



T&C FOR THE SALE/SUPPLY OF CONSTRUCTION GOODS AND SERVICES

Date: 27th February 2020

Definitions and Interpretation

Contractor: Bluecrow Projects Ltd, 15 Gore Tree Road, Hemingford Grey, Huntingdon, England, PE28 9BP

Client: means the person or the company who purchases the Goods and/or Services from the Contractor.

Contract: The contract between the Contractor and the Client for the supply of Goods and/or Services in accordance with these conditions.

Contract sum: is the price included in the Quotation, which may be adjusted in accordance with these conditions, that the Client is to pay the Contractor in consideration for providing the Works.

Base date: Has a meaning as a clause 1.2

Works: are the works described and set out in the Quotation and any associated document expressly referred to in the Quotation. Works shall be deemed to be "construction operations" within the meaning of Housing Grants, Construction and Regeneration Act and shall be deemed to be a "construction contract"

Goods: means the goods (including any instalment of the goods or any parts of them) referred to in the Specification and which the Contractor is to supply in accordance with these Terms;

Goods specification: any Specification for the Goods, including any relevant plans or drawings that is agreed in writing by the Client and the Contractor

Services: the services, including Deliverables, supplied by the Contractor to the Client as set out in the Services Specification below.

Services Specification: the description or specification for the Services, provided in writing by the Contractor to the Client

Terms and conditions: means the standard terms and conditions as set out in this document and (unless the context otherwise requires) includes any special terms agreed in Writing between the Client and the Contractor
Writing: and any similar expression, includes electronic mail, facsimile transmission and comparable means of communication.

A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality)

A reference **to a party** includes its personal representatives, successors or permitted assigns

Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms

1. The Basis of Contract

1.1 The Offer constitutes an offer by the Client to purchase Goods and/or Services in accordance with these Conditions. The Client is deemed to have read, understood and accepted these Conditions at the point of submitting their Order.

1.2 The Offer shall only be deemed to be accepted when the Contractor issues written acceptance of the Order at which point, and on which date the Contract shall come to the existence (base date).

1.3 The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or behalf of the Contractor which is not set out in the Contract.

1.4 Quotation is the most recent quotation, including amendments thereto, which has been issued by the Contractor to the Client setting out the Works to be performed and the price to be paid by the Client for carrying out the Works.

1.5 Any quotation given by the Contractor shall not constitute the offer and is only valid for 30 days from the day of issue and it's subject to increase in cost (see Contract Sum (Price))

1.6 Quotation includes for these Terms and Conditions which shall govern the Contract to the exclusion of any other terms subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made by the Client.

2. Confidentiality

2.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors and any other confidential information concerning the disclosing party business, it's products and services which receiving party may obtain.

2.2 The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with obligations set out in this

clause as though they were a party of the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

3. Intellectual Property Rights

3.1 All intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Contractor and the Client agrees to execute any document, deed or other instrument to transfer or vest any Intellectual Property Rights in the Contractor.

3.2 The Client acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Client's use of any such Intellectual Property Rights in conditional on the Contractor obtaining a written licence from the relevant licensor on such terms as will entitle the Contractor to license such right to the Client.

4. Third Parties

4.1 A person who is not a party of the Contract shall not have any rights to enforce its terms.

4.2 The Client shall not, without prior written consent of the Contractor, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

4.3 The Contractor may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights

under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

5. Force Majeure

5.1 For the purpose of this Contract, Force Majeure Events means an event beyond the reasonable control of the Contractor including but not limited to strikes, lockouts or other industrial disputes (whether involving the workforce of the Contractor or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of Contractors or subcontractors.

5.2 The Contractor shall not be liable to the Client as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.

5.3 If the Force Majeure Event prevents the Contractor from providing any of the Services and/or Goods for more than 12 weeks, the Contractor shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Client.

6. Orders and Specification

6.1 The Client shall be responsible to the Contractor for ensuring the accuracy of the terms of any order (including any applicable specification submitted by the Client), and for giving the Contractor any necessary information relating to the Goods and/or Service within a sufficient time

to enable the Contractor to perform the Contract in accordance with its terms.

6.2 The quantity and description of the goods and/or the Service shall be as set out in the Contractor's quotation, or in the Contractor's written confirmation of order.

6.3 If the Goods are to be manufactured or any process is to be applied to the Goods by the Contractor in accordance with a specification submitted by the Client, the Client shall indemnify the Contractor against all loss, damages, costs and expenses awarded against or incurred by the Contractor in connection with, or paid or agreed to be paid by the Contractor in settlement of, any claim from a third party, including that for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, which results in from the Contractor's use of the Client's specification.

6.4 The Contractor reserves the right to source and procure the supply of manufacture products from any third party for the purpose of enabling the Contractor to perform the Contract in accordance with its terms. The Client's attention is specifically drawn to clause 6.7 below.

6.5 For the avoidance of doubt, all intellectual property rights in any designs, documents, process or products created by the Contractor shall belong to the Contractor unless otherwise agreed in writing.

6.6 The Contractor reserves the right to make any changes in the specification of the Goods and/or the Service which are required to conform with any applicable

statutory or EU requirements or, where the Goods and/or the Service is to be supplied to the Contractor's specification, which do not materially affect their quality or performance.

6.7 No order which has been accepted by the Contractor may be cancelled or otherwise amended by the Client except with the agreement in Writing of the Contractor and on terms that the Client shall indemnify the Contractor in full against all loss (including loss of profit and other consequential loss), costs (including the cost of all labour, manufacture, materials used and third party services engaged, damages charges and expenses incurred by the Contractor) as a result of such cancellation or amendment.

7. Contract Sum (Price)

7.1 Contract Sum consists of price for goods and services.

The price for Goods and Services shall be the price set out in the Order or, if no price is quoted, the price set out in the Contractor's published price list at the date of delivery.

7.2 The price of the Goods is exclusive of all costs and charges of packaging, insurance, tipping taxes, refuse taxes, transport of Goods, which shall be paid by the Client when it pays for the Goods.

7.3 Pallets and returnable containers must be returned (at the Clients expense) to the Contractor within 7 days of the date of delivery.

7.4 The charges for Services shall be on time and material basis:

- a) the charges shall be calculated in accordance with the Contractor's standard daily fee rates, as set out

in the Contractor's tender and quotation documentation;

- b) the Contractor's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day from 08:00 am to 5:00 pm worked on Business Days
- c) The Contractor shall be entitled to charge overtime rate up to 50% of the standard daily fee rate on pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 7.4 (b); and
- d) the Contractor shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom the Contractor engages in connection with the services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Contractor for the performance of the Services and for the cost of any materials.

7.5 The Contractor reserves the right, by given written notice to the Client at any time before delivery, to increase the price of Goods and/or Services to reflect any increase in the cost to the Contractor which is due to any factor beyond the control of the Contractor (including, without limitation, any foreign exchange fluctuations, currency regulation, alteration of duties, significant increase in the cost of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which are requested by the Client, or any delay caused by any instructions of the Client or failure of the Client to give the Company adequate information or instruction.

8. Delivery

8.1 Collection Location

Delivery of the Goods shall be made by the Client collecting the Goods at the Contractor's premises at any time after the Contractor has notified the Client that the Goods are ready for collection or, if some other place for delivery is agreed by the Contractor, by the Contractor delivering the Goods to that place.

8.2 Delivery location

Contractor shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Contractor notifies the Client that Goods are ready. Delivery of the goods shall be completed on the Good's arrival to Delivery Location.

8.3 If the Contractor fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Client in obtaining replacement goods of similar description and quality in the cheapest market available, less price of the Goods. The Contractor shall have no liability for any failure to deliver the Goods to the extent the extent that such a failure is caused by a Force Majeure Event the Client's failure to provide the Contractor with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.

8.4 Delivery dates

Any dates quoted for delivery of the goods are proximate only and the Contractor shall not be liable for any delay in delivery of the Goods however caused.

8.5 If the Client fails to accept or take delivery of the Goods within three

business days of Contractor notifying the Client that the Goods are ready, then except where such a failure or delay is caused by a Force Majeure Event or Contractors failure to comply with obligations under the Contract in respect of the Goods:

- a) delivery of the Goods shall be deemed to have been completed at 9:00 am on the third Business Day following the day on which the Contractor notified the Client that the Goods were ready.
- b) The Contractor shall store the Goods until delivery takes place and charge the Client for all related costs and expenses (including insurance).

8.6 In the event that the Client choose to collect the Goods from the Contractor's premises or such other location as may be advised by the Contractor (Collection Location) the Client shall collect Goods within three Business Days of the Contractor notifying the Client that Goods are ready. Delivery of the Goods and Collection Location.

8.7 If the Client fails to collect or take delivery of the Goods or fails to give the Contractor adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Client's reasonable control or by reason of the Contractor's fault) then, without limiting any other right or remedy available to the Contractor, the Contractor may at their sole discretion;

- a) store the Goods until actual delivery or collection and charge the Client 1% of the invoice price per day for the costs of such storage; or
- b) upon the expiry of three months from the intended date of delivery or the date when the Contractor notified the Client that the Goods were ready for collection (whichever is the later)

sell, dispose of or otherwise destroy the Goods without liability to the Contractor.

8.8 Unloading

Where applicable, upon delivery and unless otherwise agreed in Writing, the Client shall be solely responsible for ensuring that they have sufficient labour and equipment to safely and efficiently unload the Goods and such pallets and containers from the Contractor's vehicles.

8.9 Delivery in instalments

Where the goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Contractor to deliver any one or more of the instalments in accordance with the Terms or any claim by the Client in respect of any one or more instalments shall not entitle the Client to treat the Contract as a whole as repudiated.

8.10 The Contractor shall ensure that:

- a) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant Client and Contractor reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- b) if the Contractor requires the Client to return any packaging material to the Contractor, that fact is clearly stated to the delivery note. The Client shall make any such packaging materials available for collection at such times as the Contractor shall reasonably request. Returns of packaging materials shall be at the Contractor's expense.

9. Supply of Services

9.1 The Contractor shall provide the Services to the Client in accordance with the Service specification in all materials respects.

9.2 The Contractor shall use all reasonable endeavours to meet any performance dates for the Services specified in any works programme or delivery timetable, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

9.3 The Contractor shall have right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Contractor shall notify the Client in any such event.

9.4 The Contractor warrants to the Client that the Services will be provided using reasonable care and skill.

10. Client's obligation

10.1 The Client shall:

- a) ensure that the terms of the Order and (if submitted by the Client) the Goods Specification are complete and accurate;
- b) co-operate with the Contractor in all matters relating to the Services
- c) provide the Contractor, its employees, agents, consultants and subcontractors full free and uninterrupted access to the site at all times and shall provide on site, without charge, office accommodation and an adequate supply of water and electricity during the process of the Works and secure facilities for the storage

- of plant and materials necessary for carrying out the Works.
- d) effect and complete all works or preparation and construction necessary to receive the Service including clearance of all obstructions from the area of the site on which installation of the goods is to take place;
 - e) ensure that there is sufficient and continuous supply of electric light and 240 volt power supply available at all points of the site (if 110 volt supply only is available the Contractor must be informed in Writing at least 7 days before commencement of installation date);
 - f) provide an even and level floor capable of supporting the Goods and the loads imposed during the installation. The Contractor reserves the right to suspend any works until such times as the floor meets its requirements or, at its discretion, the Contractor may, after giving notice of its intention to do so, proceed with the installation and any additional costs incurred shall be added to the price under the Contract and shall be paid to the Contractor in accordance with these Terms. The Contractor will advise the Client when the work is stopped for such reasons;
 - g) provide reasonable canteen, toilet and first aid facilities to the Contractor's personnel. If any of these facilities are not available, the Contractor must be informed in writing at least 7 days before the installation is due to commence;
 - h) ensure that the installation site is available for a minimum of 10 hours per day (and 7 days per week if required by the Contractor);
 - i) provide the Contractor in Writing with the name of the Client's contact person at the site who is authorised to:-
 - j) (i) sign day work sheets, goods received notes and other such documents;
 - k) (ii) give exact location of installation and
 - l) (iii) sign any orders for additional works required to the Contract;
 - m) ensure that the installation site remains at a reasonable working temperature and atmosphere;
 - n) ensure that no other works are in progress on or above the installation site; and
 - o) obtain all necessary permissions and licences and conform to the provisions of Acts of Parliament and to any bye-laws, orders and regulation affecting any construction works under the Contract and pay and indemnify the Contractor against all fees payable, costs, claims and actions in connection therewith. Before the date on which the Services are to start
 - p) Any delays, extra work or costs or losses caused as a consequence of the failure for any reason of the Client to provide such access, supply or facilities shall be charged to the Client as an addition to the Contract Sum.
 - q) provide the Contractor with such information and materials as the Contractor may reasonably require to supply the Services, including any risk assessment, asbestos survey or other relevant information and ensure that such information is accurate in all material respects.
 - r) prepare the Client's premises for the supply of the Services and ensure that all Health and Safety issues are addressed.

10.2 If the Contractor's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Client (or third parties engaged, commissioned or instructed by the Client) or failure by the Client (or third parties engaged, commissioned or instructed by the Client) to perform any relevant obligation (Client Default):

- a) the Contractor shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent that the Client Default prevents or delays the Contractor's performance of any of its obligations.
- b) The Contractor shall not be liable for any cost losses sustained or incurred by the Client arising directly or indirectly from the Contractor's failure or delay to perform any of its obligations as set out in this clause 10
- c) the Client shall reimburse the Contractor on written demand for any costs or losses sustained or incurred by the Contractor arising directly or indirectly from the Client Default.

11. Terms of payment

11.1 The Contractor reserves the right to: request a deposit from the Client at any point prior to issuing its invoice for the Goods and Services, such deposit being limited to 70% of the price of the Goods and/or Services;

11.2 Increased its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 3 months period. The Contractor will give the Client written notice of any such increase 1 month before the proposed date of the increase. If such increase is not acceptable to the Client, it shall notify the Contractor in writing within 1 week of the date of the

Contractor's notice and the Contractor shall have the right without limiting its other rights or remedies to terminate the Contract by giving 2 weeks' written notice to the Client; and

11.3 In respect of the Goods, the Contractor shall invoice the Client on or at any time after completion of delivery. In respect of Services, the Contractor shall invoice the Client fortnightly in arrears.

The Client shall pay each invoice submitted by the Contractor:

- a) within seven days of the date of invoice
- b) in full and in cleared funds to a bank account nominated in writing by the Contractor and time of payment shall be of the essence of the Contract.
- c) All amounts payable by the Client under the Contract are exclusive of amounts in respect of VAT chargeable from time to time. Where any taxable supply for VAT purposes is made under the Contract by the Contractor to the Client, the Client shall, on receipt of a valid VAT invoice from the Contractor, pay to the Contractor such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.
- d) If the Client fails to make any payment due to Contractor under the Contract by the due date for payment, then:
- e) The Contractor reserves the right, by giving a one day notice in writing to the Client, to suspend any of the delivery of the Goods and provision of the Services if the payment has not been made by the Due date.
- f) by giving a one week notice in writing to the Client, cancel the Contract
- g) appropriate any payment made by the Client to such of the Goods and/or the Service (or the goods and/or services supplied under any other contract between the Client and the Contractor) as the Contractor may think fit

- (notwithstanding any purported appropriation by the Client); and
- h) in addition to the Contractor's right to suspend provision of further goods and services, the Client shall pay interest on the overdue amount pursuant to the Late Payment of Commercial Debts (Interest) Act 1988 or if not applicable, at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay interest together with overdue amount.
- i) The Client shall pay all amounts due under the Contract in full without any set - off, counterclaim, deduction or withholding except as required by law. The Contractor may, without limiting its own rights or remedies, set off any amount owing to it by the Client against any amount payable by the Contractor to the Client.

12. Time

12.1 The Contractor shall complete the Works by the date or dates stated in the Quotation, or within any extended time pursuant to sub-clauses 5.0 and/or 10.2.a and/or 11.3.e above.

12.2 Overtime work at the Client's request to complete the Works within the time stated in the quotation /invoice or the time so extended may be subject to extra charge which will be added to the Contract Sum.

12.3 If no date(s) for completion are included in the Quotation, the Contractor shall complete the Works regularly and diligently and within a reasonable time.

12.4 If the progress of the Works is delayed for any reason that is outside the reasonable control of the Contractor ("Qualifying Delay"), the Contractor shall notify the Client of the delay and shall provide an estimate of the

delay or likely delay to any agreed completion date(s) that may be included in Quotation.

13. Variations

13.1 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, invoice or other document or information issued by the Contractor shall be subject to correction without any liability on the part of the Contractor.

13.2 If the Contractor discovers any discrepancy, inconsistency, or ambiguity within, or between, the documents forming the contract the Contractor shall notify the Client of such discrepancy, inconsistency, or ambiguity, along with any proposals to resolve the matter so notified. On receipt of such notice the Client shall instruct the Contractor on how to resolve the notified discrepancy, inconsistency or ambiguity, and compliance with this instruction shall be treated as a variation under the contract.

13.3 Where a specification is provided, in the case of any discrepancy between drawings and specification, the specification shall prevail. In the case where the quotation differs from the specification and/or drawings the quotation shall prevail.

13.4 The Contractor shall carry out any variation of the Goods and/or services under this contract that is instructed either verbally or in writing by the Client (a "Variation").

13.5 Verbal Client's requests (or Client's representative) and verbal approvals of Contractor's suggested modifications to Goods and/or Services will be deemed variations and recorded in writing by the Contractor in a variation notice or RFI. Contractor will send to the Client the variation notice or for the review and approval. If no written approval is received within 2 working days, the Variation shall be considered approved and Contractor

will proceed with the works described in variation notice/RFI.

13.6 In the event that Variation results in a revision to the tender, price and/or quote, the Contractor will notify the Client of the revised amount and if not confirmed/objected in writing in 3 days by the Client, the price will be considered as accepted by the Client.

13.7 The Client shall pay the Contractor any direct loss and/or expense incurred by the Contractor due to the regular progress of any programme of works being affected by compliance with any Variation, provided that Contractor notifies the Client of such as soon as reasonably practicable. The Contractor shall determine the fair and reasonable amount of that direct loss and/or expense.

13.8 Variations to Goods and/or Services shall be valued by the Contractor on a fair and reasonable basis, with reference to, where available and relevant, rates and prices defined in quotation.

13.9 The Contractor reserves the right to give a notice of variation to the Client at any time to reflect increase in the cost of the Goods and Services to the Contractor that is due to:

- a) any factor beyond the control of the Contractor (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and any other manufacturing costs);
- b) any request by the Client to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification or
- c) any delay caused by any instructions of the Client in respect of the Goods or failure of the Client to give the Contractor adequate or accurate information or instruction in respect of the Goods.

14. Provisional Sums

14.1 The Contractor may include provisional sums within the Price for work which is not properly defined. All provisional sums shall be omitted from the Price, and the Client shall instruct the Contractor to expend a provisional sum when it becomes necessary to do so. The Contractor shall be paid for work expended under a provisional sum on a cost reimbursable basis with a 15% fee added to such cost, unless the parties have agreed any specific rates or prices for providing work included under a Provisional Sum in the Quotation.

15. Risk and Ownership

15.1 The property in any materials and products, which are delivered to the site by Contractor, shall not pass to the Client unless and until the Client pays Contractor or such materials and products.

15.2 Until such time as the ownership in the Goods passes to the Client, the Client shall hold the Goods as the Contractor's fiduciary agent and bailee, and shall keep the Goods separate from those of the Client and third parties and properly stored, protected and insured and identified as the Contractor's property.

15.3 Until such time as the ownership in the Goods passes to the Client (and provided the Goods are still in existence and have not been resold), the Contractor may at any time require the Client to deliver up the Goods to the Contractor and, if the Client fails to do so forthwith, enter on any premises of the Client or any third party where the Goods are stored and repossess the Goods.

15.4 The risk in the Goods shall pass to the Client on completion of delivery. Title to the Goods shall not pass to the Client until Contractor has received payment in full (in cash or cleared funds) for:

- a) the Goods; and
- b) any other goods that Contractor has supplied to the Client in respect of which payment has become due.

15.5 The Client shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Contractor, but if the Client does so all moneys owing by the Client to the Contractor shall (without limiting any other right or remedy of the Contractor) forthwith become due and payable.

15.6 The Contractor accepts no liability for goods supplied by the Client and left on the Contractor's premises or on the Client's or a third party's site throughout the term of this Contract.

16. Insurance

16.1 Unless stated otherwise in the Quotation, the Client shall take out and maintain an all risks insurance policy to cover for any loss and or damage to the Works (and any unfixed materials and goods delivered to the Site), and such insurance shall also cover loss and or damage caused by specified perils such as fire, flood, other water damage and the like.

16.2 Unless stated otherwise in the Quotation, the Client shall take out and maintain an all risks insurance policy to cover any loss and or damage that may be caused to any existing structures, property and or equipment within the Site in the course of providing the Works.

16.3 The Contractor shall maintain a policy of public liability insurance to cover its obligation to indemnify the Client for any claims in respect of injury or death to persons other than employees of the Contractor, and for any damage to property other than the Site.

17. Warranties and Liability

17.1 Subject to the following provisions, the Contractor warrants that the Service will be provided using reasonable skill and care and, as far as is reasonably possible, in accordance with the Specification and that the Goods will

correspond with their specification and will be free from defects in material and workmanship at the time of delivery and for a period of 12 months (warranty period).

17.2 the above warranty is given by the Contractor subject to the following conditions:
 a) the Contractor shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Client;

b) the Contractor shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Contractor's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Contractor's approval;

c) the Contractor shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date of payment;

d) the above warranty does not extend to parts, materials or equipment not manufactured by the Contractor, in respect of which the Client shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Contractor.

e) Except as set out in this contract, all warranties, representations, conditions, terms and undertakings, express or implied, whether by statute, common law, custom, trade usage, course of dealings or otherwise (including without limitation as to quality, performance or fitness or suitability for purpose) in respect of the goods to be provided by the Contractor under this contract are excluded to the fullest extent permitted by law.

f) If delivery is not refused, and the Client does not immediately notify the Contractor of any defect in the quality or condition of the Goods and/or the Service or their failure to correspond with the Specification, the Client shall not be entitled to reject the Goods and/or the Service and the Contractor shall have no liability for such defect or failure, and the Client shall be bound to pay the price as if the

Goods and/or the Service had been provided in accordance with the Contract.

- g) The Client makes any further use of such Goods after giving notice in accordance with clause 9.5
- h) The defect arises because the Client failed to follow Contractor's oral or written instruction as to storage, installation, commissioning use or maintenance of the Goods or (if there are none) good trade practice
- i) The Client alters or repairs such Goods without written consent of the Contractor
- j) The Goods differ from their description or the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

17.3 Where a valid claim in respect of any of the Goods and/or the Service which is based on a defect in the quality or condition of the Goods and/or the Service or their failure to meet specification is notified to the Contractor in accordance with these Terms, the Contractor may:

- a) replace the Goods (or the part in question) or undertake such reasonable additional works to rectify such defects free of charge;
- b) at the Contractor's sole discretion, refund to the Client the price of the Goods and/or the Service (or a proportionate part of the price); in which case the Contractor shall have no further liability to the Client.

17.4 Except in respect of death or personal injury caused by the Contractor's negligence, or liability for defective products under the Consumer Protection Act 1987, the Contractor shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses, or other claims for compensation whatsoever (whether caused by the negligence of the Contractor, its employees or agents or otherwise) which arise out of or in connection with the supply of the

Goods (including any delay in supplying or any failure so supply the Goods and/or Service in accordance with the Contract or at all) or their use or resale by the Client, and the entire liability of the Contractor under or in connection with the Contract shall not exceed the price of the Goods and/or the Service, except as expressly provided in these Terms.

17.5 The Contractor shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Contractor's obligations in relation to the Goods or the Service, if the delay or failure was due to any cause beyond the Contractor's reasonable control.

18. Termination

18.1 Without limiting its other rights or remedies either party may terminate the Contract by giving the other party not less than 2 weeks written notice.

18.2 Without limiting its other rights or remedies, the Contractor may terminate the Contract with immediate effect by given written notice to the Client if the Client fails to pay any amount due under this Contract on the due date for payment.

18.3 Without limiting its other rights or remedies, the Contractor may suspend the supply of Services or all other further deliveries of Goods under the Contract or any other contract between the Client and the Contractor if the Client fails to pay any amount due under this Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 18.4 (b) to clause 18.4 (m), or the Contractor reasonably believes that the Client is about to become subject to any of them.

18.4 Without limiting its other rights or remedies either party may terminate the Contract with immediate effect by giving written notice to other party if:

- a) the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 5 days after receipt of notice in writing to do so;
 - b) the other party suspends, or threatens to suspend payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospects of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner whom any of the foregoing apply;
 - c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party.
 - d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
 - e) the other party (being an individual) is the subject of a bankruptcy petition or order;
 - f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets
 - g) an application is made to court, or an order made, for the appointment of an administrator or if notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company)
 - h) the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver
 - i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party
 - j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 18.4 (b) to clause 18.4 (i) (inclusive)
 - k) the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
 - l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 18.5 on termination of the Contract for any reason:
- a) the Client shall immediately pay to the Contractor all of the Contractor's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Contractor shall submit an invoice, which shall be payable by the Client immediately on receipt;
 - b) the Client shall return all of the Contractor Materials and any Deliverables which have not been fully paid for. If the

Client fails to do so, then the Contractor may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and ill not use them for any purpose not connected with this Contract;

c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry and
d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

19. Client's Terms & Conditions

In the event that the Client has incorporated his own terms and conditions into the contract, the Client's terms and conditions shall have no effect and shall always be superseded and overridden by the Terms and Conditions of Quotation ("the Conditions").

20. Dispute Resolution

Either party may, at any time, refer any dispute or difference arising under the Contract to Adjudication in accordance with Part I of the Scheme for Construction Contracts (England and Wales) Regulation 1998 (Amendment) (England) Regulation 2011 or any subsequent amendment thereto.

21. General

21.1 The Contract shall be governed by the laws of England, and the Client agrees to submit to the non-exclusive jurisdiction of the English courts.

21.2 A waiver of any right under the contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the

Contract or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

21.3 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

21.4 If one party gives notice to the other of the possibility that any provision or part-provision of this Contract 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.