

DATED

19 May

2015

EUROBUILD PROPERTIES CO LIMITED

-and-

PRINGUER-JAMES CONSULTING ENGINEERS LIMITED

**CONSULTANT'S DEED OF APPOINTMENT
IN RELATION TO THE APPOINTMENT OF STRUCTURAL ENGINEER IN RESPECT OF A
PROJECT AT
277A GRAY'S INN ROAD LONDON WC1X 8QF**

THIS DEED OF APPOINTMENT is made the 19 day of May 2015

BETWEEN:

- (1) **EUROBUILD PROPERTIES CO LIMITED** (registered number 06008960) whose registered office is at 4-5 Coleridge Gardens London NW6 3QH (the "Client" which expression includes its successors and permitted assigns); and
- (2) **PRINGUER-JAMES LIMITED** (registered number 05260983) whose registered office is at 10 Beulah Road, London SW19 3SB (the "Consultant").

BACKGROUND

- (A) The Client intends to proceed with the demolition of the existing building and to undertake a new residential development and other associated works (the "Project") at 277a Gray's Inn Road, London WC1X 8QF (the "Site" and references to the Site shall include parts of it) and the Client has requested the Consultant to provide the Services as Structural Engineer.
- (B) The Project is not designed for occupation by the Client. It is to be let and/or sold in its entirety or in parts.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1. In this Appointment:

- 1.1.1. "Appointment" means this document (including any changes to it that may subsequently be agreed in writing between the Client and the Consultant), including its Schedules and other documents or parts of other documents expressly referred to in it;
- 1.1.2. "Beneficiary" means:
 - 1.1.2.1. each first purchaser of the whole of the Site and/or
 - 1.1.2.2. each first commercial tenant and/or first purchaser's commercial tenant of the whole of the Site and/or a person who takes an overriding lease of the whole or each and every part of Site (whether he is a first tenant or not) and/or
 - 1.1.2.3. any Mortgagee and/or
 - 1.1.2.4. Regal GI Limited; and/or

- 1.1.2.5. an RSL
- 1.1.3. "CDM Regulations" means the Construction (Design and Management) Regulations 2007;
- 1.1.4. "Copyright Material" has the meaning given to it in Clause 10;
- 1.1.5. "Fee" is identified in Clause 5;
- 1.1.6. "Final Date For Payment" has the meaning given to it in Clause 5;
- 1.1.7. "Mortgagee" means any person who may agree to provide loan facilities or other finance in respect of the acquisition of the whole of the Site or the carrying out of the Project or secured on any of the foregoing for any purpose; and
- 1.1.8. "Project Manager" means any organisation or person appointed by the Client to act as project manager from time to time; and
- 1.1.19. "RSL" means a first registered provider of social housing taking premises at the Site and/or any associated company set up for the purpose of procuring development of social housing and/or their funder;
- 1.1.10. "Services" means the services relating to the Project to be carried out by the Consultant identified in Annexure 1, as amended from time to time in accordance with this Appointment.
- 1.2. In this Appointment:
- 1.2.1. references to a person include any individual, company, corporation, firm, partnership, joint venture, association, organisation, institution, trust or agency, whether or not having a separate legal personality;
- 1.2.2. references to the singular shall include the plural and vice versa and references to the masculine gender shall include references to the feminine gender and vice versa;
- 1.2.3. headings are inserted for convenience only and shall be ignored in construing this Appointment;
- 1.2.4. references to Clauses, Sub-clauses and Schedules are references to Clauses, Sub-clauses and Schedules in this Appointment; and
- 1.2.5. any reference to legislation means all relevant acts of parliament, regulations, instruments or orders made under them, all regulations and bye-laws of any relevant local and statutory authority and shall be construed as a reference to the same as it may have been, or may from time to time be amended, modified or re-enacted.

2. APPOINTMENT AND PROVISION OF SERVICES

- 2.1. The Client confirms the appointment of the Consultant and the Consultant confirms its agreement to act in relation to the Project on the terms of this Appointment. Notwithstanding its date of execution, this Appointment shall be deemed to take effect on the date upon which the Consultant shall have first commenced performance of the Services.
- 2.2. The Consultant shall carry out the Services and the obligations of the Consultant set out in this Appointment in accordance with its terms and all reasonable written instructions of the Client and/or the Project Manager.
- 2.3. Any services already provided by the Consultant relating to the Project prior to or after the date of this Appointment, whether for the Client or for the developer/employer are to be treated as having been provided under the terms of this Appointment
- 2.4. The Client and/or Project Manager may by written instruction to the Consultant amend the Services whether by omission, addition or alteration.

2.5 *Additional Services*

- 2.5.1 The Consultant must give notice to the Client if it properly considers that any service required to be undertaken is additional to or a variation of the Services for the Project or if it is requested by the Client to perform any service which is additional to the Services for the Project. The notice must specify the additional or varied service to be undertaken and any additional fee that the Consultant seeks, acting reasonably, for carrying out the additional or varied service.
- 2.5.2 The Consultant is not to carry out or commence the proposed additional or varied service without the prior written approval of the Client to such additional or varied service and any proposed additional fee unless the Client otherwise directs.
- 2.5.3 If an additional fee is not agreed, the Client may nevertheless instruct the carrying out of the additional or varied service. The Client will pay the Consultant at the 'Hourly Rates' as set out in Schedule 1 in respect of the hours reasonably expended by the Consultant in carrying out the additional or varied service.
- 2.5.4 If the Consultant carries out or purports to carry out any additional or varied services without prior written approval the Client shall not be liable for any additional fee costs or expenses incurred by the Consultant.

3. STANDARD OF CARE

- 3.1. The Consultant warrants that it shall exercise in the performance of its obligations under this Appointment all the reasonable skill, care and diligence to be expected of a properly qualified and competent member of the Consultant's

profession experienced in carrying out work of a similar size, scope, complexity and nature to the Project and notwithstanding anything to the contrary all the Consultant's obligations under this Appointment shall be subject to this obligation of reasonable skill, care and diligence.

- 3.2. The Consultant warrants that it has not specified and will not specify for use in the Project any materials and substances generally known to be or mentioned in any Building Research Establishment Digest as being deleterious to health and safety or to the durability of the Project or the Site in the particular circumstances in which they are used including substances and materials not in conformity with any relevant EU Standards or Codes of Practice or which are not used in accordance with the latest edition of the guidance contained in "Good Practice in the Selection of Construction Materials" carried out by Ove Arup & Partners under the guidance of the steering group representing the British Council for Offices and the British Property Federation published at the time of specification.
- 3.3. The Consultant warrants that it shall exercise the skill, care and diligence required by Sub-clause 3.1 to carry out its obligations under this Appointment in accordance with all applicable legislation and the Consultant will see that all necessary permissions and consents and any conditions attached to them under the planning and other legislation applicable to the Project have been or will be obtained and will see that the Project, as built in accordance with the Consultant's design (but only insofar as the Consultant has been responsible for such design), will comply with such legislation, permissions and consents and any conditions attached to them.
- 3.4. The Consultant warrants that it shall exercise the skill, care and diligence required by Sub-clause 3.1 to carry out its obligations under this Appointment so that no act, omission or default of the Consultant shall cause or contribute to any claim against or breach by the Client of any of its obligations under any agreement it may have with any third party provided always that the Consultant has been provided, by way of an instruction, with full details of such obligations sufficient for the Consultant to identify what it must do and and/or refrain from doing and also provided that the Client's obligations are consistent with the Consultant's other obligations in this Appointment.
- 3.5. The Consultant further warrants to the Client that, as part of the Services, it shall ~~comply with its duties under~~ the CDM Regulations, it is competent to perform such duties and it has allocated or will allocate adequate resources to enable it to perform those duties.
- 3.6. The Consultant acknowledges that the Client shall be deemed to have relied upon the Consultant's reasonable skill, care and diligence in respect of the Consultant carrying out its obligations under the Appointment and that the rights and benefits conferred upon the Client by this Appointment are in addition to any other rights and remedies the Client may have against the Consultant including any remedies for negligence.

4. **PROGRESS AND CO-ORDINATION**

- 4.1. The Consultant shall proceed regularly and diligently with the Services in accordance with the programme agreed between the Client and the Consultant both acting reasonably from time to time for the Project . If the Consultant is prevented or delayed in whole or in part in the performance of the Services for any reason, then it shall immediately notify the Client and the Project Manager in writing and shall use all reasonable endeavours to resume and expedite the performance of the Services so as to complete the same with all reasonable speed.
- 4.2. The Consultant shall exercise the skill, care and diligence required by Sub-clause 3.1 to co-ordinate and integrate its performance of the Services with the services to be performed by the Project Manager and any other consultants appointed from time to time in respect of the Project and the work to be carried out by any contractors and sub-contractors engaged from time to time in respect of the Project so that no act, omission or default of the Consultant shall cause or contribute to any claim against or breach by the Client under any of the appointments of the Project Manager or the other consultants or any building contract entered into by the Client provided always that the Consultant has been provided, by way of an instruction, with full details of such other appointments/building contract sufficient for the Consultant to identify what it must do and and/or refrain from doing and also provided that the Client's obligations are consistent with the Consultant's other obligations in this Appointment.
- 4.3. The Consultant shall keep the Client and the Project Manager properly informed as to all aspects of the progress and performance of the Services.

5. THE FEE AND TERMS OF PAYMENT

- 5.1. The Client agrees to pay to the Consultant as full remuneration for the Services the Fee set out in Schedule 1 subject to adjustment in accordance with clause 5.7.
- 5.2. Subject to Clause 11, the Fee shall be invoiced and paid in instalments in accordance with Schedule 1. An instalment shall become due on the later of any date specified in Schedule 1 and the date on which the Client receives an invoice, submitted in accordance with this Appointment, for the instalment. Within 5 days of the instalment becoming due, the Client shall serve a notice on the Consultant specifying the amount, which the Client considers to be properly due and the basis on which that amount was calculated.
- 5.3. All invoices shall be submitted to the Client and copies submitted to the Project Manager and sums properly invoiced shall be paid by the Client within 30 days of receipt of the invoice (the "Final Date For Payment"). The Client may not withhold payment unless it has given an effective notice of its intention so to do not later than 7 days before the Final Date For Payment, which specifies the amount to be withheld and the ground for withholding payment (or if there is more than one ground, each ground and the amount attributable to each). The

notice referred to in Sub-clause 5.2 may be an effective notice for the purposes of this Sub-clause if it complies with the above requirements.

- 5.4. Where any amount due under this Appointment is not paid in full by the Final Date For Payment and no effective notice is given under Sub-clause 5.3, the Consultant shall be entitled (without prejudice to any other right or remedy) to suspend performance of its obligations under this Appointment by giving not less than 7 days notice to the Client stating the ground or grounds on which it is intended to suspend performance. The right to suspend performance shall cease when the Client makes payment in full of the amount due and any period during which performance is validly suspended pursuant to this Sub-clause shall be disregarded in computing the time taken by the Consultant to complete any of the Services affected by the suspension.
- 5.5. Any sum due under this Appointment which is not paid by the Final Date For Payment shall carry interest at the rate of 3 per cent above the base lending rate from time to time of HSBC Bank plc for the period between the Final Date For Payment and the date on which payment is made.
- 5.6. Where the Late Payment of Commercial Debts (Interest) Act 1998 applies, if the rate of interest referred to in Sub-clause 5.5 is held not to be a substantial remedy (within the meaning of section 9 of the Late Payment of Commercial Debts (Interest) Act 1998) there shall be substituted for the rate referred to in Sub-clause 5.5 such higher rate of interest as is necessary to constitute a substantial remedy (within the meaning of section 9 of the Late Payment of Commercial Debts (Interest) Act 1998).
- 5.7. The Fee shall be adjusted in the event of any amendment to the Services under this Appointment in accordance with any provisions for adjustment set out in Schedule 1, otherwise on a fair and reasonable basis taking account of the amount and break down of the Fee prior to amendment.
- 5.8. The Fee shall be inclusive of all expenses and disbursements, except as set out in Schedule 1, and exclusive of VAT, which shall be added at the prevailing rate and exclusive of any statutory and local authority fees (which shall be the responsibility of the Client).
6. **STAFF**
- 6.1. The Consultant shall be responsible for providing the staff necessary or appropriate to perform its obligations under this Appointment.
- 6.2. The Consultant shall maintain the involvement of John Lange until completion of the Project or earlier termination of the Consultant's appointment under this Appointment for the benefit of the efficient implementation and co-ordination of the Project and any change shall require the prior written agreement of the Client or the Project Manager before it is implemented (such agreement not to be unreasonably withheld or delayed).

- 6.3. The Client or the Project Manager may object (but not unreasonably or vexatiously) to any representative or member of staff employed by the Consultant upon the Project who has exhibited unsatisfactory conduct or performance by giving notice in writing to the Consultant whereupon the Consultant shall forthwith remove such person from the Project and appoint a suitable replacement subject to the prior written approval of the Client or the Project Manager (such approval not to be unreasonably withheld or delayed).

7. INSURANCE

- 7.1. The Consultant will maintain in force with an insurance company or underwriter carrying on business in the EU a professional indemnity insurance policy having a limit of indemnity of not less than £10,000,000 in respect of each and every claim unlimited in number and without aggregate limit (save for claims for pollution or contamination with not less than such limit of indemnity in the aggregate for any and all claims notified in the year of insurance).
- 7.2. The Consultant will maintain such professional indemnity insurance until 12 years after practical completion of the Project (or until 12 years after any earlier termination of the Consultant's appointment under this Appointment or abandonment of the Project) provided that such insurance is generally available at reasonable commercial rates.
- 7.3. As and when reasonably required by the Client, the Consultant shall produce for inspection documentary evidence that the insurance cover referred to in this Clause is being properly maintained.
- 7.4. The Consultant shall immediately inform the Client if the insurance cover referred to in this Clause is not or ceases to be generally available at reasonable commercial rates in order that the Consultant and the Client can discuss the means of best protecting their respective positions in the absence of such insurance. In the absence of agreement between the Consultant and the Client within 28 days of the Client being given such information, the steps to be taken will be determined by an independent member of the Chartered Insurance Institute acting as an expert appointed upon the application of either the Consultant or the Client by the President or other chief officer for the time being of the said Institute and whose costs shall be borne as directed or in the absence of such direction equally between the Consultant and the Client.

8. WARRANTIES

- 8.1. The Consultant shall within 14 days of receipt of engrossments from the Client execute deeds substantially in the form set out in Schedule 2 with all necessary factual amendments in favour of any Beneficiary and shall deliver the same to the Client.

9. ASSIGNMENT, NOVATION AND SUBLETTING

- 9.1. The Consultant shall not assign the benefit of or in any way transfer the obligations under this Appointment or any part of it provided that it may recommend to the Client that it be permitted to appoint a specialist to advise in relation to a certain element of the Project (a "Sub-consultant") in which event, and if the recommendation is accepted by the Client in writing, the Consultant shall be responsible to the Client for such Sub-consultant's advice as if it was its own.
- 9.2. It shall be a condition precedent to the Client accepting a recommendation of the type referred to in this Clause that the Consultant procures deeds substantially in the form set out in Schedule 2 with all necessary factual amendments and any other amendments reasonably requested by the Client from its Sub-consultants in favour of the Client and any Beneficiary.
- 9.3. The Client's rights under this Appointment may, without the consent of the Consultant, be assigned, charged or otherwise transferred
 - 9.3.1. as security to any Mortgagee (and such rights may be re-assigned on redemption); and
 - 9.3.2. by absolute assignment on two other occasions only

and the rights of any assignee under this Appointment may be assigned in the same manner and to the same extent (in the case of 9.3.2 limited to one further assignment).

10. COPYRIGHT

- 10.1. Copyright in all documents prepared or to be prepared by or for the Consultant in connection with the Project and in any designs depicted in and works executed from these documents (the "Copyright Material") shall remain the property of the Consultant but the Consultant now grants to the Client a non-exclusive, irrevocable, royalty-free, transferable licence to copy, use and publish the Copyright Material (including copies of it) and the right to grant sub-licences in respect of the same for any purpose connected with the Project and/or the Site including, without limitation, its sale, letting, use, maintenance, re-design, repair, reinstatement, advertisement, marketing, alteration, extension, renewal, redevelopment or refurbishment of the Project and/or the Site but not the extension of the Project or any other building.
- 10.2. The Consultant shall procure for the Client the benefit of such a licence in respect of any Copyright Material as may be written, originated or made by any sub-consultant or supplier to the Consultant.
- 10.3. The Consultant agrees not to assert any moral rights in the Copyright Material or in relation to the Project and/or the Site granted pursuant to the Copyright Designs and Patents Act 1988.

- 10.4. The Consultant shall not be liable for the use of the Copyright Material for a purpose other than that for which it was prepared.
- 10.5. The Consultant shall at the Client's request provide the Client with copies of the Copyright Material subject to payment of any reasonable copying charges.
- 10.6. The Consultant warrants to the Client that the use of the Copyright Material for the purposes of the Project will not infringe the rights of any third person.
- 10.7. The licence granted by this clause 10 shall determine if the Consultant terminates this Appointment in accordance with clause 11.1.

11. TERMINATION AND SUSPENSION

- 11.1. The Consultant may terminate its appointment under this Appointment only in the event of a breach by the Client of its obligations under this Appointment which is irremediable or, where remediable, which the Client has failed to remedy within a reasonable time (but not less than 28 days and taking into account its obligations in this respect under any collateral warranty provided to a third party)) after receiving notice in writing from the Consultant specifying the breach and requiring its remedy, in which case the Consultant shall be entitled forthwith by written notice to the Client to terminate its appointment under this Appointment.
- 11.2. The Client may forthwith by notice in writing to the Consultant suspend the appointment of the Consultant under this Appointment. Unless otherwise agreed the Consultant's appointment under this Appointment shall be deemed to have been terminated if the Client does not issue an instruction to the Consultant to resume work within six months after the issue of the instruction to suspend under this Sub-clause.
- 11.3. The Client may at any time and for any reason by notice in writing terminate the Consultant's appointment under this Appointment.
- 11.4. Upon any termination or suspension of the Consultant's appointment under this Appointment the Consultant shall immediately take steps to cease the provision of the Services in an orderly manner with all reasonable speed and economy and upon request (only in the event of termination) shall deliver to the Client copies of all drawings and other documents in its possession custody or control (whether in the course of preparation or completed) connected with the Project.
- 11.5. Upon any termination or suspension of the Consultant's appointment under this Appointment the Client shall pay to the Consultant such proportion of the Fee as is commensurate with the Services properly performed by the Consultant up to the date of termination or suspension having regard to all the circumstances surrounding the termination or suspension less the amount of any payment in respect of the Fee previously made. Upon resumption of work after a

suspension any payment made shall be on account of any instalment of the Fee subsequently due.

11.6. Save as set out above, upon any termination or suspension of the Consultant's appointment under this Appointment howsoever arising the Client shall not be liable to the Consultant for or in respect of any loss of profit, loss of contracts or other claims, losses or expenses arising out of or in connection with such termination or suspension.

11.7. Any termination or suspension of the Consultant's appointment under this Appointment shall not prejudice or affect the accrued rights (including rights of set-off) or claims that either party may have and the provisions of this Appointment shall continue to have effect notwithstanding termination or suspension where the context so requires.

12. APPROVALS

No consent, approval or act or omission of the Client or the Project Manager shall of itself relieve the Consultant of its obligations under this Appointment.

13. CONFIDENTIALITY

13.1. The Consultant shall not, without the prior written approval of the Client, take or knowingly permit to be taken any photographs of the Project and/or the Site for use in any publicity or advertising or publish alone, or in conjunction with any other person, any articles, photographs or other illustrations relating to the Project, the Site or any part of it nor shall the Consultant knowingly impart to any publication, journal or newspaper or any radio or television programme or other broadcast any information regarding the Project and/or the Site.

13.2. Save as may reasonably be necessary in the proper performance of its duties or as may be required by applicable legislation, the Consultant shall not during its appointment or at any time after its expiry, termination, suspension or abandonment for any reason disclose to any person or otherwise make use of any confidential information of which it has or may in the course of its appointment become possessed relating to the Client, the Project, the Site or this Appointment, nor shall it disclose to any person whatsoever anything relating to the Client without the prior written authority of the Client. The restriction shall continue to apply, without limitation in time, unless and until such information comes properly into the public domain through no fault of the Consultant.

14. NOTICES

Any notice to be given under this Appointment shall be in writing and shall be deemed to be duly given when delivered (in the case of personal delivery or letter) or when despatched (in the case of facsimile) to the party to whom it is addressed at the address appearing below (or at such address as the party may after the date of this Appointment specify for this purpose to the other):

14.1. In the case of the Client:

Address: 4-5 Coleridge Gardens London NW6 3QH

Facsimile number: 020 7328 8181

14.2. In the case of the Consultant:

Address: 10 Beulah Road, London SW19 3SB

Facsimile number: N/A

15. DISPUTES

15.1. Any dispute or difference arising out of or in connection with this Appointment may be referred to adjudication in accordance with the latest edition of The Technology and Construction Solicitors' Association Adjudication Rules.

15.2. This Appointment and all matters relating to it or its subject matter or formation (including non-contractual disputes or claims) shall, subject to Sub-clause 15.1, be governed by and construed in accordance with the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the Courts of England and Wales.

16. ENTIRE AGREEMENT

This Appointment shall constitute the entire agreement between the parties in respect of the Project and shall supersede and extinguish any previous agreements representations and understandings.

17. THIRD PARTIES

The parties to this Appointment do not intend that any of its terms shall be enforceable by a third party and nor will such terms operate to confer any benefit on any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

18. LIMITATION OF LIABILITY

The Consultant's maximum liability under this Appointment, except for death or personal injury (for which liability shall not be limited), in contract, tort (including negligence) or otherwise in connection with this Appointment shall not exceed £10,000,000.00 (ten million pounds sterling) in respect of Loss. "Loss" here means the aggregate of all losses or damages including interest thereon (if any) suffered or incurred directly or indirectly by the Client and any related party under or in connection with this Appointment or the Services or Works generally.

IN WITNESS whereof this document has been executed as a Deed.

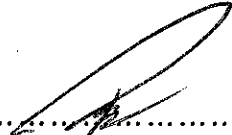
Executed as a Deed by

EUROBUILD PROPERTIES CO LIMITED



.....

Director

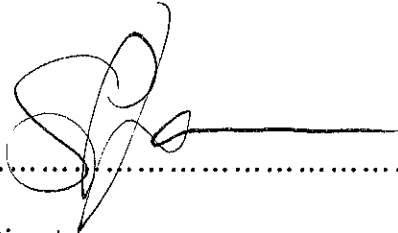


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Director


Executed as a Deed by

**PRINGUER-JAMES CONSULTING
LIMITED**



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Director



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Director Company Secretaries

SCHEDULE 1

The Fee

As per attached Fee Breakdown

Fee Breakdown

Project Phase	Cumulative %	% Split across Stages	
Project Appraisal / Development (1 month)	5	5%	£10,750
Scheme Design (3 months) (£17,916.67 per month for 3 month period)	30	25%	£53,750
Tender Design & Contract Documentation (4 month) (£24,187.50 per month for 4 month period)	75	45%	£96,750
Completion of Primary Structure to Roof Level (£4,479.17 per month for the first calendar year)	100	25%	£53,750
TOTAL			£215,000

SCHEDULE 2

Deed of Warranty

THIS DEED is made the _____ day of _____ 2015

BETWEEN:

- (1) **PRINGUER-JAMES LIMITED** (registered number 05260983) whose registered office is at 10 Beulah Road, London SW19 3SB (the "Consultant"); and]
- (2) [**BENEFICIARY**] (registered number [number]) whose registered office is at [address] (the "Beneficiary" which expression includes its successors and permitted assigns); and
- [(3) **EUROBUILD PROPERTIES CO LIMITED** (registered number 06008960) whose registered office is at 4-5 Coleridge Gardens London NW6 3QH (the "Client" which expression includes its successors in title and permitted assigns).]¹

BACKGROUND:

- (A) The Client intends to proceed with the demolition of the existing building and redevelopment the demolition of the existing building and to undertake a new residential development and other associated works (the "Project") at 277a Gray's Inn Road, London WC1X 8QF (the "Site" and references to the Site include parts of it).
- (B) By an appointment dated [insert date] (the "Consultancy Appointment"), a copy of which is attached, the Client has appointed the Consultant to provide services in connection with the Project.
- (C) The Beneficiary has [summarise circumstances leading to the availability of the warranty].

In consideration of £10 paid by the Beneficiary to the Consultant, receipt of which the Consultant hereby acknowledges **IT IS AGREED AS FOLLOWS:**

1. In this Deed, unless the context otherwise requires, any reference to a Clause, Sub-clause and Schedule is to a Clause, Sub-clause and Schedule of this Deed, words denoting the singular number include the plural and vice versa, references

¹ Include only where step-in rights are required.

to the masculine gender shall include references to the feminine gender and vice versa, references to persons include references to bodies corporate and unincorporate and references (whether express or implied) to statutes or statutory instruments include references to any modification, extension or re-enactment of them from time to time.

2. The Consultant warrants that it has complied with and shall continue to comply with its obligations under the Consultancy Appointment which, for the avoidance of doubt, extend to any services (including any work of design or selection of materials or goods) carried out prior to the date of the Consultancy Appointment provided always that:
 - 2.1 the Consultant shall have no greater liability to the Beneficiary than it would have had if the Beneficiary had been named as a joint Client under the Consultancy Appointment, ignoring any rights of set-off or deduction; and
 - 2.2 the Consultant shall be entitled, in any action or proceedings by the Beneficiary pursuant to this Deed, to rely on any limitation in the Consultancy Appointment and to raise the equivalent rights in defence of liability as it would have had against the Client under the Consultancy Appointment save that the Consultant shall not be entitled to raise under this Deed any set-off or counterclaim in respect of sums due to the Consultant under the Consultancy Appointment; and
 - 2.3 the obligations of the Consultant under or pursuant to this Clause shall not be increased or diminished by the appointment of any person by the Beneficiary to carry out any independent enquiry or investigation into any relevant matter.
3. The Consultant warrants that it has not specified and will not specify for use in the Project any materials and substances generally known to be or mentioned in any Building Research Establishment Digest as being deleterious to health and safety or to the durability of the Project or the Site in the particular circumstances in which they are used including substances and materials not in conformity with any relevant EU Standards or Codes of Practice or which are not used in accordance with the latest edition of the guidance contained in "Good Practice in the Selection of Construction Materials" carried out by Ove Arup & Partners under the guidance of the steering group representing the British Council for Offices and the British Property Federation published at the time of specification.
- 4.1 Copyright in all documents prepared or to be prepared by or for the Consultant in connection with the Project and in any designs depicted in and works executed from these documents (the "Copyright Material") shall remain the property of the Consultant but the Consultant now grants to the Beneficiary a non-exclusive, irrevocable, royalty-free, transferable licence to copy, use and publish the Copyright Material (including copies of it) and the right to grant sub-licences in respect of the same for any purpose connected with the Project and/or the Site including, without limitation, its sale, letting, use, maintenance, re-design, repair, reinstatement, advertisement, marketing, alteration, extension, renewal, redevelopment or refurbishment of the Project and/or the Site but not the extension of the Project or any other building.

- 4.2 The Consultant shall procure for the Beneficiary the benefit of such a licence in respect of any Copyright Material as may be written, originated or made by any sub-consultant or supplier to the Consultant.
- 4.3 The Consultant agrees not to assert any moral rights in the Copyright Material or in relation to the Project and/or the Site granted pursuant to the Copyright Designs and Patents Act 1988.
- 4.4 The Consultant shall not be liable for the use of the Copyright Material for a purpose other than that for which it was prepared.
- 4.5 The Consultant shall at the Beneficiary's request grant to the Beneficiary or a person authorised by the Beneficiary access to and the right to copy the Copyright Material at the Consultant's offices on reasonable notice during normal office hours and subject to payment of any reasonable copying charges.
- 4.6 The Consultant warrants to the Beneficiary that the use of the Copyright Material for the purposes of the Project will not infringe the rights of any third person.
- 5.1 The Consultant warrants that it will maintain in force with an insurance company or underwriter carrying on business in the EU a professional indemnity insurance policy having a limit of indemnity of not less than £5,000,000 in respect of each and every claim unlimited in number and without aggregate limit (save for claims for pollution or contamination with not less than such limit of indemnity in the aggregate for any and all claims notified in the year of insurance).
- 5.2 The Consultant will maintain such professional indemnity insurance until 12 years after practical completion of the Project (or until 12 years after any earlier termination of the Consultant's appointment under the Consultancy Appointment or abandonment of the Project) provided that such insurance is generally available at reasonable commercial rates.
- 5.3 As and when reasonably required by the Beneficiary, the Consultant shall produce for inspection documentary evidence that the insurance cover referred to in this Clause is being properly maintained.
- 5.4 The Consultant shall immediately inform the Beneficiary if the insurance cover referred to in this Clause is not or ceases to be generally available at reasonable commercial rates in order that the Consultant and the Beneficiary can discuss the means of best protecting their respective positions in the absence of such insurance. In the absence of agreement between the Consultant and the Beneficiary within 28 days of the Beneficiary being given such information, the steps to be taken will be determined by an independent member of the Chartered Insurance Institute acting as an expert appointed upon the application of either the Consultant or the Beneficiary by the President or other chief officer for the time being of the said Institute and whose costs shall be borne as directed or in the absence of such direction equally between the Consultant and the Beneficiary.

- 6.1 Subject to the proviso in this Sub-clause, the Beneficiary may assign all or any part of the benefit of and rights under this Deed on 2 occasions without the consent of the Consultant being required and by way of security or by way of re-assignment on redemption and such assignments shall not count towards one of the permitted assignments referred to above.
- 6.2 The Consultant shall not be entitled to contend that any assignee is precluded from recovering under this Deed any loss incurred by such assignee resulting from any breach of this Deed (whenever happening) by reason that such person is an assignee and not the named Beneficiary in this Deed.
- [6.3 The Consultant will, if required by the Beneficiary, execute further Deeds of Warranty in favour of each first purchaser and/or first commercial tenant of the whole of the Project or the Site and/or their funder in substantially the form of this Deed with all necessary factual amendments save for this Sub-clause and Clause 12 which shall be excluded.]²
7. Any notice to be given under this Deed shall be in writing and shall be deemed to be duly given when delivered (in the case of personal delivery or letter) or when despatched (in the case of facsimile) to the party to whom it is addressed at the address appearing below (or at such address as the party may after the date of this Deed specify for this purpose to the other):
- 7.1 In the case of the Consultant:
Address: 10 Beulah Road, London SW19 3SB
Facsimile number: N/A
- 7.2 In the case of the Beneficiary:
Address: [address]
Facsimile number: [number]
- [7.3 In the case of the Client:
Address: 4-5 Coleridge Gardens London NW6 3QH
Facsimile number: 020 7328 8181]
8. The parties to this Deed do not intend that any of its terms shall be enforceable by a third party and nor will such terms operate to confer any benefit on any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.
9. No action or proceedings for any breach of this Deed may be commenced against the Consultant after the expiry of 12 years following the date of practical

² To be included only where the Beneficiary is a Mortgagee.

completion of the Project (or 12 years after any earlier termination of the Consultant's appointment under the Consultancy Appointment if sooner).

10. The Consultant acknowledges that the Beneficiary shall be deemed to have relied upon the Consultant's reasonable skill, care and diligence in respect of the Consultant carrying out its obligations under the Consultancy Appointment and that the rights and benefits conferred upon the Beneficiary by this Deed are in addition to any other rights and remedies the Beneficiary may have against the Consultant including any remedies for negligence.
11. This Deed and all matters relating to it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the Courts of England and Wales. The latest version of the Technology and Construction Solicitors' Association's Adjudication Rules shall apply if a dispute or difference is required to be referred to adjudication.

[Note: clause 12 only to apply to a Mortgagee OR an RSL providing funding and requiring step-in rights]

- 12.1 The Consultant agrees that it will, if so required by notice in writing given by the Beneficiary, accept the instruction of the Beneficiary or its appointee in place of the Client in connection with the Consultancy Appointment.
- 12.2 The Consultant further agrees that it will not, without first giving the Beneficiary not less than [28 for the Mortgagee's Warranty/56 for the RSL's Warranty] days' previous notice in writing, exercise or seek to exercise any right it may have to terminate the Consultant's appointment under the Consultancy Appointment or treat the Consultancy Appointment as having been repudiated by the Client or discontinue the performance of any duties to be performed by the Consultant under it. Any such notice will specify the Consultant's grounds for terminating its appointment under the Consultancy Appointment or treating the Consultancy Appointment as having been repudiated by the Client or discontinuing the performance of any duties to be performed by the Consultant under it and will also set out the fees properly due and outstanding at the date of such notice. The Consultant's right to terminate its appointment under the Consultancy Appointment or treat the Consultancy Appointment as having been repudiated or discontinue performance of any duties to be performed by the Consultant under it shall cease if, within such period of notice, the Beneficiary shall give notice in writing to the Consultant requiring the Consultant to accept the instructions of the Beneficiary or its appointee to the exclusion of the Client in connection with the Consultancy Appointment.
- 12.3 Where the Beneficiary gives a notice to the Consultant under this Clause, the Beneficiary shall, by such notice, accept liability for payment of the fees payable to the Consultant and for performance of the Client's obligations under the Consultancy Appointment including payment of any fees properly due and outstanding at the date of such notice.

12.4 **[For the Mortgagee's Warranty only:**

The entitlement of the Beneficiary as set out in this Clause 12 shall have priority to any similar rights contained in any other collateral warranty given or made by the Consultant in connection with the Project and/or the Site and the Consultant shall not accept any similar notice to that described in Sub-clause 12.3 above whether initiated by the Consultant in similar circumstances to those envisaged in Sub-clause 12.2 or initiated by the Beneficiary of any other collateral warranty or agreement without first having received written consent from the Beneficiary that it may do so (such consent not to be unreasonably withheld or delayed), unless, in the case of step-in rights having been initiated by the Consultant under Sub-clause 12.2, the Beneficiary has failed to serve a notice on the Consultant exercising its rights under this Clause 12 within the 28 days' period referred to, in which case this clause shall not apply.]

[For the RSL's Warranty only:

The Beneficiary acknowledges that whenever it is entitled to exercise the rights set out in this Clause 12, its rights to do so are subordinate to those of the Mortgagee to exercise the same rights, provided that the Beneficiary shall be entitled to exercise its rights under this Clause 12 when the Mortgagee has acknowledged to the Consultant that it does not intend to or cannot exercise its rights. If the Mortgagee has made this acknowledgement to the Consultant or has failed, where step-in rights are initiated by the Consultant under Sub-clause 12.2, to serve a notice exercising its rights within the required time period specified in the Mortgagee's warranty the Consultant shall accept the Beneficiary's notice given pursuant to this Clause 12.]

- 12.5 Notwithstanding anything contained in this Deed and/or any payments which may be made by the Beneficiary to the Consultant, the Beneficiary shall not be under any obligation to the Consultant unless the Beneficiary has given a notice to the Consultant under this Clause.
- 12.6 Compliance with the provisions of this Clause shall not be treated as a waiver of any breach on the part of the Client or the Consultant under the Consultancy Appointment.
- 12.7 The Client is a party to this Deed in order to confirm its agreement with the arrangements set out in this Clause.]³

IN WITNESS whereof this document has been executed as a Deed.

[Attestation Clauses of the parties]

³ To be included only where the Beneficiary is the Mortgagee or an RSL.

ANNEXURE 1

The Services

Our scope of works for the Primary Structure is as follows:

1) To review the existing site and geotechnical reports for the soils local to the development.

As such, we would be pleased to arrange for the geotechnical investigation to be undertaken on the site and will prepare Site Investigation drawings and specifications for issue to the geotechnical engineers.

2) To liaise with the relevant authorities regarding TfL and Crossrail II regarding the proximity of nearby Tube tunnels and the Safeguarding Zone for Crossrail II. The plans below show the site beyond the Crossrail II safeguarding zone and away from TfL lines.

3) To provide structural design details for the development, as follows:

- **Foundations** – To form foundations suitable to the building load and geotechnical ground bearing conditions. We expect that the footings and basement will be formed using contiguous piled walls with a reinforced concrete slab and facing walls.

- **Ground Floor** – The ground floor structure will be formed in reinforced concrete, of varied thickness and loadings, but suitable to vehicular traffic (for delivery of materials during construction) or limited to only residential loads where traffic is not required. The ground floor structure will also prop the perimeter retaining walls in the permanent condition.

Various stepped profiles will be necessary and cold bridging (external / internal) will be developed. The ground floor structure will be jointed for expansion and contraction – appropriate locations to be agreed with the architect.

- **Super Structure (Residential)** – The super structure elements will be designed as load bearing brick and block but with internal steel framing within the residential houses and timber joisted floors. The roof structure will be steel framed with timber infill.

The large residential block can be formed using a range of materials including CLT and concrete framed. PJCE have allowed for concrete framing the structure but would be pleased to consider alternative materials based on restricted access conditions.

- **Residential Entry Houses** – To detail the houses on St Chad's Way and Gray's Inn Road where carriageway exists at ground floor level. PJCE have allowed for the "part" basements beneath.

- **Tower Crane** – To detail the Tower Crane base and foundations. This will be cast into the new basement structure.

- **Drainage** – To provide below basement slab drainage within the site boundary. This will include the attenuation of grey water where this is installed below ground level. See attached Drainage Interface Diagram.

- **Reinforcement** – to provide reinforcement drawings and bending schedules, as necessary. Please note that this is normally excluded under the ACE conditions.

4) To issue a structural submission document for the District Surveyors office / Building Control.

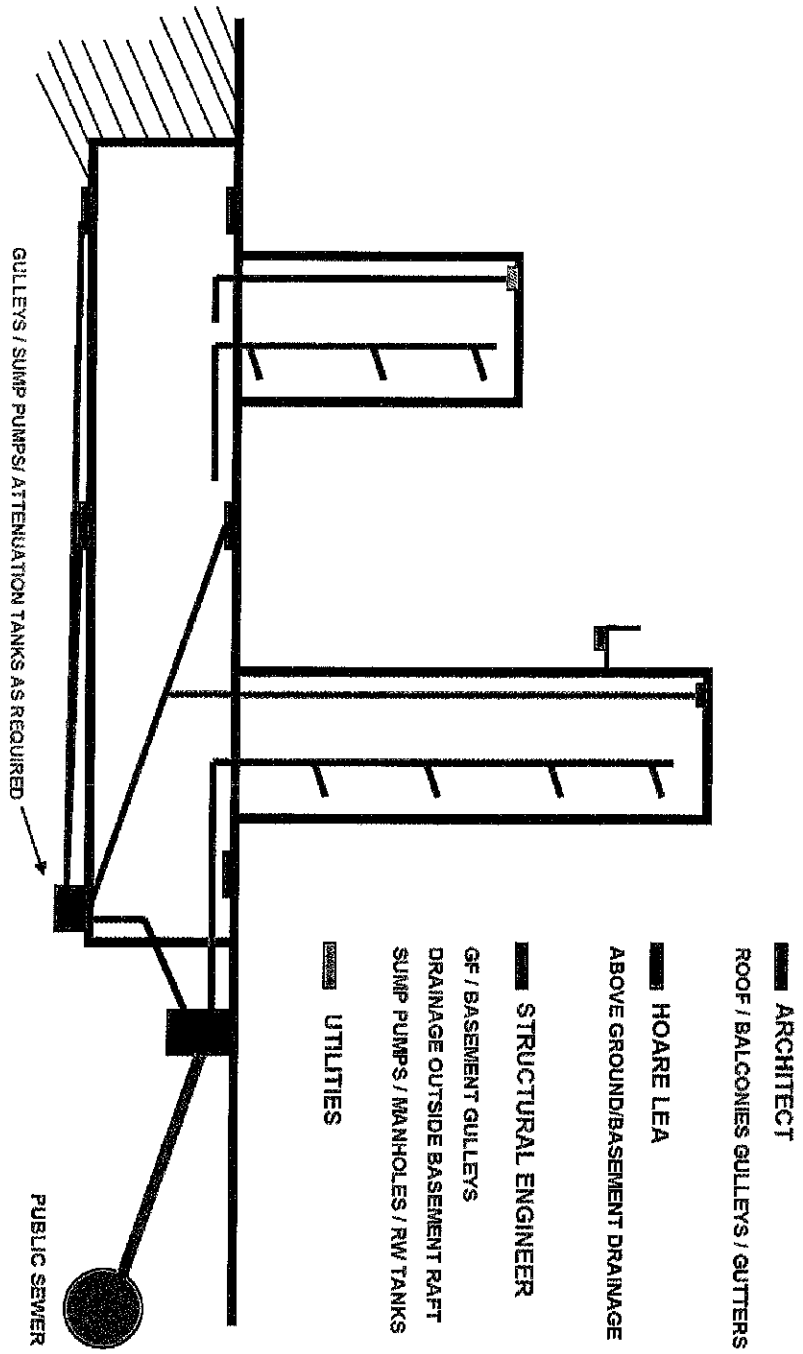
5) To provide construction drawings for the above elements of work.

6) To liaise with the design team, as necessary.

7) To conduct 16 site meetings during the construction stage

8) This fee is based on a period of 4 months for scheme design and 128 weeks for the construction period.

DRAINAGE INTERFACES



From: Mark Bryan <markbryan@regal-homes.co.uk>

Sent: 13 May 2015 08:23

To: Sean Pringuer-James

Cc: Harriet Butterfield

Subject: Re: 227a Grays Inn Road

Sean.

If the design of the scheme changes from now going forward and requires you to re design then I will

view this as a change And I will agree with you a method of measurement.

Please now sign your appointment document

Thank You and regards

Sent from my iPhone