others referred to in clause 6.18 (including the oversailing of tower crane jibs) then the Contractor shall without cost to the Employer obtain the prior written agreement of any such party which shall be subject to the approval of the Employer before execution. The Contractor shall comply with any such agreement.

6.20 Notwithstanding any other term of this Contract, where loss or damage has been caused as a result of the occurrence of a Specified Peril and the Specified Peril has been caused or contributed to by any act or omission, negligence, default or breach of contract of the Contractor his servants or agents or any sub-contractor or supplier, their servants or agents the Contractor shall be liable for any costs and losses suffered and incurred (including any insurance excesses) by the Employer which are not recoverable under any policy of insurance to be taken out and maintained in accordance with the terms of this Contract.”

Section 7 Assignment, Third Party Rights and Collateral Warranties

Assignment

7.1 General

Delete Clause 7.1 and **substitute** the following

“The Contractor shall not, without the written consent of the Employer, assign or charge the benefit of this Contract or any right arising under it. The Employer shall be entitled to assign the benefit of all or any of the Contractor’s obligations under this Contract by absolute assignment to any person without the consent of the Contractor. The Employer shall also be entitled to charge and/or assign by way of security the benefit of this Contract to any mortgagee without the Contractor’s consent.”

7.2 Rights of enforcement

Delete and **replace** with:

“7.2.1 The Employer may at any time and without the consent of the Contractor being required assign, charge or transfer his interest in this Contract and all rights arising out of or under it in relation to either the whole of the premises comprising the Works or (if the Contract Particulars so state) to any Section, to any person by giving written notice to the Contractor.

“7.2.2 The Contractor undertakes to the Employer not to contend in any proceedings under this Contract that any person to whom the Employer assigns or has assigned its rights under this Contract or any of them in accordance with the foregoing provisions of this clause is to be precluded from recovering any loss resulting from any breach of this Contract (whenever happening) by reason that such person is an assignee and not the original promisee under this Contract or by reason that the Employer or any intermediate assignee of the Employer escaped loss resulting from such breach by reason of the disposal of its interest in the same.”

Clauses 7A to 7F – Preliminary

7.3 Notices

7.4 Execution of Collateral Warranties

Delete the second sentence.

Third Party Rights from Contractor

7A Rights for Purchasers and Tenants – Delete

7B Rights for a Funder – Delete

Collateral Warranties

7C In line 4 **delete** “CWa/P&T” and replace with “annexed hereto as appendix A”.

7D in line 3 delete “CWa/F” and replace with “annexed hereto as appendix A”.

7E Sub-contractors' Warranties

In lines 4 and 5 delete “SCWa/P&T or SCWa/F or SCWa/E (as the case may be)” and replace with “annexed hereto as appendix A”. Delete from and including “proposed by” in

line six to the end of the clause and replace with “required by the Employer provided that such amendments do not make the terms of the Collateral Warranty any more onerous”.
 Add at the end of the clause the following new sentence: “The Contractor shall use best endeavours to procure that, where Part 2 of the Contract Particulars provides for the giving by any sub-contractor of a Collateral Warranty to the Funder, such Collateral Warranty is delivered by the sub-contractor prior to such sub-contractor commencing its works on site.”

The Works packages in respect of which collateral warranty agreements are required from the Contractor's sub-contractors are as detailed in the Contract Particulars and in appendix 4 of the Bills of Quantities.

Insert new clauses 7F and 7H as follows:

7F Owner collateral warranty

The Contractor shall on the date of this Contract enter into a collateral warranty in favour of the Owner in the form of appendix A to this Contract.

7G Non-provision of collateral warranties

7G.1 Any payment from the Employer to the Contractor pursuant to this Contract which is outstanding at the time that any collateral warranty referred to in clauses 7C or 7D is demanded by the Employer shall (notwithstanding any other provision of this Contract) cease to be due to the Contractor and no further payment shall become due to the Contractor until such warranty deed is executed and delivered to the Employer.

7G.2 Where a warranty deed is requested in accordance with clause 7E but not provided within the period required in clause 7E, the Employer shall be entitled to withhold from any sum due to the Contractor the greater of (1) any payment from the Employer to the Contractor pursuant to this Contract which is attributable to works materials or services provided by the subcontractor in question and (2) £20,000 until the warranty in question is provided.

7H Parent company guarantee and Performance Bond

Upon the execution of this Contract the Contractor shall procure the delivery of:

7H.1 a parent guarantee from [] in the form attached as appendix 27 to this Contract; and

7H.2 a performance bond from [] in the form attached as appendix 26 to this Contract;

and compliance with this clause shall be a condition precedent to each and every obligation of the Employer to make any payment to the Contractor under or in connection with this Contract.”

Section 8 Termination

General

8.1 Meaning of insolvency

8.2 Notices under section 8

8.3 Other rights, reinstatement

Termination by Employer

8.4 Default by Contractor

8.4.1 In line 1, **delete** "practical completion of the Works" and replace with "Practical Completion".

Insert new clause 8.4.1.6

8.4.1.6 fails to provide any of the P&T Rights, Funder Rights, collateral warranties, performance bond and/or parent company guarantee, as required by Section 7 of this Contract.

8.5 Insolvency of Contractor

8.5.3 – after the word "Contractor", **insert** the words "or Group Company". After the word "Insolvent", **insert** the words "or the Employer otherwise terminates the Contractor's employment pursuant to clause 8.5.1".

8.6 Corruption

8.7 Consequences of termination under clauses 8.4 to 8.6

8.7 – In line 1 after "8.5 or 8.6" **insert** "or 3.2.2.4".

8.7.3 – In line 3 **delete** "clauses 8.1.1 to 8.1.3" and **replace** with "clause 8.1".

8.8 Employer's decision not to complete the Works

Termination by Contractor

8.9 Default by Employer

8.9.1.3 **Delete**

8.9.1.4 **Delete**

8.9.2 In line 1 **delete** "practical completion of the Works" and **insert** "Practical Completion"

8.9.2 In line 3 after "Contract Particulars", **insert** "by 2 months in the case of 8.11.1 to 8.11.1.5 and by 6 months in the case of clause 8.11.1.6,"

8.9.2.1 In line 1 after "3.15" **insert** "(excluding any matter relating to a Pandemic Event)"

8.9.2 In line 8 after "8.11.1.2" **insert** and "8.11.1.6"

8.9.3 – In lines 1 and 2 **delete** "14 days" and **substitute** "21 days".

8.10 Insolvency of Employer

8.10.1 In line 1, after "notice to the Employer", **insert** "or the Employer may by notice to the Contractor".

8.11 Termination by either Party

8.11.1 In line 3 after "Contract Particulars", **insert** "by 2 months in the case of 8.11.1 to 8.11.1.5 and by 6 months in the case of clause 8.11.1.6,"

8.11.1.5 In line 2 after “Works” **insert** “excluding any matter relating to a Pandemic Event”

Add new clause

8.11.1.6 6. “a Pandemic Event,”

8.12 Consequences of Termination under clauses 8.9 to 8.11, etc.

8.12.3.5 after “termination” insert “excluding any matter relating to a Pandemic Event”

Insert new clause 8.12A as follows:

8.12A “Notwithstanding any other term of this Contract, the Employer shall be entitled to terminate the employment of the Contractor at any point in time on 7 days’ notice in writing. If the Employer terminates the employment of the Contractor in accordance with this clause 8.12A, clause 8.12 shall apply.”

Section 9 Settlement of Disputes

9.1 Mediation

9.2 Adjudication

Insert new clause 9.2.3 as follows:

9.2.3 “Without prejudice to the other provisions of clause 9.2 the Adjudicator shall if requested by the Employer within seven days of the date of the referral adjudicate at the same time on more than one dispute or difference under this Contract and/or adjudicate at the same time on related disputes under this Contract and any other contract with any person relating to the development comprising the Works”.

Arbitration

9.3 Conduct of arbitration – NOT APPLICABLE

9.4 Notice of reference to arbitration – NOT APPLICABLE

9.5 Powers of Arbitrator – NOT APPLICABLE

9.6 Effect of award – NOT APPLICABLE

9.7 Appeal – questions of law – NOT APPLICABLE

9.8 Arbitration Act 1996 – NOT APPLICABLE

Section 10 Bribery Act 2010

Insert a new clause 10 as follows:

“10.1 The Contractor warrants that it has not committed and will not commit any act or omission which would place the Employer or the Contractor in breach of the Bribery Act 2010 (the “**Bribery Act**”), whether in connection with the works or in any other way.

10.2 The Contractor will comply with all statutory guidance issued in connection with the Bribery Act and shall put in place appropriate rules and procedures to ensure that the Contractor and any of its employees, agents and sub-contractors do not breach the Bribery Act.

10.3 The Contractor will procure that any sub-contractor or agent performing services on its behalf complies with this clause 10.

10.4 The Contractor shall be liable to the Employer for any loss it may suffer as a result of any failure by the Contractor to comply with the requirements of this clause 10.”

Section 11 Confidentiality

Insert a new clause 11 as follows:

- 11.1** “The Employer and the Contractor agree:
- 11.1.1 to preserve the secrecy of all confidential information;
 - 11.1.2 to keep such information secure and protected against theft, damage, loss or unauthorised access;
 - 11.1.3 not to use such information for any purpose except as contemplated by this Contract; and
 - 11.1.4 to ensure that those obligations are observed by their employees, officers, agents, contractors, sub-contractors and Consultants (for the purpose of clause 11 hereafter referred to as the “Recipient”)
- 11.2** The obligations imposed by this clause shall survive the variation, renewal, termination (or expiry) of this Contract but shall not apply to information which:
- 11.2.1 at the time it is received it is in the public domain;
 - 11.2.2 subsequently comes into the public domain through no fault of either party or the Recipient;
 - 11.2.3 is lawfully received by either party or the Recipient from a third party on an unrestricted basis; or
 - 11.2.4 is already known to the party prior to receipt.
- 11.3** Except with the express sanction of the Employer, the Contractor shall not give interviews to the press or cause information or comment about the Works or pictures or photographs of the Works to be published or disclosed to any person or otherwise (including, without limitation, the terms or existence of contracts for lease or leases concerning the Works or any of them).

Schedules

Schedule 1 Contractor’s Design Submission Procedure

Delete Schedule 1 and replace with the following:

“The Contractor shall comply with the following provisions for the submission to the Employer of all drawings, details, documents or information which are reasonably necessary to explain and/or amplify the design of the Works or to progress and complete the Works or to comply with any instruction issued by the Employer:-

- 1 In accordance with its design programme the Contractor shall provide the Employer or his agent with an electronic copy of such co-ordinated drawings, details, documents or information as required to explain, amplify, show or describe the design of the Works or to progress and complete the Works or to comply with any instruction issued by the Employer.

- 2 In accordance with clause 1 of this Schedule the Contractor shall ensure that each drawing, detail, document and item of information is submitted as follows:
 - (a) Where fully in accordance with this Contract to be submitted stamped “For Information Only” and issued in accordance with the project procedures for the transmittal of information.
 - (b) Where any elements do not comply with this Contract the Contractor will make these submissions identifying the specific provision of the Conditions to this Contract with which it is non-compliant The Employer will respond in accordance with clause 4 of this Schedule
- 3 The Employer is not obliged to respond to any item stamped “For Information Only” but may issue comments using the procedure specified in clauses 4 - 5 below and the Contractor shall action such item in accordance with such procedure.
- 4 The Employer within 10 working days from receipt of any information submitted in accordance with Clause 1 and 2 will return one copy of the same so it is received by the Contractor on or before the expiry of such period stamped or marked “A Action”, “B Action”, or “C Action”. No stamping, comment or authorisation by or on behalf of the Employer of the information submitted shall relieve the Contractor of any liability which he would otherwise have in relation to the Conditions to this Contract
- 5 Upon the return of information under clause 4 of this Schedule the Contractor shall immediately take the following action in relation to such drawing, detail, document or information:-
 - (a) If stamped or marked “A Action”, he shall execute and complete the Works in strict accordance with such drawing, detail, document or information;
 - (b) If stamped or marked “B Action”, he shall execute and complete the Works in strict accordance with such drawing, detail, document or information, provided that the Employer’s comments are incorporated into such drawing, detail, document or information and a further submission is promptly made to the Employer within 10 days of such receipt by the Contractor.
 - (c) If stamped or marked “C Action”, he shall take account of the Employer’s comments and shall re-submit it to the Employer for his comment in accordance with the provisions of clause 1 and 2 above.
- 6 The Contractor shall not carry out any work in accordance with a Contractor’s Design Document marked ‘C’ and the Employer shall not be liable to pay for any work within the Works executed otherwise than in accordance with Contractor’s Design Documents marked ‘A’ or ‘B’.
- 7 If on receipt of any information returned under clause 4 of this Contract the Contractor is of the opinion that any of the Employer’s comments gives rise to a Variation or would entitle the Contractor to an extension of time or an addition to the Contract Sum then the Contractor shall in order that the Employer can re-consider the comments provided notify the Employer to that effect within 5 days of receipt of such comments.
- 8 If the Contractor disagrees with a comment of the Architect/Contract Administrator and considers that the Contractor’s Design Document in question is not in accordance with this Contract, he shall within 7 days of receipt of the comment notify the Architect/Contract Administrator that he considers that compliance with the comment would give rise to a Variation. Such notification shall be accompanied by a statement setting out the Contractor’s reasons.

- 9 The procedure set out in this Schedule 1 shall be repeated where the Contractor adds further design information to existing drawings, details, documents or information which have already been submitted to the Employer in accordance with this Schedule 1.
- 10 Provided always that:
- confirmation or withdrawal of a comment in accordance with paragraph 8 shall not signify acceptance by the Architect/Contract Administrator that the relevant Contractor's Design Document or amended document is in accordance with this Contract or that compliance with the Architect/Contract Administrator's comment would give rise to a Variation;
- where in relation to a comment by the Architect/Contract Administrator the Contractor does not notify him in accordance with paragraph 8, the comment in question shall not be treated as giving rise to a Variation; and
- neither compliance with this design submission procedure nor with the Architect/Contract Administrator's comments shall diminish the Contractor's obligations to ensure that the Contractor's Design Documents and Works are in accordance with this Contract.

Schedule 2 Variation and Acceleration Quotation Procedures

Paragraph 3.1 – delete “21” in line two and replace with “14”.

Insert new paragraph 4A as follows:

“If the Employer accepts a Variation Quotation or Acceleration Quotation in accordance with paragraph 4 (an “**Accepted Quotation**”), unless otherwise agreed by the Employer in writing the Contractor shall not proceed to the manufacture and/or installation of any part of the Works and/or Section relating to the Accepted Quotation until the Employer has agreed a fixed price for such Accepted Quotation and agreed any changes to the programme for the Works and/or Section resulting from such Accepted Quotation.”

Schedule 3 Insurance Options (Clause 6.7)

Insurance Option A, B & C - Delete all references to “full reinstatement value” and replace with “full reinstatement cost”

Insert new clause C.5 as follows:

“The Contractor shall pay the amount of any excesses and any other costs incurred by the Employer in relation to any claims under the insurances set out in this clause where those claims arise as a result (whether in whole or in part) of the breach of contract, negligence, breach of statutory duty, error, omission, or default, of the Contractor, the sub-contractors, sub-consultants or any Persons for whom the Contractor is responsible. The Contractor shall pay the amount of all and any such excesses out of its own resources and shall not be entitled to claim reimbursement of all or part of that amount (or the cost of insuring those excesses) from the Employer in accordance with the provisions of this Contract.”

Schedule 4 Code of Practice

Schedule 5 Third Party Rights

(Clause 7A) Part 1: **Third Party Rights for Purchasers and Tenants – not applicable**

(Clause 7B) Part 2: **Third Party Rights for Funder ('Funder Rights') – not applicable**

Schedule 6 Forms of Bonds

(Clause 4.8, 4.17 and 4.19)

Part 1: Advance Payment Bond – **Not applicable**

Part 2: Bond in respect of payment for off-site materials and/or goods– **Not applicable**

Part 3: Retention Bond– **Not applicable**

Schedule 8 Supplemental Provisions

- 1 Collaborative working
- 2 Health and safety
- 3 Cost savings and value improvements
- 4 Sustainable development and environmental considerations
- 5 Performance Indicators and monitoring
6. Notification and negotiation of disputes

Insert new Schedule 9 as follows:

Schedule 9 - Contractor Services

The Contractor shall perform the following services as and when necessary or as and when the Employer may require:

- 1 **Managing the works**
 - 1.1 Take the lead role in all matters in respect of progressing the Works to achieve the Employer's expectations in terms of design, quality, cost and programme, and liaise closely with and keep informed the Employer, the Consultant Team and other consultants as necessary.
 - 1.2 The Contractor will present complete proposals, recommendations and other documentation to the Employer, the Consultant Team and other consultants as necessary, for comment and/or approval and seek the appropriate advice and authorisation.
 - 1.3 The Contractor prior to making submissions will review and validate the same and negotiate the best position on behalf of the Employer in regards to cost and time.
 - 1.4 At all times the Contractor is to proactively manage any issues which arise, keep the Employer, Architect/Contract Administrator informed and take all necessary steps to provide solutions for consideration, including but not limited to organising, chairing meetings and liaising with all other necessary parties/stakeholders.
 - 1.5 Establishing all necessary management personnel with specialist knowledge and expertise as required by the nature of the Works, with full responsibility to manage the Works in close liaison with the Employer, Consultant Team; identifying specific persons within the contractors management personnel with responsibility for co-ordination of the design, procurement, implementation, programming, costs and quality control of the Works.
 - 1.6 Liaising with Public Authorities, Police, Fire Officers and other third parties, such as adjoining occupiers, as appropriate for the Works.
 - 1.7 Overseeing and taking responsibility for the design (where applicable), co-ordination and construction of the Works and co-ordinating all works being carried out by specialists ensuring they have all necessary information to carry out and complete their works in accordance with the programme.

- 1.8 Ensuring that the site is run in a clean, proper and efficient manner having due regard to the occupation of Premises adjacent to or near to the site, that the working area are kept clean during the progress of the work and that debris is removed from the site as it arises and at completion of the Works.
- 1.9 Maintain Health and Safety Plan to the satisfaction of the CDM Co-ordinator/principal designer.
- 1.10 Prepare for approval risk assessments and method statements and check and approve the risk assessment and method statements submitted by specialists and sub-contractors.
- 1.11 Maintaining the documentation of the performance of specialist and sub-contractors in the form acceptable to the Employer.
- 1.12 Reporting on the progress of any construction and off-site works of specialist and sub-contractors and with the frequency acceptable to the Employer.
- 1.13 Maintaining records of all labour, plant and materials necessary for administration of the Works.
- 1.14 Maintaining records of quality tests, commissioning and performance tests or opening up for inspection by the Employer.
- 1.15 Maintaining records of weather and site conditions necessary for administration of the Works.
- 1.16 Securing provision of record drawings, operating instructions and maintenance manuals from sub-contractors as required by sub-contracts; delivering same to the Consultant Team for comment and re-submitting after any amendments required.
- 1.17 Arranging, attending, issuing and keeping records of site meetings as required by Consultant Team and as necessary for the administration of the Works.
- 1.18 Record and maintain the site accidents report.
- 1.19 Receive documentation from the Architect/Contract Administrator and convey as appropriate to the sub-contractors and suppliers and vice versa. Ensure that all relevant documentation including drawings, correspondence, etc is distributed to all the appropriate parties engaged upon the Works, and implement/maintain efficient EDCS system and administration procedures to achieve this objective.
- 1.20 Attend project meetings as required and arrange and chair further meetings as necessary to fulfil all obligations.
- 1.21 Regular reporting to the Employer including, but not limited to, sections on cost, time and quality.
- 1.22 Monitoring off-site preparation and work.
- 1.23 Take responsibility for the design and specification of and the adequacy, stability and safety of all Temporary Works required.
- 1.24 Report regularly on the progress and technical aspects of all contracts placed with specialists, sub-contractors and suppliers.
- 1.25 Instigate effective cost control and payment disciplines. Identify areas of potential increases or savings in the Contract Sum and recommend action to the Consultant Team. Take economic mitigating action to reduce risks on the risk register, and agree appropriate action with the Consultant Team.
- 1.26 Liaising with the CDM Co-ordinator/principal designer and comply with the obligations and carry out the duties of Principal Contractor in accordance with the CDM Regulations.
- 1.27 Manage, co-ordinate, supervise and monitor the progress with any pre-construction specialist and sub-contractors to facilitate timely and due performance of those works to enable the construction programme to be met.

- 1.28 Organising/procuring samples of materials and visits to works to confirm manufacturing procedures of elements of the proposed works.
- 1.29 Developing the Contractor design elements, where they are required to progress the Works, together with co-ordination of the same within the overall design process.
- 1.30 Manage and comply with the change management process set out at appendix B to this Contract to the reasonable satisfaction of the Employer to ensure that any changes, omissions or additions to the agreed Employer's Requirements and Contractors Proposals are agreed by the Employer before they are incorporated into the designs.
- 1.31 Provide value engineering services on the scheme, co-operating with the Employer, the Consultant Team, as required.
- 1.32 Verify site survey control setting out information. Bring any discrepancies to the attention of the Employer and the Consultant Team.
- 1.33 Liaise with other parties having an interest in the building cost and construction methods and where applicable agree a mutually acceptable access regime.
- 1.34 In conjunction with the Consultant Team prepare information for the discharge for conditions attached to the Planning Consent and Building Regulations Approval for the scheme in a timeous manner to allow the planned start of construction to be achieved.
- 1.35 Advise the Employer of any inconsistencies within or between any of the Contract Documents or any other information supplied to the Contractor in relation to the Works.
- 1.36 Establishing good labour relations procedures — advising on all matters relating to employment legislation and labour relations including any issues that may arise. Ensuring that the sub-contractors' labour relations policies and procedures conform to current best practices. Co-ordinating with sub-contractors and instituting site procedures so that any labour relations matters on the Works may be fully monitored and influenced; mediating in and solving any site issues.
- 1.37 Ensuring that sub-contractors are issued with and made fully aware at all times of the requirements of the current detailed construction programme; liaising with subcontractors to establish and remedy any factor inhibiting satisfactory progress including demarcation disputes and any other disputes between sub-contractors.
- 1.38 Supervising the production of all site work and ensuring the necessary quality and prompt replacement of defective work in accordance with sub-contracts.
- 1.39 Examining sub-contractors detailed proposals for carrying out commissioning procedures and performance testing; programming the activities of other sub-contractors to reflect the commissioning procedures and performance testing.
- 1.40 Establishing with sub-contractors schemes for the protection of completed work for ensuring that sub-contractors make good any damage caused by them to the works of other sub-contractors or to the site facilities; maintaining records of such damage and subsequent making good to facilitate settlement of contra-charges between sub-contractors.
- 1.41 Receive documentation from the Consultant Team and Employer and convey as appropriate to the sub-contractors and suppliers and vice versa. Ensure that all relevant documentation including drawings, correspondence, etc is distributed to all the appropriate parties engaged upon the Works, and implement/maintain efficient administration procedures to achieve this objective.
- 1.42 Provide progress reports, and drop-line programmes covering the programme and short-term/look-ahead programmes, as may reasonably be required. Prepare and periodically update programmes for the design, procurement and construction elements, and Works progress. Prepare such additional programmes as may be necessary or as the Employer may from time to time reasonably require.
- 1.43 Advising on practical, financial and programme implications of proposed drawings and specifications.

- 1.44 Formulating and agreeing construction methods with the Consultant Team and advising on 'buildability'.
- 1.45 At all stages of the Works liaise and co-operate with all stakeholders, with such liaison and co-operation to include health and safety, environmental, programming and sequencing, construction methodology, and inspection, testing, commissioning and handover aspects of the Works.
- 1.46 Define and document the strategic approach for commissioning and handover of the Works and ensure that all parts of the Works are commissioned in a timely and efficient manner. Prepare separate programmes showing the commissioning and handover procedures including all individual commissioning and witnessing activities and the interdependencies between them, including the landlord's works.
- 1.47 The Contractor shall provide a complete management service with respect to the Works and shall co-ordinate and integrate the work to be performed by each and all of the sub-contractors.
- 1.48 Produce a project control plan which is to define and document the various procedures to be adhered to by the Employer, the Consultant Team and the sub-contractors consistent with the provisions of the sub-contracts, the consultancy agreements with the Consultant Team and the Building Contract. The Works control plan will be expected to include procedures relating, but not limited to: adjoining owners — adjacent contractors, the Consultant Teams' appointments and the Building Contract, change order procedures and control, cost management and reporting systems, design procedures verification, administration documentation and control, handover and commissioning, health and safety, maintenance and repair, meeting scheduling, occupation plan and Works close-out, organisation structure, procurement, Works planning and reporting, quality control and risk analysis, system documentation, control of sub-contractors, quality reports and their updates.
- 1.49 Put in place a system for the submission of drawings and other information by sub-contractors that are to be reviewed and approved by the Consultant Team as required by the sub-contractors.
- 1.50 Keep complete and accurate records and provide the Employer, the Architect and the quantity surveyor with copies of all correspondence, minutes of meetings and any other documentation issued by or sent to the Consultant Team, the subcontractors local authorities or statutory undertakers which the Employer and the Architect would not otherwise have received.
- 1.51 Check sub-Contractor designs generally and inter alia for construction details, construction tolerances, trade package interface co-ordination and good practice. The Contractor shall be responsible for reviewing and commenting on the co-ordination drawings in respect of building services installations and all other critical trade package interfaces prepared by the Consultant Team and the relevant subcontractor.
- 1.52 Advise in co-ordination with the Consultant Team the scope of work for investigation and opening up within the building to:
- 1.52.1 verify the adequacy of spaces and voids identified to accommodate the primary distribution of building services and confirm the corresponding scope of alterations and builders work within the building;
 - 1.52.2 identify and record the location and routing of all building services that are to be retained;
 - 1.52.3 identify and isolate all building services that are to be retained;
 - 1.52.4 identify structural defects;
 - 1.52.5 identify general defects to existing fabric;
 - 1.52.6 verify dimensional detail;
 - 1.52.7 verify forms of construction;
 - 1.52.8 verify material types;
 - 1.52.9 provide any other information that the Contractor considers necessary.

- 1.53 Monitor and report to the Employer the implementation of any survey and investigation work described above.
- 1.54 Assist the Employer in discharging its obligations as Client for the purposes of the CDM Regulations.
- 2 Design**
- 2.1 Manage and complete the Contractor's Design Portion design in accordance with the programme for the Works.
- 2.2 Co-ordinate the Contractor's Design Portion design requirements, the Employer's Requirements, Contractor's Proposals and any specialist input necessary to progress and complete the design.
- 2.3 Produce a detailed design programme in relation to the Contractor's Design Portion for agreement with the Employer which sets out the key milestones and deliverables that need to be achieved to meet the programme for the Works.
- 2.4 Assist the lead- designer as necessary to co-ordinate the design drawings/specifications between the various parties and packages and report on discrepancies/conflicts/omissions or areas of particular concern with regard to buildability and completeness.
- 2.5 Use best endeavours to achieve economies in time, cost and design with value enhancement whilst meeting the objectives of the Works and evaluate methods for cost effective working.
- 2.6 Review all the tender drawings and specifications and verify the accuracy and completeness of the design requirements, the Employer's Requirements and any other information provided by the Employer. Complete the Contractor's Design Portion of the works and formulate and agree construction methods with the Consultant Team and specialist contractors.
- 2.7 Undertake "buildability" reviews of the design and provide written advice to the Employer, the Consultant Team and any specialist contractors.
- 2.8 Finalise design and management proposals for handing over a defects free building at practical completion of each section of the Works and demonstrate how this will be achieved.
- 2.9 Investigate and report on the use of standardisation and prefabrication. Identify elements or packages of work where standardisation and prefabrication could be effectively utilised.
- 2.10 Investigate and report on the availability and relative suitability of alternative materials and components and monitor and advise upon working methods, building systems and availability, offsite fabrication, feasibility of construction and manufacture of components and installation of construction.
- 2.11 Ensure that the Contractor's Design Portion complies with the requirements of all authorities and organisations having jurisdiction over the works and the Works.
- 2.12 Monitor against the detailed construction programmes for the Works and the Information Release Schedule, and control progress of the Contractor's Design Portion design work and working drawings which are the responsibility of the Contractor. Weekly updates to be provided in respect of design progress.
- 2.13 Undertake the necessary Local, Statutory Authority and other third party negotiations, applications and approvals for working methods, site access/egress and establishment, craneage temporary services and terminations/diversions and Temporary Works. Obtain Building Control approval and discharge all the Planning Conditions which are allocated to the Contractor to discharge in the tender documents. Apply for all licences.
- 2.14 Notify and assist Building Control approval and discharge all the Planning Conditions which are allocated to the Contractor to discharge in the tender documents. In accordance with the Contractor's obligations set out in this Schedule 8 and appendix 21 to the Bills of Quantities, discharge all pre-construction conditions relating to a construction site and/or Temporary Works imposed by any Planning or Listed Building consent.

- 2.15 Subject to 2.2.4 obtain all necessary Listed Building Consents as may be necessary for undertaking the Temporary Works and be responsible at the Contractor's cost for obtaining all necessary Listed Building Consents.
- Should any change to the Temporary Works be required during the Works, the Contractor shall be responsible at his own cost for obtaining any necessary additional or varied Listed Building Consents.
- 2.16 Finalise and co-ordinate the mechanical and electrical design with regard to consistency, safety and builders work. Clearly identify the extent that each particular trade package shall be responsible for, to facilitate efficient work package procurement.
- 2.17 Prepare and carry out the Temporary Works and liaise with the specialist contractors regarding Temporary Works designs, installation and removal and obtain independent third party checks on any proposed Temporary Works designs, meeting all Statutory Requirements with regard to life safety systems and smoke control.
- 2.18 Ensure that the design developed from the design requirements and the Employer's Requirements included is prepared in a form and manner which constitutes predictable design development and is consistent with a high quality residence as described in the design requirements and the Employer's Requirements.
- 2.19 Ensure that all designs prepared for submission for the approval of the Employer or third parties are in sufficient detail to enable the same to be properly assessed and are submitted in an appropriate sequence. Any changes made to designs previously submitted shall be highlighted in a readily identifiable form.
- 2.20 Consult and obtain approval from the Employer and, where required, under third party Agreements, third parties to any plans or designs before they are submitted to any relevant statutory or other body of competent jurisdiction.
- 2.21 Compile and maintain a comprehensive record of all design submissions and designs approved by the Employer and third parties (including copies of the same). Such record and copies shall be kept available for inspection and copying at a location approved by the Employer at all reasonable times.
- 2.22 Ensure that monthly "Statement of Conformity" are submitted by the Contractor in the format required under the terms of the contract.
- 2.23 Provide information in a format acceptable to the CDM Co-ordinator/principal designer for the compilation of the Health & Safety File for the Works.
- 2.24 Organise, chair and minute meetings with the Consultant Team and the Employer to promote active and efficient progress of design development having due regard to the Employer's brief, the cost plan and the programme. Ensure that the Works control plan contains procedures which will enable timely and efficient progress of design development to be achieved, and that all statutory and other relevant parties are properly co-ordinated. Review all design documentation to determine inter alia:-its compatibility with the programme; that the design will allow optimum efficiency of construction methods; that it provides for proper and appropriate specification of the Works and market availability of materials, systems and components; that statutory and local authority requirements are all properly considered and accounted for; that practical and achievable tolerances are included: that fully co-ordinated design information is produced for all sub contract package interfaces, having regard to the proposed work package breakdown of the Works; for safety and good construction practice; for inconsistencies with the Employer's brief. Identify appropriate milestones during the design development phase of the Works and put in place formalised, structured, value engineering reviews of the evolving design to ensure continued compliance with the Employer's brief and: lowest capital cost of individual elements or assemblies compatible with function (including aesthetic criteria); lowest cost in use; use of tried and tested systems, products and methods; design life and maintenance profile compatibility of related elements and assemblies; optimum use of standardised components and pre-fabrication. Advise the Employer in respect of methods of achieving cost-effective design and where design might more efficiently be undertaken by the sub-contractors.

- 2.25 Check sub-contractor designs generally and inter alia for construction details, construction tolerances, trade package interface co-ordination and good practice. The Contractor shall be responsible for reviewing and commenting on the coordination drawings in respect of building services installations and all other critical trade package interfaces prepared by the Consultant Team and the relevant subcontractor.
- 2.26 Act as leader of the Consultant Team in relation to the programming, co-ordination and management of the Works. The Contractor shall give such directions to the Consultant Team as may be necessary and shall co-ordinate and programme the work to be carried out by each member of the Consultant Team (and in particular, but without limitation, shall inform them of the dates by which information must be issued by them). The Contractor shall also co-operate with the Architect in the coordination and integration of the design of the Works.
- 2.27 Ensure that the design documentation is reviewed to ensure its compatibility with the programme, and that the design will allow optimum efficiency of construction methods; provides the appropriate specification of the Works and materials, systems and components; that statutory and local authority requirements are all properly considered and accounted for; practical and achievable tolerances are included; that fully co-ordinate design information is produced for all packages and package interfaces.

3 Health and safety

- 3.1 Liaise with the CDM Co-ordinator/principal designer and comply with the obligations and duties of Principal Contractor in accordance with the CDM Regulations and comply with any transport-related safety legislation. Attend project-specific health and safety forums with the design team and operational managers at a frequency to be agreed.
- 3.2 Develop specific policies for ensuring a safe site for the Works, including:
- 3.2.1 the implementation of the CDM Regulations;
 - 3.2.2 the individual(s) who enforce statutory safety regulations and/or define and implement special safety precautions for the Works;
 - 3.2.3 identification of a company-wide safety officer;
 - 3.2.4 the steps to be taken by the Contractor should a sub-contractor or operative ignore safety regulations or otherwise perform in an unsafe manner;
 - 3.2.5 finalise proposals for an industrial relations policy for the site;
 - 3.2.6 liaise with the CDM Co-ordinator/principal designer and comply with the CDM Regulations and comply with any transport-related safety legislation.

4 Procurement

- 4.1 Report any slippage against the schedule of information release dates and make practical recommendations for the steps necessary to recover such slippage.
- 4.2 Prepare for the placing of sub-contracts in consultation with the Consultant Team in accordance with the Contract.
- 4.3 Organise/procure samples of materials, prototype assemblies, building mock-ups and visits to works to confirm manufacturing procedures of elements of the proposed works.
- 4.4 Develop the specialist designed elements, where they are required to progress the Works, together with co-ordination of the same within the overall design process.
- 4.5 Organise/procure samples of materials and visits to works to confirm manufacturing procedures of elements of the proposed works, for example stone, structural steel, curtain walling, lifts etc.
- 4.6 Develop the Contractor design elements, where they are required to progress the Works, together with co-ordination of the same within the overall design process.

- 4.7 Manage the process of the design, advising the Consultant Team and designated contractors on the need for information release dates.
- 4.8 Provide value engineering services on the scheme, co-operating with the Employer, the Consultant Team and designated contractors, as required.
- 4.9 Prepare a detailed schedule of all samples, mock-ups and tests (on and off-site) required in conjunction with the Consultant Team.
- 5 Planning and programming**
- 5.1 The Contractor shall submit his detailed overall programme for the Works clearly showing the construction sequences, periods, logic, constraints and key milestones and critical path required to achieve completion of the Works.
- 5.2 The Contractor shall from his detailed programme provide a summary programme, critical path summary, detailed design programme, detailed package procurement programme and a detailed programme/schedule which sets the dates and periods for approval by the Employer, and any other third party, covering the developing designs, contractors proposals, material samples and the like.
- 5.3 All programmes and schedules shall be submitted in hard and soft copy to the Architect/Contract Administrator for agreement and in a format to be specified, with all logic links, constraints and critical path clearly identified, accessible and unmodified. Weekly, monthly and three-monthly programmes (or such other periods) shall be provided as requested by the Architect/Contract Administrator. Where requested to do so the Contractor shall submit for agreement updates and revisions of such programmes and schedules.
- 5.4 Develop and finalise the integrated programme for acceptance by the Employer and the Consultant Team and develop the potential phasing scenarios including evaluation of options and alternatives to ensure delivery within the Employer's schedule of key dates.
- 5.5 Prepare material and component flows and identify those which require advance ordering and processing in a form acceptable to the Consultant Team and monitor a programme for advance ordering and processing.
- 5.6 Formulate and agree construction methods with the Consultant Team and advise on time and cost implications of alternative solutions; make available personnel with specialist expertise to assist in providing such advice; initiate the requirements for Temporary Works and the Programme and execution of them.
- 5.7 Finalise the layout and phasing of site facilities and services to be provided or secured by the Contractor in relation to the works.
- 5.8 As and when from time to time may be necessary the Architect without charge to the Contractor shall provide the Contractor with two copies of such further drawings or details as are reasonable necessary either to explain and amplify the Contract Drawings or to enable the Contractor to carry out and complete the Works in accordance with the Conditions provided that the Contractor shall request such drawings or details on a date which having regard to the Completion Date for any Section is neither unreasonably distant nor unreasonably close to the date on which it is necessary for him to receive the same.
- 5.9 The Contractor is to provide a monthly summarised programme position (dropline) together with a statement covering any key matters on design, procurement and adherence to the key milestone for the Works.
- 5.10 Advise the practical implications buildability of proposed drawings and specifications.
- 5.11 Advise on the availability and suitability of materials and components as applicable and regularly update the schedules including advising on priorities for ordering, process and expediting the delivery of such activities.
- 5.12 Formulate and agree construction methods with Consultant Team and advise on safety, time and cost implications of alternative solutions; make available key personnel with specialist expertise to assist in providing such advice.

- 5.13 Prepare project specific policies relating to safety, environmental matters. Review with the Consultant Team and regularly report on compliance.
- 5.14 Develop in detail the project logistics and method statements for the Works addressing specific details including construction sequence, the provision of the site establishment, enabling works (to comprise inter alia access provision, security, cleanliness, logistics and material handling, rubbish removal, craneage, horizontal and vertical distribution, scaffolding, site hoarding, fire control, means of escape, temporary mechanical electrical plumbing services, the provisions of setting out benchmarks and the site accommodation and welfare provisions). Review with the Consultant Team.
- 5.15 Assess the effect the Works will have on the adjacent Premises. Agree with the Party Wall Surveyor the proposed method of working for the Works, formalise these arrangements where necessary and assist the Employer in fulfilling his obligations.
- 5.16 Prepare the integrated master programme from the tender programmes and for acceptance by the Employer and the Consultant Team, to include the activities of the Consultant Team, the Contractor and sub-contractors and to be in sufficient detail to control the Pre-Construction Period activities and undertaking the Works and to indicate that the proposed Dates of Possession and Completion are practical objectives.
- 5.17 Advise on the availability and relative suitability of alternative materials and components. Preparing material and component flows and identifying those which require advance ordering and processing; providing in a form acceptable to the Consultant Team and monitoring a programme for advance ordering and processing.
- 5.18 Advise on the provision and layout of site facilities and services to be provided or secured by the Contractor.
- 5.19 Liaise with the local authority and Police regarding security, access, working hours etc.
- 5.20 Formulate and agree construction methods with Consultant Team and advise on time and cost implications of alternative solutions; making available personnel with specialist expertise to assist in providing such advice; initiating the requirements for Temporary Works and the programme and execution of them.
- 5.21 Prepare Works specific policies relating to safety, training and industrial relations. Review with the Consultant Team and regularly report on compliance.
- 5.22 Develop the tender stage logistics and method statement for the Works addressing specific details including the provision of the site establishment/enabling works (to comprise inter alia access provision, security, cleanliness, logistics and material handling, rubbish removal, horizontal and vertical distribution, scaffolding, site hoarding, fire control, means of escape, temporary mechanical electrical plumbing services, the provisions of setting out benchmarks and the site accommodation and welfare provisions).
- 5.23 Assist the Employer's party wall surveyor in scheduling at commencement of the Works the condition of the buildings, that may be affected by the Works and assess the effect the Works will have on the adjacent Premises. Agree with them the proposed method of working for the Works, formalise these arrangements