|  |  |  |
| --- | --- | --- |
|  | [REDACTED] Commercial Practitioner Ministry of Defence (MOD) Defence Infrastructure Organisation (DIO) [REDACTED] Brown Street Glasgow G2 8EX United Kingdom | |
| Project Contract reference: Z9A5631Y23 | Telephone: E-mail: | [REDACTED]  [REDACTED] |

LAING O'ROURKE EXPLORE

Bridge Place

Anchor Boulevard

Admirals Park Crossways

Dartford

Kent

DA2 6SN

For the attention of: [REDACTED]

1. 30th [REDACTED]
2. Dear Sirs,
3. LETTER OF INSTRUCTION (EARLY CONTRACTOR INVOLVEMENT)
4. SLA-PA FRAMEWORK ALLIANCE CONTRACT AGREEMENT (ref. fa)
5. PROJECT: NEW SINGLE LIVING ACCOMMODATION AT ALBEMARLE BARRACKS
6. We, the Defence Infrastructure Organisation (“DIO”), being an executive agency of the Ministry of Defence (“MOD”), write to you on behalf of the Secretary of State for Defence (the “Client”).
7. You are an Alliance Member under the Single Living Accommodation Programmatic Approach Framework Alliance Contract Agreement (SLA-PA FAC) entered into with the Client and others dated 21 [REDACTED] (ref. 709304450) (the "Framework Alliance Contract"). Except where expressly defined in this letter, capitalised words and expressions used in this letter which are defined in the Framework Alliance Contract shall have the meanings respectively given to them in the Framework Alliance Contract (including the Contract Conditions). All references in this letter to "you" and "Contractor" mean the addressee of this letter.
8. In this letter, the following terms shall have the meanings respectively assigned to them as follows:

"Additional Services” means such additional services as may be agreed between us pursuant to paragraph 7 of this letter;

"Contract Conditions" means the provisions of the template Project Contract appearing in [REDACTED] (Template Project Documents) of the Framework Alliance Contract;

“Initial Services” means the services described in [REDACTED] of this letter;

"Initial Services Fee" means the fixed price lump sum fee set out in [REDACTED] of this letter for the Initial Services;

"Interim Agreement" means the agreement between you and the Client in connection with the performance of the Initial Services and the Additional Services, which agreement is constituted by this letter (including the Schedules annexed to this letter and the documents referred to therein) and your written acceptance hereof;

"Fee" means together the Initial Services Fee and the fee for the Additional Services;

“Project” has the meaning given to it in [REDACTED] of this letter;

"Reference Information" has the meaning given to it in the Contract Conditions;

"Services” means the Initial Services and the Additional Services;

"Schedule" means one of the numbered schedules annexed to and forming part of this letter;

“Site” has the meaning given to it in [REDACTED] of this letter; and

"Technical Documents" has the meaning given to it in [REDACTED] of this letter.

1. Subject to all the commercial and technical information necessary to complete the relevant Project Contract being provided by you under the Interim Agreement and then agreed between us, the Client intends to enter into a Project Contract with you for the planning, design, supply, construction and completion of the Project. We expect you to assist us in obtaining and agreeing such information such that the parties are both in a position to enter into such a Project Contract following your completion of the Services in accordance with the Interim Agreement.

Pending the entering into of a Project Contract between the Client and you in relation to the Project pursuant to the Framework Alliance Contract, on behalf of the Client we authorise and instruct you (subject to the terms of this letter) to proceed to carry out the Services which you are to perform in accordance with the Contract Conditions, the Technical Documents, the MDAL document appended to the Framework Alliance Contract, applicable law and the provisions of this letter.

1. Until the relevant Project Contract is entered into, the contract between the Client and you (for the performance of the Initial Services and any Additional Services that may be agreed between us) will be constituted solely by the Interim Agreement and, save as modified by or inconsistent with the express terms of this letter (including clause 11 below), the Contract Conditions shall apply to and be deemed to be incorporated (mutatis mutandis) into the Interim Agreement (and, in that regard, all references in the Contract Conditions to: (a) the "works" and the “Scope” shall be deemed to be references to the Services and [REDACTED] and (b) the “Accepted Programme” shall be deemed to be the Table of Milestones at [REDACTED], save where and to the extent it is modified or replaced by agreement in writing between the Parties). For the avoidance of doubt, you and the Client agree that, for the purposes of this clause 5, the following Secondary option “X” clauses of the Contract Conditions shall apply or not apply (as the case may be) to the Interim Agreement, as set out in the following table:

| Clause | Subject | For Interim Agreement |
| --- | --- | --- |
| X1 | Price adjustment for inflation | Does not apply |
| X4 | Ultimate Holding Company Guarantee | Does not apply |
| X5 | Sectional Completion | Does not apply |
| X6 | Bonus for early Completion | Does not apply |
| X7 | Delay Damages | Does not apply |
| X8 | Undertakings to the Client or Others | Does not apply |
| X9 | Transfer of Rights | Applies |
| X10 | Information Modelling | Applies |
| X11 | Termination by the Client | Applies |
| X12 | Multiparty collaboration | Does not apply |
| X13 | Performance Bond | Does not apply |
| X14 | Advanced Payment to the Contractor | Does not apply |
| X15 | The Contractor's Design | Applies |
| X16 | Retention | Does not apply |
| X17 | Low performance damages | Does not apply |
| X18 | Limitation of Liability | Does not apply |
| X20 | Key Performance Indicators | Does not apply |
| X21 | Whole Life Cost | Applies |
| X22 | Early Contractor Involvement | Does not apply |

1. The Client has selected Mrs Vicky Wall (one of DIO’s Principal Project Managers) of Defence Infrastructure Organisation, MoD, [REDACTED], [REDACTED], Ramillies Building, Marlborough Lines, Monxton Road, Andover, Hampshire, SP11 8HJ (email: [REDACTED] ) to act as its Project Manager and representative for the purposes of the Services and the Interim Agreement (the “Project Manager”).You are to co-operate and liaise with the Project Manager in accordance with the Contract Conditions and comply with all reasonable instructions issued by her to you under the Interim Agreement. You shall keep the Project Manager regularly informed of progress and matters affecting your performance of the Services.
2. In consideration of you performing the Initial Services in accordance with the Interim Agreement, the Client shall pay the Initial Services Fee to you, by instalments, in accordance with and subject to [REDACTED] of this letter. The Project Manager will assess and determine the amounts payable to you for the Initial Services in accordance with the Contract Conditions as modified by [REDACTED] of this letter. In the event any Additional Services (including but not limited to the placing of early orders and carrying out of early works) are required to be undertaken, the Client may, by notice at any time, request the Contractor perform these in connection with the Project, provided that the Fee shall not be adjusted and the Contractor shall not commence performing any such additional services unless and until the same (and the corresponding adjustment to be made to the Fee) have been agreed in writing between us.
3. Notwithstanding any other provisions of this letter (but subject and without prejudice to clauses 9 and 18 below), the parties’ aggregate liability to each other under the Interim Agreement (including, without limitation, any liability on the Client’s part arising from any termination of your employment under the Interim Agreement under clause 19 below) will not exceed a sum equal to the Fee (exclusive of Value Added Tax).
4. Notwithstanding any other provision of the Interim Agreement, neither you nor the Client excludes or limits its liability for:
   1. any fraud or fraudulent misrepresentation;
   2. death or personal injury caused by negligence; or
   3. any other liability which cannot lawfully be limited or excluded.

Without prejudice to the Client’s rights of termination under clause 19 below, you are to carry out and complete all of the Initial Services by [REDACTED] [see DIO SLA-PA Alliance Framework Albemarle Barracks

1. Proposed ECI Programme] (so as to permit the submission of an application for full planning permission in respect of the Project by [programme date for planning submission to be determined based on ECI site visit with Alliance member] 2025), subject to the occurrence of any compensation events under the Contract Conditions which delay and/or increase the price of your performance of the Initial Services.
2. For the purposes of the Interim Agreement only, where the Contractor's performance of the Services is prevented and/or materially delayed:
   1. By any deliberate or negligent act or omission on the part of the Client, the Client's Personnel or
   2. (in circumstances not involving any failure, breach or negligence on the part of the Contractor or any Contractor’s Personnel) any Others

including where access by the Contractor's Personnel and/or vehicles to the Site is prevented and/or the access route thereto is changed by the Client or any Others after the date of this letter (without the Contractor's agreement) such that the alternative access route is materially inferior to the access route described in the Technical Documents, this shall be deemed to constitute a compensation event under clause 60.1(18) of the Contract Conditions.

1. Save where the relevant Project Contract (i) is executed by you and the Client before completion of the Services and (ii) has entirely superseded the Interim Agreement, once you have completed the Services in accordance with the Interim Agreement (or where your employment under the Interim Agreement is terminated in accordance with its terms) you and your personnel will no longer be authorised to take entry to, occupy and/or carry out any further work related to the Project at any part of the Site or otherwise.
2. Insofar as applicable to the performance of the Services (or any of them), you will (a) observe and comply with the Construction (Design and Management) [REDACTED], the [REDACTED] (or, if the Project is located in Scotland, the Building (Scotland) [REDACTED]) and all other legal or statutory provisions applicable to the Services and (b) perform the functions and duties of the Principal Contractor, Principal Designer, designer and contractor in respect of the Services for the purposes of the foregoing legislation.
3. You grant to the Client an irrevocable royalty free non-exclusive licence to use and reproduce all designs, drawings, details, schematics, calculations, reports and specifications which have been or will be prepared by you or on your behalf in connection with the Services and/or the Project for all purposes connected with the Services and/or the Project (the “Documents”) and you agree to supply to the Client and the Project Manager, on request, readable electronic copies of the Documents. You warrant that the Client’s use of the Documents for the purpose of the Services and/or the Project will not infringe the intellectual property rights of any third party and you shall indemnify the Client in respect of all liability arising from any such infringement. The foregoing licence carries the right to grant sub-licences and will survive the termination (for any reason) of your employment under the Interim Agreement. You shall not be liable for any use by the Client of the Documents for any purpose other than that for which the same were prepared and provided by you or for any improper or negligent use thereof by the Client.
4. Insofar as not already done, you agree that you will, from the date of your written acceptance of this letter, effect and maintain the following insurances, namely:
   1. Third Party / Public Liability insurance, as described in in [REDACTED] of [REDACTED] of this letter (Insurance Table).
   2. Professional Indemnity insurance, as described in [REDACTED] of [REDACTED] of this letter (Insurance Table); and
   3. insurances required by law, as described in [REDACTED] of [REDACTED] of this letter (Insurance Table);

in each case with reputable insurers operating in the United Kingdom (together the “Required Insurances”). You will, whenever requested by us, promptly provide to us evidence of your compliance with the provisions of this clause 15 (in the form of broker’s certificates confirming the existence of the Required Insurances and/or such other documentary evidence as is reasonably acceptable to us).

1. Neither this letter nor the Interim Agreement is a legal acceptance of any tender or any other offer or proposals you have made to us or the Client (whether relating to the Project or any other project). For the avoidance of doubt, the Client is not obliged to proceed with all of the Project or to enter into any Project Contract with you or to select you as its contractor for the Project (or any part thereof) or any other project.
2. Save insofar as forming part of the sums that become payable to you under clause 7 above in respect of the performance of any Services, the Client will not be liable to you for any loss of profit, loss of expectation, loss of business or any consequential or indirect losses whatsoever:
   1. arising from the Interim Agreement and/or any Services;
   2. if the Client does not enter into a Project Contract with you;
   3. if the Client does not proceed with the Project; and/or
   4. if the Client does not select you as its contractor for the Project or any other project.
3. Title to any and all plant, equipment and materials, which have been purchased, (if any) to be ordered, procured and supplied by you as part of the Initial Services (the “Materials”) will vest in and become the absolute property of the Client on and from the earlier of (i) the date of delivery of the relevant Materials to the Site, (ii) the date on which the relevant Materials come into your possession and (iii) the date of the Client’s payment to you of the agreed price payable for such Materials. The Client or the Project Manager shall notify you of the relevant location at the Site where you are to deliver, unload and store the plant, equipment and materials to be provided as part of the Services.
4. The Client may (either by itself or via DIO) terminate your employment under the Interim Agreement at any time by sending you written notice thereof (such termination to take effect on and from the date of service of such notice). With effect from such termination:
   1. you agree to leave the Site within five (5) days of the date of service of the said notice of termination;
   2. subject to clause 7 above, the Client will pay you for any demobilisation costs properly and necessarily incurred by you in vacating the Site and any cancellation charges properly and reasonably incurred by you in respect of any orders you have (with our knowledge and agreement) placed or contracts you have entered into in connection with the Services at any time prior to the date of service of the said notice of termination (and which the Client does not take over); and
   3. in respect of the plant, equipment and/or materials (if any) to be supplied by you as part of the Services, you agree to assign or novate to the Client all contracts of purchase/supply with third parties associated with the supply of such plant, equipment or materials.
5. With effect on and from the date that the Client and you enter into a Project Contract in relation to the Project (or, in the event that such Project Contract is entered into subject to any condition(s) precedent being satisfied, the date on which the relevant Project Contract takes full effect in accordance with its terms), (i) the Interim Agreement shall be deemed to be entirely superseded by such Project Contract and be of no further effect and (ii) the Services shall be deemed to form part of the works under the Project Contract and the Parties’ respective rights, obligations and liabilities in respect of the Services shall be subject to and regulated solely by the provisions of the Project Contract. The parties shall record the foregoing in the relevant Project Contract by the addition of the following new article 8 therein:

"8. The Parties respectively acknowledge and agree:

8.1 that, prior to the Contract Date, the Client engaged the Contractor pursuant to a Letter of Instruction entered into between the Parties dated 30th [REDACTED](the “Letter of Instruction”) to perform certain initial or preparatory services and/or other activities described in the Letter of Instruction (the “Initial Services”) in anticipation of this contract being entered into; and

8.2 that, on and from the Contract Date, (i) the Letter of Instruction is deemed to be wholly superseded by this contract and of no further effect, (ii) all sums payable to the Contractor under the Letter of Instruction have been paid and (iii) the Services are deemed to form part of the works and the Parties’ respective rights, obligations and liabilities in respect of the Services are and shall be subject to and regulated solely by the provisions of this contract."

1. By your acceptance of this letter, you agree that the Interim Agreement is personal to you and you are not entitled to assign or charge any rights, benefit or interest under it nor is it intended by you or the Client that any third party will have any right to enforce any provisions of the Interim Agreement under or pursuant to the Contracts (Rights of Third Parties) [REDACTED]. The Client’s rights, benefit and interest in the Interim Agreement can be assigned by it (whether absolutely or in security) to any stakeholder in the Site and/or the Project without requiring your consent, provided that the Client will give you notice of each such assignation.
2. The Interim Agreement (together with any non-contractual obligations arising out of or in connection herewith) will be governed by and construed in accordance with the law of England and, subject to clause W2 of the Contract Conditions, both the Client and you agree to submit to the exclusive jurisdiction of the English Courts.

Kindly sign the acceptance appearing below to signify your agreement to the terms of this letter. If for any reason you fail to sign and return the acceptance of this letter to us within 14 days of the date of this letter, we reserve the right to withdraw this letter by notice to you at any time thereafter, in which event this letter shall cease to be capable of acceptance by you.

Yours faithfully,

|  |  |
| --- | --- |
| …………………………………………………… [REDACTED] DIO Authorised Signatory For and on behalf of  The Secretary of State for Defence | ……………………………………………. Witness [REDACTED] ……………………………………………. Full name Kentigern House ……………………………………………. Address Glasgow, G2 8EX ………………………………………….... |

Contractor's Acceptance & Schedules/…(see overleaf)

CONTRACTOR’S ACCEPTANCE

To:

The Secretary of State for Defence

c/o Ministry of Defence (MOD)

Defence Infrastructure Organisation (DIO)

MOD Abbey Wood (North) NH5

New Road

Stoke Gifford

Bristol BS34 8JH

Date: ……………………………. 2025

Dear Sir/Madam,

We hereby accept the terms of your foregoing letter dated 30th [REDACTED] and agree to proceed accordingly.

Yours faithfully,

|  |  |
| --- | --- |
| ………………………………………………………(sign)  ………………………………………………... Full name Authorised signatory for and on behalf of  Laing O'Rourke Explore | ……………………………………………. Witness  ……………………………………………. Full name  ……………………………………………. Address  ………………………………………….... |

Schedules/…(see overleaf)

SCHEDULES

These are the Schedules referred to in the foregoing letter

by DIO (on behalf of the Secretary of State for Defence) to Laing O'Rourke Explore

Contents:

[REDACTED] – Project details

[REDACTED] – The Initial Services

2a- General Services

2b- Particular Services

[REDACTED] – [REDACTED]: Remuneration

[REDACTED]: Insurance Table

SCHEDULE 1

PROJECT DETAILS

The Project

The Project comprises the following:

3 x 74 bedspace Junior Ranks SLA (Site A)

1 x 44 bedspace Officer SLA (Site B)

2 x car parks over two sites including EV points, passive only totalling 223 spaces (Sites C & D)

[REDACTED] x SLA H-Blocks (Site A)

Upgrade to existing HV Ring

The Site

The Site of the Project is as follows:

Albemarle Barracks is situated in Ouston, approx. 11 miles West of Newcastle Upon Tyne.

The Technical Documents

We have provided (or will provide) the following information to you in connection with the Project (which shall be deemed to be, and have the status of, Reference Information for the purposes of this letter and the Interim Agreement to follow hereon):

[REDACTED] design information / common design - GliderBim

Client's Project brief – [REDACTED] [REDACTED]

Site survey reports - GliderBim

Site information – current use, access arrangements, on-site constraints, security requirements, historic information - GliderBim

Other relevant info

SCHEDULE 2

THE INITIAL SERVICES

1. Initial Services – principal objective

The principal objective of the Initial Services is for the Contractor to prepare and provide to the Client the following key outputs and deliverables in respect of the Project:

1. a complete detailed design for the Project to RIBA [REDACTED] , prepared in accordance with the Interim Agreement, which is acceptable to the Client and is sufficient to allow the Client to submit an application for full planning permission in respect of the Project to the relevant local Planning Authority;
2. a tendered total of the Prices, together with a priced Activity Schedule and completed Contract Data Part Two, for the works applicable to the Project, each of which is prepared in accordance with the Quotation Information and CPAC Pricing Tool in [REDACTED] of the Framework Alliance Contract;
3. a detailed programme and Risk Register in respect of the works applicable to the Project, each of which is in a form complying with the requirements of the Framework Alliance Contract;
4. the other key deliverables as noted below within paragraph 2(b) (Particular Services).

Without prejudice to the other duties, services and activities comprised in the Initial Services, the Contractor undertakes to the Client that it shall, as part of the Initial Services, achieve the principal objective set out above.

1. Initial Services – composition

The Initial Services comprise the following duties, services and activities (but the following description should not be considered to be definitive or prescriptive):

(a) General services

* Design optimisation: Feedback on initial design concepts and potential enhancements.
* Risk management: Identification of major risks and potential mitigation strategies.
* Cost estimation: Preliminary cost assessments and value engineering opportunities.
* Scheduling and phasing: Recommendations on efficient project phasing and timeline adherence.
* Sustainability and innovation: Insights into innovative and sustainable construction practices that can be integrated.

(b) Particular services

[REDACTED] – ECI Period Initial Services (General and Particular)

Albemarle MDAL – LOR Update dated 4th [REDACTED]

SCHEDULE 3

[REDACTED]: REMUNERATION

3.1.1 Initial Services Fee

In consideration of the Contractor performing the Initial Services in accordance with the Interim Agreement, the Client shall pay to the Contractor the sum of [REDACTED] (exclusive of VAT) (the "Initial Services Fee").

The Initial Services Fee is a fixed price lump sum which shall be paid to the Contractor in instalments following the completion of specified Milestones in accordance with the following provisions of this [REDACTED].

3.1.2 Defined terms

In this [REDACTED] (and for the purposes of interpreting the payment provisions of the Contract Conditions), the following words and expressions shall have the meanings respectively given to them below:

"assessment date" means, in respect of each Milestone and the instalment corresponding to it, the date of satisfaction of the Milestone Conditions applicable to the relevant Milestone (as such date is agreed in writing between the Contractor and the Project Manager or, if in dispute, determined pursuant to the Contract Conditions);

"assessment interval" means the period commencing on the next day following an assessment date and ending on the next following assessment date (and the first assessment interval is the period commencing on the date of the Interim Agreement and ending on the first assessment date);

"Milestone" means each action, event, occurrence, activity and/or group of activities identified as comprising a Milestone in the table appearing in paragraph 3.4 below;

"Milestone Conditions" means, in respect of each Milestone, the criteria for completion of the action, event, occurrence, activity and/or group of activities comprised in the relevant Milestone, as such criteria are specified in the table appearing in paragraph 3.4 below; and

"Milestone Payment" is, is respect of each Milestone, the portion of the Initial Services Fee which (i) is the instalment attributable to the relevant Milestone (as specified in the table appearing in paragraph 3.4 below) and (ii) becomes due on the assessment date applicable to such Milestone; and

"Price for Work Done to Date" means is the aggregate amount of the Initial Services Fee that becomes payable to the Contractor for completed Milestones from time to time (and a completed Milestone is one which satisfies the Milestone Conditions applicable to it, as set out in in the table appearing in paragraph 3.4 below).

3.1.3 Payment provisions

Subject to paragraphs 3.1 and 3.2 above, the payment provisions of the Contract Conditions (including, in particular but without limitation, the provisions of clauses 50 to 53 and Y(UK)2) shall apply to the assessment and payment of instalments of the Initial Services Fee that become due to the Contractor under the Interim Agreement (and the Contract Conditions shall be read and construed accordingly).

3.1.4 Table of Milestones

(See overleaf)

3.4 Table of Milestones [REDACTED]

The table below outlines each Milestone, the applicable Milestone Conditions, and the corresponding instalment of the Initial Services Fee for each Milestone:

Note: The Milestone Table should be discussed with the Client during the 4-week ECI process and prior to the signing of the ECI LOI.



|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |
|  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

SCHEDULE 3

APPENDIX 1 to PART 1

The following clauses 50 to 55 shall (together with Option Y(UK)2 apply for the purposes of the Milestone payment provisions under the Interim Agreement.

|  |
| --- |
| PAYMENT |

|  |  |  |
| --- | --- | --- |
| Assessing the amount due | 50 |  |
| 50.1 | The Project Manager assesses the amount due at each assessment date and the Contractor shall submit a related application for each Milestone Payment to the Project Manager, together with full breakdown, not later than the assessment date. The first assessment date is decided by the Project Manager to suit the procedures of the Parties and is not later than the assessment interval after the starting date. Later assessment dates occur at the end of each assessment interval until Completion of the whole of the works or the Project Manager issues a termination certificate. |
|  | 50.2 | The Contractor submits an application for a Milestone Payment to the Project Manager before each assessment date setting out the amount the Contractor considers is due (with full breakdown) at the assessment date. The Contractor's application for payment identifies the Milestone to which it relates and confirms to the Project Manager that the Milestone Conditions applicable to that Milestone have been satisfied. In assessing the amount due, the Project Manager considers each application for Milestone Payment submitted by the Contractor before the assessment date. |
|  | 50.3 | If the Contractor submits an application for Milestone Payment before the assessment date, the amount assessed at the assessment date is the Price for Work Done to Date, plus other amounts to be paid to the Contractor, less amounts to be paid by or retained from the Contractor. Notwithstanding any other provision of this contract, the Client is entitled to withhold any payments that would otherwise be due to the Contractor under the contract until the Contractor submits to the Project Manager: insurance broker's certificates (in terms satisfactory to the Client) confirming that all of the Required Insurances to be effected and maintained by the Contractor under this contract are in force.  . |
|  | 50.4 | If the Contractor does not submit an application for a Milestone Payment before the assessment date but the Milestone Conditions applicable to the relevant Milestone have been satisfied, the amount due at the assessment date is the lesser of the amount the Project Manager assesses as due at the assessment date, assessed as though the Contractor had submitted an application before the assessment date, and the amount due at the previous assessment date. |
|  | 50.5 | [Not used]. |
|  | 50.6 | The Project Manager corrects any incorrectly assessed amount due in a later payment certificate. |
| Payment | 51 |  |
| 51.1 | The Project Manager certifies a Milestone Payment within fourteen (14) days of each assessment date. The Project Manager's certificate includes details of how the amount due has been assessed. The first payment is the amount due. Other payments are the change in the amount due since the previous assessment. A payment is made by the Contractor to the Client if the change reduces the amount due. Other payments are made by the Client to the Contractor. Milestone Payments are in the currency of the contract (namely Pounds Sterling (£ GBP)). |
|  | 51.2 | Each certified Milestone Payment is made within thirty (30) days of the assessment date applicable to it. If a certified Milestone Payment is late, or if a Milestone Payment is late because the Project Manager has not issued a certificate which should be issued, interest is paid on the late payment. Interest is assessed from the date by which the late payment should have been made until the date when the late payment is made, and is included in the first assessment after the late payment is made. |
|  | 51.3 | If an amount due is corrected in a later certificate in relation to a mistake or a compensation event, or following a decision of the Adjudicator or the tribunal, or a resolution pursuant to the Dispute Resolution Protocol, interest on the correcting amount is paid. Interest is assessed from the date when the incorrect amount was certified until the date when the changed amount is certified and is included in the assessment which includes the changed amount. |
|  | 51.4 | Interest is calculated on a daily basis at the interest rate and is compounded annually. |
|  | 51.5 | Any tax which the law requires a Party to pay to the other Party is added to any payment made under the contract. |
|  | 51.6 | In addition to any other legal rights of the Client, whenever any sum of money is recoverable from or payable by the Contractor under this contract that sum may be deducted by the Client from any sum then due or which at any time thereafter becomes due to the Contractor under this contract. |
| Defined Cost | 52 |  |
| 52.1 | [Not used]. |
| Final assessment | 53 |  |
| 53.1 | The Contractor submits its application for the final Milestone Payment to the Project Manager not later than four (4) weeks after the date of satisfaction of the Milestone Conditions applicable to the final Milestone.  The Contractor's application confirms to the Project Manager that the Milestone Conditions applicable to the final Milestone have been satisfied .  In assessing the final amount due, the Project Manager considers the application for payment submitted by the Contractor. |
|  | 53.2 | The Project Manager makes an assessment of the final amount due and certifies a final Milestone Payment, if any is due, not later than twelve (12) weeks after satisfaction of the Milestone Conditions applicable to the final Milestone, or thirteen (13) weeks after the Project Manager issues a termination certificate (the Final Assessment Date). |
|  | 53.3 | The Project Manager gives the Contractor details of how the amount due has been assessed. The final Milestone Payment is made within thirty (30) days of the Final Assessment Date. |
|  | 53.4 | If the Contractor executes further works after Completion of the whole of the works for which it is entitled to payment under the contract, it submits an application for further payment within four (4) weeks after completion of those further works.  Its application sets out the further amount the Contractor considers is due (with full cost breakdown).  The Contractor's application includes details of how the amount has been assessed and is in the form stated in the Scope. In assessing the further amount due, the Project Manager considers the application for payment submitted by the Contractor. |
|  | 53.5 | The Project Manager makes an assessment of the further amount due and certifies a further payment, if any is due, no later than four (4) weeks after completion of the further works. |
|  | 53.6 | The Project Manager gives the Contractor details of how the amount due has been assessed. The final payment is made within thirty (30) days of the date of completion of the further works. |
|  | 53.7 | The assessment of the final amount due in accordance with clause 53.2 or (if applicable) clause 53.5 is conclusive evidence of the final amount due to the Contractor in respect of the works, save for: accrued costs payable to Subcontractors which have not submitted their final accounts to the Contractor as at the Final Assessment Date, in which case the Client may in its entire discretion assess an amount payable on account in respect of that accrued cost which will be subject to final assessment following submission of such final account(s), the Client's entitlement to retain or set-off sums against any amounts due to the Contractor in accordance with the contract (including in respect of future Defects liability and/or other Contractor liabilities). For the avoidance of doubt, following the assessment and payment of the final amount, the Contractor remains liable for the performance of all of its duties and obligations under the contract including, without limitation, the rectification of Defects in accordance with the terms of the contract. |
|  | 53.8 | Payments under this clause 53 may be by the Contractor to the Client or by the Client to the Contractor. Payments are in the currency of the contract (namely Pounds Sterling (£ GBP)). |
| Tax | 54 |  |
|  | 54.1 | Any tax which the law requires a Party to pay to the other Party is added to any payment made under the contract. |
|  | 54.2 | All sums payable by or to the Client or the Contractor are exclusive of Value Added Tax (VAT). Where VAT is chargeable on such sums, the payer pays, upon production of a valid VAT invoice by the payee, such VAT in addition to such sums. |
|  | 54.3 | If the Contractor fails to carry out its obligations under the contract and the Client employs some other person to fulfil them, and a payment in respect of VAT is made or falls to be made to that other person, then the Client is entitled to recover from the Contractor any VAT (which it is not otherwise able to recover) additional to what it would have paid had the Contractor carried out its obligations under the contract. |
|  | 54.4 | Where a Party is liable to reimburse or indemnify the other Party for costs incurred by that other Party, the amount to be paid does not include any VAT charged on such costs, save where the payee is unable to recover such VAT from HM Revenue & Customs as input tax. |
|  | 54.5 | No later than the Contract Date the Contractor is to submit to the Client such evidence as is required by the current H.M. Revenue & Customs Construction Industry Scheme (the CIS) proving that the Contractor is registered with the H.M. Revenue & Customs under the CIS to allow payments to be made with or without statutory deduction of tax by the Client.  If the Contractor does not provide the information required by this clause 54 or during the currency of the contract the Contractor ceases to be registered with H.M. Revenue & Customs for the above purpose or the Contractor breaches any of the requirements of the CIS, this shall constitute a Material Breach of the contract by the Contractor and the Client will be entitled to terminate the Contractor’s employment under the contract without any liability to the Contractor. Each Party shall provide to the other all such information and assistance as may be reasonably requested by that other Party to enable it to determine whether and to what extent the VAT reverse charge will apply to any of the works supplied under this contract. |
| The Activity Schedule | 55 |  |
| 55.1 | [Not used]. |
|  | 55.2 | [Not used]. |
|  | 55.3 | [Not used] |
|  | 55.4 | [Not used]. |

SCHEDULE 3

PART 2: INSURANCE TABLE

This is the Insurance Table applicable to the Interim Agreement:

|  |
| --- |
| 1. Construction “All Risks” Insurance (CAR) 1.1 [REDACTED]. Contractor  2. Client as appropriate, each for their respective rights and interests in this contract. 1.2 Insured property  The permanent and temporary works, materials, goods, plant and equipment for incorporation into the works plus Plant and Materials, constructional plant, tools, temporary accommodation and all other property used or for use in connection with the works under this contract. 1.3 Coverage  “All Risks” of physical loss, damage or destruction to the insured property (in paragraph 1.2 above) unless otherwise excluded. 1.4 Sum insured  At all times an amount not less than the full reinstatement or replacement value of the insured property (in paragraph 1.2 above), plus provision to include cover features and extensions (in paragraph 1.8 below) as appropriate. 1.5 Maximum deductible threshold  Not to exceed [REDACTED] for each loss except: not to exceed [REDACTED] for each loss in respect of claims for defective design, materials and workmanship which are recoverable under DE5 or LEG3/06, and   not to exceed [REDACTED] each and every loss in respect of claims arising from water damage. 1.6 Territorial limits  United Kingdom, including offsite storage and during inland transit. 1.7 Period of insurance  From the date of this contract until Completion of the whole of the works and thereafter in respect of defects liability until the defects date. 1.8 Cover features and extensions 1. [REDACTED]. Munitions of war clause 3. Additional costs of completion clause 4. Professional fees clause 5. Debris removal clause 6. Seventy-two (72) hour clause 7. European Union/UK local authorities clause 8. Free issue materials clause 9. Ten per cent (10%) escalation clause 10. Automatic reinstatement of sum insured clause 11. Loss minimisation 12. Plans and specifications clause 13. Guarantee maintenance or extended maintenance to the extent available 14. Payments on account 15. Temporary repairs 16. Offsite storage and repairs 17. Fire Joint Code of [REDACTED]. Client co-insured party status with attendant non-vitiation, waiver of subrogation and notice of cancellation in accordance with clauses 84.4(1), 84.4(2) and 84.4(3) of this contract. 1.9 Principal exclusions 1. War and related perils. 2. Nuclear/radioactive risks. 3. Pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds. 4. Wear, tear and gradual deterioration. 5. Consequential financial losses. 6. Cyber risks. 7. Inventory losses, fraud and employee dishonesty 8. Faulty design, workmanship and materials DE5 or LEG3/06. 2. Third Party Public and [REDACTED].1 [REDACTED].2 Interest  To indemnify the insured (in paragraph 2.1 above) in respect of all sums that the insured (in paragraph 2.1 above) may become legally liable to pay whether contractually or otherwise (including claimant's costs and expenses) as damages in respect of accidental: 1. death or bodily injury, illness or disease contracted by any person; 2. loss or damage to property; 3. interference to property or any easement right of air, light, water or way or the enjoyment or use thereof by obstruction, trespass, nuisance, loss of amenities;  happening during the period of insurance (in paragraph 2.7 below) and arising out of or in connection with this contract. 2.3 Limit of indemnity  Not less than fifty million pounds ([REDACTED]) in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, but in the annual aggregate in respect of products or pollution liability (to the extent insured by the policy). 2.4 Maximum deductible threshold   Not to exceed [REDACTED] for each and every occurrence. 2.5 Territorial limits  United Kingdom and elsewhere in the world except USA, Canada and Australia in respect of non-manual visits. 2.6 Choice of law relating to policy interpretation  This insurance shall be governed by and in accordance with the laws of England. 2.7 Period of insurance  From the date of this contract until the defects date or, if later, the end of the last defect correction period. 2.8 Cover features and extensions 1. Munitions of war 2. Cross liability clause 3. Contingent motor vehicle liability 4. Legal defence costs 5. Waiver of subrogation in accordance with clause 84.4(3) 6. Indemnity to principals clause in accordance with clause 84.4(4). 7. Health & Safety at Work Act(s) clause 8. Data Protection Legislation clause 9. Defence appeal and prosecution costs relating to the Corporate Manslaughter and [REDACTED]. 2.9 Principal exclusions 1. War and related perils. 2. Nuclear/radioactive risks. 3. Liability for death, illness, disease or bodily injury sustained by employees of the insured arising out of the course of their employment. 4. Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by legislation in respect of such vehicles. 5. Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured (in paragraph 2.1 above). 6. Liability in respect of loss or damage to property in the care, custody and control of the insured but this exclusion is not to apply to all property belonging to the Client which is in the care, custody and control of the insured (in paragraph 2.1 above). 7. Events more properly covered under a professional indemnity insurance policy (as specified in paragraph 3 below). 8. Liability arising from the ownership, possession or use of any aircraft or marine vessels. 9. Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence. 10. Losses indemnified under the Construction “All Risks” Insurance policy (as specified in paragraph 1 above). 11. Liability arising from toxic mould 12. Liability arising from asbestos 13. Cyber risks. 3. [REDACTED].1 [REDACTED].2 Interest To indemnify the insured (in paragraph 3.1 above) for all sums which the insured (in paragraph 3.1 above) shall become legally liable to pay (including claimant's costs and expenses) as a result of any claim or claims first made against the insured (in paragraph 3.1 above) during the period of insurance (in paragraph 3.7 below) by reason of any act, error and/or omission arising from or in connection with professional services, advice, design and specification relevant to this contract. 3.3 Limit of Indemnity Not less than ten million pounds ([REDACTED]) in respect of any one claim and in the annual aggregate during the period of insurance (in paragraph 3.7 below). 3.4 Maximum deductible threshold  Not to exceed [REDACTED] for each claim, but [REDACTED] per building per site in respect of claims arising from cladding & fire safety. 3.5 Territorial limits  United Kingdom. 3.6 Choice of law relating to policy interpretation  This insurance shall be governed by and in accordance with the laws of England. 3.7 Period of insurance  From the date of this contract for the duration of this contract, renewable on an annual basis unless agreed otherwise by the Parties, and for a period of fifteen (15) years following (i) the date of Completion of the whole of the works or (ii) the date of termination of this contract, whichever occurs earlier. 3.8 Cover features and extensions 1. Loss of documents and computer records extension. 2. Legal liability assumed under contract, duty of care agreements and collateral warranties. 3. Retroactive cover from the date of this contract or retroactive date no later than the date of this contract in respect of any policy provided on a claims made form of policy wording. 3.9 Principal exclusions 1. War and related perils. 2. Nuclear/radioactive risks. 3. Insolvency of the [REDACTED]. Bodily injury, sickness, disease, or death sustained by any employee. 4. Policies to be taken out as required by Applicable Law The Parties to this contract are each required to meet their statutory insurance obligations in full. Their respective insurances are required to comply with all Applicable Law and Statutory Requirements including, but not limited to, Employers' Liability Insurance and Motor Third Party Liability Insurance. The Contractor's compulsory insurances are to contain an “indemnity to principals” clause in respect of claims made against the Client arising out of the performance of the Contractor of its duties and obligations under this contract, in accordance with clause 84.4(4).  The said statutory insurances shall be maintained by the Parties from the date of this contract until the defects date or, if later, the end of the last defect correction period. |