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Populo Living

1. Project Title

AirSpace Mechanical, Electrical and Plumbing (MEP) Consultant Appointment for Populo Living

2. Introduction & Background

Populo Living are Newham's housing company, and our role is to design and build high-quality well-designed homes in Newham. We design for our customers, paying attention to the big picture and the small details. The result is attractive places to live, built to last, where it is easy to settle in and feel at home.

Populo Living provide homes for private rent, social rent and shared ownership, and have already completed a range of new exceptional developments in Stratford, East Ham, Plaistow and Whitechapel. At least 50 percent of all the homes we deliver will be genuinely affordable homes for rent, following the criteria set by the Mayor of London.

Populo Living also act as the property managers for all the homes we build, providing a responsive and caring service to our residents.

Populo Living started life as Red Door Ventures in 2014 - a company wholly owned by Newham Council. Our original job was to build homes for the private rental market, generating income for the Council.

Since October 2018, we have had a broader role. The new Mayor of Newham tasked us with tackling the serious shortage of genuinely affordable homes in Newham. We are onsite now in 12 different locations and aim to have over 1,000 new homes underway by March 2022.

Though some of our homes are wholly new, we are also helping bring back to life buildings and areas that have not been cared for, maintaining Newham's heritage. We have taken on the role of development managers for The Carpenters regeneration project which could generate up to 2,600 new homes in the heart of Stratford, and we continue to build explore innovative ways to create new homes through more effective use of assets and brownfield sites across the borough.

As any responsible developer should, Populo Living are committed to meeting or exceeding all green building standards now and in the future. That also means considerate construction, minimising waste, noise, pollution, and disruption. For our

residents, it means their homes require less energy to run. We also ensure social and green spaces are part of our planning and encourage sustainable travel.

Populo Living want to work with local businesses that share our values, investing in Newham and its people.

Populo Living are registering as a social housing provider, and any profit we make is invested straight back into homes for Newham.

Our backing from Newham Council means Populo Living can build for the future and offer stability. As well as public funding, we benefit from access to Council-owned land and assets that we can turn into the homes that Newham needs.

With over 25 sites already earmarked for development across Newham, our development plans stretch well into the next decade. You can see that long-term thinking in the way we operate: the investment in the quality of our design and building, our commitment to service and management and the way we work and build lasting relationships with trusted partners and suppliers.

We seek to appoint a suitable supplier to engage in specialist Mechanical, Electrical and Plumbing Services for the Populo Living Airspace Programme Project.

A fixed cost proposal as a percentage fee is required based upon scale, number and value of Projects awarded.

3. Scope of the Contract

- 3.1.1 Our approach to designing new homes atop existing assets is about creating great new places and vistas for affordable living in Newham, as part of our overall approach to good growth principles:
- 3.1.2 Supporting vitality and change whilst sustaining and strengthening the character of Newham's existing neighbourhoods.
- 3.1.3 Partnerships between the public and private sector – and our existing residents, yielding wider community wealth building benefits.
- 3.1.4 Creating resilience to our changing climate; creating homes and neighbourhoods that are green and healthy with clean air, easy access to green space, and more efficient buildings supplied by cleaner energy. Embracing innovation and better ways to deliver new homes for future sustainability.
- 3.1.5 Creating homes that have inclusive access to transport and other public services, by ensuring that homes built are well located and where people want to live.
- 3.1.6 Draws on the diverse skills and talents of people and companies in Newham and Greater London to deliver good growth.

Key Outcomes Desired

- 3.2 Improve the overall look and feel of the existing property, whilst optimising the number of rooftop new homes, and infill homes where potential exists.
- 3.3 Makes best use of the loading capabilities of the existing property structures.
- 3.4 Sensitive and efficient design that respects and enhances the existing property and creates a welcoming experience for residents.
- 3.5 Makes efficient use of space, light, and height to create attractive vistas and exemplar living experiences.
- 3.6 The design complies with all Building Safety requirements, and where appropriate Tall Buildings safety criteria.
- 3.7 Creates the right balance of mass and density, without adversely impacting daylight to the existing and surrounding buildings.
- 3.8 Involvement of residents in the co design of the new homes and amenity space

- 3.9 Creation of zero-carbon in-use new homes whilst reducing the carbon footprint of the existing assets.
- 3.10 Use of high quality sustainable materials with low life cycle maintenance costs.
- 3.11 A scheme design that respects the living experience of existing residents.
- 3.12 Makes best use of existing service infrastructures and access points to the roof.
- 3.13 to aid the successfully deliver the Populo Living Business Plan ([rdv-business-plan-2020-final.pdf \(populoliving.co.uk\)](#)) and enhance the Populo Living 'Brand Values' that relate to our culture, approach to value creation and how our operational processes support our business model.
- 3.14 As a result, the key objectives of the project are to improve the residents of Newham's experience with better facilities & access, retaining the existing features of the building & surrounding area and improve interactive student engagement by undertaking the following RIBA stages of the project 1-3:-
 - Preparation of Briefs
 - Concept of Design
 - Developed Design
- 3.15 There are 10 schemes within the borough that could form part of the scope where utility investigations are required to understand viability and deliver the scope attached.

4. Detailed Requirements

The role performed by a Chartered MEP Engineer will include:

RIBA Stage 1 – Preparation of Briefs

- Assist Populo Living in identifying sustainability targets for the Project.
- Review reports where available.
- Visit the site and carry out an initial appraisal of existing structure, likely capacities including defects.
- Prepare a site report and survey advising Populo Living of any reasonably identifiable MEP issues that a MEP Consultant should reasonably be aware.
- On behalf of Populo Living, arrange for surveys or other investigations that the MEP Engineer identifies as reasonably required.
- Contribute to the development of the Project Programme.
- Assist Populo Living to determine the Construction Cost.
- Assist Populo Living in developing the initial Project Brief.
- Assist Populo Living in identifying the procurement method.
- Prepare and discuss feasibility studies for the Project.
- Provide MEP information to the Other Client Appointments as reasonably required to enable them to carry out their services.
- Provide all services detailed within Populo MEP Scope of Service document

RIBA Stage 2 – Concept Design

- Show evidence of compliance with the London Plan and Housing SPG requirements for housing quality and standards, as well as the London Design Guides and LB Newham's Design Guide for Affordable Housing. A full assessment of final performance against the GLA's design standards will need to be provided.
- Develop sustainability strategy, with key objective that all new homes achieve zero carbon in-use.
- Co-ordinate the relevant information received from the Other Client. Appointments with the Structural/Consultant's design.
- Prepare the structural concept design for discussion with Populo Living.
- Provide MEP information to the Other Client Appointments as reasonably required to enable them to carry out their services.
- Identify design solutions and discuss possible construction methods for the Project with Populo Living
- Undertake third party consultations, as reasonably required.
- With the Other Client Appointments, develop the concept design.
- Comment on the Project Programme
- Provide MEP information for updating the Construction Cost and review the architectural design development against the latest approved Construction Cost.

- Collate and agree with Populo Living changes to the initial Project Brief and issue the final Project Brief.
- Provide MEP design information and identify the reasonably foreseeable residual health and safety risks to the Principal Designer.
- Provide a stage report in respect to the MEP design for the Client's approval before progressing to the next stage.
- Town Planning services: -
 - Input into an application to the appropriate planning authority for pre-application advice.
 - Submit the outline MEP proposal for planning approval.
- Identify requirements for additional consultants or specialist designers.
- Prepare the design programme with input from the Other Client Appointments.
- With the Other Client Appointments, develop a design responsibility Matrix.
- Co-ordinate the relevant information received from the Other Client Appointments with the sustainability strategy.
- Co-ordinate the relevant information received from the Other Client Appointments with the concept design.
- Report to Populo Living on progress against the design programme.
- Provide all services detailed within Populo MEP Scope of Service document

RIBA Stage 3 – Developed Design

- Review and update sustainability strategy.
- Co-ordinate the relevant information received from the Other Client Appointments with the Structural/Consultant's design.
- Prepare the MEP developed design.
- Provide structural information to the Other Client Appointments as reasonably required to enable them to carry out their services.
- Undertake third party consultations, as reasonably required.
- With the Other Client Appointments identify systems, products and materials, standards of workmanship, type of construction and performance in use as they relate to the structural design.
- Comment on the Project Programme.
- Provide MEP information for updating the Construction Cost and review the structural design development against the latest approved Construction Cost.
- Provide structural design information and identify the reasonably foreseeable residual health and safety risks to the Principal Designer.
- Provide a stage report in respect to the MEP design for the Client's approval before progressing to the next stage.
- Town Planning services
 - With the Other Client Appointments, prepare and co-ordinate other report(s) to accompany the planning application (e.g. heritage statement, design and access statement).

- Prepare MEP information to support a planning application and/or listed building consent application to the appropriate planning authority.
 - Support planning application and/or listed building consent application to the appropriate planning authority.
- With the Other Client Appointments, review and update the design programme.
- With the Other Client Appointments, review and update the design responsibility matrix.
- Comment on the Other Client Appointments' design proposals and project strategies, as they progress.
- Co-ordinate the relevant information received from the Other Client Appointments with the sustainability strategy.
- Co-ordinate the relevant information received from the Other Client Appointments with the developed design.
- Report to Populo Living on progress against the design programme.
- Provide all services detailed within Populo MEP Scope of Service document

The Successful Supplier is to note that costs are to be submitted for each of the RIBA stages, but Populo Living will only be proceeding with RIBA Stage 1-2 at the present time. Approval to proceed with the additional stages will be subject to Populo Living internal governance and funding governance process and therefore no guarantees concerning the additional phases can be provided at this time.

Consultants should detail out the scope services that their costs are assigned and should provide feedback on the Populo scope of services to enable a more refined scope of service.

It is envisaged that approval of the additional phases will be sorted by Populo Living on an individual basis. Any authorisation to proceed with an additional RIBA Stage will be actioned by Change Control Notice from Bloom Services to the Successful Supplier.

The prices submitted for all phases are to remain fixed and not subject to any change.

5. Bid and submission timeline

1. Issue request for submission – WC 25th May 21
 2. Initial 30 mins meeting – WC 31st May 21
 3. Bid proposal submission at 12pm on 14th June 21
 4. Evaluations and awards by 21st June 21
- All Milestone requirements must be met within the dates listed and within the figures as quoted within the proposal.
 - All communication must be responded to within 24hrs and all communication marked as urgent to be responded to within 4hrs.

6. Data Protection Schedule

- 6.1. Except as otherwise indicated in Condition 8.16 (where applicable), for the purposes of the Data Protection Legislation, Populo is the Controller in respect of Populo's Personal Data. Populo's Data Protection Officer is its Comptroller and Populo Solicitor and the Contractor is the Processor
- 6.2. The Contractor may not process Populo's Personal Data unless expressly authorised in writing to do so by a Data Processing Authorisation issued by the Controller. The Contractor must notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 6.3. Where required by the Controller, prior to commencing any processing the Contractor must provide reasonable assistance to the Controller in the preparation of an assessment of the impact of the envisaged processing on the protection of Personal Data. At the discretion of the Controller, such assistance may include:
- a systematic description of the envisaged processing operations and the purpose of the processing;
 - an assessment of the necessity and proportionality of the processing operations in relation to the Order;
 - an assessment of the risks to the rights and freedoms of Data Subjects; and
 - the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 6.4. In relation to any Personal Data processed pursuant to the Order, the Contractor must:
- process that Personal Data only in accordance with the Data Processing Authorisation, unless the Contractor is required to do otherwise by the applicable law. If it is so required, the Contractor must promptly notify the Controller before processing the Personal Data unless prohibited by the applicable law;

- ensure that it has in place Protective Measures, which have been reviewed and approved by the Controller as appropriate to protect against a Data Loss Event having taken account of the:
 - nature of the data to be protected,
 - harm that might result from a Data Loss Event,
 - state of technological development, and
 - cost of implementing any measures;
- ensure that:
 - the Contractor's personnel do not process Personal Data except in accordance with the Order and the Data Processing Authorisation,
 - it takes reasonable steps to ensure the reliability and integrity of any Contractor personnel who have access to the Personal Data and ensure that they:
 - are aware of and comply with the Contractor's duties under this clause,
 - are subject to appropriate confidentiality undertakings with the Contractor or any Sub- processor,
 - are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third-party unless directed in writing to do so by the Controller or as otherwise permitted by the Order, and
 - have undergone adequate training in the use, care, protection and handling of Personal Data; and
- not transfer Personal Data outside of the United Kingdom (except to a country or territory within the European Union) unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - the Controller or the Contractor has provided appropriate safeguards in relation to the transfer (in accordance with Article 46 of the GDPR) as determined by the Controller,
 - the Data Subject has enforceable rights and effective legal remedies,
 - the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations), and
 - the Contractor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data; and
- at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Order unless the Contractor is required by the applicable law to retain the Personal Data.

6.5. Subject to Condition 8.6, the Contractor must notify the Controller immediately if it:

- receives a Data Subject Access Request (or purported Data Subject Access Request);

- receives a request to rectify, block or erase any Personal Data;
- receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation;
- receives any communication from the Information Commissioner or any other regulatory authority relating to Personal Data processed under the Order;
- receives a request from any third-party for disclosure of Personal Data where compliance with such request is required or purported to be required by applicable law; or
- becomes aware of a Data Loss Event.

6.6. The Contractor's obligation to notify under Condition 8.5 include the provision of further information to the Controller in phases, as details become available.

6.7. Taking into account the nature of the processing, the Contractor must provide the Controller with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under Condition 8.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

- the Controller with full details and copies of the complaint, communication or request;
- such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
- assistance as requested by the Controller following any Data Loss Event;
- assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

6.8. Except as provide otherwise in Condition 8.9, the Contractor is to maintain complete and accurate records and information to demonstrate its compliance with Condition 8.

6.9. The requirements set out in Condition 8.8 do not apply where the Contractor employs fewer than 250 staff, unless:

- the Controller determines that the processing is not occasional;
- the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

6.10. The Contractor must designate a Data Protection Officer if required by the Data Protection Legislation.

- 6.11. Before allowing any Sub-processor to process any Personal Data related to the Order, the Contractor must:
- notify the Controller in writing of the intended Sub-processor and processing;
 - obtain the written consent of the Controller;
 - enter into a written agreement with the Sub-processor which give effect to the terms set out in Condition 8 such that they apply to the Sub-processor; and
 - provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 6.12. The Contractor will remain fully liable for all acts or omissions of any Sub-processor.
- 6.13. The Contractor may, at any time on not less than 25 Working Days' notice, request that the terms of Condition 8 as they apply to the Order be revised or replaced with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme which subject to the written agreement of the Controller will apply when incorporated by attachment to the Order.
- 6.14. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 25 Working Days' notice to the Contractor amend the Order to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 6.15. Notwithstanding any other provision of the Order, the Contractor agrees to indemnify the Controller in respect of any, fine, loss, claim, action damages or demand imposed on or suffered by the Controller because of any breach by the Contractor of the terms of Condition 8.

7. Key Performance Indicators (KPI's) and Service Agreement

Service Description	Service Level	Measurement of Service Level	Consequence of Failed Service Level
Milestones	90%	The supplier will carry out the works identified within the agreed milestones or any revised scope of works.	<p>We may reduce final payment (for this element) by 10% and payment will be withheld until the programme is completed.</p> <p>Persistent failure to engage or achieve specified and agreed deadlines may result in the supplier being removed from the agreement.</p>

The following KPIs matrix will be used by the Populo Living monthly to measure the performance of the Successful Supplier: -

	(%) Weighting		
1. Design / Technical Quality	0	20	0
1.1 Leadership and communication that supports exemplar design management		5	
1.2 Design development that demonstrates a thorough understanding of the Project Brief		5	
1.3 Programme management and delivery to agreed deadlines		5	
1.4 Production of Clear, and Concise Documentation in accordance with agreed deliverables.		5	
2. Sustainability & Innovation	0	20	0
2.1 Demonstrate a quantitative carbon reduction through appropriate design solutions		5	
2.2 Demonstrate a quantitative increase in pre-manufacture value		5	
2.3 Demonstrate a distinct contribution to Community Wealth Building in Newham		10	
3. BIM and Information Management	0	20	0
3.1 Calibre of design coordination and outputs in accordance with BIM Protocols and agreed BIM Execution Plan		10	
3.2 Compliance with the Project Information Management protocols and use of the specified Electronic Document Management System		10	
4. Project Execution Process Implementation	0	20	0
4.1 Develop appropriate design proposals that accord with the construction costs for the project		5	
4.2 Integrate appropriate proposals for cost savings within design proposals that do not compromise quality or targeted values		5	
4.3 Contribution and update of the project risk register		5	
4.4 Adherence to the agreed change control process		5	
5. Health & Safety	0	20	0

5.1 Cooperate with the Principal Designer to exceed compliance with the CDM Regs

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0 100% 0

8. Tender Evaluation

All proposal submissions will be evaluated as follows:

Quality: 60% and Price: 40%

Quality (60%)		
Quality Area	Evaluation Criteria	(%) Weighting
Overview of the Company Services	<ul style="list-style-type: none"> Please provide an overview of your company and the services you deliver relevant to roof top development 	10%
Evidence of Delivery Similar Projects	<ul style="list-style-type: none"> Please provide at least two relevant case studies that provide evidence of delivering similar projects Please provide the names of 2 reference that can provide assurance of your capability to deliver the requirement 	20%
Understanding the Tasks	<ul style="list-style-type: none"> Please provide your understanding of the Customer requirement 	20%
Ability to Meet the Requirements	<ul style="list-style-type: none"> Please confirm that you can meet all requirements within the required timescales Please provide a project plan that details how you would deliver the required outcome 	15%
Delivery Methodology for the Overall Project	<ul style="list-style-type: none"> Please detail your proposed approach to deliver this project Please provide details of your delivery assurance processes 	20%

Delivery Team	<ul style="list-style-type: none"> Please provide CVs for your proposed delivery team 	15%

Scoring Descriptors

Scoring Grade	Descriptor	Numeric Score	% Score
Unacceptable	Unanswered or failed to adequately address the requirement	0	0
Poor	The information submitted is very limited, inconsistent with the rest of the submission, and/or no supporting documentation has been provided	1	20
Fair	The information submitted is limited, has some inconsistencies with the rest of the submission and/or insufficient supporting documentation has been provided.	2	40
Satisfactory	Satisfactory response to the requirements which provides adequate evidence but contains inconsistencies.	3	60
Good	Good response to the requirements which provides evidence which is clear but 'has minor inconsistencies.	4	80
Excellent	Excellent response to the requirements which provides detailed evidence which 'is clear, complete and consistent.	5	100

9. DEED OF APPOINTMENT INCLUSIVE OF WARRANTY - TEMPLATE

DATED

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POPULO DESIGN AND BUILD LIMITED

(1)

and

[CONSULTANT]

(2)

CONSULTANT FRAMEWORK AGREEMENT

for the provision of [] services

THIS AGREEMENT is made on

BETWEEN

- (1) **Populo Living** (Company No. 09643224) whose registered office is situated at 373 High Street, London, England, E15 4QZ (the "**Client**" which definition shall include its permitted assignees); and
- (2) [**CONSULTANT**] (Company No. []) whose registered office is situate at [] (the "**Consultant**").

WHEREAS:

- (A) The Client proposes to procure the Projects.
- (B) The Client wishes to appoint the Consultant on a framework basis to provide Services in connection with Projects.
- (B) The Consultant has agreed to its appointment on a framework basis on the terms of this Agreement.

1 DEFINITIONS AND INTERPRETATIONS

- 1.1 In this Agreement (as hereinafter defined) the words and phrases shall have the meanings ascribed to them below:

Agreement Particulars	the particulars in Schedule 1 to this Agreement.
Agreement Period	the period set out in the Agreement Particulars commencing from the date hereof (as the same may be extended at the Client's sole option pursuant to clause 2.2).
Appointment	see clause 3.1 and clause 4.2.
Appointment Terms	the terms and conditions appended hereto at Schedule 4.
CDM Regulations	the Construction (Design and Management) Regulations 2015
Change of Control	any or all of: (a) a change in the ownership of more than 10% of the Consultant; and/ or (b) a change in the effective control of the Consultant; and/ or (c) a change in the ownership of a substantial portion of the assets of the Consultant; and/ or (d) any of (a)-(c) in respect of a shareholder which holds at least 25% of the Consultant
Client Data	(a) any and all data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which:

	<ul style="list-style-type: none"> (i) are supplied to the Consultant by or on behalf of the Client and/or Client's Associated Company; or (ii) the Consultant is required to generate, process, store or transmit pursuant to this Agreement; and
	(b) the Client Personal Data.
Client Personal Data	any and all personal data which is provided by or on behalf of the Client and/or Client's Associated Company to the Consultant or which comes into the possession of the Consultant as a result of or in connection with the Consultant's performance of its duties and obligations under this Agreement and/or any Appointment and for which the Client and/or Client's Associated Company is the data controller.
Consultant's Group Company	the Consultant's direct or indirect holding companies and its direct or indirect subsidiaries (within the meaning of s1159 Companies Act 2006) (and " Consultant's Group Companies " shall be construed accordingly)
Consultant's Manager	the person specified in the Agreement Particulars (or such other person approved by the Client under clause 9.1).
Consultant's Persons	the Consultant's employees, agents and all other persons employed or engaged on or in connection with any services that the Consultant has previously or is currently or may be undertaking for the Client and/or a Group Company.
Documents	all documents, drawings, plans, specifications, bills of quantity, calculations, reports details and other documents prepared by or on behalf of the Consultant pursuant to the Agreement and/or all Appointments
Extended Period	the period set out in the Agreement Particulars.
Fee	<p>either:</p> <ul style="list-style-type: none"> (a) the Consultant's proposed fee for the performance of the Project Services that is acceptable to the Project Client and is stated in the Contract Order; or (b) in the case of an Appointment under clause 3.1 of this Agreement or until the Contract Order has been issued, the sum of One Pound (£1.00).
Group Company	the Client's direct or indirect holding companies and its direct or indirect subsidiaries (within the meaning of s1159 Companies Act 2006) (and " Group Companies " shall be construed accordingly).
Insolvency Event	<p>the Consultant suffering any one of the following events:</p> <ul style="list-style-type: none"> (c) being unable to pay its debts as they fall due; (d) entering into compulsory or voluntary liquidation; (e) compounds with or convenes a meeting of its creditors;

- (f) has a receiver or manager or an administrative receiver or an administrator appointed over any of its assets;
- (g) suspends or ceases for any reason to carry on all or a substantial part of its business;
- (h) takes or suffers any action which in the reasonable opinion of the Client means that the Consultant may be unable to pay its debts as they fall due; or
- (i) any event occurs, or proceeding is taken, with respect to the Consultant in any jurisdiction to which it is subject that has an effect equivalent or similar to any of such events mentioned in this definition.

Intellectual Property Rights	any and all patents, rights to inventions, utility models, copyright and related rights, trade-marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, semi-conductor topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
Modern Slavery Policy	the Client's slavery and human trafficking statement and policy (as the same may be updated, supplemented and/or varied from time to time).
Nominating Body	the Royal Institution of Chartered Surveyors.
Parties	the Client and the Consultant.
Project	the "Project" specified in the Contract Order and/or, where an applicable Contract Order has not been issued or a project is not specified in the applicable Contract Order, the purpose for which the applicable Document or Documents were provided by the Consultant.
Project Client	either the Client or the relevant Group Company (as applicable) as specified in the Contract Order.
Contract Order	any instruction issued by the Client (or any other entity permitted to issue the same pursuant to this Agreement) to the Consultant under clause 2.1 of this Agreement for the carrying out of any of Project Services which would include, without limitation, an instruction in the draft form that is appended hereto at Schedule 2 to this Agreement.
Project Services	the services specified in a Contract Order.
Scheme	Part I of the Schedule to the Scheme for Construction Contracts (England & Wales) Regulations 1998
Services	the Standard Services and/or the Project Services (as applicable).
Standard Services	the standard services listed in Schedule 3 to this Agreement.

Working Day

a day which is not a Saturday, Sunday or Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday.

- 1.2 Unless the context otherwise requires, the singular shall include the plural and the plural the singular, and words importing persons shall include firms and corporations.
- 1.3 The clause headings in this Agreement are inserted for convenience only and shall be ignored for the purposes of construction or interpretation.
- 1.4 Reference to clauses and Schedules are references to the clauses and Schedules of and to this Agreement. The Schedules appended hereto shall have effect as part of this Agreement.
- 1.5 Any reference in this Agreement to any provision of a statute or statutory provision shall be construed as a reference to that provision as from time to time amended extended or re-enacted
- 1.6 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to any services for a Project instructed on or after the Commencement Date.
- 1.7 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Agreement.

2 APPOINTMENT

- 2.1 The Client hereby appoints the Consultant and the Consultant accepts the appointment to carry out at any time during the Agreement Period in accordance with the terms and conditions of this Agreement such Services (if any) as are required by the Client (or a Group Company).
- 2.2 The Parties accept and agree that under this Agreement no guarantee is given nor representation made by the Client to the Consultant that the Consultant will be appointed to carry out any Services. The Consultant confirms and accepts that if no instructions under clause 3.1 or Contract Orders are received from the Client (or a Group Company) in accordance with the terms and conditions of this Agreement to undertake any Services it shall not be entitled to any monies or compensation whatsoever (including, for the avoidance of doubt, any costs, damages, loss of profit or loss of opportunity) from the Client.
- 2.3 The Client may on, or at any time prior to, the expiry of the Agreement Period at its sole and absolute discretion, by the issue of a written notice to the Consultant, extend the Agreement Period by all or part of the Extended Period (or such other longer period as may be agreed between the Parties).
- 2.4 Each party shall bear their own costs in connection with the negotiation and entering into of this Agreement.
- 2.5 Notwithstanding any other provisions of this Agreement, the Fee shall be the Consultant's only financial entitlement from the Client and/or any Group Company in respect of its performance of any Services, its duties and obligations under each and every Appointment and/or any other services, activities and/or works whatsoever performed by the Consultant for the Client and/or any Group Company.

3 INSTRUCTIONS TO CARRY OUT SERVICES

- 3.1 The Client or a Group Company may instruct the Consultant to undertake any Services, activities and/or work for the Client or Group Company (as applicable). Such instruction may (for the avoidance of doubt) be effected by way of electronic mail correspondence between the parties. An instruction to undertake Services under this clause 3.1 shall constitute an Appointment and the following documents shall be deemed to form and be read and construed as the Appointment:
- (a) the Appointment Terms (save that any reference in the Appointment Terms to "Contract Order" shall be a reference to any relevant correspondence relating to the specific instruction under clause 3.1);
 - (b) such of the Standard Services as are required to fulfil the instruction (and any reference to "Project Services in the Appointment Terms shall be to such of the Standard Services as are required to fulfil the instruction);
 - (c) any relevant correspondence relating to the instruction (provided always that where and to the extent that any part or parts of such correspondence that seek to vary, rather than complete, the Appointment Terms shall be disregarded)
- 3.2 An Appointment under clause 3.1 shall come into effect as a binding Appointment between the Client or Group Company and the Consultant on the date of issue of the instruction by the Client or the Group Company.
- 3.3 In respect of any Project where an Appointment has been entered into in accordance with clause 3.1, if a Contract Order is subsequently issued in respect of that Project, such Contract Order shall supersede the Appointment under clause 3.1.

4 CONTRACT ORDERS

- 4.1 The Client (or a Project Client) may (but, for the avoidance of doubt, shall not be obliged to) instruct the Consultant to carry out any of Project Services by:
- (a) issuing a Contract Order to the Consultant;
 - (b) approving a Contract Order proposed by the Consultant pursuant to clause 4.6; or
 - (c) agreeing with the Consultant any proposed amendments to a Contract Order proposed by the Consultant pursuant to clause 4.6.
- 4.2 Subject to clause 4.7, each Contract Order issued or which is effective on the Consultant shall constitute an Appointment:
- (a) once signed on behalf of the Consultant and returned to the Client (or the Project Client); or
 - (b) by the Consultant commencing the services required under the Contract Order before the withdrawal of the Contract Order or before the date of termination /or expiry of this Agreement; or
 - (c) unless the Contract Order has been withdrawn by the Client (or the Project Client) by the relevant time or rejected by the Consultant by notice in writing to the Client (or the Project Client) within 2 Working Days of the date of issue of the Contract Order.
- 4.3 The following documents shall be deemed to form and be read and construed as an Appointment:

- (a) the Contract Order;
 - (b) the Appointment Terms, as completed and as (where applicable) amended and/or supplemented by the Contract Order;
 - (c) the Project Services
- 4.4 Subject to clause 4.7, the Consultant shall carry out the Project Services in accordance with the provisions of the Appointment as and from the date of issue of the Contract Order.
- 4.5 Each Contract Order, as a minimum, shall specify the following details:
- (a) the Project Services; and
 - (b) the explanatory details (as set out in Schedule 2) required to complete the Appointment Terms; and
 - (c) the Fee; and
 - (d) any amendments and/or supplements to the Appointment Terms that are specific to that Contract Order (if any).
- 4.6 The Client or Group Company may request that the Consultant complete a Contract Order with its proposals for the said Contract Order and as soon as reasonably practicable after the receipt of the said request, the Consultant shall prepare a draft Contract Order and submit it to the Client or Group Company.
- 4.7 The Appointment shall come into effect as a binding Appointment between the Project Client and the Consultant on the date stated by the Project Client in the Contract Order (or if not stated, on the date on which an Appointment comes into existence pursuant to clause 4.2).

5 LIMITATION PERIOD FOR APPOINTMENTS

The Parties agree that each Appointment shall take effect as a deed for the purposes of the Limitation Act 1980. For the avoidance of doubt, the limitation period for bringing proceedings in respect of each Appointment is extended to 12 years from the date on which the relevant cause of action accrued and neither party shall be entitled to raise section 5 of the Limitation Act 1980 as a defence to any claim made pursuant to or in connection with the relevant Appointment.

6 CONSULTANT'S GENERAL OBLIGATIONS

- 6.1 The Consultant warrants and undertakes to the Client that:
- (a) it shall at all times comply with all applicable laws (including but not limited to, statutes, statutory instruments, rules, orders and/or directives having the force of law);
 - (b) without prejudice to the generality of clause 5.1(a), it is fully aware of the provisions of the CDM Regulations and the Consultant shall at all times:
 - (i) perform any roles, functions, duties and/or obligations under the CDM Regulations that are applicable to the Consultant under this Agreement and/or any Appointment;
 - (ii) see that in matters connected with this Agreement and/or any Appointment the Client or any Project Client is able to perform its duties and obligations under the CDM Regulations;
 - (iii) where and to the extent that the Consultant's affects the Client's or any Project Client's ability to comply with its functions, duties and obligations

under or in connection with the CDM Regulations, see that the Client's or any Project Client's does not breach its duties and obligations under the CDM Regulations;

- (c) it will on request meet with the Client and/or any Project Client to discuss any matters concerning this Agreement and/or any Appointment.

7 INSURANCE

- 7.1 The Consultant shall take out and maintain professional indemnity insurance (and comply with all conditions and obligations in respect of such insurance) covering the Consultant's liabilities for negligence under this Agreement and any Appointments (if applicable) at the level and basis specified in the Agreement Particulars until the date that is 12 years after the later of:
- (a) the date of expiry or termination of this Agreement; or
 - (b) (where there is an Appointment under clause 3.1) the date of completion of all of the Services instructed under that Appointment.
 - (c) (where a Contract Order has been issued) the date of completion of all of the Project Services instructed under each and every Contract Order issued pursuant to this Agreement.
- 7.2 When reasonably requested by the Client the Consultant will provide (but not in any way which would breach any term of the insurance policy then in force) documentary evidence that the insurance required hereunder is being maintained.

8 ASSIGNMENT AND CHANGE OF CONTROL

- 8.1 The Client may, without the consent of the Consultant, assign, charge or otherwise transfer all or any of the Client's rights and/or benefits arising under this Agreement to:
- (a) any Group Company;
 - (b) any party having or acquiring a mortgage or charge over the Client, any Group Company and/or any Project or any part of it;
 - (c) the Client and/or any Group Company following the redemption of any mortgage or charge.
- 8.2 The Consultant shall not, without prior written consent of the Client, assign or charge or otherwise transfer all or any of the Consultant's rights and/or benefits under this Agreement.
- 8.3 The Consultant shall not be entitled to contend that any person to whom this Agreement is assigned in accordance with clauses 8.1 is precluded from recovering under this Agreement any loss incurred by such assignee resulting from any breach of this Agreement (whenever happening), by reason that such person is an assignee and not a named promisee under this Agreement and/ or that such assignee may suffer losses that are different in nature and/ or extent to those suffered by the Client.
- 8.4 The Client may without the consent of the Consultant novate this Agreement to any Group Company and the Consultant shall at the Client's written request and upon receipt of the engrossment or engrossments enter into and execute a deed of novation in the form set out in Schedule 3 of the Appointment Terms and (if required) a collateral warranty in favour of the Client in the form set out in Schedule 2 of the Appointment Terms.
- 8.5 The Consultant shall:
- (a) notify the Client in writing forthwith if a Change of Control occurs in respect of the Consultant or any Consultant's Group Company;

- (b) (if required by the Client) provide the Client with a duly executed and unconditionally released guarantee from the person or entity becoming or which has become the ultimate parent company of the Consultant or of the entity that acquired the assets of the Consultant within four weeks of the date on which such Change of Control occurred, which shall be in the form reasonably required by the Client and which shall, as a minimum, guarantee the performance of any duties liabilities and/or obligations of the Consultant under or in connection with this Agreement and/or any Appointments and any liabilities of the Consultant thereunder;
- (c) (if required by the Client) enter into, execute and unconditionally release to the Client and shall procure that the person or entity which became or is to become the ultimate parent company of the Consultant or the entity that acquired the assets of the Consultant enters into, executes and unconditionally releases to the Client:
 - (i) a deed of novation in the form set out in Schedule 3 of the Appointment Terms that novates this Agreement from the Consultant to the person or entity which became or is to become the ultimate parent company of the Consultant or the entity that acquired the assets of the Consultant;
 - (ii) for each and every Appointment notified in writing to the Consultant by the Client a deed of novation in the form set out in Schedule 3 of the Appointment Terms that novates each such Appointment from the Consultant to the person or entity which became or is to become the ultimate parent company of the Consultant or the entity that acquired the assets of the Consultant;
 - (iii) (where clause 8.5(c)(i) applies) a collateral warranty in favour of the Client in the form set out in Schedule 2 of the Appointment Terms that relates to the Consultant's performance of its duties and obligations under or in connection with this Agreement; and
 - (iv) (where clause 8.5(c)(ii) applies) a collateral warranty in favour of the relevant Project Client in the form set out in Schedule 2 of the Appointment Terms that relates to the Consultant's performance of its duties and obligations under or in connection with the Appointment to which the novation or novations referred to in clause 8.5(c)(ii) relates.

8.6 Notwithstanding any other provisions of this Agreement and/or any of the Appointments and in addition to any other right or remedy of the Client, compliance with clause 6.5 shall be a condition precedent to the Consultant's entitlement to all payments under this Agreement and/or all Appointments from the Client and all Project Clients.

9 COPYRIGHT AND CONFIDENTIALITY

- 9.1 The copyright in all Documents shall remain vested in the Consultant but, where and to the extent that the Consultant has not granted to the Client and Group Companies a licence on similar terms to this clause 9.1 in respect of the Documents, the Consultant hereby grants to the Client and Group Companies and its duly appointed agents an irrevocable, non-exclusive and royalty free licence to copy and use the Documents and reproduce the designs and information contained in them for any purpose relating to the Client's and/or Group Company's business and any relevant site and/or Project for which the Documents were produced (including, without limitation, such site and/or Project's development and use) but the Consultant shall not be liable for any use other than that for which the Documents were originally prepared. Such licence shall be capable of sub-licence and assignment.
- 9.2 The Consultant agrees to supply to the Client and/or Group Company on request (but subject to reimbursement of the Consultant's reasonable photocopying charges) copies of the Documents and such other information in relation to the relevant site and/or Project for which the Documents were produced as the Consultant can reasonably supply.

- 9.3 All of the Documents and other materials relating to the Consultant's employment under this Agreement and/or any Appointments whether produced by the Consultant or not shall be treated with confidentiality save where the Consultant has obtained the Client's express written consent to pass such information to a third party.

10 TERMINATION

- 10.1 The Client may terminate the Consultant's employment under this Agreement at any time:
- (a) on thirty days' notice in writing to the Consultant; or
 - (b) where the Consultant suffers an Insolvency Event, on the date of issue of a notice from the Client.
- 10.2 Any termination, deemed termination or suspension of the Consultant's employment under this Agreement shall not determine the operation of any Appointments already issued:
- (a) unless the notice issued pursuant to clause 10.1 expressly states that the Consultant's employment under all of the Appointments issued pursuant to this Agreement is either terminated or suspended and in which case, the Consultant's employment under all such Appointments shall automatically terminate or be suspended (as applicable) on the same date as the Consultant's employment under this Agreement either terminates or is suspended (as applicable); or
 - (b) unless the notice issued pursuant to clause 10.1 expressly states that the Consultant's employment under certain specified Appointments issued pursuant to this Agreement is either terminated or suspended and in which case, where the Consultant's employment under all Appointments referred to in such notice shall automatically terminate or be suspended (as applicable) on the same date as the Consultant's employment under this Agreement either terminates or is suspended (as applicable); or
 - (c) unless and/or until the individual Appointment is terminated or suspended in accordance with the provisions of the Appointment Terms for that Appointment.
- 10.3 Where termination or suspension occurs in accordance with this clause 8 the Consultant shall not be entitled to any monies or compensation whatsoever (including (but not limited to) any costs, damages, loss of profit, loss of contracts or loss of opportunity or other similar losses) from the Client and/or any Project Client under or in connection with this Agreement and/or any applicable Appointments, even if the Client and/or any Project Client chooses to appoint another party to carry out services in relation to (if relevant) the Project Services.
- 10.4 Notwithstanding the provisions of clause 10.1, the Client and/or any Project Client may terminate or suspend all or part of the Consultant's employment under any or all Appointments in accordance with the provisions set out in the Appointment Terms for each individual Appointment and, in such circumstances, the provisions therein relating to termination or suspension shall apply to such termination or suspension (as applicable).

11 PERSONNEL

The Consultant shall procure that the Consultant's Manager shall assume personal direction and control and management of the services provided by the Consultant pursuant to this Agreement. The Consultant's Manager shall maintain direct and regular contact with the Client in respect of the Consultant's responsibilities under this Agreement. In the event that the Consultant's Manager is unable to assume or continue to provide such personal direction and control the Consultant shall consult with the Client and procure that such other member of the Consultant's staff (with at least the same experience and expertise as the outgoing Consultant's Manager) as shall be approved by the Client shall assume such personal direction and control.

12 ANTI-BRIBERY AND CORRUPTION AND MODERN SLAVERY

12.1 The Consultant undertakes and warrants to the Client without qualification or limitation:

- (a) that at the date of this Agreement the Consultant (and the Consultant's Persons (to the extent the Consultant could, did and/or ought to have been able to ascertain the same)) have not committed and/or permitted an offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010 or committed one of the common law offences of bribery and/or embracery; and
- (b) that after the date of signature of this Appointment the Consultant (on behalf of the Consultant and the Consultant's Persons) will not commit and/or permit an offence under the Bribery Act 2010.

12.2 The Consultant warrants and undertakes to the Client that:

- (a) it has been offered the chance by the Client to obtain a copy of the Client's Modern Slavery Policy, which is available on request from the Client, and that it has obtained and familiarised itself with the same;
- (b) it shall and shall ensure where and to the extent relevant that each of the Consultant's Persons and any other person who performs services and/or supplies goods within the Consultant's supply chain for the Consultant in relation to the performance of the Consultant's obligations and duties under this Agreement and any Appointments shall comply with the Modern Slavery Act 2015, all applicable law relating to slavery and human trafficking the requirements of the Modern Slavery Policy and the Consultant's own policies and statements in connection with modern slavery and human trafficking ("**the Anti-Slavery Requirements**");
- (c) it shall not take or knowingly permit any action to be taken that would or might cause or lead the Client and/or any Group Company to be in breach of any Anti-Slavery Requirements;
- (d) it shall, at the Client's and/or any Group Company's request and cost, provide the Client and/or any Group Company (as applicable) with any reasonable assistance to enable it to perform any activity required by any regulatory body for the purpose of complying with Anti-Slavery Requirements;
- (e) it shall, on request by the Client, provide a signed declaration (in the form required by the Client) confirming the Consultant's compliance with the Modern Slavery Act 2015 and the Modern Slavery Policy together with the requirements of this clause; and
- (f) it shall notify the Client forthwith as soon as it becomes aware of any breach or potential breach of this clause.

12.3 The Consultant shall be responsible for and shall indemnify the Client from and against any and all expenses, liabilities, fines, losses, claims and proceedings resulting from any failure or default by the Consultant in performing the Consultant's obligations and/or breaching any undertaking or warranty under clause 12.

13 DATA AND IT SECURITY

13.1 The Consultant shall:

- (a) take responsibility for preserving the integrity of the Client Data and preventing the corruption or loss of the Client Data;
- (b) perform secure back-ups of all the Client Data and shall ensure that up-to-date back-ups are stored off-site. The Consultant shall ensure that such back-ups are available to the Client at all times upon request;

- (c) regardless of the cause of the loss or corruption, promptly return (at its own cost) such Client Data to the state it would have been in had it not been corrupted or lost;
 - (d) ensure that access to Client Data is limited to such access as is absolutely necessary to perform its duties and obligations under this Agreement and/or under each Appointment and shall at all times be in accordance with the terms and conditions of this Agreement; and
 - (e) ensure that any system on which the Consultant holds any Client Data, including back-up data, is a secure system that complies with the Client policies at all times during the Agreement Period.
- 13.2 If at any time the Consultant suspects or has reason to believe that the Client Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Consultant shall notify the Client immediately and inform the Client of the remedial action the Consultant proposes to take, provided that the Consultant shall not undertake such action without the prior written approval of the Client.
- 13.3 Except as expressly provided otherwise, this Agreement does not transfer ownership of, or create any licences (implied or otherwise) in, any Intellectual Property Rights in any Client Data.
- 13.4 The Consultant shall, as an enduring obligation throughout the Agreement Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of viruses.
- 13.5 The Consultant shall promptly report in writing to the Client any act or omission of itself, any sub-consultant or any third party or issue or potential issue of which the Consultant or any sub-consultant is aware which has or may have an adverse effect on the provision of its duties and obligations under this and/or under each Appointment or on the availability, confidentiality or integrity of the Client Data, the Client's and/or Group Companies' information or information technology systems. In the event of such a report the Consultant shall (and shall procure that any sub-Consultant shall) co-operate fully with the Client to resolve any such adverse effects.
- 13.6 The Consultant shall deploy methods which are rigorously and routinely tested in line with good industry practice to secure web mechanisms which interface to the open internet, or used for interaction via mobile devices with users, and document such test results and provide them to the Client upon the Client's request.
- 13.7 The Consultant shall be responsible for and shall indemnify the Client from and against any and all expenses, liabilities, fines, losses, claims and proceedings arising out of or in connection with the Consultant's breach of this clause 13 and/or the corruption, loss or degradation of any of the Client Data whilst in the Consultant's possession, custody or control or which arises as a result of the Consultant's default or omission.

14 NOTICES

- 14.1 Subject to clause 14.2, any notice provided for in this Agreement shall be duly given if delivered by hand or sent by first class pre-paid special delivery or recorded delivery post to the party named therein at its registered address or principal place of business or at such other address as such party may specify from time to time by written notice to the other party hereto. If the notice is sent by first class pre-paid special delivery or recorded delivery post it shall be deemed to have been received on the second Working Day after the date of posting. If the notice is delivered by hand, it shall be deemed to be received on the day it is delivered.
- 14.2 The Client or a Project Client may issue Contract Orders to the Consultant pursuant to clause 4.1 by electronic mail and any Contract Orders sent by electronic mail shall be deemed to

have been received by the Consultant on the day it is sent by the Client or a Project Client if the day is a Working Day (or, if the electronic mail is sent by the Client or a Project Client after 17.30 or on a day which is not a Working Day, on the next Working Day after it is sent by the Client or a Project Client).

15 ADJUDICATION

- 15.1 Where any dispute or difference arises under this Agreement, either party may refer the dispute to adjudication.
- 15.2 The provisions of Part I of the schedule to the Scheme shall apply to any adjudication brought under this Agreement.
- 15.3 The body responsible for nominating a person to act as an adjudicator shall be the Nominating Body.

16 WAIVER

- 16.1 A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.2 A party that waives a right or remedy provided under the Agreement or by law in relation to one party, or takes or fails to take any action against that party, does not affect its rights in relation to any other party.

17 SEVERANCE

If any provision or part-provision of the Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

18 GOVERNING LAW AND LITIGATION

This Agreement and any dispute or claim arising out of, relating to or in connection with it is governed by, and construed in accordance with, the laws of England. All disputes or claims arising out of, relating to or in connection with this Agreement shall be subject to the jurisdiction of the English courts to which the Parties irrevocably submit.

19 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 19.1 The Consultant agrees that pursuant to the Contracts (Rights of Third Parties) Act 1999 that any Group Company shall be entitled to enforce for its benefit any of the provisions of this Agreement.
- 19.2 No rights of the Client and the Consultant:
- (a) to terminate the Consultant's employment under this Agreement;
 - (b) to agree to rescind, amend or otherwise vary or waive any of the terms of this Agreement; or
 - (c) to settle any dispute under or in relation to this Agreement,
- shall be subject to the consent of any Group Company.

19.3 Save as set out in this clause 19.1, it is not intended that any third party should have the right to enforce any term of this Agreement pursuant to the Contract (Rights of Third Parties) Act 1999.

IN WITNESS whereof this deed has been executed by or on behalf of the parties and delivered the day and year first above written.

Schedule 1
Agreement Particulars

Clause	Subject	Information
1.1	Agreement Period	Three years
1.1	Commencement Date	<i>[insert date that any services to be covered by this framework were first instructed or performed]</i>
1.1	Consultant's Manager	<i>[name]</i> <i>[address]</i> <i>[contact details]</i>
1.1	Extended Period	Three years
5	Professional Indemnity	£10,000,000 (ten million pounds) for each and every claim
11	Notices	<u>For the Client:</u> For the attention of <i>[name]</i> <i>[client company]</i> <i>[address]</i> <u>For the Consultant:</u> For the attention of <i>[name]</i> <i>[consultant company name]</i> <i>[address]</i>

Schedule 2
Draft Contract Order

CONTRACT ORDER

This is a Contract Order issued pursuant to the Consultant Framework Agreement dated [] between (1) Populo Design and Build Limited and (2) [] and, in addition to this Contract Order, the Appointment shall consist of the documents referred to in clause 4.3 of the Agreement:

- The Project Client** : [INSERT COMPANY NAME] [(Company No. [])]
- Appointment Commencement Date** : The date on which the Consultant commences the Services / [INSERT DATE]
[delete and amend (as applicable)]
- The Project** : [INSERT BRIEF DETAILS OF PROJECT]
- The Consultant's Discipline** : [Architect/Civil and Structural Engineer/Mechanical and Electrical Engineer/Highways Engineer/Principal Designer/Geo-Environmental Engineer/Geo-Technical Engineer/Project Manager/Quantity Surveyor/Employer's Agent]
[delete and amend (as applicable)]
- The Project Services** : [Part [] of] the Standard Services subject to the amendments (if any) set out in Part 1 of the Schedule to this Contract Order; [and
The additional services/requirements set out in Part 2 of the Schedule to this Contract Order.]
- Clause 4.1 of the Appointment Terms (Required Areas)** : applies/does not apply
(delete as applicable)
- Clause 4.3 of the Appointment Terms (Critical Dimensions)** : applies/does not apply
(delete as applicable)
- Professional indemnity insurance** : [at the level and basis required by the Agreement]
[£] [] million pounds for any occurrence or series of occurrences arising out of each and every event]
(delete as applicable)
- Public Liability Insurance** : [at the level and basis required by the Consultant Framework Agreement]
[£] [] million pounds for any occurrence or series of occurrences arising out of each and every event]
(delete as applicable)
- The Fee** : £[]
- Clause 8.2 of the Appointment Terms** : Clause 8.2(a) (*stage payments*) applies / Clause 8.2(b) (*monthly valuations*) applies
(delete as applicable)

Additional Third Parties : []

The Consultant's person in charge : []

Signed on behalf of the Project Client as a deed:

Director:
Signature

.....
Print Name

Witness:
Signature

.....
Witness Name (print)

Signed on behalf of the Consultant as a deed:

Director:
Signature

.....
Print Name

Witness:
Signature

.....
Witness Name (print)

Schedule to the Contract Order

Part 1: Amendments to the Standard Services

[Not Applicable] / The following amendments shall be made to the [Part []] Standard Services:

Part 2: Additional Services

[Not Applicable] / The following additional services shall form part of the Project Services:

Part 3: Stage Payments (Clause 8.2(a))

[Not Applicable] / The Fee shall be paid in the following instalments:

Part 4: Target Areas (Clause 4.1)

Measurement Area	Target Area (ft ² / m ²)	Area Tolerance
[]	[]	+[]/-[]%
[]	[]	+[]/-[]%
[]	[]	+[]/-[]%
[]	[]	+[]/-[]%

The Measuring Code is [the current Code of Measuring Practice issued from time to time by the Royal Institution of Chartered Surveyors and the Incorporated Society of Valuers and Auctioneers current at the date of this Contract Order] / [] Edition]*

The Measurement Plan is the document reference [] appended to this Contract Order.

Part 5: Critical Dimensions (Clause 4.3)

Critical Dimension Location	Critical Dimension	Dimension Tolerance
[]	[]	+[]/-[]%
[]	[]	+[]/-[]%
[]	[]	+[]/-[]%
[]	[]	+[]/-[]%

The Critical Dimension Measuring Code is [the current Code of Measuring Practice issued from time to time by the Royal Institution of Chartered Surveyors and the Incorporated Society of Valuers and Auctioneers current at the date of this Contract Order] / [] Edition]*

Schedule 3
Standard Services

[Services to follow]

Schedule 4
Appointment Terms

1 Definitions, Interpretation and Entire Agreement

- 1.1 In this Appointment (as defined in the Agreement) the words and phrases shall have the meanings ascribed to them in the Agreement, save where they are stated or referred to below:

Additional Services	any services that are in addition to the Project Services and which are instructed by the Client pursuant to the Appointment.
Altered Obligations	any altered obligations imposed on the Client pursuant to an Altered Third Party Agreement.
Altered Third Party Agreement	any Third Party Agreement that is entered into in a form that is different from the draft form provided to the Consultant prior to the Third Party Agreement Date.
Application for Payment	<p>an application for a payment instalment under this Appointment that:</p> <p>(a) states the sum that the Consultant considers will become due to the Consultant on the Due Date for Payment and the basis upon which that sum has been calculated; and</p> <p>(b) is accompanied by a valid VAT invoice and such details as the Client may reasonably require.</p>
Area Tolerance	the tolerances (if any) that is specified in the Contract Order.
Building Contract	the building contract or building contracts that the Project Client has entered into or intends to enter into with the Contractor in connection with the Project.
Client	the person specified in the Contract Order (including its permitted assignees).
Client Notified Sum	the sum requested by the Project Client under this Appointment in a payment request that states the sum that the Client considers will become due to the Client on the Consultant's Due Date for Payment and the basis upon which that sum has been calculated.
Client's Group Company	means the Developer's direct or indirect holding companies and its direct or indirect subsidiaries (within the meaning of s1159 Companies Act 2006) (and " Client's Group Companies " shall be construed accordingly).
Consultant's Discipline	the discipline detailed in the Contract Order.
Consultant's Due Date for Payment	the date on which the Consultant is given notice of any sums that are due from the Consultant to the Project Client.
Consultant's Final Date for Payment	the date that is 14 days after the Consultant's Due Date for Payment.
Contractor	the contractor or contractors that the Project Client has employed or intends to employ in connection with the Project.

Critical Dimension	the critical dimension for a Critical Dimension Location as stated in the Contract Order.
Critical Dimension Location	that location within the Project stated in the Contract Order and, if applicable, shown on the Measurement Plan.
Critical Dimension Measuring Code	the measuring code for the Critical Dimension that is specified in the Contract Order.
Developer	the original party specified under the Contract Order as the client or any Client's Group Company that the rights and benefits of this Appointment is subsequently assigned to pursuant to clause 8.1.
Due Date for Payment	the date of receipt by the Project Client of the Consultant's validly served Application for Payment.
Fee	has the meaning ascribed to it under the Contract Order or until the Contract Order has been issued shall be the sum of One Pound (£1.00).
Fee Payment Profile	is the payment profile for the Fee set out or referred to in the Part 3 of the Schedule to the Contract Order.
Final Date for Payment	the date that is 30 days after the Due Date for Payment.
Further Third Party Agreement	any agreement between the Client and a third party in relation to the Project or the Site or any part (or such extracts of the same as the Client considers to be relevant to its obligations thereunder) that is provided to the Consultant after the Third Party Agreement Date.
Group Company	the direct or indirect holding companies of a party and its direct or indirect subsidiaries (within the meaning of s1159 Companies Act 2006).
Measured Area	the gross or net internal or the gross external area (as stated in the Contract Order for the Project) of the Measurement Area as measured in accordance with the Measuring Code.
Measured Critical Dimension	the critical dimension for a Critical Dimension Location as stated in the Contract Order (as measured in accordance with the Critical Dimensions Measuring Code).
Measuring Code	the measuring code for the Target Area that is specified in the Contract Order for the Project.
Measurement Area	that part of the Project stated in the Contract Order and, if applicable, shown on the Measurement Plan.
Measurement Plan:	the plan showing the Measurement Area and appended to the Contract Order.
Notice Period	a period of ten days (or such lesser period as the Consultant, acting reasonably, shall agree).
Notified Sum	(a) where a Payment Notice is issued in respect of the Application for Payment, the sum detailed in the Payment Notice; or

- (b) where a Payment Notice is not issued in respect of the Application for Payment the sum stated in the Application for Payment.

Parties	the Client and the Consultant together.
Payment Notice	a notice specifying the sum that the Client considers became due to the Consultant on the Due Date for Payment and the basis upon which such sum has been calculated.
Pay Less Notice	a notice setting out the sum that the payer considers to be due to the payee on the date such Pay Less Notice is issued and the basis upon which such sum has been calculated.
Professional Team	all the consultants appointed in connection with the Project.
Project	has the meaning ascribed to it in the Contract Order for this Appointment.
Contract Order	any Contract Order issued by the Client to the Consultant under clause 2.1 of the Agreement in connection with the Project for the carrying out of the Services.
Project Services	the services specified in a Contract Order.
Services	the Project Services and the Additional Services together.
Site	the proposed site of the Project.
Target Area	the target area for a Measurement Area as stated in the Contract Order for the Project.
Third Party	<ul style="list-style-type: none"> (a) the original party specified under the Contract Order as the client ("the Developer"); and (b) each and every party providing finance in connection with the Project or for the purchase or letting of the Site or any part ("a Funder"); and (c) each and every person who will first purchase (whether freehold or on a long leasehold interest) the Site or any part whether before or after completion of the Project and/or the works on the Site ("a Purchaser"); and (d) each and every person who will first take a lease of the Site or any part whether before or after completion of the Project and/or the works on the Site; and (e) each and every party with responsibility for management of the whole or part of the Project and/or the Site or of an estate of which the Project and/or Site forms part; and (f) such other persons, entities or parties specified in the Contract Order as a Third Party; <p>(and, in respect of the Third Party Rights, of "Third Party" shall include the Third Party's permitted assignees).</p>

Third Party Agreements	any agreements relating to the Project or the Site or any part thereof
Third Party Rights	the relevant rights in favour of a Third Party set out in Schedule 1 to this Appointment

1.2 Without prejudice to clause 3.2 of the Agreement, the Parties have agreed that this Appointment:

- (a) is a separate and distinct contract from the Agreement; and
- (b) notwithstanding any other provision of the Agreement and/or this Appointment (including, without limitation, the manner of its execution, the manner of execution or any provisions contained in the Agreement or any defences arising under the Limitation Act 1980 (as amended)), shall have been deemed to be executed as deed. For the avoidance of doubt, the limitation period for bringing proceedings in respect of this Appointment is extended to 12 years from the date on which the relevant cause of action accrued and neither party to this Appointment shall be entitled to raise section 5 of the Limitation Act 1980 as a defence to any claim made pursuant to or in connection with this Appointment.

1.3 Unless the context otherwise requires, the singular shall include the plural and the plural the singular, and words importing persons shall include firms and corporations.

1.4 The clause headings in this Appointment are inserted for convenience only and shall be ignored for the purposes of construction or interpretation.

1.5 Reference to clauses and Schedules are references to the clauses and Schedules of and to this Appointment. The Schedules appended hereto shall have effect as part of this Appointment.

1.6 Any reference in this Appointment to any provision of a statute or statutory provision shall be construed as a reference to that provision as from time to time amended extended or re-enacted.

2 Appointment

2.1 The Project Client appoints the Consultant and the Consultant agrees to perform and discharge the Services and act as a consultant performing the duties and responsibilities of the Consultant's Discipline in respect of the Project upon the terms and conditions of this Appointment.

2.2 The Consultant shall comply with all reasonable instructions given by the Project Client or its duly authorised representative in writing under or in connection with this Appointment.

2.3 This Appointment will constitute the entire agreement between the Parties in respect of the Project and which will replace any previous agreement (excluding the Agreement) between the Parties in respect of the Project. Any services provided by the Consultant relating to the Project shall be treated as having been provided under the terms of this Appointment.

3 Duty of Care and Compliance with Statutory Requirements

3.1 The Consultant warrants to and undertakes with the Project Client that it has exercised and will continue to exercise in the performance and discharge of the Services all the reasonable skill care and diligence to be expected of a properly qualified and competent consultant of the Consultant's Discipline experienced in the provision of like services to the Services for projects of an equivalent type, size, scope and complexity to the Project.

- 3.2 The Consultant warrants to and undertakes with the Project Client that it has exercised and will continue to exercise the standard of skill, care and diligence required by clause 3.1 not to specify for use in the Project any products or materials which at the time of specification:
- (a) do not conform with British Standards (or where there are no applicable British Standards, any relevant European Standards) and/ or Codes of Practice and/ or good building practice; and/or
 - (b) are generally known to the profession of consultants performing the Consultant's Discipline to be deleterious, in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures.
- 3.3 No enquiry, inspection, approval, sanction, comment, consent, decision or instruction at any time made or given by the Project Client or on its behalf (nor any failure to so enquire, inspect, approve, sanction, comment, decide or inspect) shall operate to exclude or limit any duty or liability on the part of the Consultant under or in connection with this Appointment.
- 3.4 The Consultant warrants and undertakes to the Project Client that:
- (a) it has complied with and will continue to comply with all statutes, statutory instruments, rules and/or orders having the force of law applicable to the Project, the performance and discharge of the Services and the performance of its duties and responsibilities under the Appointment; and
 - (b) where and to the extent applicable to the performance of the Consultant's duties and obligations under or in connection with this Appointment the Consultant has complied with and will continue to comply with all applicable British Standards and related codes of practice for the management of the production, distribution and quality of architectural, engineering and construction information (including, without limitation, BS 1192:2007);
 - (c) exercising the standard of skill care and diligence required by clause 3.1, it has performed and will continue to perform the Services in such a manner as to ensure that the Project is designed and constructed in full accordance with the terms of all relevant planning consents, building regulations and any and all other relevant statutory and regulatory approvals and requirements and/or applicable regulations, bye-laws and codes of practice of any local authority, statutory undertaker or public or private utility or undertakings that has any jurisdiction over the Project or with whose systems or property the Project is or will be connected.

4 Target Areas and Critical Dimensions

- 4.1 Where this clause is stated to apply in the Contract Order and insofar as the same are relevant to the Services, the Consultant shall, exercising the standard of skill care and diligence required by clause 3.1, carry out and complete the Services so that each Measurement Area shall, when completed, achieve the relevant Target Area subject to the application of the relevant Area Tolerance.
- 4.2 In the event that the Measured Area for a Measurement Area is outside the relevant Area Tolerance, the Project Client shall be entitled to issue instructions to the Consultant requiring the Consultant to perform and discharge such services that are necessary in order that the Measured Area of the Measurement Area shall achieve the Target Area (subject to the relevant Area Tolerance) (the "**Re-sizing Services**"). The Consultant shall not be entitled to an addition to the Fee in respect of the Re-sizing Services and their consequences and the Re-sizing Services shall form part of the Services for the purposes of this Appointment.

- 4.3 Where this clause is stated to apply in the Contract Order and insofar as the same are relevant to the Services, the Consultant shall, exercising the standard of skill care and diligence required by clause 3.1, carry out and complete the Services so that each Critical Dimension Location shall, when completed, achieve the relevant Critical Dimension subject to the application of the relevant Dimension Tolerance.
- 4.4 In the event that a Measured Critical Dimension for a Critical Dimension Location fails to achieve the relevant Critical Dimension subject to the application of the relevant Dimension Tolerance, the Project Client shall be entitled to issue instructions to the Consultant requiring the Consultant to perform and discharge such services that are necessary in order that the Measured Critical Dimension for a Critical Dimension Location shall achieve the relevant Critical Dimension (subject to the relevant Dimension Tolerance) (the "**Critical Dimension Re-sizing Services**"). The Consultant shall not be entitled to an addition to the Fee in respect of the Critical Dimension Re-sizing Services and their consequences and the Critical Dimension Re-sizing Services shall form part of the Services for the purposes of this Appointment.

5 CDM Regulations

- 5.1 The Consultant warrants to the Project Client that it is fully aware of the provisions of the CDM Regulations and that it:
- (a) possesses the skills, knowledge, experience and organisational capability necessary to fulfil the role that it has been appointed to undertake, in a manner that secures the health and safety of any person affected by the Project;
 - (b) shall co-operate with any other person working on or in relation to the Project and the Site (including without limitation, the principal contractor and the principal designer (in each case where appointed by the Project Client)) to the extent necessary to enable any person with a duty or function under the CDM Regulations to fulfil that duty or function;
 - (c) shall report to the Project Client anything that the Consultant is aware of in relation to the Project and the Site which is likely to endanger the Consultant's health and safety or that of others;
 - (d) shall at all times, exercising the standard of skill care and diligence required by clause 3.1, see that, in respect of matters associated with the Services, the Project Client:
 - (i) is able to perform its duties and functions under the CDM Regulations; and
 - (ii) where and to the extent that the Consultant's performance affects the Project Client's ability to comply with its functions, duties and obligations under or in connection with the CDM Regulations, the Project Client does not breach its duties and obligations under the CDM Regulations;
 - (e) in conjunction with the Professional Team and the Contractor it shall co-operate and assist the principal contractor and the principal designer (in each case where appointed by the Project Client) in the preparation of the construction phase plan and the health and safety file (each to be prepared pursuant to Regulation 12 of the CDM Regulations).

6 Third Party Agreements

- 6.1 The Consultant shall have regard to any obligations owed by the Project Client under all Third Party Agreements in so far as details of such obligations have been provided to the Consultant prior to the date that is the later of the date of issue of the Contract Order (or, where a draft is provided by the Consultant and subsequently agreed by the Project Client pursuant to clause 3.6 of the Agreement, the date on which the Project Client agrees the same) or the date for the commencement of the Project Services specified in the Contract

Order (“**the Third Party Agreement Date**”). The Consultant acknowledges that some of the Third Party Agreements may be the latest drafts of such agreements in the process of negotiation, which shall, for the purpose of this clause 6.1, be deemed to be binding agreements in the form provided.

6.2 The Consultant confirms that the requirements and obligations contained in the Third Party Agreements in respect of the carrying out and completion of the Project are reasonable and attainable and the Consultant shall:

- (a) perform and discharge the Services so as not to constitute, cause or contribute to any breach by the Project Client of any such requirements and obligations; and
- (b) notwithstanding the scope of the Services, perform, in addition to the Services, any roles ascribed to the Consultant in such Third Party Agreement.

6.3 If a copy of a Further Third Party Agreement or an Altered Third Party Agreement that contains Altered Obligations (or such extracts of the same as the Project Client considers to be relevant to its obligations thereunder) is provided to the Consultant after the Third Party Agreement Date, the Consultant shall (in both cases) be given at least the Notice Period to review and comment on any such agreement. Any Further Third Party Agreement or Altered Obligations that contain(s) duties or obligations which are not reasonably attainable and/or which increase the Consultant’s existing obligations under this Appointment (including, without limitation, its obligations not to put the Project Client in breach of any other Third Party Agreement) and which have been notified as such by the Consultant to the Project Client during the Notice Period shall be deemed, for the purposes of this clause 6.3, to be “**Excluded Obligations**”. Subject to being provided with copies of the same (or relevant extracts) the Consultant shall:

- (a) carry out and complete the performance of the Services in such a manner as not to constitute, cause or contribute to any breach by the Project Client of any duties and obligations of the Project Client under any Further Third Party Agreement or Altered Third Party Agreement; and
- (b) notwithstanding the scope of the Services, perform, in addition to its Services, any roles ascribed to the Consultant in the Further Third Party Agreement or Altered Third Party Agreement,

except (to the extent that the same are not instructed under the provisions of clause 6.4) for the Excluded Obligations.

6.4 In the event the Project Client instructs the Consultant to comply with its duties and obligations either in respect of any Excluded Obligations or in respect of any Further Third Party Agreements or Altered Third Party Agreement copies (or copies of relevant extracts thereof) of which have not been provided to the Consultant and/or the Consultant has not been given the full Notice Period to comment on such agreements, then such instruction shall be treated as if it were an instruction to perform Additional Services pursuant to clause 8.6.

7 Professional Indemnity Insurance

7.1 The Consultant warrants that from the date of the issue of the Contract Order (or, if earlier, the date of commencement of the Project Services) the Consultant will take out and/or maintain:

- (a) professional indemnity insurance covering the Consultant’s liabilities for negligence under this Appointment with a limit of indemnity of not less than the level and basis specified in the Contract Order until the expiry of 12 years from the date of practical completion of the Project (or, if sooner, until twelve years after the termination of the Consultant’s employment under this Appointment) **PROVIDED THAT** such insurance is available to the Consultant’s profession at commercially reasonable rates and terms;

- (b) public liability insurance with a limit of indemnity of not less than the level and basis specified in the Contract Order until the completion of the Services (or, if sooner, the termination of the Consultant's employment under this Appointment) **PROVIDED THAT** such insurance is available to the Consultant's profession at commercially reasonable rates and terms.
- 7.2 If for any of the insurances referred to in clause 7.1 ceases to be available to the Consultant's profession at commercially reasonable rates and terms the Consultant shall forthwith inform the Project Client and shall obtain in respect of that period such reduced cover (if any) as is available to the Consultant at commercially reasonable rates and terms as it would be prudent and reasonable for the Consultant to accept.
- 7.3 When reasonably requested by the Project Client the Consultant will provide (but not in any way which would breach any term of the insurance policy then in force) documentary evidence that the insurance required under this clause 7 is being maintained.
- 7.4 The Consultant shall not carry out and/or permit any acts and/or omissions that are within its control that will vitiate annul and/ or render void or voidable any policy of insurance set out in clause 10 and shall forthwith notify the Project Client in writing in the event that any such policy of insurance is vitiated, annulled and/ or rendered void.
- 8 Remuneration**
- 8.1 The Fee will be paid in accordance with either Clause 8.2(a) or 8.2(b).
- 8.2 Where a Fee Payment Profile:
 - (a) is specified in the Contract Order, payment under this Appointment will be made in instalments through Applications for Payment by the Consultant to the Project Client in accordance with the Fee Payment Profile (subject always to any variations to the schedule that the Parties may agree from time to time in writing and/or any applicable dates or periods being extended by any periods during which this Appointment is suspended). Each Application for Payment is to be made no earlier than the last day of the payment period to which the application relates.
 - (b) is not specified in the Contract Order, the Fee will be paid monthly in arrears. Payment will be made in instalments on application by the Consultant through the submission by the Consultant of an Application for Payment at no less than 30 day intervals. Each instalment shall be for the value of the Services carried out between the date of the last Application for Payment (or, in respect of the first Application for Payment, between the date on which the Consultant commenced the performance of the Project Services and the Application for Payment in question).
- 8.3 Any sums paid to the Consultant before the date of issue of the Contract Order shall be deemed to have been on account of the Fee.
- 8.4 Sums in respect of each Application for Payment shall become due for payment on the Due Date for Payment and the Project Client shall, not later than 5 days after the Due Date for Payment, give the Consultant a Payment Notice.
- 8.5 In respect of each interim application the Project Client shall pay to the Consultant by the Final Date for Payment (subject always to any Pay Less Notice), the Notified Sum. If the Project Client intends to pay less than the Notified Sum the Project Client shall, not later than 1 day before the Final Date for Payment, give a Pay Less Notice to the Consultant in respect of the applicable interim application.
- 8.6 If at the Project Client's request the Consultant undertakes any Additional Services or if by reason of any design changes authorised by the Project Client is required to undertake significant extra work, then provided the Consultant notifies the Project Client before

undertaking that work that the Consultant may require an additional fee, a fair and reasonable additional fee shall be payable. Any such additional fee and (where applicable) the amount attributable to each stage set out in clause 8.2(a) shall be agreed in writing between the Parties prior to the Consultant undertaking any additional services or extra work. Such additional fee shall be paid in accordance with the provisions of clauses 8.2 to 8.5 (mutatis mutandis).

- 8.7 Should any sums be due from the Consultant to the Project Client under or in connection with this Appointment then the Consultant will, subject to any Pay Less Notice issued under this clause by the Consultant, pay the Client Notified Sum by the Consultant's Final Date for Payment. If the Consultant intends to pay less than the Client Notified Sum then the Consultant will, not later than 3 days before the Consultant's Final Date for Payment, give a Pay Less Notice to the Project Client in respect of the applicable payment to the Project Client.
- 8.8 In relation to giving notices under this clause 8 it is immaterial that the amount then considered to be due may be zero.
- 8.9 A Payment Notice or Pay Less Notice to be given by the Project Client under this clause 8 may be given on the Project Client's behalf by its employer's agent for the Project or by any other person who the Project Client notifies the Consultant as being authorised to do so.
- 8.10 Notwithstanding any other provision of this Appointment and/or the Agreement, the Consultant acknowledges and agrees that prior to the novation of this Appointment to a party (other than an Project Client's Group Company) pursuant to clause 10.5:
- (a) whenever under this Appointment any sum of money shall be recoverable from or payable by the Consultant such sum may be deducted from or reduced by the amount of any sum or sums then due or which any time thereafter may become due to the Consultant under this Appointment or any other contract and/or appointment entered into by the Consultant with the Project Client and/or any Project Client's Group Company whatsoever whether before or after the date of issue of the Contract Order; and
 - (b) whenever any sum of money is due to the Consultant under this Appointment the Project Client may deduct from or reduce the amount of such sum by the sum of any money that is recoverable from or payable by the Consultant to the Project Client or any Project Client's Group Company under or in connection with any other contract and/or appointment entered into by the Consultant with the Project Client and/or any Project Client's Group Company whatsoever whether before or after the date of issue of the Contract Order.

9 Third Party Rights and Collateral Warranties

- 9.1 The Project Client shall be entitled to vest Third Party Rights in a Third Party and such Third Party Rights shall vest in that Third Party (who shall have the benefit of them) on the date of issue to the Consultant of a notice from the Project Client or its agents to that effect, stating the name of the Third Party (which may be in the form of the draft notice appended at Schedule 4 of the Appointment Terms or such other form as the Project Client or its agents may issue to the Consultant from time to time).
- 9.2 Any notice given by the Project Client or its agents under clause 9.1 specifying as a Third Party a Funder or a Purchaser, may, if the Project Client so requires, specify that such Third Party shall:
- (a) itself be entitled to give the Consultant notice under clause 9.1 conferring the benefit of the Third Party Rights upon any other Third Party and any such notice shall have effect; and/or

- (b) be entitled to the benefit of paragraph 9 of Schedule 1 (Step-in), and such notice shall have effect.
- 9.3 Where Third Party Rights have vested in any Third Party then:
- (a) the Parties shall not be entitled without the consent of such Third Party to amend or vary the express provisions of clauses 9.1 to 9.3 (inclusive) or of Schedule 1 (Third Party Rights);
- (b) the Project Client's respective rights to terminate the Consultant's employment under this Appointment (whether under clause 9 or otherwise), or to agree to rescind this Appointment shall not be subject to the consent of any Third Party save where Third Party rights have vested in the Developer and/or a Funder and/or Purchaser in which case the Parties shall agree not to rescind this Appointment without the consent of the Developer, such Funder and Purchaser, and the Consultant's rights to terminate its employment under this Appointment or to treat it as repudiated shall in all respects be subject to the provisions of paragraph 9 of Schedule 1,

but, subject thereto, unless and until the Developer, a Funder or Purchaser gives notice under paragraph 9 of Schedule 1, the Consultant shall remain free without the consent of any Third Party (other than the Developer) to agree with the Project Client to amend or otherwise vary or to waive any term of this Appointment and to settle any dispute or any other matter arising out of or in connection with this Appointment, in each case in such terms as the Parties think fit, without any requirement that the Project Client obtains the consent of any Third Party (other than the Developer).

- 9.4 Where instead of vesting Third Party Rights the Project Client chooses to procure collateral warranties the Consultant shall at the Project Client's written request and upon receipt of the necessary engrossment or engrossments enter into and execute collateral warranties in favour of any Third Party (or in favour of the Project Client for onward assignment to a Third Party) in the relevant form set out in Schedule 2 of the Appointment Terms with such variations as the Project Client shall reasonably require **PROVIDED THAT** where such warranty or warranties has not or have not been provided within 21 days of receipt of the necessary engrossment or engrossments the Project Client may notwithstanding any other provisions of this Appointment withhold any payment due to the Consultant under this Appointment until such time as the warranties requested have been satisfactorily executed and delivered to the Project Client or its nominated representative.
- 9.5 The Consultant shall within 21 days of the Project Client's written request and upon receipt of the necessary engrossment or engrossments procure collateral warranties from any sub-consultant appointed by the Consultant in connection with the carrying out and completion of any part or parts of the Services for the Project Client's benefit and/or the benefit of any Third Party (or in favour of the Project Client for onward assignment to a Third Party) in the same form (mutatis mutandis) as the relevant form set out in Schedule 2 of the Appointment Terms with such variations as the Project Client shall reasonably require **PROVIDED THAT** where such warranty or warranties has not or have not been provided within 21 days of receipt of the necessary engrossment or engrossments the Project Client may notwithstanding any other provision of this Appointment withhold payment in respect of that part or those parts of the Services to which the warranty/warranties relate(s) until such time as the requested warranty/warranties have been satisfactorily executed and delivered to the Project Client or its nominated representative.

10 Assignment/Novation

- 10.1 The Project Client may assign, charge or otherwise transfer all or any of its rights and/or benefits arising under this Appointment without the Consultant's consent.
- 10.2 The Consultant shall not assign charge or otherwise transfer all or any of the Consultant's rights and/or benefits arising under this Appointment without the Project Client's prior written consent.

- 10.3 The Consultant shall not be entitled to contend that any person to whom the rights and/or benefits arising under this Appointment are assigned in accordance with clause 10.1 is precluded from recovering for breach of such rights any loss incurred by such assignee resulting from the breach of this Appointment (whenever happening) by reason that such person is an assignee and not the original beneficiary of such rights.
- 10.4 The Consultant shall not nominate any specialist contractors, sub-contractors or suppliers or sub-let the whole or any part of the Services without the prior written consent of the Project Client (such consent not to be unreasonably withheld or delayed). In the event that such consent is given, the sub-letting of such Services shall not absolve the Consultant from its duties, obligations and liabilities under this Appointment.
- 10.5 The Project Client may novate this Appointment to any Contractor and/or to any Group Company who shall accept responsibility for the payments in respect of which the final date for payment has arisen and/ or will after such novation arise under this Appointment and the Consultant shall accept the instructions of the Contractor or the Group Company (as applicable) following novation to the exclusion of the Project Client and shall continue to perform and discharge the Services. The Consultant shall forthwith at the Project Client's written request and upon receipt of the necessary engrossment or engrossments execute and deliver to the Project Client
- (a) a deed of novation in the form set out in Schedule 3 of the Appointment Terms; and (if required).
 - (b) where Third Party Rights are not vested in the Project Client in accordance with clause 10.6 below, a collateral warranty in favour of the Project Client in the relevant form set out in Schedule 2 of the Appointment Terms.
- 10.6 The Project Client shall be entitled to vest Third Party Rights in the Project Client on or after such novation and such Third Party Rights shall vest in the Project Client (who shall have the benefit of them) on the date of issue to the Consultant of a notice from the Project Client or its agents to that effect, stating the name of the Project Client (which may in the form of the draft notice appended at Schedule 4 of the Appointment Terms to this Appointment or such other form as the Project Client or its agents may issue to the Consultant from time to time).

11 Copyright and Confidentiality

- 11.1 The copyright in the Documents shall remain vested in the Consultant but the Consultant hereby grants to the Project Client and the Project Client's duly appointed agents an irrevocable, non-exclusive and royalty free licence to copy and use the Documents and reproduce the designs and information contained in them for any purpose relating to the Project, its development and use but the Consultant shall not be liable for any use other than that for which the Documents were originally prepared. Such licence shall be capable of sub-licence and assignment.
- 11.2 The Consultant agrees to supply to the Project Client on request (but subject to reimbursement of the Consultant's reasonable photocopying charges) copies of the Documents and such other information in relation to the Project and/or the Site as the Consultant can reasonably supply.
- 11.3 The Consultant warrants that the use of the Documents for the purposes of the Site and/or the Project will not infringe the rights of any third party.
- 11.4 All of the Documents and other materials relating to the Project whether produced by the Consultant or not shall be treated with confidentiality save where the Consultant has obtained the Project Client's express written consent to pass such information to a third party.
- 11.5 The Consultant will not without the Project Client's prior written approval take or permit to be taken any photographs of the Project and/or the Site for use in any publicity or advertising or publish alone or in conjunction with any other person any articles photographs or other

illustrations relating to the Project and/or the Site nor impart to any publication journal or newspaper or any radio or television programme any information regarding the Project and/or the Site.

12 Termination/Suspension

- 12.1 The Project Client shall be entitled to terminate all or part of the Consultant's employment under this Appointment or suspend all or part of the Consultant's employment under this Appointment:
- (a) forthwith by giving notice to the Consultant if the Consultant is in breach of the Consultant's obligations or duties under this Appointment or suffers an Insolvency Event; or
 - (b) by giving the Consultant 7 days' written notice for any reason not covered by clause 12.1(a).
- 12.2 If the whole of the Consultant's employment under this Appointment is terminated by the Project Client in accordance with the provisions of clause 12.1 (or is deemed to have been terminated under the provisions of clause 12.4) or clause 8.1 of the Agreement the Project Client shall (unless the termination was due to the Consultant's breach and/or the Consultant suffering an Insolvency Event) be liable to pay the Consultant that part of the fee payable under clause 8 which shall have accrued prior to the date of such termination less the amount of any payments previously made by the Project Client to the Consultant but the Project Client shall not be otherwise liable to the Consultant for any loss of profit, loss of contract or other costs, fees, loss and/or expenses arising out of or in connection with such termination and the Project Client shall be free to instruct any other parties to carry out the Services.
- 12.3 If any part of the Consultant's employment is terminated by the Project Client in accordance with the provisions of clause 12.1 (or is deemed to have been terminated under the provisions of clause 12.4) or clause 8.1 of the Agreement the Project Client shall not thereafter be liable to the Consultant for any fees applicable to such part or parts of the Services to which such part termination applies nor shall we be liable to the Consultant for any loss of profit, loss of contract or other costs, fees, loss and/or expenses arising out of or in connection with such termination and the Project Client shall be free to instruct any other parties to carry out the Services.
- 12.4 In the event of a suspension in accordance with the provisions of clause 10.1 or clause 8.1 of the Agreement for a period exceeding 12 months the Consultant may request in writing that the Services to which the suspension relates be resumed and unless written instructions to resume are given by the Project Client within 28 days of the Consultant's request the Consultant's employment in respect of the suspended Services shall be deemed to have been terminated upon the expiry of the said period of 28 days and the provisions of clause 10.2 or clause 10.3 (whichever is applicable) shall apply in respect of payment of the Consultant's fees.
- 12.5 Any termination, deemed termination or suspension of the Consultant's employment under the Appointment or under the provisions of this clause 12 shall not determine the operation of clauses 3, 5, 7, 10, 11 and 13 which shall continue to apply but only insofar as they relate to duties and obligations falling for performance prior to the date of termination.
- 12.6 Termination or deemed termination of the Consultant's employment under this Appointment howsoever arising shall be without prejudice to the rights or remedies of either party in relation to any negligence submission or default of the other prior to such termination

13 Bribery and Corruption

- 13.1 The Consultant undertakes and warrants to the Project Client without qualification or limitation:

- (a) that at the date of issue of the Contract Order the Consultant (and the Consultant's employees, agents and all other persons employed or engaged on or in connection with any work the Consultant has previously or is currently or may be undertaking ("**the Consultant's Persons**") (to the extent the Consultant could, did and/or ought to have been able to ascertain the same)) have not committed and/or permitted an offence under the Prevention of Corruption Acts 1889 to 1916 or the Bribery Act 2010 or committed one of the common law offences of bribery and/or embracery; and
- (b) that after the date of signature of this Appointment the Consultant (on behalf of the Consultant and the Consultant's Persons) will not commit and/or permit an offence under the Bribery Act 2010.

13.2 The Consultant warrants and undertakes to the Project Client that:

- (a) it has been offered the chance by the Project Client to obtain a copy of the Project Client's Modern Slavery Policy, which is available on request from the Project Client, and that it has obtained and familiarised itself with the same;
- (b) it shall and shall ensure where and to the extent relevant that each of the Consultant's Persons and any other person who performs services and/or supplies goods within the Consultant's supply chain for the Consultant in relation to the performance of the Consultant's obligations and duties under this Appointment shall comply with the Modern Slavery Act 2015, all applicable law relating to slavery and human trafficking the requirements of the Modern Slavery Policy and the Consultant's own policies and statements in connection with modern slavery and human trafficking ("**the Anti-Slavery Requirements**");
- (c) it shall not take or knowingly permit any action to be taken that would or might cause or lead the Project Client and/or any Group Company of the Project Client to be in breach of any Anti-Slavery Requirements
- (d) it shall, at the Project Client's request and cost, provide the Project Client and/or any Group Company of the Project Client (as applicable) with any reasonable assistance to enable it to perform any activity required by any regulatory body for the purpose of complying with Anti-Slavery Requirements
- (e) it shall, on request by the Project Client, provide a signed declaration (in the form required by the Project Client) confirming the Consultant's compliance with the Modern Slavery Act 2015 and the Modern Slavery Policy together with the requirements of this clause;
- (f) it shall notify the Project Client forthwith as soon as it becomes aware of any breach or potential breach of this clause.

13.3 The Consultant shall be responsible for and shall indemnify the Project Client from and against any and all expenses, liabilities, fines, losses, claims and proceedings resulting from any failure or default by the Consultant in performing the Consultant's obligations and/or breaching any undertaking or warranty under clause 13.

14 Budget and Programme Requirements

The Consultant shall have due regard in the performance of the Services to the Project Client's budget and programme requirements for the Project and/or the wider development to which the Project forms part. If the Consultant becomes aware of circumstances which may prevent the Consultant from conforming to those requirements the Consultant shall inform the Project Client of the same without delay.

15 Project Team

The Consultant agree that the person specified in the Contract Order shall be appointed to be the Consultant's person in charge for the purposes of this Appointment, with responsibility for the overall management, supervision and co-ordination of the Consultant's services under this Appointment. The person in charge shall not be replaced save without consent or save for unavoidable necessity, and any replacement shall be subject to the Project Client's prior approval.

16 Notices

- 16.1 Any notice provided for in this Appointment shall be duly given if delivered by hand or sent by first class pre-paid special delivery or recorded delivery post to the party named therein at its registered address or principal place of business or at such other address as such party may specify from time to time by written notice to the other party hereto. If the notice is sent by first class pre-paid special delivery or recorded delivery post it shall be deemed to have been received on the second Working Day after the date of posting. If the notice is delivered by hand, it shall be deemed to be received on the day it is delivered.
- 16.2 The Client or a Project Client may issue any notice to be given pursuant to clause 8 of this Appointment by electronic mail and any such notices sent by electronic mail shall be deemed to have been received by the Consultant on the day it is sent by the Client or a Project Client if the day is a Working Day (or, if the electronic mail is sent by the Client or a Project Client after 17.30 or on a day which is not a Working Day, on the next Working Day after it is sent by the Client or a Project Client).

17 Adjudication

- 17.1 The provisions of Part I of the Schedule to the Scheme for Construction Contracts (England & Wales) Regulations 1998 ("**the Scheme**") shall apply to the Appointment.
- 17.2 The body responsible for selecting a person to act as an adjudicator shall be the Nominating Body.

18 Litigation

The Appointment and any dispute or claim arising out of, relating to or in connection with it is governed by, and construed in accordance with, the laws of England. All disputes or claims arising out of, relating to or in connection with the Appointment shall be subject to the jurisdiction of the English courts to which the parties irrevocably submit.

19 Contracts (Rights of Third Parties Act) 1999

Any term of this Appointment, the benefit of which is expressly or purportedly conferred upon any Third Party may be enforced by such Third Party pursuant to the Contracts (Rights of Third Parties) Act 1999. Subject as aforesaid, this Appointment is not intended to confer any rights on any third party pursuant to the said 1999 Act.

20 Limitation

No action or proceedings for any breach of the Appointment shall be commenced against the Consultant after the expiry of 12 years from the date of practical completion of the Project.

SCHEDULE 1 OF THE APPOINTMENT TERMS
THIRD PARTY RIGHTS

Duty of Care Warranty

- 1.1 The Consultant warrants to and undertakes to the Third Party that:
- (a) it has complied with and/or shall comply with all the Consultant's obligations under the Appointment and that in the performance of its duties under the Appointment (and under any supplemental deeds entered into after the date of the Appointment varying such duties under the Appointment) the Consultant has exercised and will continue to exercise all the reasonable skill care and diligence to be expected of a properly qualified and competent consultant of the discipline or disciplines specified in the Contract Order experienced in providing professional services in connection with works of equivalent type size and complexity to the Project.
 - (b) it has exercised and will continue to exercise the degree of skill, care and diligence required by paragraph 1.1(a) not specify for use, and not to approve for use, in the Project any products or materials which (a) do not conform with British Standards or Codes of Practice or good building practice or (b) are generally known to be deleterious, in the particular circumstances in which they specified for use, to health and safety and/or to the durability of buildings or structures.

2 Copyright

- 2.1 The copyright in all documents produced pursuant to the Appointment ("the Documents") shall remain vested in the Consultant but the Consultant hereby grants to the Third Party and its duly appointed agents an irrevocable, non-exclusive and royalty free licence to copy and use the Documents and reproduce the designs and information contained in them for any purpose relating to the Project and the Site, its development and use but the Consultant shall not be liable for any use other than that for which the Documents were originally prepared. Such licence shall be capable of sub-licence and assignment.
- 2.2 The Consultant agrees to supply to the Third Party on request (but subject to reimbursement of its reasonable photocopying charges) copies of the Documents and such other information in relation to the Project and/or the Site as the Consultant can reasonably supply.
- 2.3 The Consultant warrants that the use of the Documents for the purposes of the Project and/or the Site will not infringe the rights of any third party.

3 Professional Indemnity Insurance

- 3.1 The Consultant warrants that from the date hereof it will take out and/or maintain professional indemnity insurance covering its liabilities for negligence under the Appointment with a limit of indemnity of not less than the level and basis specified in the Contract Order (of, if the level and basis is not specified in the Contract Order, the level and basis required to be maintained by the Consultant under the Agreement) until the expiry of 12 years from the date of practical completion of the Project (or, if sooner until twelve years after the date of termination of its employment under the Appointment) provided such insurance is available to the Consultant's profession at commercially reasonable rates and terms. If for any period such insurance ceases to be available to the Consultant's profession at commercially reasonable rates and terms the Consultant shall forthwith inform the Third Party and shall obtain in respect of that period such reduced cover (if any) as is available to the Consultant at commercially reasonable rates and terms as it would be prudent and reasonable for the Consultant to accept.

- 3.2 When reasonably requested by the Third Party, the Consultant will provide (but not in any way which would breach any term of the insurance policy then in force) documentary evidence that the insurance required hereunder is being maintained.

4 Assignment

- 4.1 The benefit of these Third Party Rights may be assigned on two occasions only without the consent of the Consultant.
- 4.2 The limitations on assignment contained in paragraph 4.1 shall not apply:
- (a) to assignments between, and the benefit of these Third Party Rights shall be freely assignable between, the Third Party and its direct or indirect holding companies and its direct or indirect subsidiaries (within the meaning of s1159 Companies Act 2006);
 - (b) to assignments to any party having or acquiring a mortgage or charge over the Site or any part of it and by way of re-assignment on redemption
- 4.3 The Consultant shall not be entitled to contend that any person to whom these Third Party Rights are assigned in accordance with paragraph 4.1 or 4.2 is precluded from recovering for breach of such rights any loss incurred by such assignee resulting from the breach of these Third Party Rights (whenever happening) by reason that such person is an assignee and not the original beneficiary of such rights.

5 Independent Inspection and Delegation

- 5.1 The liability of the Consultant under these Third Party Rights shall not be modified released or diminished or in any way affected by any independent inspection investigation or enquiry into any relevant matter which may be made or carried out by or for the Third Party nor by any failure or omission to carry out any such inspection investigation or enquiry nor by the appointment by the Third Party of any independent firm company or party whatsoever to review the progress of or otherwise report to the Third Party in respect of the Consultant's duties under the Appointment nor by any action or omission of such firm company or party whether or not such action or omission might give rise to any independent liability of such firm company or party to the Third Party provided always that nothing in this paragraph shall modify or affect any rights which the Consultant might have but for the existence of this paragraph to claim a contribution from any third party (other than the Third Party (and its permitted assigns)) whether under statute or at common law.
- 5.2 It is hereby agreed and declared that the duties obligations responsibilities and liabilities of the Consultant under these Third Party Rights shall not be modified released or in any way affected by the fact that the Consultant may delegate or may have delegated all or any part of the services under the Appointment to a sub-consultant or sub-contractor.

6 Limitation

- 6.1 No action or proceedings for any breach of these Third Party Rights shall be commenced against the Consultant after the expiry of 12 years from the date of practical completion of the Project under the Building Contract (or, where a Building Contract has not been entered into by the Client, 12 years from the date of completion of the Services).
- 6.2 The Consultant shall be entitled in any action or proceedings by the Third Party to rely on any limitation in the Appointment and to raise the equivalent rights in defence of liability as it would have against the employer under the Appointment provided always that the Consultant shall not be entitled to raise any defence made on the basis that any loss incurred by the

Third Party is not a loss to such employer or is a different loss to that which has been or could have been suffered by the employer nor shall it be entitled to raise a defence to a claim under this Schedule any contributory negligence defence, counterclaim or set-off that it may have against the employer under the Appointment.

7 Notices

Any notice provided for in this Schedule shall be duly given if delivered by hand or sent by first class pre-paid special delivery or recorded delivery post to the party named therein at its registered address or principal place of business or at such other address as such party may specify from time to time by written notice to the other party hereto. If the notice is sent by first class pre-paid special delivery or recorded delivery post it shall be deemed to have been received on the second working day after the date of posting. If the notice is delivered by hand, it shall be deemed to be received on the day it is delivered.

8 Law

This Schedule and any dispute or claim arising out of, relating to or in connection with these Third Party Rights is governed by, and construed in accordance with, the laws of England and shall be subject to the jurisdiction of the English courts to which the parties irrevocably submit.

9 Step-in Rights

9.1 This paragraph 9 shall apply in favour of:

- (a) the Developer, following any novation of the Appointment pursuant to clause 10.5 of the Appointment; and
- (b) any other Third Party in whose favour the Developer grants a right to enforce this paragraph 9 pursuant to a notice under clause 9.1 of the Appointment (clause 9.2 of the Appointment refers).

9.2 [NOVATED] - [In the event of the Third Party giving notice to the Consultant of the termination of the Relevant Agreement (as defined in the notice referred to in clause 9.1) and (following novation pursuant to clause 10.5 of the Appointment only) the Building Contract by the Third Party, the Consultant will if so required at any time by notice in writing given to it by the Third Party accept the instructions of the Third Party or its appointee to the exclusion of the employer under the appointment to continue to perform its duties and responsibilities under the Appointment and the Appointment shall continue in full force and effect as if the Third Party or its appointee had been named as employer ab initio under the Appointment.]

[or]

[NON-NOVATED – remove novated form of warranty] - [In the event of the Third Party giving notice to the Consultant of the termination of the Relevant Agreement (as defined in the notice referred to in clause 9.1) by the Third Party, the Consultant will if so required at any time by notice in writing given to it by the Third Party accept the instructions of the Third Party or its appointee to the exclusion of the employer under the appointment to continue to perform its duties and responsibilities under the Appointment and the Appointment shall continue in full force and effect as if the Third Party or its appointee had been named as employer ab initio under the Appointment.]

9.3 The Consultant will not in any circumstances exercise any right it may have to terminate the Appointment or treat the same as having been repudiated or to discontinue the performance of its duties and responsibilities thereunder until it shall first have given the Third Party not

less than 21 days written notice of such matters provided that after the service of such notice the Consultant shall not be in breach of any obligations to the employer under the appointment by reason of the Consultant complying with instructions given to it by the Third Party and the Consultant shall not be obliged to consult or act on the instructions of the employer under the appointment.

- 9.4 If within such period of notice the Third Party shall give notice in writing to the Consultant that it is not content that the Appointment shall be determined repudiated or discontinued as aforesaid and requiring the Consultant to accept the instructions of the Third Party or its appointee to the exclusion of the employer under the appointment to carry out and complete its obligations under the Appointment then the Appointment shall continue in full force and effect as if the Third Party or its appointee had been named as employer ab initio under the Appointment and as if no right of termination on the part of the Consultant had arisen.
- 9.5 Provided always that any notice given by the Third Party under paragraphs 9.2 or 9.4 must be executed by the Third Party as a deed and must contain an undertaking by the Third Party to comply with its obligations under this paragraph including an undertaking that in the event of the Third Party's right to be substituted for the employer under the appointment being exercised the Third Party or its appointee accepts liability for payment of the monies payable to the Consultant under the Appointment including payment of any monies properly due to the Consultant under the terms of the Appointment and outstanding at the date of such notice.

SCHEDULE 2 OF THE APPOINTMENT TERMS
COLLATERAL WARRANTIES

FORM OF WARRANTY WHERE NOVATION DOES NOT APPLY

Dated

[CONSULTANT]

and

[BENEFICIARY]

[and

[EMPLOYER]]

WARRANTY

Consultant to [] Collateral to an Appointment of the
Consultant by the Employer [for onward assignment to []]
relating to a development of land at []

THIS DEED OF WARRANTY is made on

BETWEEN:

(1) THE CONSULTANT

(2) THE BENEFICIARY

[(3) THE EMPLOYER]

WHEREAS:

- (A)** The Consultant has been appointed in connection with the Project at the Site by way of an Appointment issued pursuant to the Framework Agreement to undertake the Consultant's Discipline in connection with the Project.
- (B)** The Beneficiary has or is acquiring the Interest.
- (C)** The Consultant is obliged under the Appointment to enter into this Deed in favour of the Beneficiary.

NOW THIS DEED WITNESSETH as follows:

1 DEFINITIONS

The words and phrases in this Deed shall have the meanings ascribed to them in the Schedule to this Deed.

2 DUTY OF CARE WARRANTY

2.1 The Consultant warrants to and undertakes to the Beneficiary that:

- (a) it has complied with and/or shall comply with all the Consultant's obligations under the Appointment and that in the performance of its duties under the Appointment (and under any supplemental deeds entered into after the date of the Appointment varying such duties under the Appointment) the Consultant has exercised and will continue to exercise all the reasonable skill care and diligence to be expected of a properly qualified and competent consultant of the Consultant's Discipline experienced in providing professional services in connection with works of equivalent type size and complexity to the Project.
- (b) it has exercised and will continue to exercise the degree of skill, care and diligence required by clause 2.1(a) not specify for use, and not to approve for use, in the Project any products or materials which (a) do not conform with British Standards or Codes of Practice or good building practice or (b) are generally known to be deleterious, in the particular circumstances in which they specified for use, to health and safety and/or to the durability of buildings or structures.

3 COPYRIGHT

3.1 The copyright in all documents produced pursuant to the Appointment ("the Documents") shall remain vested in the Consultant but the Consultant hereby grants to the Beneficiary and its duly appointed agents an irrevocable, non-exclusive and royalty free licence to copy and use the Documents and reproduce the designs and information contained in them for any purpose relating to the Project, its development and use but the Consultant shall not be liable for any

use other than that for which the Documents were originally prepared. Such licence shall be capable of sub-licence and assignment.

- 3.2 The Consultant agrees to supply to the Beneficiary on request (but subject to reimbursement of its reasonable photocopying charges) copies of the Documents and such other information in relation to the Project as the Consultant can reasonably supply.
- 3.3 The Consultant warrants that the use of the Documents for the purposes of the Project will not infringe the rights of any third party.

4 PROFESSIONAL INDEMNITY INSURANCE

- 4.1 The Consultant warrants that from the date hereof it will take out and/or maintain professional indemnity insurance covering its liabilities for negligence under the Appointment with a limit of indemnity of not less than the Insured Amount until the expiry of 12 years from the date of practical completion of the Project (or, if sooner until twelve years after the termination of its employment under the Appointment) provided such insurance is available to the Consultant 's profession at commercially reasonable rates and terms. If for any period such insurance ceases to be available to the Consultant's profession at commercially reasonable rates and terms the Consultant shall forthwith inform the Beneficiary and shall obtain in respect of that period such reduced cover (if any) as is available to the Consultant at commercially reasonable rates and terms as it would be prudent and reasonable for the Consultant to accept.
- 4.2 When reasonably requested by the Beneficiary, the Consultant will provide (but not in any way which would breach any term of the insurance policy then in force) documentary evidence that the insurance required hereunder is being maintained.

5 ASSIGNMENT

- 5.1 The benefit of the Deed may be assigned on two (or, where the warranty is stated to be for onward assignment in the Schedule to this Deed, three) occasions only without the consent of the Consultant.
- 5.2 The limitations on assignment contained in clause 5.1 shall not apply:
 - (a) to assignments between, and the benefit of this Deed shall be freely assignable between, the Beneficiary and its direct or indirect holding companies and its direct or indirect subsidiaries (within the meaning of s1159 Companies Act 2006); and
 - (b) to assignments to any party having or acquiring a mortgage or charge over the Site or any part of it and by way of re-assignment on redemption.
- 5.3 The Consultant shall not be entitled to contend that any person to whom this Deed to assigned in accordance with clause 5.1 or 5.2 is precluded from recovering under this Deed any loss incurred by such assignee resulting from the breach of this Deed (whenever happening) by reason that such person is an assignee and not a named promise hereunder.
- 5.4 The Consultant shall not be entitled to assign transfer charge or otherwise dispose of all or any of its rights or liabilities arising under this Deed to any other party.

6 INDEPENDENT INSPECTION AND DELEGATION

- 6.1 The liability of the Consultant under this Deed shall not be modified released or diminished or in any way affected by any independent inspection investigation or enquiry into any relevant

matter which may be made or carried out by or for the Beneficiary nor by any failure or omission to carry out any such inspection investigation or enquiry nor by the appointment by the Beneficiary or any independent firm company or party whatsoever to review the progress of or otherwise report to the Beneficiary in respect of the Consultant's duties under this Appointment nor by any action or omission or such firm company or party whether or not such action or omission might give rise to any independent liability of such firm company or party to the Beneficiary provided always that nothing in this clause shall modify or affect any rights which the Consultant might have but for the existence of this clause to claim a contribution from any third party (other than the Beneficiary (and its permitted assigns)) whether under statute or at common law.

- 6.2 It is hereby agreed and declared that the duties obligations responsibilities and liabilities of the Consultant under this Deed shall not be modified released or in any way affected by the fact that the Consultant may delegate or may have delegated all or any part of the services under the Appointment to a sub-consultant to sub-contractor.

7 LIMITATION

- 7.1 No action or proceedings for any breach of this Deed shall be commenced against the Consultant after the expiry of 12 years from the date of practical completion of the Project.
- 7.2 The Consultant shall be entitled in any action or proceedings by the Beneficiary to rely on any limitation in the Appointment and to raise the equivalent rights in defence of liability as it would have against the Employer under the Appointment provided always that the Consultant shall not be entitled to raise any defence made on the basis that any loss incurred by the Beneficiary is not a loss to the Employer or is a different loss to that which has been or could have been suffered by the Employer nor shall it be entitled to raise a defence to a claim under this Deed any contributory negligence defence, counterclaim or set-off that it may have against the Employer under the Appointment.

8 NOTICES

Any notices provided for this Deed shall be duly given if delivered by hand or sent by first class pre-paid special delivery or recorded delivery post to the party named therein at the address of such party shown in the Schedule to this Deed or at such other address as such party may specify from time to time by written notice to the other party thereto. If the notice is sent by first class pre-paid special delivery or recorded delivery post it shall be deemed to have been received on the second working day after the date of posting. If the notice is delivered by hand, it shall be deemed to be received on the day it is delivered.

9 LAW

Any and all disputes and claims between the parties (and their successors in title and assigns) to this Deed as to the construction interpretation validity and application of this Deed and any and all matters or things of whatsoever nature arising out of in connection therewith shall be governed by English law and shall be subject to the jurisdiction of the English Courts to which the parties irrevocably submit.

10 CONTRACTS (RIGHTS OF THIRD PARTIES ACT) 1999

This Deed is not intended to confer any rights on any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

11 [STEP-IN RIGHTS¹

- 11.1 In the event of the Beneficiary giving notice to the Consultant of the termination of the Agreement by the Beneficiary (otherwise than by mutual agreement with the Employer) or an act of default by the Employer under or pursuant to and as defined by the terms of the Agreement (which entitles the Beneficiary (under the terms of the Agreement) to be substituted as the employer under the Appointment), the Consultant will if so required at any time by notice in writing given to it by the Beneficiary accept the instructions of the Beneficiary or its appointee to the exclusion of the Employer to continue to perform its duties and responsibilities under the Appointment and the Appointment shall continue in full force and effect as if the Beneficiary or its appointee had been named as employer ab initio under the Appointment.
- 11.2 The Consultant will not in any circumstances exercise any right it may have to terminate the Appointment or treat the same as having been repudiated by the Employer or to discontinue the performance of its duties and responsibilities thereunder until it shall first have given the Beneficiary not less than 21 days' written notice of such matters provided that after the service of such notice the Consultant shall not be in breach of any obligations to the Employer by reason of the Consultant complying with instructions given to it by the Beneficiary and the Consultant shall not be obliged to consult or act on the instructions of the Employer.
- 11.3 If within such period of notice the Beneficiary shall give notice in writing to the Consultant that it is not content that the Appointment shall be determined repudiated or discontinued as aforesaid and requiring the Consultant to accept the instructions of the Beneficiary or its appointee to the exclusion of the Employer to carry out and complete its obligations under the Appointment then the Appointment shall continue in full force and effect as if the Beneficiary or its appointee had been named as employer ab initio under the Appointment and as if no right of termination on the part of the Consultant had arisen.
- 11.4 Provided always that any notice given by the Beneficiary under clauses 11.1 or 11.3 shall state that in the event of the Beneficiary's right to be substituted for the Employer being exercised the Beneficiary or its appointee accepts liability for payment of the monies payable to the Consultant under the Appointment including payment of any monies properly due to the Consultant under the terms of the Appointment and outstanding at the date of such notice.]

12 WARRANTIES

Where the Schedule states that this clause 12 applies, within twenty one days of a written notice so to do by the Beneficiary the Consultant shall execute and provide to the Beneficiary a warranty or warranties (to be executed as a deed) in favour of any third parties for whom the Consultant is required, under the Appointment, to provide warranties. Such warranties to be in the same form as this Deed, save for the removal of this Clause 12.

IN WITNESS whereof this Deed has been executed by or on behalf of the parties and delivered the day and year first above written

¹ Delete clause if beneficiary is not receiving step-in rights.

SCHEDULE

DEFINITIONS

Agreement	:	the [] dated between []
Appointment	:	the contract [order/orders] dated [] issued by the Employer to the Consultant pursuant to clause [4.1] of the Framework Agreement and incorporating the documents referred to in clause [4.3] of the Framework Agreement.
Beneficiary	:	[] (Company Number []) whose registered office is at [] (which shall include its successors in title and assigns and those deriving title under it or them).
Consultant	:	[] [(Company Number []) whose registered office is at][of] []
Consultant's Discipline	:	[insert relevant discipline]
Employer	:	[[] (Company Number []) whose registered office is at []] [is the Beneficiary]
Insured Amount	:	[] million pounds (£[],000,000) [for any one claim or series of claims/claim arising out of any one event].
Interest	:	[]
Framework Agreement	:	the consultant framework agreement made between [] of the one part and the Consultant of the other part dated [] to provide the provision of [] services as and when required by [] and its group companies in connection with, amongst other things, planning, design, remediation and/or construction projects.
Project	:	[the design, construction and completion of []].
Site	:	[]

OPTIONAL CLAUSES

5.1, Onward Assignment	:	[this Deed is not for onward assignment/this Deed is for onward assignment]
12, Warranties	:	[applies/does not apply]

[insert appropriate attestation clauses]

FORM OF WARRANTY WHERE NOVATION APPLIES

Dated

[CONSULTANT]

and

[BENEFICIARY]

[and

[CONTRACTOR]]

WARRANTY

Consultant to [] Collateral to an Appointment of the
Consultant by the Employer and novated to the Contractor [for onward assignment to []]
relating to a development of land at []

THIS DEED OF WARRANTY is made on

BETWEEN:

- (1) THE CONSULTANT**
- (2) THE BENEFICIARY**
- [(3) THE CONTRACTOR]**

WHEREAS:

- (A)** The Contractor has been appointed by way of a Building Contract to carry out the design, construction and completion of the Project at the Site.
- (B)** The Consultant has been appointed in connection with the Project at the Site by way of an Appointment issued pursuant to the Framework Agreement to undertake the Consultant's Discipline in connection with the Project.
- (C)** The Appointment has been novated to the Contractor pursuant to the Novation Agreement.
- (D)** The Beneficiary has or is acquiring the Interest.
- (E)** The Consultant is obliged under the Appointment to enter into this Deed in favour of the Beneficiary.

NOW THIS DEED WITNESSETH as follows:

1 DEFINITIONS

The words and phrases in this Deed shall have the meanings ascribed to them in the Schedule to this Deed.

2 DUTY OF CARE WARRANTY

2.1 The Consultant warrants to and undertakes to the Beneficiary that:

- (a)** it has complied with and/or shall comply with all the Consultant's obligations under the Appointment and that in the performance of its duties under the Appointment (and under any supplemental deeds entered into after the date of the Appointment varying such duties under the Appointment) the Consultant has exercised and will continue to exercise all the reasonable skill care and diligence to be expected of a properly qualified and competent consultant of the Consultant's Discipline experienced in providing professional services in connection with works of equivalent type size and complexity to the Project.
- (b)** it has exercised and will continue to exercise the degree of skill, care and diligence required by clause 2.1(a) not specify for use, and not to approve for use, in the Project any products or materials which (a) do not conform with British Standards or Codes of Practice or good building practice or (b) are generally known to be deleterious, in the particular circumstances in which they specified for use, to health and safety and/or to the durability of buildings or structures.

3 COPYRIGHT

- 3.1 The copyright in all documents produced pursuant to the Appointment ("**the Documents**") shall remain vested in the Consultant but the Consultant hereby grants to the Beneficiary and its duly appointed agents an irrevocable, non-exclusive and royalty free licence to copy and use the Documents and reproduce the designs and information contained in them for any purpose relating to the Project, its development and use but the Consultant shall not be liable for any use other than that for which the Documents were originally prepared. Such licence shall be capable of sub-licence and assignment.
- 3.2 The Consultant agrees to supply to the Beneficiary on request (but subject to reimbursement of its reasonable photocopying charges) copies of the Documents and such other information in relation to the Project as the Consultant can reasonably supply.
- 3.3 The Consultant warrants that the use of the Documents for the purposes of the Project will not infringe the rights of any third party.

4 PROFESSIONAL INDEMNITY INSURANCE

- 4.1 The Consultant warrants that from the date hereof it will take out and/or maintain professional indemnity insurance covering its liabilities for negligence under the Appointment with a limit of indemnity of not less than the Insured Amount until the expiry of 12 years from the date of practical completion of the Project (or, if sooner until twelve years after the termination of its employment under the Appointment) provided such insurance is available to the Consultant 's profession at commercially reasonable rates and terms. If for any period such insurance ceases to be available to the Consultant's profession at commercially reasonable rates and terms the Consultant shall forthwith inform the Beneficiary and shall obtain in respect of that period such reduced cover (if any) as is available to the Consultant at commercially reasonable rates and terms as it would be prudent and reasonable for the Consultant to accept.
- 4.2 When reasonably requested by the Beneficiary, the Consultant will provide (but not in any way which would breach any term of the insurance policy then in force) documentary evidence that the insurance required hereunder is being maintained.

5 ASSIGNMENT

- 5.1 The benefit of the Deed may be assigned on two (or, where the warranty is stated to be for onward assignment in the Schedule to this Deed, three) occasions only without the consent of the Consultant.
- 5.2 The limitations on assignment contained in clause 5.1 shall not apply:
- (a) to assignments between, and the benefit of this Deed shall be freely assignable between, the Beneficiary and its direct or indirect holding companies and its direct or indirect subsidiaries (within the meaning of s1159 Companies Act 2006); and
 - (b) to assignments to any party having or acquiring a mortgage or charge over the Site or any part of it and by way of re-assignment on redemption.
- 5.3 The Consultant shall not be entitled to contend that any person to whom this Deed to assigned in accordance with clause 5.1 or 5.2 is precluded from recovering under this Deed any loss incurred by such assignee resulting from the breach of this Deed (whenever happening) by reason that such person is an assignee and not a named promise hereunder.

- 5.4 The Consultant shall not be entitled to assign transfer charge or otherwise dispose of all or any of its rights or liabilities arising under this Deed to any other party.

6 INDEPENDENT INSPECTION AND DELEGATION

- 6.1 The liability of the Consultant under this Deed shall not be modified released or diminished or in any way affected by any independent inspection investigation or enquiry into any relevant matter which may be made or carried out by or for the Beneficiary nor by any failure or omission to carry out any such inspection investigation or enquiry nor by the appointment by the Beneficiary or any independent firm company or party whatsoever to review the progress of or otherwise report to the Beneficiary in respect of the Consultant's duties under this Appointment nor by any action or omission or such firm company or party whether or not such action or omission might give rise to any independent liability of such firm company or party to the Beneficiary provided always that nothing in this clause shall modify or affect any rights which the Consultant might have but for the existence of this clause to claim a contribution from any third party (other than the Beneficiary (and its permitted assigns)) whether under statute or at common law.
- 6.2 It is hereby agreed and declared that the duties obligations responsibilities and liabilities of the Consultant under this Deed shall not be modified released or in any way affected by the fact that the Consultant may delegate or may have delegated all or any part of the services under the Appointment to a sub-consultant to sub-contractor.

7 LIMITATION

- 7.1 No action or proceedings for any breach of this Deed shall be commenced against the Consultant after the expiry of 12 years from the date of practical completion of the Project.
- 7.2 The Consultant shall be entitled in any action or proceedings by the Beneficiary to rely on any limitation in the Appointment and to raise the equivalent rights in defence of liability as it would have against the Contractor under the Appointment provided always that the Consultant shall not be entitled to raise any defence made on the basis that any loss incurred by the Beneficiary is not a loss to the Contractor or is a different loss to that which has been or could have been suffered by the Contractor nor shall it be entitled to raise a defence to a claim under this Deed any contributory negligence defence, counterclaim or set-off that it may have against the Contractor under the Appointment.

8 NOTICES

Any notices provided for this Deed shall be duly given if delivered by hand or sent by first class pre-paid special delivery or recorded delivery post to the party named therein at the address of such party shown in the Schedule to this Deed or at such other address as such party may specify from time to time by written notice to the other party thereto. If the notice is sent by first class pre-paid special delivery or recorded delivery post it shall be deemed to have been received on the second working day after the date of posting. If the notice is delivered by hand, it shall be deemed to be received on the day it is delivered.

9 LAW

Any and all disputes and claims between the parties (and their successors in title and assigns) to this Deed as to the construction interpretation validity and application of this Deed and any and all matters or things of whatsoever nature arising out of in connection therewith shall be governed by English law and shall be subject to the jurisdiction of the English Courts to which the parties irrevocably submit.

10 CONTRACTS (RIGHTS OF THIRD PARTIES ACT) 1999

This Deed is not intended to confer any rights on any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

11 [STEP-IN RIGHTS²

- 11.1 In the event of the Beneficiary giving notice to the Consultant of the termination of the Building Contract by the Beneficiary, the Consultant will if so required at any time by notice in writing given to it by the Beneficiary accept the instructions of the Beneficiary or its appointee to the exclusion of the Contractor to continue to perform its duties and responsibilities under the Appointment and the Appointment shall continue in full force and effect as if the Beneficiary or its appointee had been named as employer ab initio under the Appointment.
- 11.2 The Consultant will not in any circumstances exercise any right it may have to terminate the Appointment or treat the same as having been repudiated by the Contractor or to discontinue the performance of its duties and responsibilities thereunder until it shall first have given the Beneficiary not less than 21 days written notice of such matters provided that after the service of such notice the Consultant shall not be in breach of any obligations to the Contractor by reason of the Consultant complying with instructions given to it by the Beneficiary and the Consultant shall not be obliged to consult or act on the instructions of the Contractor.
- 11.3 If within such period of notice the Beneficiary shall give notice in writing to the Consultant that it is not content that the Appointment shall be determined repudiated or discontinued as aforesaid and requiring the Consultant to accept the instructions of the Beneficiary or its appointee to the exclusion of the Contractor to carry out and complete its obligations under the Appointment then the Appointment shall continue in full force and effect as if the Beneficiary or its appointee had been named as employer ab initio under the Appointment and as if no right of termination on the part of the Consultant had arisen.
- 11.4 Provided always that any notice given by the Beneficiary under clauses 11.1 or 11.3 shall state that in the event of the Beneficiary's right to be substituted for the Contractor being exercised the Beneficiary or its appointee accepts liability for payment of the monies payable to the Consultant under the Appointment including payment of any monies properly due to the Consultant under the terms of the Appointment and outstanding at the date of such notice.]

12 WARRANTIES

Where the Schedule states that clause 12 applies, within twenty one days of a written notice so to do by the Beneficiary the Consultant shall execute and provide to the Beneficiary a warranty or warranties (to be executed as a deed) in favour of any third parties for whom the Consultant is required, under the Appointment, to provide warranties. Such warranties to be in the same form as this Deed, save for the removal of this Clause 12.

IN WITNESS whereof this Deed has been executed by or on behalf of the parties and delivered the day and year first above written

² Delete clause if Beneficiary is not receiving step-in rights

SCHEDULE

DEFINITIONS

Agreement	:	[the [] dated between []/the Building Contract]
Appointment	:	the contract [order/orders] dated [] issued by the Employer to the Consultant pursuant to clause [4.1] of the Framework Agreement and incorporating the documents referred to in clause [4.3] of the Framework Agreement.
Beneficiary	:	[[] (Company Number []) whose registered office is at [] (which shall include its successors in title and assigns and those deriving title under it or them).] [is the Employer]
Building Contract	:	a building contract made between [the Employer/Beneficiary] and the Contractor dated [] based upon the [] (as amended) for the Project at the Site.
Consultant	:	[] [(Company Number []) whose registered office is at][of] []
Consultant's Discipline	:	[insert relevant discipline]
Contractor	:	[] (Company Number []) whose registered office is at [].
Employer	:	[] (Company Number []) whose registered office is at []
Insured Amount	:	[] million pounds (£[],000,000) [for any one claim or series of claims/claim arising out of any one event].
Interest	:	[]
Framework Agreement	:	the consultant framework agreement made between [] of the one part and the Consultant of the other part dated [] to provide the provision of [] services as and when required by [] and its group companies in connection with, amongst other things, planning, design, remediation and/or construction projects.
Novation Agreement		the novation agreement made between the Employer, the Consultant and the Contractor dated [].
Project	:	[the design, construction and completion of []].
Site	:	[]

OPTIONAL CLAUSES

5.1, Onward Assignment	:	[this Deed is not for onward assignment/this Deed is for onward assignment]
12, Warranties	:	[applies/does not apply]

[insert appropriate attestation clauses]

SCHEDULE 3 OF THE APPOINTMENT TERMS
DEED OF NOVATION

Private and Confidential

Draft

DATED 20

[EMPLOYER] (1)

and

[CONTRACTOR] (2)

and

[CONSULTANT] (3)

**NOVATION OF CONSULTANT'S
APPOINTMENT**

Employer to Contractor relating to a development

at

[]

THIS DEED is made on

BETWEEN:

- (1) **THE EMPLOYER;**
- (2) **THE CONTRACTOR; and**
- (3) **THE CONSULTANT**

WHEREAS:

- (A) The Consultant has been appointed in connection with the Project at the Site by way of an Appointment issued pursuant to the Framework Agreement to undertake the Consultant's Discipline in connection with the Project.
- (B) The Employer and the Contractor have entered into the Building Contract.
- (C) The parties have agreed to novate the Appointment to the Contractor on the terms set out below.
- (D) It is intended by the parties hereto that the Contractor shall be entitled to recover damages from the Consultant in respect of any losses suffered by the Contractor arising by reason of any breaches by the Consultant of the Appointment prior to, and following, the date hereof.

NOW THIS DEED WITNESSES and the parties agree as follows:

- 1. The words and phrases in this Deed shall have the meanings ascribed to them in Schedule 1.
- 2. The Appointment is hereby novated from the Employer and the Consultant to the Contractor and the Consultant. The Employer shall no longer owe any duty or obligation to the Consultant under or in respect of the Appointment.
- 3. The Consultant shall no longer owe any duty or obligation to the Employer under the Appointment whether by virtue of its terms or by virtue of any breach or otherwise.
- 4. The Consultant warrants to the Contractor that it has complied with and will continue to comply with the Consultant's obligations under the Appointment. The Consultant acknowledges that the Contractor has relied upon, and will rely upon, the Consultant's performance of such obligations prior to and following the date hereof. It is agreed that the Consultant shall be liable for all losses suffered by the Contractor as a result of any breaches of such obligations, whether or not such losses were suffered by the Employer (whether solely, or jointly with the Contractor, or otherwise) and whether or not such losses were suffered prior to the date hereof.
- 5. The Consultant binds himself to the Contractor in the terms of the Appointment as if the Contractor were and always had been named in the Appointment in place of the Employer.
- 6. The Contractor binds itself to the Consultant in the terms of the Appointment as if the Contractor were and always had been named in the Appointment in place of the Employer.
- 7. All rights of action and remedies vested in the Employer against the Consultant under the Appointment shall from the date of this Deed vest in the Contractor.
- 8. All rights of action and remedies vested in the Consultant against the Employer under and in respect of the Appointment shall from the date of this Deed lie against the Contractor.

9. The Consultant acknowledges that [all fees and disbursements earned by the Consultant in respect of services performed to date under the Appointment have been paid in full/the Consultant has been paid at least [£] to date under the Appointment].
10. [The Consultant and the Contractor agree that the terms of the Appointment shall be and are varied in the manner set out in Schedule 2.]
11. Subject to the terms of this Deed the Appointment shall remain in full force and effect.
12. Nothing in this Deed shall affect or derogate from any collateral warranty given or to be given by the Consultant to the Employer respecting the Project.
13. Any notice to be given under this Deed shall be in writing and shall be deemed to be given properly if it is delivered by hand, or sent by registered post or recorded delivery to the address of the relevant party set out above (or such other address as that party may have nominated for service). If the notice is sent by registered post or recorded delivery, it shall be deemed to be received two working days after the day it was posted. If the notice is delivered by hand, it shall be deemed to be received on the day it is delivered.
14. This Deed and any dispute or claim arising out of, relating to or in connection with it is governed by, and construed in accordance with, the laws of England. All disputes or claims arising out of, relating to or in connection with this Deed shall be subject to the jurisdiction of the English courts to which the parties irrevocably submit.
15. This Deed is not intended to confer any rights on any third party pursuant to The Contracts (Rights of Third Parties) Act 1999.

IN WITNESS whereof this deed has been executed by or on behalf of the parties and delivered the day and year first above written

SCHEDULE 1

DEFINITIONS

Appointment	:	the contract [order/orders] dated [] issued by the Employer to the Consultant pursuant to clause [4.1] of the Framework Agreement and incorporating the documents referred to in clause [4.3] of the Framework Agreement.
Building Contract	:	a building contract made between the Employer and the Contractor dated [] based upon the [] (as amended) for the Project at the Site.
Consultant	:	[] [(Company Number []) whose registered office is at][of] []
Consultant's Discipline	:	[]
Contractor	:	[] (Company Number []) whose registered office is at [].
Employer	:	[] (Company Number []) whose registered office is at []
Framework Agreement	:	the framework agreement made between [] of the one part and the Consultant of the other part dated [] to provide the provision of [] services as and when required by [] and its group companies in connection with, amongst other things, planning, design, remediation and/or construction projects.
Project	:	[the design, construction and completion of []].
Site	:	[]

SCHEDULE 2

Variations to the terms of the Appointment

[insert appropriate attestation clauses]

SCHEDULE 4 OF THE APPOINTMENT TERMS

DRAFT THIRD PARTY RIGHTS NOTICE

[Insert Employer Company Name]
(Company No. *[Insert Company No.]*)
[Insert Registered Address]

[Insert Consultant Company Name]³
(Company No. *[Insert Company No.]*)⁴
*[Insert Registered Address]*⁵

[insert date]

Dear []

Notice of the vesting of Third Party Rights in a Third Party in relation to *[insert project details]* ("the Project")

Unless otherwise stated in this notice, the words and phrases used in this notice shall have the meanings ascribed to them below:

- (a) **"Agreement"** means the *[agreement for []]* dated *[insert date of agreement]* and entered into between the Employer and the Third Party under which the Third Party *[insert details of Beneficiary's interest in the Project and/or the Property]*
- (b) **"Appointment"** means the Contract Order dated *[insert date of Contract Order]* relating to the Consultant's appointment as a *[insert discipline(s)]* for the Project, and consisting of the documents referred to in clause [4.3] of the consultant framework agreement made between the Employer and the Consultant and dated [] ("**the Framework Agreement**");
- (c) **"Consultant"** means *[Insert Consultant Company Name]*⁶ (Company No. *[Insert Company No.]*)⁷
- (d) **"Employer"** means *[insert name and company number of employer]*
- (e) **"Property"** means *[insert details of property]*;
- (f) **"Schedule 1 Rights"** means the relevant rights in favour of the Third Party set out in Schedule 1 to the Appointment (but excluding the right to enforce paragraph 9 of Schedule 1 to the Appointment);
- (g) **"Third Party"** means *[insert name and company number of the beneficiary (as applicable)]*; and
- (h) **"Third Party Rights"** means:
 - a. the Schedule 1 Rights[;/.]
 - b. *[relevant rights of the Third Party to enforce paragraph 9 of Schedule 5 to the Appointment⁸]; and/.]*
 - c. *[the right for the Third Party to confer Schedule 1 Rights on any other Third Party (as defined in the Appointment) pursuant to clause [9.2] of the Appointment.]*⁹

Further to the Agreement, we write to inform you that pursuant to clause [9.1] of the Appointment the Employer is vesting Third Party Rights in the Third Party and that such Third Party Rights will vest in the Third Party on the date of this notice. For the avoidance of doubt, the Third Party will have the benefit of the Third Party Rights on and from the date of this notice.

³ Amend as applicable for a partnership

⁴ Amend as applicable for a partnership

⁵ Amend as applicable for a partnership

⁶ Amend as applicable for a partnership

⁷ Amend as applicable for a partnership

⁸ Only to be included in Funder/Purchaser notices

⁹ Only to be included in Funder/Purchaser notices

We should be grateful if you would sign and return a copy of this notice to confirm receipt of the same.

Yours faithfully

[
[For and on behalf of *[insert Employer's name]*]

EXECUTED as a DEED by POPULO DESIGN)
AND BUILD LIMITED acting by (or where the)
Common Seal of **POPULO DESIGN AND BUILD)**
LIMITED was hereunto affixed, in the presence of:)

Director :

.....
Signature

.....
Print Name

Director/Secretary:

.....
Signature

.....
Print Name

EXECUTED as a DEED by [CONSULTANT])
acting by (or where the Common Seal of)
[CONSULTANT] was hereunto affixed, in the)
presence of):)

Director :

.....
Signature

.....
Print Name

Director/Secretary:

.....
Signature

.....
Print Name

10. POPULO MEP SCOPE OF SERVICE

MEP & Sustainability Consultant Scope of Services

Document Reference: XXX-POP-XX-XX-SCO-00008

Rev. 02

May 2021

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Rev	Date	Document	Prepared By	Checked By	Comments
01	19.03.21	Revised format and updated content	MN	FS	-
02	25.05.21	Updated 3.4.9 and 3.4.10	MN		

1.0 Introduction

1.1	This Schedule provides a list of the Services to be provided by the Consultant as the MEP Consultant in respect of the Project.
1.2	The services have been considered in conjunction with the RIBA Plan of Work 2020, and structured accordingly where relevant. Such division is not intended to, and shall not, limit or affect the Consultant's obligation generally to provide the services as and when may from time to time be necessary or appropriate for the proper and timely completion of the Project.
1.3	For the purpose of this scope the procurement route will be Design and Build with Stages 4b – 6 performed following novation to the Contractor. In agreeing the building contract the Client can amend or redraft the post-novation services subsequently required.
1.4	<p>The scope is aligned to the stages of project delivery and includes the following:</p> <ul style="list-style-type: none"> • Workstage 1 – 4a (pre-contract services): MEP design from briefing through to Detailed Production Information for all works, including preparation of Employer's Requirements and tender action to signing of the Building Contract; • Workstage 4b – 5 (post-contract novation services): Provision of consultancy services to the Principal Contractor and/or nominated Sub Contractors up to and inclusive of Practical Completion; • Workstage 6 (post-contract novation services): Provision of consultancy services to the Principal Contractor and/or nominated Sub Contractors to facilitate completion of all requisite commissioning and certification activity;
1.5	Services for the Client during Workstages 4b – 6 for compliance monitoring are not listed as these services will be commissioned as a separate professional services contract
1.6	The scope is applicable for the entire works as defined in the Project Brief.
1.7	An instruction to provide Services for any of the individual Work Stages does not imply intent to proceed with the full scope of services.
1.8	This scope should be read in conjunction with any documentation identified in the consultant tendering documents.

2.0 Definitions & Interpretations

Client	Populo Living
Project Manager (and Employers Agent)	the consultant designated as such by the Client. Unless defined otherwise in the project specific information this party is appointed to act on behalf of the Client for all purposes;
Lead Consultant	the Project Manager for the purposes of this scope
Lead Designer	the consultant designated as such by the Client to lead the design team and be responsible for coordinating the inputs and information required from each team member;
Principal Designer	the party appointed to undertake the statutory role and responsibilities for the purposes of the Construction (Design and Management) Regulations 2015 (CDM 2015) and responsible for coordinating health and safety in the design process.
Designer	any party or individual undertaking design activities as defined under CDM 2015.
Other Consultants	the other consultants appointed by the Client in connection with the Works;
Contractor	the party who the Client appoints to deliver the Works and named in the Building Contract.
Novation	the procedure where a consultant appointment is transferred from the Client to the Contractor / New Client, following which the consultant carries out duties and is paid by them;
Contractor / New Client	the party that the consultant is contracting with following any novation agreement
Project Brief	a description of the Project and the Client's statement of requirements for the Project for which the services are being provided.
Employers Requirements	the set of drawings, details, plans, specifications and other documents and information that constitute or will constitute the employer's requirements under the Building Contract;

3.0 General Services

The Services listed in this Section are to be provided at each Stage of the Works where and to the extent that the same are applicable.

3.1	Principal Role
3.1.1	Lead the design, documentation, technical performance and detailed coordination of the MEP design in accordance with the Project Brief and produce the information required to manufacture and construct the Project.
3.1.2	<p>Perform all MEP consultant services required for inclusive of the list below but not exhaustive:</p> <ul style="list-style-type: none"> ▪ Building mechanical and electrical environmental control, heating and cooling systems, including HVAC plant and equipment, together with related ductwork, containment, thermal insulation, acoustic and vibration control, and fire protection; ▪ Central plant systems; ▪ Gas distribution and metering within the boundary; ▪ Exhaust gas treatment and flues, including incorporation and accommodation of central heat rejection flues where applicable; ▪ Hot and cold water services including potable water services; ▪ Water filtration and treatment systems; ▪ Renewable energy and sustainability strategy, and design of any related MEP and energy management systems; ▪ Overheating assessment (residential, and non-residential where applicable); ▪ Dynamic Thermal Modelling; ▪ SAP Calculations; ▪ Energy Performance Certificates; ▪ Part L Monitoring; ▪ Specification and setting of air tightness and permeability standards for building where related to building regulations and sustainable accreditation standards; ▪ Leak detection systems; ▪ Electrical services including sub-stations, switch gear, internal and external lighting and power installations, standby and generating plant including UPS, where required; ▪ Design of power and services distribution for all internal uses of the building including front and back of house communal areas and all residential units, residential ancillary spaces, and retail or other uses; ▪ Fire protection, detection and alarm systems and emergency lighting / signage; ▪ With the architect and (if appointed) interior designer(s) develop MEP details which interface with internal finishes; ▪ Lighting design including fitting specification and any required calculations;

	<ul style="list-style-type: none"> • Communal parts and units to all affordable residential. • All residential ancillary and back of house areas. • Communal parts and units to all private market residential. <ul style="list-style-type: none"> ▪ Building Management System (BMS) / Controls strategy; ▪ Passive environmental control systems (integrated with site wide sustainability and energy management systems); ▪ Security and access control systems including CCTV containment to the requirements of the site wide security strategy and Secure by Design. ▪ Intruder detection and alarm systems containment only to the requirements of the site wide security strategy and Secure by Design. ▪ Vertical transportation design; ▪ BMU design (where relevant for tall buildings); ▪ Lightning protection; ▪ AV and Home automation systems wire ways only to requirements of specialist designers; ▪ Radio TV reception and communication systems including satellite and cable system wiring, pathways and containment wire ways only to the requirements of the specialists; ▪ Telecommunications system wiring, pathways and containment wire ways only to the requirements of the specialists; ▪ Satellite dishes and master radio antennas; ▪ Zones for the distribution and containment of structured wiring for IT systems wire ways only to the requirements of the specialists; ▪ Metering Strategy ▪ Testing, Commissioning and Handover Strategy ▪ Plant access and maintenance strategy <p>The Consultant is encouraged to identify any gaps.</p>
3.1.3	Design the scheme to BIM Level 2 – see 3.9.
3.1.4	Actively manage the detailed design coordination between consultants for the MEP components at all interface's of the building.
3.1.5	At all times exercise the reasonable skill, care and diligence to be expected of a consultant experienced in the provision of such services for projects of a similar size, nature and complexity to the Project.
3.1.6	Perform the services with due regard to the Project Brief.
3.1.7	Perform the Services seeking to ensure, as far as it is within the Consultant's reasonable control, that all work is provided in a timely manner to the team in order to meet the overarching milestones throughout the project, within budget and to the performance and quality standards as set out in the Project Brief or otherwise agreed in writing with the Client and project team.
3.1.8	All services carried out by the Consultant for the Client in relation to the Site to date are deemed to be included.

3.2	Client Interface
3.2.1	Acknowledge the role of the Project Manager for the overall co-ordination and management of the Project on behalf of the Client.
3.2.2	Provide advice regarding the requirement for the appointment by the Client of other consultants in connection with any part of the project. Provide advice with regard to appropriate scopes of service for such additional members and specialist advice to facilitate the procurement and selection process.
3.2.3	Initiate and maintain communication with the Client as appropriate to ensure the required services are completed.
3.2.4	Provide information as required by the Client, to the Client and/or any other member of the Project Team as may be necessary in a timely manner
3.2.5	<p>Agree with the Project Manager the optimisation goals and outputs, in particular focusing on innovative solutions in respect of the Project. Optimisation will seek to ask:</p> <ul style="list-style-type: none"> ▪ How might we achieve schedule milestones sooner? ▪ How might we reduce the Project costs? ▪ How might we defer cash outflows? <p>How can we improve the quality of the design?</p>
3.2.6	Refer all project-related communications from consultants and organisations outside of the project team to the Client.
3.2.7	Provide design and technical information relating to the MEP design to support Comms & Stakeholder engagement material as requested by the Client.
3.3	Governance / Reporting
3.3.1	Contribute to the preparation of the project master programme and identify (as required/necessary) opportunities for potential time savings associated with the delivery of the Project.
3.3.2	Contribute to the delivery of the Project Execution Plan (PEP) as necessary.
3.3.3	Provide a summary update to the Project Manager and the Client each month of progress against programme over the previous reporting period, and include a review of current issues and work to be completed in the coming month. Format template to be advised by the Project Manager.
3.3.4	Inform the Client of any issue that may materially affect the Project Brief, Project Programme, Construction Cost or quality of the Project and any information, decision or action required in mitigation.
3.3.5	<p>Attend the following meetings:</p> <ul style="list-style-type: none"> ▪ Project Team Meeting (monthly – minuted by the Project Manager)

	<ul style="list-style-type: none"> ▪ Design Team Meeting (as required – minuted by the Lead Designer) ▪ Other (as reasonably required to fulfil the services, including but not limited to meetings for Client review, with statutory bodies/stakeholders, potential suppliers and manufacturers, and tender activities)
3.3.6	In conjunction with the Project Manager, advise on the need for quality assurance schemes, defects insurance and product guarantees. This is to include adherence to quality assurance processes/procedures as required.
3.3.7	Undertake regular internal (monthly) quality audits and provide evidence of ISO 9001:2015 certification.
3.3.8	Assist the Project Manager in preparing and maintaining a Project risk register. Alert the Project Manager of any change to risk levels or addition of new risk, and ensure that risk mitigation actions are progressed.
3.3.9	Assist the Project Manager and cost consultant in implementing and adhering to a design change control process.
3.4	Design Management
3.4.1	Support the Lead Designer in preparing a detailed design programme for each workstage with input from the project team. Report on progress against the design programme in each monthly project progress report.
3.4.2	Support the Lead Designer in developing the Client Designer's Responsibility Matrix for project specific use in conjunction with the other consultants. Update as required with the project team throughout the workstages.
3.4.3	<p>Work with the Lead Designer and other Consultants to agree interfaces such as, but not limited to the following:</p> <ul style="list-style-type: none"> • Definition of any 'boundary' for service and utility connection purposes (represented on a drawing). • Design interfaces for each of the main services (including drainage) either entering or exiting the Building.
3.4.4	Identify any requirements for other consultants or specialist designers.
3.4.5	Participate in all design team meetings. Identify MEP activities to be undertaken, determining who is responsible for taking action and report on progress to the Project Manager.
3.4.6	Communicate through identified channels with members of the project team.
3.4.7	Participate in procedures for checking that the design conforms to the Brief.
3.4.8	Input into the detailed Project deliverable list specifying MEP design deliverables for each stage of the Project.. The design deliverables schedule must reflect where appropriate, activities to be undertaken in support of all statutory approvals pertaining to the works, and provision of

	information as required during the construction process and subsequent handover and operation phases.
3.4.9	Coordinate the MEP design to suit any phasing requirements included within the Project Brief
3.4.10	Apply the principles of value management to the MEP design where appropriate
3.4.11	Coordinate the MEP design to suit any phasing requirements included within the Project Brief
3.4.12	Apply the principles of value management to the design
3.4.13	Ensure that the deliverables are produced on time and potential changes to scope are identified as soon as practicable.
3.4.14	Supply relevant information to the other members of the project team in order that they may carry out their functions and duties in relation to the Project in a timely and orderly manner.
3.4.15	Assess and advise possible cost, benefit, programme and technical implications of proposed design changes as necessary.
3.4.16	Assist the cost consultant and Project Manager by ensuring all change is formally signed-off in accordance with the agreed change control process prior to the implementation of the respective design change.
3.4.17	Allow for all printing and reproduction of documents, drawings, maps models, photographs and other records necessary for the proper performance of the services.
3.4.18	Support the Lead Designer in the issue of all appropriate information to the Project Manager and Client at all stages of the Project. Notify the Project Manager and Client of decisions required from them in a timely manner as necessary.
3.4.19	Ensure that the MEP design proposals and designs are in accordance with the Project Brief. Advise the Project Manager and Client in conjunction with the Lead Designer in the event that compromises are necessary between particular requirements of the Brief.
3.4.20	Regularly review all outstanding information requirements and progress these requirements as necessary via regular design coordination meetings.
3.4.21	Work to the date set for the 'Project Design Freeze' prior to preparation of the end of workstage deliverables. Changes will be implemented following this only upon receipt of written Client instructions to do so.
3.4.22	Manage and coordinate the end of workstage sign-off documentation in accordance with the agreed MEP deliverables.
3.4.23	Participate in the agreed process (agreed with the Project Manager) to obtain Client approval of key gateways and milestones.
3.4.24	Sign a 'Certificate of Readiness of Design' to proceed to the following design stage of works. All Outstanding Matters to be identified with a timetable (agreed with all other consultants for a co-ordinated solution) to clear these ASAP and by the very latest the end of the next Workstage.
3.5	Cost Planning & Control
3.5.1	Provide sufficient design information and assist the cost manager in preparing cost information to

	the expected level of detail for each of the workstages.
3.5.2	Contribute towards developing procedures for cost planning, control and for the preparation of financial reports, including change control taking cognisance of the project programme and Project Execution Plan (PEP).
3.5.3	Provide design information for the preparation, by others, of estimates of construction and life cycle cost.
3.5.4	Advise on and take measures to bring design proposals within budget allowances where these are likely to be exceeded.
3.5.5	Contribute information for the preparation and updating of a project cash flow forecast.
3.5.6	Consider alternative outline best in class, innovative solutions and concepts that potentially allow for cost savings and/or more commercially advantageous solutions that benefit the original Client. Provide option reports that allow the cost consultant to provide cost comparisons of the same.
3.6	Procurement
3.6.1	Assist the Project Manager in advising the Client the appropriate method of procuring the construction and completion of the Works (giving consideration including, without limitation to sectional completion), the appropriate, form and content of the construction documentation, insurance matters, liquidated damages, collateral warranties, bonds and guarantees.
3.6.2	Assist in the preparation of strategy for contractor procurement, including advising on the need for specialist contractors and suppliers to design and execute parts of the works.
3.6.3	Advise on the need and method of pre-ordering of goods, materials, systems, products or negotiating or tendering for specialist or major works packages and pre-construction work to comply with the requirements of the Client and the Programme.
3.6.4	Provide all MEP design information, documents and other materials required for the tender of the Project that will form part of the “Employer’s Requirements” under the Building Contract.
3.6.5	Provide information, documents and other materials to assist preparation of the pre-tender Cost Plan and to update the same from time to time.
3.6.6	Assist in the review, preparation and completion of the building contract.
3.6.7	Assist in appraising and making of recommendations on all tenders received and, if required by the Client, attend interviews with tenderers. To include advice on any sub-contractors proposed by any tendering contractor.
3.6.8	Examine the proposals and submissions submitted by all tenderers for compliance with the Employer’s Requirements, the tender documents and the design intent of the Works.
3.6.9	Examine the Contractor’s proposals and, if any variations to the “Employer’s Requirements” for the Building Contract are agreed as part of the agreement of its tender sum/contract sum, coordinate the amendments with the other consultants accordingly.

3.6.10	Assist in the negotiations with the tendering contractors and/or the Contractor.
3.6.11	Assist in reviewing the Contractor's programme for the Works as against the Programme and to ensure that it is achievable and meets the requirements of the tender documents.
3.6.12	Assist in providing the Client with a detailed report on the tenders for the Works.
3.7	Sustainability & Innovation
3.7.1	The Client is committed to being a carbon neutral business by 2030. The Consultant is to be fully committed to conservation of resources and reducing waste in all design. The Consultant accepts responsibility to continuous improvement in managing environmental issues, including the proper management and monitoring of waste, the reduction of carbon, pollution and emissions, as well supporting community wealth building.
3.7.2	All statutory policies regarding environment and sustainability performance will be met as a minimum, and in addition the Client's aspirations regarding these as set out in the Project Brief.
3.7.3	Review and report on future / developing technology that could be used to differentiate the project from competitors as necessary
3.7.4	Advise on any potential options for obtaining and maximising any prefabrication, standardisation, BREEAM points and/or any EPC rating in support of the Client's corporate sustainability ambitions.
3.8	Statutory Approvals & Consents
3.8.1	Liaise with all external bodies as necessary throughout the Project to ensure that the Works meet statutory and any regulatory requirements. Advise on any consents required.
3.8.2	Obtain authority from the Client prior to initiating contact with / submissions to external bodies.
3.8.3	Check that all applications for statutory approvals and consents, government grants etc. are submitted in accordance with the programme.
3.8.4	Undertake all services required to obtain Satisfactory Implementable Planning Permissions as would reasonably be expected of a MEP Consultant in relation to a project of this nature, size and complexity. Including coordination and preparation of design information, attendance at stakeholder engagement meetings, servicing of the application and revisions to design proposals to achieve consent.
3.8.5	Prepare a Certificate of Readiness to proceed with submitting any planning application. All Outstanding Matters to be identified with a timetable (agreed with all other consultants for a co-ordinated solution) to clear these ASAP and by the very latest the end of the next Workstage.
3.8.6	Make revisions to design proposals as required for planning applications and prepare further information to discharge conditions imposed.
3.8.7	Liaise with building warranty providers to ensure the design and technical proposals are in accordance with their requirements
3.8.8	As early as possible prior to appointing the Contractor and commencing the Works, report and advise the Client on compliance with all relevant statutory approvals/obligations, regulations

	etc.
3.9	Health & Safety
3.9.1	Ensure the Client is aware of the duties under CDM 2015 before starting any design work.
3.9.2	Co-operate with Principal Designer at all stages of the project.
3.9.3	Comply with all designer roles and responsibilities as defined under the CDM 2015 regulations in executing all services.
3.10	Digital Technology
3.10.1	Adhere to the Client's standardised document numbering protocol for all documentation submitted pertaining to the Project. The Electronic Document Management System (EDMS) designated is to be used for storage, reconciliation and onward communication of all design documentation.
3.10.2	Maintain records and copies of all documents received and issued in connection with the Project.
3.10.3	BIM Level 2 will be used to design and deliver the Works and the Populo BIM Protocol (including Exchange Information Requirements and Asset Information Requirements) will be adhered to at all times.
3.10.4	<p>The MEP BIM manager will be responsible for:</p> <ul style="list-style-type: none"> ▪ Input into the preparation of the BIM Execution plan (BEP) ▪ Manage the MEP design in accordance with the BEP; ▪ Coordinate with all users / stakeholders; ▪ Input into the BIM model using the agreed protocols ; ▪ Take receipt of the coordinated model in the agreed file format on a regular basis from the BIM coordinator. ▪ Input into the 4D sequencing model for critical path elements as appropriate ▪ Attend BIM meetings, provide input and close off any issues identified in the meeting minutes ▪ Provide information for inclusion in the monthly BIM report prepared by the BIM coordinator to the Client ▪ Ensure that the appropriate contractors and sub-contractors are assessed for their BIM capability ▪ Deliver final issue models in file formats identified in the AIR at practical completion
3.10.5	In the event of conflict between this scope and the Protocol, the BIM Protocol shall take precedence.

4.0 Specific Services

The services listed in the following section apply to the specific workstage, and will be delivered in conjunction with all services listed in Section 3.0.

4.1	Workstage 1 – Preparation & Brief
4.1.1	Review relevant information from the Client to confirm the Client's Project Brief
4.1.2	Take part in workshops to develop the business case and assist the Client in developing the initial Project Brief
4.1.3	Carry out a strategic sustainability review, including reuse of existing facilities, building components or materials and assist the Client in identifying sustainability targets for the Project
4.1.4	Obtain and analyse existing information about the Site and incorporate into proposals as appropriate
4.1.5	<p>Visit the Site and advise on the need to carry out and timings of topographical, dimensional and specialist surveys and Site checks by third parties as appropriate.</p> <p>As instructed by the Client arrange any necessary surveys or other investigations that the Consultant identifies as reasonably required to perform their ongoing services</p>
4.1.6	Input into feasibility studies for the Project e.g. performance targets, services arrangement, building orientation, current standards, plant location and external impacts.
4.1.7	Input into a report on the feasibility of the Project for the Client's approval before progressing to the next stage
4.2	Workstage 2 – Concept Design
4.2.1	<p>Review the Project Brief and advise on:</p> <ul style="list-style-type: none"> ▪ Technical achievability ▪ Good practice ▪ Statutory compliance ▪ Apparent errors, anomalies and omissions
4.2.2	<p>Develop the Project Brief in respect of:</p> <ul style="list-style-type: none"> i. MEP (including design / technical performance standards) ii. Sustainability and innovation iii. Design Life iv. Durability and Lifecycle considerations v. Fire & Building Safety vi. Maintenance & Building in Use

4.2.3	Collate and agree with the Client changes to the initial Project Brief to support the issue of the final Project Brief.
4.2.4	Consider the implications of the results of any surveys and investigations on the design for the project and ensure that the design responds to the requirements and constraints arising.
4.2.5	Identify design solutions and discuss possible construction methods with the Client
4.2.6	Establish project benchmarks and provide examples of successful implementation on other projects.
4.2.7	Prepare MEP concept design and coordinate all information with the Other Consultants with the concept design
4.2.8	Manage the MEP activities and outputs in accordance with design management services.
4.2.9	Undertake third party consultations with statutory bodies and other authorities as reasonably required, preparing and coordinating the necessary information to accompany any applications in conjunction with the other consultants.
4.2.10	Provide MEP information for updating the Cost Plan and review the MEP concept design against the latest approved construction costs
4.2.11	Provide MEP design information and identify foreseeable residual health and safety risks to the Principal Designer
4.2.12	Input into a stage report with the MEP concept design for approval before progressing to the next stage
4.2.13	Sign a 'Certificate of Readiness of Design' to proceed to the following stage
4.3	Workstage 3 – Spatial Coordination
4.3.1	Prepare MEP design in sufficient detail to enable spatial coordination and coordinate all information from the Other Consultants with the spatially coordinated design
4.3.2	Identify systems, products, materials, standards of workmanship, type of construction and performance in use as they relate to the MEP design
4.3.3	Comment on the other Consultant design proposals and project strategies as they progress
4.3.4	Manage the MEP activities and outputs in accordance with design management services.
4.3.5	Review scheme design documentation provided by the Project Team for dimensional co-ordination with respect to building services.
4.3.6	Undertake third party consultations with statutory bodies and other authorities as reasonably required, preparing and coordinating the necessary information to accompany any applications in conjunction with the other consultants.

4.3.7	Provide MEP information for updating the Cost Plan and review the MEP design development against the latest approved construction costs and lifecycle costs
4.3.8	Provide MEP design information and identify foreseeable residual health and safety risks to the Principal Designer
4.3.9	Input into a stage report with the MEP spatially coordinated design for approval before progressing to the next stage
4.3.10	Sign a 'Certificate of Readiness of Design' to proceed to the following stage
4.4	Workstage 4a – Technical Design (Pre-Contract)
4.4.1	Prepare MEP technical design in sufficient detail to enable a tender or tenders to be obtained and coordinate with the Other Consultants technical design.
4.4.2	Identify and agree with the Lead Designer / Project Manager the extent of the technical design for the MEP elements to be completed by the Contractor or the specialist sub-contractors.
4.4.3	Comment on the other Consultants technical design as they progress
4.4.4	Manage the MEP activities and outputs in accordance with design management services.
4.4.5	Undertake third party consultations with statutory bodies and other authorities as reasonably required, preparing and coordinating the necessary information to accompany any applications in conjunction with the other consultants.
4.4.6	Provide MEP information for updating the Cost Plan and review the MEP design development against the latest approved construction costs and lifecycle costs
4.4.7	Provide MEP design information and identify foreseeable residual health and safety risks to the Principal Designer
4.4.8	Consider with the Client a tenderer or a list of tenderers for the construction works
4.4.9	Collate the MEP tender information and issue the tender pack for approval
4.4.10	Sign a 'Certificate of Readiness of Design' to proceed to tender
4.4.11	Assess tenders and proposals and contribute to any tender recommendations / reports as listed under general services
4.5	Workstage 4b – Technical Design (Post-Contract)
4.5.1	Undertake statutory / third party consultations as reasonably required, preparing and coordinating the necessary information to accompany any applications
4.5.2	Provide the MEP information reasonably required for construction and as directed by the Contractor
4.5.3	Prepare other production information and incorporate input from others into this to achieve design completeness
4.5.4	Receive design, fabrication and installation drawings and review for adequacy, good practice and adherence to the Employers Requirements. Any approvals from the Client are to be sought in

	accordance with the Building Contract
4.5.5	Provide MEP design information and identify foreseeable residual health and safety risks to the Principal Contractor
4.5.6	Attend all project meetings as reasonably required by the Contractor
4.5.7	Attend the site whenever reasonably requested to progress the MEP elements of the design and construction of the works
4.6	Workstage 5 – Manufacturing & Construction
4.6.1	Provide the MEP information (including responding to RFIs) reasonably required for construction and as directed by the Contractor
4.6.2	Prepare further production information as required in accordance with the agreed information release schedules
4.6.3	Receive design, fabrication and installation drawings and review for adequacy, good practice and adherence to the Employers Requirements. Any approvals from the Client are to be sought in accordance with the Building Contract
4.6.4	Prepare MEP information to support any applications to discharge construction stage and pre-occupancy planning conditions
4.6.5	Prepare MEP information to support any applications for other statutory / warranty approvals as required
4.6.6	Provide MEP design information and identify foreseeable residual health and safety risks to the Principal Contractor
4.6.7	Assist in the preparation of any leasing / marketing information required under the Building Contract
4.6.8	Attend all project meetings as reasonably required by the Contractor
4.6.9	Attend the site whenever reasonably requested to progress the MEP elements of the design and construction of the works
4.6.10	Work with the Contractor to adhere to the BIM Protocol. A complete set of drawings shall be made accessible and as the Works proceed, any variations or modifications to the services shall be indicated in colour or as digital mark-ups thereon and within the related information model.
4.7	Workstage 6 – Handover
4.7.1	Provide the Principal Contractor with the MEP final construction issue information for inclusion in the Health & Safety File
4.7.2	Participate in snagging and defects schedule preparation in conjunction with the Contractor
4.7.3	Participate in preparing and executing plan for handover of the building at completion of any relevant phases

4.7.4	Assist in preparation of the final account / statement under the Building Contract and make recommendations and provide advice in respect of the same
4.7.5	Assist in the resolution of claims by the Contractor in relation to any adjudication with other parties involved in the Project
4.7.6	Provide reasonable assistance to the Contractor in relation to any adjudication with other parties
4.7.7	Participate in the instruction and training of the Client's operating, maintenance and facilities management personnel as required under the Building Contract
4.7.8	Prepare and review the as built drawing information and operation and maintenance manuals with the Contractor as they relate to the MEP design
4.7.9	Provide MEP design information for inclusion in the final Health & Safety file
4.7.10	Assist in the preparation of and review information for inclusion in the Home Users Guide / Resident's Handbook
4.7.11	Participate in the instruction and training of the Clients operating, maintenance and facilities management personnel
4.7.12	Advise on the warranties and maintenance of the MEP elements of the work
4.7.13	Assist in the preparation of any leasing / marketing information required under the Building Contract
4.7.14	Work with the Contractor to adhere to the BIM Protocol. Facilities shall be afforded to check these drawings and related information model at completion
4.7.15	Prior to the issue of the Practical Completion Certificate, a set of 'As Built' drawings and related information model shall be issued to the Employer's Agent for approval. These drawings and model shall be as required by the BIM Protocol and the Client O&M Requirements. The Practical Completion Certificate will not be issued until these drawings and the associated information model are approved.
4.7.16	Participate in a post completion review of the project with the Client to enable future improvements to design, procurement and construction
4.7.17	Visit site during the defects liability / maintenance period to monitor satisfactory completion of outstanding items and / or investigate rectification of defects relating to the MEP design
4.8	Workstage 7 – Use
4.8.1	Stage 7 activities are not listed as these services will be commissioned as a separate professional services or operating contract.

5.0 Deliverables

This list provides an outline of the deliverables expected to fulfil this scope over the workstages. It is not exhaustive and the MEP / Sustainability consultant will be responsible for developing this in conjunction with the Lead Designer into a detailed schedule specifying all MEP / Sustainability deliverables for each stage of the Project. This will reflect where appropriate, activities to be undertaken in support of all statutory approvals pertaining to the works up to the tendering and agreement of the Building Contract. The provision of information as required during the construction process and subsequent handover and operation phases will be as directed by the Contractor.

The deliverables schedule should be coordinated with the project specific Designer's Responsibility Matrix.

Drawings and documents produced using computer aided design (CAD), any other proprietary software or building information modelling (BIM) in connection with the services shall be provided to the Client in accordance with the agreed BIM protocol. All information should be delivered at the appropriate stage in accordance with the Populo Document Naming protocol to the specified Electronic Document Management System.

All information should be delivered at the appropriate stage in accordance with the Populo Document Naming protocol to the specified Electronic Document Management System.

Reports	Indicative Scale	Comments
MEP Workstage Report relating to all services included under this scope including, but not limited to: <ul style="list-style-type: none"> • MEP systems design including criteria and performance; • Incoming utility interface; • Energy & Sustainability; • Vertical Transportation; • BMS / Controls Strategy; • Plant Access & Maintenance; • Metering Strategy; • Overheating and thermal modelling analysis; • Part L and SAP calcs; • Testing, commissioning and handover; 	N/A	Each workstage
Planning report for Energy & Sustainability	N/A	
Calculations		
Heat Loss Calculations	N/A	

Incoming Services	N/A	
LTHW Calculations	N/A	
MVHR Calculations	N/A	
Water Calculations	N/A	
Drawings		
Individual MEP Layout Plans – building distribution and each individual apartment type	1:100 / 1:50	
Combined Services Layout Plans – building distribution and each individual apartment type	1:100 / 1:50	
Section zones for services distribution	1:50	
Plant and Meter Room drawings	1:50	
BWIC coordination	N/A	GA Coordination with Structure / Architect
MEP Plant and Fixing Details	1:10/1:5	
Schedules		
Power, heating, cooling and hot water utility loading and demand schedules	N/A	
Lighting Schedules	N/A	
DB Schedules	N/A	
Access Control and CCTV Schedules	N/A	
Designers Risk Assessment	N/A	
Samples, Mock-ups, Benchmarks etc.	N/A	
Visible Equipment	N/A	
Room Data Sheets	N/A	
Schematics		
As required to support the design and coordination of all items within the scope of services including, but not limited to: <ul style="list-style-type: none"> Public Health Mains distribution Mechanical and Electrical Services Security & Access Control 	N/A	

• Communications Schematics		
Specifications		
Performance Specification	N/A	Pre-tender
Other		
N/A		