

**PURCHASE CONDITIONS (GOODS AND MATERIALS – SUPPLY ONLY)**

**1. DEFINITIONS AND INTERPRETATION**

1.1 In these Conditions, unless the context otherwise requires, the following words or expressions that begin with capital letters shall have the precise meanings as set out below:

- 1.1.1 **'Associate'** shall have the same meaning as defined in section 131 of the Building Safety Act 2022;
- 1.1.2 **'Associated Person'** means, for the purposes of clause 25, any employee, agent, subcontractor, or other person who performs services for or on behalf of the Company in connection with this Agreement when acting in this capacity.
- 1.1.3 **'Agreed Price'** means the set of agreed rates and prices approved by the Company. Any price increases must be submitted by the Supplier to the Authorised Persons with a minimum of 30 days' notice prior to proposed effective date. Any price increases require acceptance in writing by the Authorised Person and will be deemed ineffective until such time acceptance is confirmed;
- 1.1.4 **'Authorised Person'** means a person or persons authorised by the Company as stated and named in the Purchase Order or Purchase Contract Documents or such other person as the Company may notify to the Supplier that the Company has appointed to perform such role;
- 1.1.5 **'Company'** means Croudace Homes Limited (company number 813521);
- 1.1.6 **'Conditions'** means these terms and conditions;
- 1.1.7 **'Confidential Information'** means all information (written or oral) or documents (however recorded or preserved) disclosed or made available by or which the Supplier obtains from or receives (directly or indirectly) from the Company or any Group Company or its contractors, sub-contractors, employees, servants, agents or advisors in connection with the Purchase Contract or as a result of the discussions leading up to or the entering into or performance of the Supplier's obligations and duties in connection with the Purchase Contract including but not limited to:
  - (a) the terms (but not existence) of the Purchase Contract;
  - (b) any information that would be regarded as confidential by a reasonable business person relating to:
    - (i) the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of the Company or any Group Company, and
    - (ii) the operations, processes, product information, know how, designs, trade secrets and/or software of the Company or any Group Company; and
    - (iii) any information or analysis derived from the confidential information;but not any information that:
  - (i) was already lawfully known, or became lawfully known to the Supplier independently; or
  - (ii) is in or comes into the public domain other than due to wrongful use or disclosure by the relevant party;
- 1.1.8 **'Contract Price'** means the sum payable by the Company to the Supplier for the proper Supply of the Materials as stated in the Purchase Order or the lowest price currently quoted

for the Supply of the Materials (but shall in no event be higher than the Agreed Price at the time of delivery of such Materials);

- 1.1.9 **'Delivery'** means completion of delivery of Materials in accordance with clause these Conditions;
- 1.1.10 **'Delivery Date'** means the date or dates if specified by the Company in the Purchase Order or the Purchase Contract Documents for delivery of the Materials or if the Purchase Order or the Purchase Contract Documents specify that the delivery date or dates is to be confirmed after the Purchase Contract has been entered into, the date given on reasonable notice by the Company to the Supplier;
- 1.1.11 **'Delivery Note'** means a note from the Supplier referencing the Purchase Order Number, the type and quantity of the Materials and where Materials are being delivered in instalments, the outstanding balance of the Materials remaining to be delivered;
- 1.1.12 **'Delivery Policy'** means the document detailing site-specific delivery instructions which are to be adhered to at all times (unless otherwise instructed or expressly agreed by the Company) and to include the delivery location, delivery hours and other site-specific conditions;
- 1.1.13 **'Development'** means the Company's development at the Site briefly described in the Purchase Order, which expression includes the Site and the works designed or to be designed or constructed or to be constructed on or adjacent to the Site or either of them as the case requires, together with any demolition, land reclamation or remediation work;
- 1.1.14 **'Documents'** means any and all documents, material, data and information (whether in hard copy, digital or electronic format and whether in existence as at the date of the Purchase Contract or yet to be created) including but not limited to reports, drawings, models, illustrations, data, databases, schedules, programmes, bills of quantities, budgets, photographs, videos, details, brochures, plans, surveys, minutes or notes of meetings, studies, calculations, designs, specifications and other documents prepared, conceived or developed by the Supplier or on its behalf in connection with the Delivery and Supply of the Materials and all updates, amendments, additions and revisions to them and any works, designs or inventions incorporated or referred to in them;
- 1.1.15 **'Fraud'** means, for the purposes of clause 25, any act or omission constituting a fraud offence under UK law, including but not limited to a fraud offence under section 199(6) of the Economic Crime and Corporate Transparency Act 2023, fraud by false representation (section 2 Fraud Act 2006), fraud by failing to disclose information (section 3 Fraud Act 2006), fraud by abuse of position (section 4 Fraud Act 2006), obtaining services dishonestly (section 11 Fraud Act 2006), participation in a fraudulent business (section 9, Fraud Act 2006), false statements by company directors (Section 19, Theft Act 1968), false accounting (section 17 Theft Act 1968), fraudulent trading (section 993 Companies Act 2006), and cheating the public revenue (common law).
- 1.1.16 **'Group Company'** means any subsidiary or holding company of the Company or of another subsidiary or holding company of the Company, as subsidiary and holding company are understood within Section 1159 Companies Act 2006, but on the basis that the holding of not less than quarter of the voting rights shall be deemed to satisfy the condition in Section 1159 (1)(a);
- 1.1.17 **'Insolvent'** means, in relation to the Supplier, any one or more of the following:
- (a) the Supplier is unable to pay its debts as they fall due; or
  - (b) being an individual, the Supplier is the subject of a bankruptcy petition, application or order;  
or
  - (c) the Supplier enters into an assignment, arrangement, compromise or composition with any creditor in satisfaction of the Supplier's debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction) or have suspended

- any payments or received a moratorium of any indebtedness, winding up, dissolution, administration or re-organisation; or
- (d) without a declaration of solvency, pass a resolution or make a determination to be wound up; or
- (e) have a winding up order or bankruptcy petition or order made against the Supplier; or
- (f) the Supplier has appointed to it or it appoints a liquidator, provisional liquidator, administrator, administrative receiver or a compulsory manager or other similar officer in respect of the Supplier or any of its assets (or had service at court of any notice of intention to appoint any such officer); or
- (g) enforcement of any security over any of the Supplier's assets; or
- (h) any expropriation, attachment, sequestration, distress or execution affects any of the Supplier's assets; or
- (i) any financial indebtedness of the Supplier is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described); or
- (j) the Supplier is the subject of any equivalent or analogous arrangement, event or proceedings to those described in (a) – (i) above in any other jurisdiction;
- (k) the Supplier suspending or ceasing, or threatening to suspend or cease, to carry on all or a substantial part of its business;
- 1.1.18 **'Lead Time'** means the agreed timescale within which the Supplier is to guarantee Delivery on time and in full. Lead Times to be formally agreed in writing between the Authorised Person and the Supplier in advance of order placement and/or call-off. Any changes in timescale must be notified in writing by the Supplier with adequate notice to the Authorised Person;
- 1.1.19 **'Materials'** means all goods, materials and products to be Supplied pursuant to the Purchase Contract whether as expressly described in the Purchase Order or to be inferred therefrom (including any instalment, component, part of or raw materials used in such Materials, materials and products);
- 1.1.20 **'NHBC'** means the National House-Building Council (a company limited by guarantee under company number 320784) whose registered office is at NHBC House, Davy Avenue, Knowlhill, Milton Keynes MK5 8FP or any successor body;
- 1.1.21 **'Public Holiday'** means Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday;
- 1.1.22 **'Purchase Contract'** means the contract between the Company and the Supplier comprising the Purchase Contract Documents under which the Supplier has agreed to Supply the Materials in connection with the Development;
- 1.1.23 **'Purchase Contract Documents'** means the Purchase Order; these Conditions; the Delivery Policy; and any documents listed or referred to in the Purchase Order;
- 1.1.24 **'Purchase Order'** means the purchase order form issued to the Supplier by the Company relating to the Supply of the Materials in the Company's standard format or otherwise as the Company may adopt;
- 1.1.25 **'Purchase Order Contact Address'** means the address for service of notices on the Company as stated in the Purchase Order or, if no address for service is so stated, then the registered office address of the Company;
- 1.1.26 **'Reasonable Procedures'** are, for the purposes of clause 25, procedures designed to prevent the commission of fraud offence as defined in accordance with Chapter 3 of the Guidance for

the offence of failure to prevent fraud as published by the UK Government in November 2024 and any subsequent versions of this Guidance, or subsequent other statutory materials addressing the definition of reasonable prevention procedures within the within the meaning of section 199(6) of the Economic Crime and Corporate Transparency Act 2023.

- 1.1.27 **'Site'** means the location of the Development as described in the Purchase Order;
- 1.1.28 **'Statutory Requirements'** means any and all applicable law, any statute, statutory instrument, rule, order or permission made under any statute or directive and any regulation or bye-law of any public or local authority, statutory body or of any statutory undertaker and any legislation, regulation or directive or any Codes of Practice, guidance notes and recommendations from the United Kingdom Government relating to the Development and/or the Supply of the Materials and/or the Site and which term includes but is not limited to any modification, amendment, extension, consolidation, replacement or re-enactment (whether before or after the date the Purchase Contract is entered into) to any relevant Statutory Requirements;
- 1.1.29 **'Supplier'** means the person, firm or company so described in the Purchase Order;
- 1.1.30 **'Supplier's Persons'** means the Supplier's contractors, consultants, suppliers, servants, agents, partners, workers and employees engaged in connection with the Materials;
- 1.1.31 **'Supply'** means the design, supply, manufacture, ordering, entry onto Site, delivery, unloading, unpacking, assembly and installation (if applicable);
- 1.1.32 **'Variation'** means any variation, modification, omission, revision, addition or other alteration to the nature or scope or type or quantity of the Materials or any part of them or to the method or manner of Delivery or Supply;
- 1.1.33 **'VAT'** means value added tax imposed by the Value Added Tax Act 1994, or any similar tax in addition to or replacing it from time to time; and
- 1.1.34 **'Warranty Body'** means the NHBC or any other person providing defects insurance warranties or guarantees for residential dwellings as notified to the Supplier; and
- 1.1.35 **'Working Day'** means any day except a Saturday, Sunday or a statutory holiday and any annual Company Christmas closure period as notified to the Supplier from time to time.

1.2 In these Conditions, unless the context otherwise requires:

- 1.2.1 a reference to the singular includes the plural and vice versa;
- 1.2.2 clause or paragraph headings, notes and footnotes are inserted for convenience only and shall not form part of or affect the construction or interpretation of these Conditions;
- 1.2.3 any reference to a clause or paragraph in these Conditions is a reference to a clause or paragraph of these Conditions;
- 1.2.4 any words or phrase preceding or following the terms: 'including', 'include', 'includes', 'in particular', 'for example' or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding or following those terms and the use of the words 'other' or 'otherwise' shall not be construed as having a limiting effect;
- 1.2.5 a reference to a gender includes all other genders;
- 1.2.6 references to a 'person' shall, where the context so requires, include individuals, bodies corporate, unincorporated associations, trusts, trustees, partnerships, a firm or any entity having legal capacity and all such words are to be construed interchangeably in that manner;
- 1.2.7 a reference to a statute or statutory provision is a reference to it as amended, extended, consolidated, replaced or re-enacted from time to time;

- 1.2.8 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision as modified, amended, extended, consolidated or re-enacted from time to time;
  - 1.2.9 the Purchase Contract shall be binding on, and enure to the benefit of, the parties to the Purchase Contract and their respective successors and permitted assigns, and references to any 'party' or 'parties' are references to a party or the parties to the Purchase Contract and shall include that party's successors in title and permitted assigns; and
  - 1.2.10 any reference to an English legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction.
- 1.3 Where one provision of the Purchase Contract imposes upon the Supplier a standard, duty or obligation which is more onerous than, or additional to, that imposed by another provision, then the relevant standards, duties or obligations shall, so far as possible, be treated as cumulative, failing which the more onerous standard, duty or obligation shall prevail.
  - 1.4 Where under the Purchase Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.
  - 1.5 Where under the Purchase Contract, an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.
  - 1.6 The warranties and undertakings contained in the Purchase Contract shall be without prejudice to any warranties implied by common law or statute.
  - 1.7 Any consent or approval required to be given by the Company pursuant to these Conditions must be obtained before the act or event to which it applies is carried out and shall be effective only when the consent or approval is given in writing by the Authorised Person.
  - 1.8 The Supplier agrees to execute and deliver to the Company such documents and instruments and shall use all reasonable endeavours to procure that any necessary third party shall execute and deliver such documents and instruments and the Supplier shall perform such acts and take such further actions as may reasonably be required for the purpose of giving full effect to the Purchase Contract and securing the full benefit of the rights, powers and remedies conferred upon the Company under the Purchase Contract.
  - 1.9 Where a party comprises two or more persons:
    - 1.9.1 any obligations on the part of that party contained or implied in the Purchase Contract are deemed to be joint and several obligations on the part of those persons; and
    - 1.9.2 references to that party include references to each and any of those persons.

## 2 BASIS OF THE PURCHASE CONTRACT

- 2.1 Where there is any conflict, ambiguity or discrepancy within or between any of the Purchase Contract Documents, the Supplier shall notify the Company as soon as possible and the Company shall instruct the Supplier as to which of the discrepant, ambiguous or conflicting provisions is to be adopted and the Supplier shall (subject always to complying with all Statutory Requirements) comply with such instruction at the Supplier's cost and at no cost to the Company.
- 2.2 The Purchase Contract constitutes the entire agreement between the Company and the Supplier and supersedes and extinguishes any previous agreements or arrangements (whether written or oral) between the Company and the Supplier in respect of the Materials. Any fee proposal, tender return submission or quotation received by the Company from the Supplier in respect of the Materials is deemed to have been made subject to these Conditions. Any terms and conditions of the Supplier are superseded, are of no effect and do not form part of or apply to the Purchase Contract under any circumstances even if incorporated into the Purchase Contract Documents unless expressly acknowledged by the Company on the face of the Purchase Order that such terms and conditions are to apply. The Supplier agrees that these

Conditions shall govern all present and future contractual relations between the Company and the Supplier until further notice is given by the Company to the Supplier or as otherwise expressly excluded by the Company.

- 2.3 All additions, amendments and variations to the Purchase Contract shall be binding only if in writing and agreed by the Authorised Person on the part of the Company and the duly authorised representative of the Supplier.
- 2.4 Any Materials supplied by or on behalf of the Supplier prior to the date of the Purchase Contract shall be treated as having been provided under the terms of the Purchase Contract. All sums (if any) paid as at the date of the Purchase Contract by the Company to the Supplier in connection with Supply of the Materials shall be treated as payments on account of the Contract Price.
- 2.5 Unless the context otherwise requires, references in any Purchase Order to 'you', 'your' and 'yours' shall be to the Supplier and references to 'we', 'us', 'our' and 'ours' shall be to the Company.
- 2.6 Any typographical, clerical, arithmetical or other error or omission in the Purchase Contract shall be subject to correction by the Company without liability on the part of the Company.

### **3 THE SUPPLIER'S GENERAL OBLIGATIONS AND WARRANTIES**

- 3.1 The Supplier agrees to Supply the Materials in accordance with and subject to the terms of the Purchase Contract.
- 3.2 If requested to do so, the Supplier will provide samples of the Materials for the Company's evaluation and approval at the Supplier's cost and expense as may be more particularly described in the Purchase Order or the Purchase Contract Documents.
- 3.3 The Supplier warrants and undertakes to the Company that it is fully experienced, qualified, equipped, organised and financed to perform its duties and obligations under the Purchase Contract and the Supplier warrants and undertakes to the Company that the Materials shall:
- 3.3.1 be of sound and satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended from time to time) and fit for all purposes for which the Materials are commonly supplied, their intended use and for any special purposes which are notified to the Supplier;
  - 3.3.2 correspond in all respects with any description given in any relevant specification or sample and where no specification or sample has been provided, will meet the Company's performance criteria and conform to best industry practice;
  - 3.3.3 be free from defects, faults or other failings in design, materials and workmanship including but not limited to any defects in appearance, such as colour matching;
  - 3.3.4 comply with all and will not contravene any relevant Statutory Requirements (including but not limited to the appropriate BSI British Standards (in their entirety) and Codes of Practice or equivalent specification unless otherwise agreed);
  - 3.3.5 comply with all permissions, consents, permits and approvals relating to the Development and will not contravene any such permissions, consents, permits and approvals; and
  - 3.3.6 comply with the requirements of the Warranty Body; and
  - 3.3.7 be compatible with any other plant, equipment, goods or materials or existing buildings and structures as described in the Purchase Contract Documents.
- 3.4 Except and insofar as expressly stated otherwise in the Purchase Contract Documents, the Supplier shall be fully responsible and liable for the design of the Materials.
- 3.5 So far as the Supplier is able, the Supplier shall pass to the Company the benefit of any and all warranties or guarantees given by any third party supplier in relation to the Materials.

- 3.6 Except as otherwise expressly stated in the Purchase Contract, the Supplier shall, at its own cost, apply for, obtain and maintain all permissions, consents, permits and approvals relating to the Delivery and Supply of the Materials.
- 3.7 The Materials shall only be accepted once the Supplier has met the requirements of the Purchase Contract in every respect to the reasonable satisfaction of the Company.
- 3.8 The Company shall be deemed not to have any intrinsic expert or specialist knowledge or skill in relation to the Materials and the Supplier is deemed to be aware of and to accept this. The Company is entitled to rely upon the Supplier's professional skill and judgement. The Supplier shall warn the Company if the Supplier becomes aware or (acting as a prudent and experienced supplier) ought reasonably to be aware of any inadequacies or discrepancies within or between the nature, scope and/or design of the Supply of the Materials.
- 3.9 The Supplier shall co-operate and collaborate with others engaged by or on behalf of the Company in relation to the Development and the Supplier shall co-ordinate and integrate the Supply of the Materials with the other elements of the design and construction of the Development.
- 3.10 The Supplier shall ensure that all spare and/or replacement parts, components and materials for the Materials shall be available from the Supplier for a minimum of two (2) years from date of first use by the Company (or the intended end user) of the Materials in question or such longer period as may be required under any relevant Statutory Requirement.

#### **4 PRICES AND PAYMENT**

- 4.1 In consideration of the satisfactory Delivery and installation (if applicable) of the Materials by the Supplier, the Company shall pay to the Supplier the Contract Price in accordance with these Conditions. The Contract Price shall be:
- 4.1.1 unless otherwise stated in the Purchase Order, the Agreed Price;
  - 4.1.2 exclusive of any applicable VAT (which shall be payable by the Company subject to receipt of a valid VAT invoice); and
  - 4.1.3 inclusive of all charges for the Supply of the Materials and all packaging, packing, shipping, carriage, insurance and unloading of the Materials to the delivery location and any and all duties, imposts and/or levies other than VAT.
- 4.2 The Company shall be entitled to any discount for prompt payment, bulk purchase, volume and/or purchase customarily granted by the Supplier.
- 4.3 Unless otherwise stated in the Purchase Contract Price is deemed to be sufficient to cover all of the Supplier's obligations and duties whether express or implied.
- 4.4 The Contract Price may not be increased (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without prior written consent of the Authorised Person.
- 4.5 Unless otherwise stated in the Purchase Contract Documents, the Supplier may submit an invoice after Delivery and Supply of the Materials.
- 4.6 Each invoice must be sent electronically by email to the address specified on the Purchase Order or Purchase Contract Documents as the invoicing address and must attach a copy of the receipted Delivery Note as referred to in clause 11 (Delivery). The invoice must:
- 4.6.1 be properly addressed to the Company;
  - 4.6.2 reference the Purchase Order number;
  - 4.6.3 contain a full description (including quantity) of the Materials;
  - 4.6.4 reference the number and date of the Delivery Note or Delivery Notes;

- 4.6.5 set out the total value of the invoice indicating the materials and labour element separately where applicable and the unit price and/or rate;
  - 4.6.6 where applicable, show VAT properly chargeable separately on all invoices; and
  - 4.6.7 be accompanied by such supporting information as reasonably required by the Company or specified in the Purchase Contract Documents.
- 4.7 Time of payment shall not be of the essence of the Purchase Contract.
- 4.8 The Company shall be entitled to deduct from the Contract Price or any sum due to the Supplier:
- 4.8.1 the unit price and/or rate for such proportion of the Materials as may be defective and rejected by the Company together with the costs of returning such Materials to the Supplier;
  - 4.8.2 any costs or expenses incurred by the Company as a consequence of the Supplier failing to deliver the Materials to the delivery location;
  - 4.8.3 any amount which is disputed by the Company, pending resolution of such dispute; and
  - 4.8.4 the amount of any bona fide claim, set-off or counterclaim by the Company against the Supplier under the Purchase Contract or any other contract or agreement the Company has entered into or will enter into with the Supplier (whether before or after the date of the Purchase Contract). Until such time as the amount of any claim, set-off or counterclaim is ascertained, the Company may deduct an amount equivalent to its reasonable assessment of the value of the claim, set-off or counterclaim (as applicable).
- 4.9 Payment shall be due on the date of receipt by the Company of each properly prepared and valid invoice which complies with the provisions of clauses 4.5 and 4.6. The final date for payment of each properly prepared and valid invoice shall be the end of the month after the month in which the relevant payment becomes due.
- 4.10 If the Company fails to pay a sum due to the Supplier by the final date for payment, simple interest shall be added to the unpaid sum from the final date for payment until the actual date of payment. This shall be calculated on a daily basis at the annual rate of four per cent (4%) above the Bank of England Base Rate. The parties acknowledge that the interest rate under this clause is a substantial remedy for the purposes of section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.11 The Company may deduct (by reason of any set-off, abatement or counterclaim) from any payment due to the Supplier the amount of any damages, debt, costs, expenses and/or loss which the Company may seek from and/or have against the Supplier whether arising under the Purchase Contract or any other contract or agreement entered into (whether before or after the date of the Purchase Contract) between the Company and the Supplier or which the Supplier may be liable to pay to the Company. This shall be in addition and not in substitution for any other rights of counterclaim, set-off or abatement.
- 4.12 For the avoidance of doubt, the Company shall be entitled to recover from the Supplier any overpayments made at any time. All interim payments made to the Supplier shall be payments on account only of sums due under the Purchase Contract.
- 4.13 The Supplier must submit an invoice (in accordance with this clause 4) for Materials not later than three (3) months after satisfactory completion of the Supply of the Materials. If the Supplier fails to submit an invoice in accordance with this clause, it shall lose the right to claim and any entitlement to payment in respect of the Supply of the relevant Materials and irrevocably waives any rights, both under the Purchase Contract and at common law, in equity and/or pursuant to statute to any such right or entitlement.
- 4.14 The Supplier's rights and remedies available to it under the Purchase Contract shall be its exclusive and exhaustive rights and remedies available to it in respect of all matters in connection with the Supply of the Materials and the Purchase Contract. All other rights and remedies that the Supplier may otherwise have had at law are excluded to the fullest extent permitted by law.

## 5 **CHANGES/VARIATIONS**

- 5.1 The Supplier shall carry out any Variation instructed in writing by the Company and no such Variation shall vitiate the Purchase Contract.
- 5.2 No Variations shall be paid for unless instructed in writing by the Authorised Person.
- 5.3 Variations shall be valued by agreement or, in the absence of agreement, in accordance with the rates and prices in the Purchase Contract Documents and such value shall be added to or deducted from the Contract Price as the case may be.
- 5.4 The Company reserves the right to take any action in the event of an emergency or unforeseen situation arising in connection with the Purchase Contract and in particular may require the Supplier to deliver the Materials in advance of or later than the Delivery Date and/or outside of the delivery hours stated in the Delivery Policy. The Supplier shall use all reasonable endeavours to comply with the Company's instructions in such an event.
- 5.5 Any Variation shall be carried out and completed entirely at the Supplier's own cost and expense (and at no cost to the Company) to the extent that such Variation arises from, is caused by or is necessary due to any act, omission, negligence, breach or default by the Supplier or any of the Supplier's Persons or arises from an event, matter or circumstance for which the Supplier has accepted the risk or responsibility under the Purchase Contract.
- 5.6 The delivery quantity stated in the Purchase Order shall not be exceeded unless agreed and confirmed in writing by an Authorised Person. The Supplier shall (at its own cost and at no cost to the Company) remove and safely dispose of any excess goods or materials that are supplied not in accordance with the Purchase Contract. The Supplier shall not be entitled to charge the Company for any excess materials or goods supplied other than strictly in accordance with the Purchase Contract.

## 6 **ASSIGNMENT/SUB-CONTRACTING/THIRD PARTY RIGHTS**

- 6.1 The Supplier cannot sub-let or sub-contract all or any part of the Purchase Contract or assign or charge all or any part of the Purchase Contract without the Company's prior written consent. In the event the Supplier sub-lets or sub-contracts part or all of its obligations and duties under the Purchase Contract, the Supplier shall remain responsible and liable for all elements of the Delivery and Supply of the Materials by the Supplier's Persons as if the Supplier had performed the Delivery and Supply of the Materials itself. Any sub-letting or sub-contracting of part or all of the Delivery and/or Supply of the Materials shall not diminish or relieve the Supplier of any of its obligations, duties and liabilities arising from the Purchase Contract.
- 6.2 The Company shall be entitled to assign the benefit to it of the Purchase Contract to any third party without the Supplier's consent being required.
- 6.3 Except as set out in the Purchase Contract, nothing in the Purchase Contract shall confer any right pursuant to the Contracts (Rights of Third Parties) Act 1999 on any person who is not a party to it. Each Associate and/or Group Company of the Company may in its own right enforce any term or condition of the Purchase Contract. Notwithstanding any other provision of the Purchase Contract, it shall not be a defence to a claim by any Associate and/or Group Company of the Company that the loss or damage the Associate and/or Group Company of the Company has suffered or incurred is different in type or character from the loss or damage that the Company might have suffered or incurred or that the Company could not have suffered or incurred the same, any or as much loss or damage as the Associate and/or Group Company of the Company or the Company could not now suffer a loss or damage of the type or character that the Associate and/or Group Company of the Company has suffered or incurred.
- 6.4 In any action or proceedings brought by any Associate or Group Company of the Company, the Supplier shall not be entitled to rely on:
- 6.4.1 any set-off with respect to payment of the Contract Price under the Purchase Contract; or
  - 6.4.2 any counterclaim which would have been available if such proceedings had been brought by the Company; or
  - 6.4.3 any set-off or counterclaim relating to any matter not connected to the Site.

6.5 The Company shall be entitled to agree with the Supplier any amendments, variation, waiver or release under or arising from or in respect of the terms of the Purchase Contract, and to terminate the Purchase Contract without the consent of any third party being required.

## **7 DRAWINGS AND INFORMATION, COPYRIGHT, PATENTS AND INTELLECTUAL PROPERTY**

7.1 The Supplier warrants that the sale or use of the Materials by the Company shall not infringe or be in breach of any intellectual property right of any third party and the Supplier agrees to indemnify, save, defend and hold harmless the Company from and against any and all claims, demands, costs, losses, damages and expenses which the Company suffers or incurs in connection with such breach.

7.2 The Supplier grants to the Company, or where it does not own the copyright in the Documents shall procure the grant to the Company of an immediate, irrevocable, royalty-free, non-terminable and non-exclusive licence to copy, use and reproduce the Documents for any and all purposes relating to the Development and/or the Site and for any other purposes referred to in the Purchase Contract. The Supplier must only use the Documents for the purposes and for the benefit of the Development. This licence shall remain in full force and effect notwithstanding the completion of the Supplier's obligations or the termination of the Supplier's engagement under the Purchase Contract or any dispute in connection with the Purchase Contract.

7.3 The Supplier's hereby waives and agrees not to assert (and shall procure that the Supplier's Persons waive and agree not to assert) any moral rights in the Documents granted pursuant to the Copyright Designs and Patents Act 1988 or otherwise.

7.4 The Supplier shall upon demand promptly supply the Company with copies of the Documents (in hard copy, CAD format, electronic editable format and such other format as the Company may reasonably require) whenever requested to do so by the Company and the Supplier shall not exercise any lien for any reason which it might otherwise be entitled to exercise over the Documents.

7.5 The Supplier shall:

7.5.1 supply at its expense operating instructions, maintenance manuals, fabrication reports and the like as and when required by the Company in relation to the Materials;

7.5.2 be responsible for any errors or omissions in any information, drawings, packing details or any other documents produced or prepared by the Supplier or on its behalf (whether or not such information has been approved by the Company);

7.5.3 provide to the Company on request evidence of the place of origin of the Materials and information relating to the components, parts or raw materials used in the manufacturing of the Materials;

7.5.4 provide to the Company all information and documents the Company requires to ensure that the Materials comply with and are able to fulfil the Company's obligations and duties under all Statutory Requirements and to observe, perform and comply with all permissions, consents, permits and approvals relevant to the Materials; and

7.5.5 full instructions for use and clear and conspicuous warnings relating to any conditions which are necessary to ensure safety in use or onward sale in each case with sufficient detail to enable the Company and any end user to understand any possible risks to health and safety.

## **8 FREE ISSUE MATERIALS**

8.1 The Supplier shall be responsible and account for all material issued free, whether directly or indirectly by the Company. The Supplier must keep detailed records of all receipts and issues and provide a detailed reconciliation to the Company when requested. Scrap and wastage of materials must also be accounted for. Free issue materials shall at all times be and remain the Company's property as the case may be but the Supplier shall maintain an adequate policy of insurance in respect of the excess amount not covered by the insurances required under the Purchase Contract for such material and shall produce evidence of cover as and when reasonably required to do so.

## 9 INSPECTION AND TESTING

- 9.1 The Company (and the Company's employees, servants and agents) shall at all reasonable times be granted access to the Supplier's premises and be allowed to inspect and/or take samples of and/or test any raw materials, packaging and/or the Materials and the Supplier shall provide all reasonable co-operation in connection with any such inspection and/or taking of samples and/or testing.
- 9.2 If following an inspection and/or the taking of sample(s) and/or testing of the Materials the Company considers that the Materials are not or are not likely to be as warranted under the Purchase Contract, the Company shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure that the Materials are or will be as warranted under the Purchase Order. The Company shall have the right to re-conduct inspections and/or take further samples and/or re-test after the Supplier has carried out its remedial actions.
- 9.3 No inspection, taking samples of or testing nor acceptance of any of the Materials nor any waiver of any rights in respect thereof by the Company (or the Company's employees, servants or agents) shall release or relieve the Supplier from any of its obligations or duties under the Purchase Contract or otherwise including the Supplier's responsibility for any defects subsequently found in the Materials and/or workmanship.
- 9.4 The Supplier shall supply at its own expense such certificates of analysis, tests, inspection or origin as may be required by the Company or by law which certificates of analysis, tests, inspection or origin shall be supplied to the Company no later than Delivery of the Materials to which they relate.
- 9.5 The Company does not warrant and makes no representation as to the suitability, accuracy or sufficiency of any information, documents, drawings, designs, reports, plans and/or surveys relating to the Development or the Site, which have been provided or are provided to the Supplier (whether before or after the date of the Purchase Contract) by the Company or any other third party.

## 10 ACCEPTANCE AND DEFECTIVE MATERIALS

- 10.1 The Company will not be deemed to have accepted any Materials until it has had a reasonable time to inspect them following Delivery or, in the case of a latent defect in the Materials, until a reasonable time after the latent defect has become apparent.
- 10.2 If the Materials (in whole or in part) Delivered do not comply with the terms of the Purchase Contract, then without limiting any other right or remedy that the Company may have, the Company may reject those Materials (in whole or in part) and:
- 10.2.1 require the Supplier to repair and/or replace the rejected Materials at the Supplier's risk and expense;
  - 10.2.2 require the Supplier to repay that part of the Contract Price that relates to the rejected Materials in full (whether or not the Company has previously required the Supplier to repair or replace the rejected Materials); and
  - 10.2.3 claim damages from the Supplier for any other costs, losses, damages and expenses resulting from the Supplier's Supply of Materials that are not in conformity with the terms of the Purchase Contract, including but not limited to the costs of safe removal and disposal.
- 10.3 The Company's rights and remedies under these Conditions are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the Purchase Contract by the Sale of Goods Act 1979.
- 10.4 The terms of the Purchase Contract shall apply to any repaired or replacement Materials supplied by the Supplier.
- 10.5 Without prejudice to the operation of the other provisions of the Purchase Contract, where defects resulting from a breach of the Purchase Contract appear in the Materials at any time then the Company shall notify the Supplier in writing as soon as reasonably practicable and the Company may at its discretion require the Supplier at its expense to make good by repair or replacement such defects or to pay the cost of replacement or repair by others. In addition, the Supplier shall be responsible for and indemnify, save, defend and hold harmless the Company from and against any and all costs, losses, damages and expenses

accrued, suffered or incurred by the Company arising from or in consequence of the defect and in any event the making good of defects shall not prejudice any other rights or remedies to which the Company is or shall become entitled pursuant to the Purchase Contract.

## 11 DELIVERY

- 11.1 The Supplier shall deliver the Materials to the delivery location on the Delivery Date and (unless otherwise expressly agreed) during the delivery hours in accordance with the Delivery Policy and these Conditions. The Supplier shall not deliver the Materials by instalments except with the prior written consent of the Company. Where Materials are to be delivered by instalments, each instalment of Materials may be invoiced and paid for separately. References in the Purchase Contract to the Materials shall, where applicable, be read as references to instalments of the Materials.
- 11.2 Time of Delivery of the Materials is of the essence of the Purchase Contract. Notwithstanding this, if for any reason the Company request delivery or performance to be delayed, the Supplier shall agree to such request at no extra cost to the Company and the provisions of this clause 11 shall apply to any such revised date for delivery or performance.
- 11.3 The Supplier shall immediately report any delay or anticipated delay in Supply of the Materials whatsoever in addition to the cause of such delay and shall keep the Company fully informed with dates of anticipated actual delivery and shall use its best endeavours (without prejudice to the Supplier's other contractual obligations) to eliminate such cause of delay.
- 11.4 Delivery of the Materials shall be complete on their Supply at the Delivery Location. The Materials upon delivery shall be accompanied by a Delivery Note. The Supplier shall upon delivery obtain a receipt for the Materials signed by the Company. Such receipt shall be upon a duplicate copy of the Delivery Note and shall be forwarded to the Company with the Supplier's invoice. Any signature by or on behalf of the Company confirming delivery of the Materials shall not constitute acceptance or agreement by the Company that the Materials delivered conform to the quality and/or standards required, the specification for and description of the Materials and/or to the stated quantity on the Delivery Note.
- 11.5 The Company reserves the right to reject partial deliveries of the Materials.
- 11.6 Whilst on Site, the Supplier shall at all times comply with (and procure that the Supplier's employees, servants and agents comply with) all Statutory Requirements, permissions, consents, permits, approvals and the Company's site rules, regulations and requirements from time to time in force on Site. The Supplier is deemed to have full knowledge of such rules, regulations and requirements, copies of which can be supplied on request.
- 11.7 If the Materials are not delivered on the Delivery Date and the Lead Time has been exceeded, then without limiting any other right or remedy that the Company may have, the Company may:
- 11.7.1 refuse to take any subsequent attempted delivery of the Materials;
  - 11.7.2 terminate the Purchase Contract with immediate effect;
  - 11.7.3 obtain substitute Materials from another supplier and recover from the Supplier any costs, losses, damages or expenses reasonably suffered or incurred by the Company in obtaining such substitute Materials; and
  - 11.7.4 claim damages for any other costs, losses or expenses resulting from the Supplier's failure to deliver the Materials on the Delivery Date.
- 11.8 Any of the Materials (or any instalment or part of them) ready for delivery before the Company requires delivery shall be protected from loss, injury and damage and safely and securely stored by the Supplier at its own risk and expense.

## 12 PACKING AND MARKING

- 12.1 All items shall be carefully packed and protected against damage in transit in such a way as to enable them to reach their destination in good condition. All costs of complying with this clause are at the Supplier's expense and no packaging is returnable unless otherwise agreed by the Company in writing or specified in the Purchase Contract Documents. The Supplier warrants that all packaging and marking will comply with

Statutory Requirements. The Supplier must not use any single use plastics as part of any of its packaging and it must be from sustainable sources.

12.2 Without prejudice to clause 12.1, if the Supplier requires the Company to return any packaging to the Supplier or a third party, that fact must be clearly stated on the delivery note accompanying the Materials and any such returns shall be at the Supplier's expense and at no cost to the Company.

12.3 The Supplier shall ensure that all packaging and other materials brought to the Site by the Supplier in respect of the supply of Materials and all rubbish and waste arising from the Supply of the Materials shall be removed from the Site and safely disposed of in accordance with the Company's sustainability policy, in a timely manner and, in any event, no later than completion of the Supply of the Materials . If such packaging, rubbish and waste is not removed in a timely manner, the Company shall be entitled to engage others to remove and safely dispose of such material and the Supplier shall be liable for and the Company shall be entitled to recover all costs, losses, damages and expenses accrued, suffered or incurred as a result from the Supplier.

### 13 **PUBLICITY AND CONFIDENTIALITY**

13.1 Except and insofar as necessary for the proper performance of its obligations under the Purchase Contract or as required by law, the Supplier shall not and shall procure that the Supplier's Persons shall not without the prior written approval of the Company publish or disclose to any person (other than its professional advisers for the purposes of obtaining advice in relation to its obligations and liabilities under the Purchase Contract) any Confidential Information or other information relating to the Development or the Site.

13.2 The Supplier shall not without the Company's prior written consent take or permit to be taken any photographs or videos of the Site or the Development for use in any publicity or advertising or publish alone or in conjunction with any other person, any articles, photographs or other illustrations in any publication, journal or newspaper or any radio or television programme or internet site in relation to the Development or the Site or any part thereof.

13.3 The Supplier shall not without the Company's prior written consent enter onto the Site or visit the Site or anywhere where the Company has used the Materials in order to view or inspect any works which the Company may have carried out using the Materials. The Supplier will not without the Company's prior written consent provide or permit or authorise any third party to provide any report or opinion (whether orally or in writing) to any third party in relation to any works the Company may have carried out (whether or not those works involved the use of the Materials). The Supplier shall indemnify the Company from and against any and all costs, consequences, claims, proceedings, losses, expenses (including legal costs and expenses), liabilities and damages (whether direct or indirect or special or consequential) accrued, suffered or incurred by the Company as a result of or in connection with any breach by the Supplier of the terms of this clause.

### 14 **PRE-CONTRACTUAL REPRESENTATIONS**

14.1 In entering into the Purchase Contract, the Company shall be entitled to rely on and have relied on any pre-contractual representations made by the Supplier, whether written or oral, regarding the subject matter of the Purchase Contract. The Supplier shall indemnify, save, defend and hold harmless the Company in full from and against all liabilities, losses (whether direct or indirect and including loss of profits), damages (including special and consequential damages), costs and expenses (including legal expenses) awarded against or incurred or paid or suffered by the Company as a result of or in connection with the Company's reliance on any pre-contractual representations made by the Supplier and/or the Supplier's Persons, including any and all statements, comments, advice and/or recommendations (whether written or oral) given by the Supplier as to the suitability, sufficiency and/or adequacy of the Materials for the purpose for which the Company intends to use the Materials.

### 15 **SUSPENSION AND TERMINATION**

15.1 The Company may instruct the Supplier to suspend performance of the Supplier's obligations under the Purchase Contract at any time and for any reason on reasonable notice.

15.2 The Company may terminate the Purchase Contract at any time and for any reason by giving to the Supplier not less than seven (7) days' prior written notice. On expiry of such notice period, the Purchase Contract will terminate automatically.

- 15.3 In the event of termination of the Purchase Contract pursuant to clause 15.2:
- 15.3.1 the Company shall fully discharge all of its liabilities to the Supplier under the Purchase Contract by paying for all Materials satisfactorily Delivered up to the date of termination;
  - 15.3.2 the Company shall not be liable to the Supplier for any losses, costs, damages, claims or expenses suffered or incurred by the Supplier arising from or in connection with such termination (and, without prejudice to the foregoing, the Company shall not be liable to pay the Supplier any amounts in respect of loss of profit, loss of contract or loss of opportunity).
- 15.4 Without prejudice to the Company's rights under clause 15.2, if any one or more of the following occurs then the Company may terminate the Purchase Contract immediately on written notice:
- 15.4.1 a material or persistent breach by the Supplier of any of the terms of the Purchase Contract;  
or
  - 15.4.2 the Supplier is or (in the Company's reasonable opinion) is likely to become Insolvent.
- 15.5 In the event of termination of the Purchase Contract pursuant to clause 15.4:
- 15.5.1 the Company shall not be liable to the Supplier for any losses, costs, damages, claims or expenses suffered or incurred by the Supplier arising from or in connection with any such termination (and the Company shall not be liable to pay any amounts in respect of loss of profit, loss of contract or loss of opportunity);
  - 15.5.2 the Company shall not be obliged to make any further payment to the Supplier until the earlier of completion of the Development and such time as the Company decides that it does not intend to complete the Development; and
  - 15.5.3 the Supplier shall be liable to the Company for all costs, losses, damages, claims and expenses which the Company suffers or incurs arising from or in connection with such termination.
- 15.6 If the Company purports to terminate the Purchase Contract under clause 15.4, but no right to terminate under clause 15.4 has arisen (or any ground that had arisen had been waived by the Company), then the Company shall be deemed to have terminated the Purchase Contract under clause 15.2.
- 15.7 In the event of any termination under clause 15, no forbearance whether by allowing an opportunity to rectify such default or breach or otherwise shall constitute a waiver of the Company's rights to terminate. Termination of the Purchase Contract shall not affect the accrued rights and remedies available to either party as at the date of such termination. Save for the obligation to Supply and deliver Materials, the Supplier's obligations under the shall otherwise survive the termination or bringing to the end of the Purchase Contract.
- 15.8 In the event of termination of the Purchase Contract pursuant to this clause 15, the Company shall be entitled to enter the Supplier's premises or any place where the Materials are situated in whole or in part and take possession of the whole or any part of the Materials and remove the same and title thereto (insofar as the same shall not already be vested in the Company) shall forthwith vest in the Company and conversely the Company shall be entitled to repudiate title in or otherwise reject any Materials which the Company does not require.
- 16 **OWNERSHIP AND RISK**
- 16.1 Title and ownership in the Materials shall pass from the Supplier to the Company once payment for the relevant Materials is made or, if earlier, the Materials are incorporated into the Development.
- 16.2 Notwithstanding the passing of title and ownership, the risk of loss, injury and/or damage in such Materials shall remain with the Supplier until the later of: (i) payment for the relevant Materials is made; (ii) Delivery and completion of the Supply of the Materials; and (iii) acceptance of the Materials by the Company in accordance with the provisions of the Purchase Contract. All materials or equipment forming part of the Materials in which title has passed shall be clearly marked by the Supplier as property of the Company and shall be safely and securely stored separately from the Supplier's property and adequately protected from

any loss, injury and/or damage. Storage, transportation, transit and off-loading of the Materials at the Site shall be at the Supplier's sole risk.

16.3 Any Materials which are Delivered by the Supplier but which relate to a Purchase Order which has previously been cancelled shall remain at the Supplier's risk and on notification of the mistake by the Company, the Supplier will immediately arrange for collection of the Materials.

## 17 INDEMNITIES AND INSURANCE

17.1 The Supplier shall be liable for and shall indemnify, save, defend and hold harmless the Company from and against any and all costs, consequences, claims, proceedings, losses, expenses (including legal costs and expenses), liabilities and damages (whether direct or indirect or special or consequential) whether actual, contingent or prospective and howsoever accrued, suffered or incurred by the Company arising out of or in connection with:

17.1.1 a breach, breach of statutory duty, non-performance or non-observance of the terms of the Purchase Contract by the Supplier;

17.1.2 any act, omission or default by the Supplier which involves the Company in any liability to any third party or causes or contributes to any diminution in the rights or remedies available to the Company under any agreement with any third party;

17.1.3 any claims by third parties resulting from, relating to or arising out of any tortious, statutory or other failure or default or breach of contract by the Supplier;

17.1.4 any infringement of any copyright or intellectual property rights of any third party;

17.1.5 any theft, loss, injury and/or damage whatsoever to any property real or personal (including any expense, liability loss or claim arising from but not limited to obstruction, trespass, nuisance or interference with any rights of way, light, air or water) including the Materials, the Development, any temporary works, any materials or other things delivered to the Site for incorporation therein and any construction, plant, tools, equipment, temporary buildings and contents owned or hired by the Company or for which the Company is responsible insofar as such injury or damage arises out of or in the course of the Delivery and/or Supply of the Materials; and

17.1.6 personal injury to or death of any person whomsoever arising out of in the course of or caused by Delivery and/or the Supply of the Materials.

17.2 The indemnities in clause 17.1 shall apply whether or not the Supplier has been negligent or at fault.

17.3 The Supplier warrants and undertakes that it has and shall continue to maintain insurance cover against such liabilities as are referred to in this clause 17 and shall provide to the Company as soon as reasonably practicable after receipt of a request to do so with documentary evidence demonstrating that such insurance is being maintained and is in force. For the avoidance of doubt, none of provisions obliging either party to maintain insurance are intended in any way whatsoever to operate to limit or exclude the Supplier's liability.

17.4 Without prejudice to the generality of the foregoing, the Supplier shall liaise and co-operate with the insurers under the policies arranged by the Company, and such co-operation shall include the provision of copies of such information as such insurers may from time to time request, working with the insurers to assist them with the collation of information for claims and providing the insurers or their representatives with access to inspect Materials, whether on or off the Site.

17.5 To the extent the Supplier recovers any sums under any policy of insurance in respect of an liability it has to the Company in connection with the Purchase Contract, the Supplier shall hold such sums on trust for the Company and pay such sums directly to the Company without set-off, deduction or withholding.

17.6 The Supplier shall not do or omit to do anything or cause or permit or suffer any act or thing to be done that could cause (in respect of any policy of insurance in respect of the Materials and/or the Development and/or the Site):

- 17.6.1 it to become void or voidable or unenforceable or entitle the insurer to refuse any claim (in whole or in part) in respect of any risk or amount for which the policy is expressed to provide indemnity; or
- 17.6.2 any additional insurance premium to become payable; or
- 17.6.3 the payment of any insurance moneys to be refused; or
- 17.6.4 prejudice or vitiate the recovery of any sum under any policy of insurance.

**18 LIENS**

- 18.1 The Supplier agrees to waive any right to exercise a lien upon the Materials or upon any materials, component parts, work in progress and relevant drawings and acknowledges that the Supplier's sole remedy in the event of any breach by the Company of its obligations under the Purchase Contract is to seek financial relief through the courts. As and when required by the Company, the Supplier shall give to the Company or to any third party nominated by the Company a certificate of waiver of lien, and of any other rights over the Materials (or to any injunctive or performance remedies).

**19 NOTICES**

- 19.1 Any notice to be given to the Company under or in connection with the Purchase Contract shall be sent to the Purchase Order Contact Address and the account office address or such other contact details as the Company may from time to time notify to the Supplier or, if no such address is current, the Company's registered or principal office.
- 19.2 Any notice issued or given by the Company to the Supplier may be served by post, personal delivery, email or any other effective means.
- 19.3 Subject to clause 19.4, in the absence of evidence of earlier receipt, a notice is deemed to be received:
  - 19.3.1 if delivered personally (including courier), then on delivery;
  - 19.3.2 if sent by post, then two (2) Working Days after posting it; and
  - 19.3.3 if sent by email, then on completion of its transmission provided that receipt will not be taken to have occurred if the sender receives an automated message indicating that the email has not been delivered to the receiving party.
- 19.4 In the case of a notice given pursuant to this clause 19 where this occurs:
  - 19.4.1 after five (5) p.m. on a Working Day; and/or
  - 19.4.2 on a day which is not a Working Day

THEN the date of service shall be deemed to be the next Working Day.

**20 SEVERANCE**

- 20.1 If any term or condition of these Conditions is for any reason held to be wholly or partly illegal, invalid, void, ineffective, unreasonable, inoperable or otherwise unenforceable by law it shall be severed and deemed to be deleted from the Purchase Contract and the validity and enforceability of the remainder of the Purchase Contract shall not be affected or impaired in any way and shall remain in full force and effect. If any provision of the Purchase Contract is so found to be illegal, invalid, void, ineffective, unreasonable, inoperable or otherwise unenforceable but would be valid or enforceable if some part of the provision were deleted or modified, the provision in question shall apply with such modification as may be necessary to make it valid and enforceable.

**21 DISPUTE RESOLUTION**

- 21.1 The Supplier shall co-operate and assist the Company in dealing with any dispute that the Company may have with any third party in relation to the Purchase Contract or the Development in so far as it relates to the Materials.

22 **CROUDACE POLICIES AND PROCEDURES**

22.1 The Supplier shall comply with (and procure that its employees, servants and agents comply with) all aspects of our policies and procedures relevant to the Materials, which are current as at the date of the Purchase Contract and as may be updated from time to time (copies of which have been provided and are available for inspection during business hours at our office address or on request).

23 **BRIBERY ACT COMPLIANCE**

23.1 The Supplier shall and shall procure that any of its contractors, employees, associated persons or other persons performing works or services in connection with the Purchase Contract shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption practices including the Bribery Act and the Guidance (together 'the **Bribery Act Requirements**') and comply with the Company's Anti-bribery Policy ('the **Bribery Act Policy**') as the Company may update the same from time to time, a copy of which is available for inspection at the Company's registered office at all times during working hours upon request and available on the Company's website.

23.2 The Supplier shall have and maintain in place throughout the term of the Purchase Contract its own policy and procedures including adequate procedures (in accordance with the six principles set out in the Bribery Act 2012 Government guidance dated 11 February 2012 as subsequently updated or replaced) to ensure compliance with the Bribery Act Requirements and the Bribery Act Policy and shall enforce them whenever appropriate and shall be directly liable to the Company in the event of any breach of this clause 23 by the Supplier or any associated person and the Supplier shall indemnify the Company for any costs, losses, damages or expenses consequent upon such breach howsoever arising.

24 **MODERN SLAVERY ACT COMPLIANCE**

24.1 In performing its obligations under the Purchase Contract pursuant to it, the Supplier shall comply and shall ensure that each of its sub-contractors, employees, servants and agents shall comply with:

24.1.1 the Modern Slavery Act 2015; and

24.1.2 the Company's anti-slavery policy as the Company may update the same from time to time a copy of which is available for inspection at the Company's registered office at all times during business hours upon request and available on the Company's website.

25 24.2 The Supplier shall permit the Company and its third party representatives, on reasonable notice, but without notice in case of any reasonably suspected breach of the Supplier's obligations under the Purchase Contract, to have access to and take copies of the Supplier's records and any other information and to meet with the Supplier and any of the Supplier's Persons to audit the Supplier's compliance with its obligations under the Purchase Contract. **ECONOMIC CRIME AND CORPORATE TRANSPARENCY ACT COMPLIANCE**

25.1 The Supplier shall during the term of this agreement:

- a) not engage in any activity, practice or conduct which would constitute Fraud;
- b) establish, maintain and enforce its own Reasonable Procedures to prevent the commission of Fraud by any Associated Person which are consistent with the Company's Anti-fraud Policy and appendices attached thereto as updated from time to time a copy of which is available for inspection at the Company's registered office at all times during business hours upon request and available on the Company's website. The Supplier shall provide supporting evidence of compliance as the Company may reasonably request;
- c) notify the Company as soon as reasonable practicable using the applicable reporting mechanism in the Client's Anti-fraud Policy if it becomes aware of any suspected or actual breach of clause 25.1(a), or has reason to believe that it has received a request or demand to commit a Fraud offence in connection with the performance of this agreement;

- d) if requested, co-operate with and provide all necessary assistance to the Company in order to enable the Company to investigate and/or monitor compliance with clause 25, including but not limited to that which is reasonably required to provide information to a relevant department or agency to report or investigate suspected Fraud;

25.2 The Supplier shall ensure that any of its agents, suppliers, contractors, subcontractors or other persons engaged in performance of the Supplier's obligations under this agreement do so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Company in this clause 25.

25.3 The Company reserves the right to treat any breach of clause 25 as a material breach of the Purchase Contract, and to subsequently require the Supplier to take immediate steps in order to remedy the breach in its entirety and/or terminate the contract under clause 15.4 with effect from a date of the Company's choosing. The Supplier shall be directly liable to us in the event of any breach of this clause 25 by you or any associated person and you shall indemnify the Company for any costs, losses, damages or expenses consequent upon such breach howsoever arising.

## 26 DATA PROTECTION

26.1 In this clause 26, the following additional defined terms apply:

26.1.1 'Data Protection Laws' means the Data Protection Act 2018, the UK adopted form of the General Data Protection Regulation (UK GDPR) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 together with any other laws applicable to the protection of personal data in force from time to time in England and Wales and any related regulations and guidance (as from time to time amended, extended, re-enacted or consolidated) and all subordinate legislation, regulations and guidance made pursuant to any of them; and

26.1.2 the terms: "personal data", "process", "controller", "processor", "personal data breach" and "data subject" have the meanings attributed to them in the Data Protection Laws.

26.2 Each party acknowledges that the Company operates as the controller and the Supplier acts as a processor on behalf of the Company in respect of any personal data processed by the Supplier for the purposes of performing its obligations under the Purchase Contract ("Relevant Personal Data").

26.3 The purpose and nature of processing for the Supplier to process the Relevant Personal Data will be to Supply the Materials and perform all its obligations and duties under the Purchase Contract, including but not limited to allowing the Supplier's employees, servants, agents, consultants, contractors, servants and employees access to the Site and each relevant dwelling for the purpose of rectifying any defects or carrying out any inspections, investigations and/or testing and/or complying with any of the Supplier's obligations under the Purchase Contract and to achieve this the Supplier shall process the Relevant Personal Data by recording, communicating, storing, sharing with sub-processors and deleting the Relevant Personal Data. The categories of data subjects to which personal data within the Relevant Personal Data relates will be the Company's, employees, contractors, suppliers, consultants, professional advisors, purchasers, tenants, residents, owners and/or occupiers of or visitors to any dwellings or any other part of the Site and the categories of personal data which will be processed are name, address and contact details, legal negotiations, contract terms, property details, snagging and defects details, business information and any other data identified or referred to in the Purchase Contract or provided to the Supplier for the performance of its obligations under the Purchase Contract.

26.4 The Supplier shall only process the Relevant Personal Data for a maximum period which is equal to the duration of the Purchase Contract with the Company and the duration of the Supplier's liability to perform obligations under the Purchase Contract.

26.5 The Supplier agrees in relation to the Relevant Personal Data to:

- 26.5.1 implement appropriate technical and organisational measures in such a manner that processing of the personal data by it will meet the requirements of the Data Protection Laws and ensures the protection of the rights of data subjects;
  - 26.5.2 only process the personal data for and on behalf of the Company for the purposes of performing the Purchase Contract with the Company and in accordance with any other instructions issued by the Company in writing from time to time unless otherwise required by law or any other regulatory body (in which case the Supplier shall, where permitted, inform the Company of that legal or regulatory requirement before processing);
  - 26.5.3 not appoint any sub-processor without having first obtained the Company's prior written consent and, where such consent is provided, the Supplier shall impose upon each third party sub-processor (and procure each such third party sub-processor's compliance with) terms equivalent to this clause 26 and shall give the Company notice of any changes to its sub-processors so that the Company has the opportunity to object to the change or new appointment;
  - 26.5.4 ensure that persons authorised by it as sub-processors of any the Relevant Personal Data have committed themselves to duties of confidentiality or are under an appropriate statutory duty of confidentiality;
  - 26.5.5 not transfer any Relevant Personal Data outside of the United Kingdom;
  - 26.5.6 take all measures required by Article 32 of UK GDPR in relation to the Relevant Personal Data;
  - 26.5.7 taking into account the nature of the processing, assist the Company by appropriate technical and organisational measures (so far as this is possible) for the fulfilment of the Company's obligation to respond to requests for exercising a data subjects' rights set out in Chapter III of UK GDPR;
  - 26.5.8 assists the Company in ensuring compliance with the obligations under Articles 32 – 36 of UK GDPR taking into account the nature of processing and the Relevant Personal Data;
  - 26.5.9 delete or return all the personal Relevant Personal Data to the Company after the end of the Purchase Contract and delete existing copies unless required by law or regulatory requirements to retain such personal Relevant Personal Data;
  - 26.5.10 make available to the Company all information necessary to demonstrate compliance with the obligations laid down in the Data Protection Laws and allow for and contribute to audits, including inspections, conducted by the Company or another auditor appointed by the Company;
  - 26.5.11 notify the Company if in its opinion any instruction from the Company would contravene the Data Protection Laws or any other laws;
  - 26.5.12 ensure that only such of the Supplier's personnel who may be required by the Supplier to assist it in meeting its obligations under the Purchase Contract shall have access to the Relevant Personal Data; and
  - 26.5.13 promptly notify and provide full details to the Company of any potential or actual loss of Relevant Personal Data or any personal data breach, take all measures necessary to remedy or address the issue and co-operate with the Company to resolve such issue.
- 26.6 Where the Company requires assistance from the Supplier in order to respond to requests, queries and/or investigations in respect of the Relevant Personal Data or requires that the Supplier help the Company in reconstructing and/or otherwise safeguarding the Relevant Personal Data or requires that the Supplier assists the Company in complying with Data Protection Laws in relation to the Relevant Personal Data, the Supplier shall (at the Company's cost) provide the Company with such assistance as the Company reasonably requests within any timescales reasonably specified by the Company.

27 **NON-WAIVER AND APPROVALS**

- 27.1 The allowance of time or any other delay, indulgence or non-enforcement by the Company in respect of its rights or any matter shall not affect or prejudice or be taken as a waiver of the rights, powers and remedies of the Company.
- 27.2 No waiver, forbearance, release, admission, acknowledgment, inspection, approval, comment, review, payment or consent or omission to inspect, approve, comment, review or consent by the Company or on its behalf shall in any way whatsoever derogate, reduce, limit, diminish, vary or extinguish the Supplier's duties and obligations in connection with the Purchase Contract, nor shall it exclude, reduce, limit, vary or extinguish the Supplier's responsibility or liability for any breach of its obligations under the Purchase Contract. No waiver by either party in respect of a breach shall operate as a waiver in respect of any subsequent breach. No single or partial exercise of such right, power or remedy shall prevent or restrict the further exercise of that right or any other right, power or remedy. The Company's rights, powers and remedies provided in the Purchase Contract are cumulative and not exclusive of any rights, powers and remedies provided by law.
- 27.3 Notwithstanding any other provision of the Purchase Contract, the term "approval" when used in the context of any approval to be given by the Company shall have the meaning of "acceptance of general principles only" and no such approval shall diminish or relieve the Supplier from any of its obligations, duties or liabilities under the Purchase Contract.

28 **LIMITATION PERIOD**

- 28.1 Notwithstanding the manner in which the Purchase Contract has been entered into, the period of limitation in respect of the Supplier's obligations and liabilities under the Purchase Contract shall extend to the expiration of twelve (12) years from the date the Supplier completes Delivery and Supply of all the Materials. The contractual period of limitation under the Limitation Act 1980 is excluded and shall not apply to claims made under the Purchase Contract. For the avoidance of doubt, any action or proceedings under statute may be brought or commenced within any longer prescribed statutory limitation period.

29 **GOVERNING LAW AND JURISDICTION**

- 29.1 The Purchase Contract shall be governed and construed in accordance with English law and the English courts shall have exclusive jurisdiction (except for the purposes of enforcement of an English court judgment or order in another jurisdiction) with regard to all matters arising from it.

Signed for and on behalf of the Contractor:

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Signature

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Print name and position