



**GENERAL REQUIREMENTS**

In respect of

**PHASE 1 AND 2 DEMOLITION WORKS  
CONTRACT**

at

**156 WEST END LANE, WEST HAMPSTEAD, LONDON NW6**

On Behalf of

**A2DOMINION DEVELOPMENTS LIMITED**

-

80 Cannon Street  
London EC4N 6HL

Silver is a trading name of Silver Development  
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**SECTION 1**  
**PRELIMINARIES AND PREAMBLES**

## SECTION 1

### PRELIMINARIES AND PREAMBLES

#### THE PROJECT GENERALLY

#### THE PARTIES

- 1.1 Employer** The term 'Employer' throughout this specification shall be:  
A2Dominion Developments Limited  
The Point,  
37 North Wharf Road  
London W2 1BD
- 1.2 Contract Administrator** Silver DCC Limited (t/a Silver),  
80 Cannon Street  
London EC4N 6HL  
  
Tel No. 020 7232 0465  
  
Contact: Tony Iannaccone and Dillon Bourke  
  
Email: [antony.iannaccone@silverdcc.com](mailto:antony.iannaccone@silverdcc.com)  
[dillon.bourke@silverdcc.com](mailto:dillon.bourke@silverdcc.com)
- 1.3 Quantity Surveyor** The functions of the Quantity Surveyor will be undertaken by the Contract Administrator.
- 1.4 The Contractor (Subject to Contract)** Clifford Devlin Limited  
Clifford House  
Towcester Road  
London  
E3 3ND  
  
Tel No. 020 7538 8721
- 1.5 Principal Designer** Silver DCC Limited (t/a Silver),  
80 Cannon Street  
London EC4N 6HL  
  
Tel No. 020 7232 0465  
  
Contact: Matthew Lee  
  
Email: [matthew.lee@silverdcc.com](mailto:matthew.lee@silverdcc.com)

## 1.6 Drawings

The Contract Drawings comprise Child Graddon Lewis Architects (CGL) Phase 1 and Phase 2 Demolition Outline Description dated 3<sup>rd</sup> December 2019 incorporating the following information and drawings:

- Overview Description and scope
- Aerial Photographs annotated
- Tree Constraints Plan
- Existing Utility Survey Plan
- Phase 1 and Phase 2 Overview Plan
- Demolition Plan nr. PL(00)P003 revision 1
- Retained North Wall & Internal Structure details
- Phase 1 and Phase 2 3D Diagrams
- Site Photographs
- Survey Elevations

## THE SITE/EXISTING BUILDINGS

**1.7 The Site** The Site is located at:

156 West End Lane  
West Hampstead  
London  
NW6

The existing Site comprises a part single storey and part five storey building, which contains a former Wickes show room and offices now acting as shelter, two-storey Travis Perkins Builders Merchant showroom/retail and office building and materials yard.

The extent of the entire Site is defined in Appendix C with the extent of the Site that will be provided for the Contractors Possession is defined in Appendix D and is limited to Phase 1 and Phase 2 locations, with a right of access granted from West End Lane into the Phase 1 and Phase 2 areas, summarised as follows:

1. Phase 1 area comprising the Travis Perkins materials yard area (excluding a 6m exclusion zone) as indicated on CGL drawing nr. PL(00)P003 revision 1;
1. Phase 2 area comprising the two-storey Travis Perkins premises complete (excluding demolition of the retained sloping section and party wall with Lymington Road).

The Contractors attention is also to drawn to the Pre-Construction Information provided at Appendix M.

**1.8 Access to the Site** Existing vehicular access to the site is from West End Lane.

**1.9 Working Area** The Contractors Working Area will be confined to Phase 1 and Phase 2 areas as defined in the Contract drawings, and is permitted to access over the existing vehicular access road and utilise the existing adjacent car-parking areas for access and car-parking only.

The Contractor will also be permitted the use of the former Wickes Show Room (located at ground floor level of the front block) for the duration of the works only.

- 1.10 Existing Services** An existing sub-station is located within the front office block upon the site.  
Your attention is drawn to the Statutory Utility Information provided at Appendix I.  
Your attention is also drawn to the Utilities Tracing Survey provided at Appendix J.
- 1.11 Site Visit** A site visit may be made by contacting Dillon Bourke or Tony Iannaccone of Silver on 020 7232 0465 or 07464 545532 (Dillon Bourke) or 07774 982142 (Tony Iannaccone).
- 1.12 Site Visit** The Contractor must ascertain the nature of the site and of the works and all local conditions and restrictions likely to affect the execution of the Works that are currently foreseeable above ground.  
He shall be deemed to have visited the site and no claim will be entertained as a result of his failure to do so.
- 1.13 The Works** The extent of The Works are defined in Section 2 herein.

#### **GENERAL DEFINITIONS AND INTERPRETATIONS**

- 1.14 General Definitions and Interpretations** Where Specification section numbers of type of work numbers are given on schedules of work:
1. They are intended to help define the part or parts of the Specification which apply to particular kinds of work or parts of the Works.
  2. If the reference are to specific clauses or kinds or types of work within a section of the Specification, they must be taken as applying to the section as a whole, including all other relevant information.
  3. The references must not be taken as excluding other relevant information and requirements stated in other parts or sections of the Specification: the Specification as a whole must be taken as applying to the Works as a whole.
- 1.15 Contract Administrator (C.A.)** C.A. means the person nominated in the Contract as Contract Administrator or his authorised representative.
- 1.16 In writing** When required to inform, instruct, agree, confirm, obtain approval or obtain instructions, do so in writing.
- 1.17 Approval** Approval (and works derived therefrom) means the approval in writing of the C.A. unless specified otherwise.

- 1.18** Or Equivalent Approved Means that products of different manufacture may be submitted if prior approval has been obtained, but the C.A. reserves the right to insist on the named product(s). The rate of prices will be held to be based on the product(s) specified unless agreed otherwise.
- 1.19** Proprietary Names The phrase 'or equivalent approved' is to be deemed included whenever products are specified by propriety name.

#### **GENERAL MATTERS**

- 1.20** Programme, Programme Period & Progressing of the Contract The Contractor is comply with the programme included at Appendix B of the General Requirments, and which assumes Site Possession is provided to the Contractor on 1<sup>st</sup> February 2020 following vacant possession from Travis Perkins.
- Approval in principle by the C.A. shall not absolve the Contractor from his responsibility to programme and progress the Works properly. The Contractor is to take such steps as are necessary at all times to ensure that the work is carried out and controlled in such a way that the Contract is completed by the date for completion or within any extended time fixed under Clause 2.4 of the Contract. Should the work become delayed for any reason, the programme is to be updated in a manner which will take account of the delays and of any extended time for completion and agreed with the C.A. Similar conditions shall be imposed upon Sub-Contractors and suppliers by the Contractor.
- 1.21** Provide the C.A. with a copy of the approved programme and all revisions. The contractor is to notify the C.A. a minimum of 21 days prior to the contractual completion date of any delays to the contract.
- 1.22** Deliver a weekly report to the C.A. setting out in full the numbers of men employed in all trades, general progress of all materials crushed/stockpiled or removed from site, state of weather and full details of items outstanding and regarding the progress of works.
- 1.23** If the Completion Date or any further date arising from an agreed extension of time is exceeded, the Contractor shall pay the C.A. all expenses incurred for his supervision of the Works outside the Contract Period.
- 1.24** Setting Out of the Works All particulars and measurements for the general setting out of the Work shall be taken upon the site in conjunction with the Drawings.
- 1.25** The Contractor shall accurately perform any setting out by a method to be approved by the C.A. and provide all instruments, templates, rods and setting out boards, etc., as required by the C.A. for checking this work. The C.A. checking the setting out does not obviate the Contractor's responsibility for setting out under Clause 3.9 of the Contract.



- 1.26** Site Possession The Demolition Contractor shall be given possession of the Site to the extent defined in 1.7 herein for the whole of the contract period. Possession of the Site is for carrying out the “works” only and for no other purpose.
- 1.27** Contractor's Supervision The Contractor shall provide full and adequate supervision during the progress of the Works and shall keep a competent and authorised Agent or General Foreman, approved by the C.A., constantly on the Works and no change shall be effected without the written consent of the C.A. Such authorised Agent or General Foreman shall give his whole time to the supervision of the Works and must be able to receive and act upon (on behalf of the Contractor) all instructions, directions or orders issued by the C.A. or his representative.
- 1.28** Site Inductions Site inductions are to be undertaken by the appointed demolition contractor. All site visitors requiring access to the demolition site must also have completed a demolition induction by the demolition supervisor.
- 1.29** Labour & Transport The Contractor shall provide all labour and transport and shall include for all costs arising from National Insurance Acts, Graduated Pensions contributions, the Redundancy Payments Act 1965, Construction Industry Training Board Levy and other statutory payments applicable, overtime, incentive schemes, guaranteed time, sick pay, holidays with pay, public holidays with pay, importation of labour, transport of work people, travelling time, fares, subsistence allowances and any other provisions to comply with the rules and decisions of the National Joint Council for the Building Industry, the terms of the Building Agreement and any applicable rules, decisions and agreements of any other relevant body.
- 1.30** The Contractor shall comply with all Safety, Health and Welfare enactments including E.E.C. legislation, regulations and working rules appertaining to all work people employed on the site (including those of Sub-Contractors). The contractor shall indemnify the employer against any contamination which occurs on the site.
- 1.31** Plant The Contractor shall provide all plant, implements, tools, tackle and machinery and all carriage, freightage, and whatever else may be required for the proper and efficient execution and completion of the Works.
- 1.32** Scaffolding Provide, erect, service and maintain all necessary scaffolding and staging that may be required for the Works.
- 1.33** If the Contractor requires to erect scaffolding on adjoining property, the necessary permission shall be first obtained. If permission is not granted, the Contractor must allow for an alternative method of constructing the work at no extra cost to the Contract.

- 1.34** If the Contractor should strike any of his scaffolding before ascertaining whether it is required by any sub-contractor or Public Undertaking, he must re-erect it at his own expense if so required.
- 1.35** Materials & Workmanship The Contractor shall supply all materials that may be required for the Works and he is to deposit with the C.A. for his approval and testing samples of materials and workmanship as required. The materials shall be new and shall be the king procurable of their respective kinds.
- 1.36** All materials and workmanship, unless herein otherwise specified, shall be in accordance with the latest British Standard or British Standard Code of practice, where one exists, as adopted and issued by the British Standard Institution.
- 1.37** In the absence of a British Code of Practice, the workmanship shall be in accordance with the best principles of the trade to which the particular work belongs.
- 1.38** All materials and goods shall be used and fixed in strict accordance with the manufacturer's instructions.
- 1.39** The Employer will accept no responsibility for the loss of materials, plant and equipment howsoever caused.
- 1.40** Existing Services to be Maintained No diversion of any of the existing services, other than as shown on the drawings or described hereafter, shall be carried out without the written approval of the Architect. Any temporary disconnection of the services shall be done at such times as may be directed by the C.A. No claims for delay in respect of the Works caused by repairs or damage to the existing services will be entertained by the Employer.
- 1.41** Watching & Lighting The Contractor shall provide on the site all watching and lighting and everything else necessary by day and night for the protection of the public and for the protection and security of the works, goods, materials, plant, etc.
- 1.42** Trespass & Nuisance All reasonable means shall be used to avoid inconveniencing the adjoining owners and occupiers.
- 1.43** All plant, machinery or equipment shall be placed and used on the site so as to avoid any nuisance or trespass for any plant, machinery or equipment to project or operate over other adjoining property the Contractor shall obtain the permission of the other adjoining owner or occupier. The Contractor shall indemnify the Employer against any claim or action for damages arising from the use of any plant, machinery or equipment.

- 1.44** No work people employed on the Works shall be allowed to trespass upon adjoining properties. If the Contractor requires to enter upon adjoining property the necessary permission shall be first obtained. The Contractor shall identify the Employer against any claim or action for damages on account of any trespass or other misconduct of the Contractor's employees.
- 1.45** Prevention of Dumping The Contractor shall take all reasonable steps to prevent rubbish, surplus materials, etc., arising from the Works being dumped on an area other than a recognised tipping area. The Contractor shall indemnify the Employer against any claim or action for damages arising from the non-compliance with this Clause.
- 1.46** Police Regulations The Contractor shall at all times observe any police regulations including those regarding the loading or unloading of waiting by vehicles on the public highway and the Contract Sum shall be deemed to include for strict compliance therewith.
- 1.47** Smoke Control The site comes with a Smoke Control Area under the Clean Air Act 1956, and the Contractor shall be responsible for strict compliance with the requirements thereof.
- 1.48** Noise and Dust Control The Contractor is to take all reasonable steps necessary to limit the noise and dust on the site from building operations in accordance with the Control of Pollution Act, 1974.
- All machinery will be noise suppressed to accord with local planning and environmental guidelines and the site will be "damped down" to resist the build-up of dust.
- 1.49** The Contractor is to carry out the work with the minimum of noise and inconvenience to the occupants of the adjoining buildings.
- 1.50** Working Hours All work is to be carried out during normal Camden site working hours which are Monday to Friday 0800-1800 and Saturday 0800-1300 unless otherwise advised and agreed with by the Local Authority.
- 1.51** Notice and Fees The Contractor shall give all notices required that are referenced in Section 2. He shall pay all fees, charges, rates and tax legally demandable. The amount of any such charges or fees is to be included in the Contract Sum.
- 1.52** Roads The Contractor shall be responsible for all damage to roads or streets (whether public or private) arising out of or in the course of or by reason of the execution of the Works.
- 1.53** The Contractor shall be responsible at all times for keeping roads or streets immediately adjacent to the site of the Works free from mud, dirt, rubbish, etc. arising as aforesaid and for the observance of any by-laws or regulations imposed by a competent authority requiring roads or streets to be kept free from sand, dirt, rubbish, etc.

- 1.54** The Contractor shall be responsible for installation of any vehicle crossovers or hard standing requirements to access / facilitate the works.
- The Contractor is to ensure safe segregation of vehicles and the public is to be maintained at all times. The Contractor is to manage deliveries as appropriate.
- 1.55** Overtime Overtime necessary to complete the Works within the Contract Period will be at the Contractor's own expense and only overtime ordered by the C.A. in writing will be paid to the Contractor. The C.A.'s agreement in writing must be obtained for all overtime, whether at the Contractor's expense or ordered by the C.A. No adjustment for overheads and profit will be allowed in addition to the net amount of non-productive overtime properly incurred.
- 1.56** Wages sheets signed by the C.A. or his authorised representative setting out approved non-productive overtime shall be submitted to the Quantity Surveyor in the week following that in which the work was carried out.
- 1.57** Inspection and Measurement of Covered Work The Contractor shall give the C.A. reasonable notice of his intention to cover up work requiring approval or measurement. Any such work covered up without notice shall be uncovered so as to permit measurement and made good at the Contractor's expense.
- 1.58** CDM Regulations The Contractor will be required to satisfy the Construction (Design and Management) Regulations 2015 (CDM). As the "Principal Contractor" will be required to develop and implement the pre-tender stage Health and Safety Plan and supply all necessary information to the Planning Supervisor for preparation of the complete Health and Safety File.
- 1.59** Local Residents The Contractor is to liaise with all third parties for the duration of the contract to include Local Residents and businesses in accordance with the guidance and requirements described in Appendix G, and to the extent further defined in Section 2 of the General Requirements (Scope).
- The Contractor will be in regular contact with the public, keeping local residents and neighbours informed of progress and dealing with any issues that may arise. The nominated individual will be named on the site signboard placed on the hoarding at the main entrance with a contact number.
- Any complaint will be lodged on site and where necessary reported in accordance with the Considerate Constructors Scheme.

- 1.60** Preliminary costs                      The Contractor confirms that their preliminary costs start when works onsite commence and that there will be no additional preliminary costs for any delays in the approval / notices period.

### **WORKS BY NAMED PERSONS AND WORKS BY PUBLIC BODIES**

- 1.61** Generally                                      Where a prime cost sum has been inserted for work to be carried out by a Nominated Sub-Contractor, still be nominated, this work will be executed under the JCT Form of Tender and Agreement NAM/T and Sub-Contract Conditions NAM/SC and includes a cash discount of 2.5% as Clause 19.3.2 of these Conditions. The Contractor is to allow where indicated in the Specification for any profit required on the aforementioned prime cost sums and if not priced it will be assumed that allowance has been made elsewhere in the Specification to cover any profit required on such sums.
- 1.62** General & Other Attendances                      Allow where indicated in the Specification for all general attendance and 'other attendance' on work to be carried out by a Nominated Sub-Contractor under a prime cost sum.
- The 'general attendance' shall be deemed to include the following at any time, including overtime and night time working:
- (a) giving the Sub-Contractor every facility to enable him to execute his work in a workmanlike manner and in proper order and sequence;
  - (b) allowing use of temporary roads, paving and paths;
  - (c) allowing use of standing scaffolding;
  - (d) allowing use of standing poor operated hoisting plant;
  - (e) providing electricity for the Sub-Contractor's work wherever necessary on site;
  - (f) providing water for the Sub-Contractor's work;
  - (g) clearing away rubbish;
  - (h) providing space for office accommodation and welfare facilities.
- 1.63**    The 'other attendance' required is separately indicated in the Specification.
- 1.64** Works by Public Bodies                      Where a prime cost sum has been inserted for work to be carried out by a Public Body an instruction will be given by the C.A. on how this sum shall be expended. Any payment by the Contractor to the Public Body will be net and no cash discount will be allowable.

- 1.65** The previous clauses in regard to profit and attendance on Nominated Sub-Contractors will also apply to work to be carried out by a Public Body.
- 1.66** Co-operation and Co-ordination with Nominated Sub-Contractors The Contractor shall be entirely responsible for proper co-operation with nominated sub-contractors, particularly as regards programming and the agreement of proper and accurate working dimensions and other particulars. He shall also be responsible for programming and co-ordinating the work of the various nominated sub-contractors together and also to properly integrate their works in with his own main building work. The Contractor shall also be responsible for obtaining details of the Sub-Contractor's requirement for chases, recesses, mortises, notching, holes, perforations, etc. and for obtaining full information to facilitate making proper arrangements and provisions for the incorporation of sub-contractor's work into the Works.
- 1.67** As soon as he is able, the Contractor shall investigate and familiarise himself with the work of each Nominated Sub-Contractor so that he may anticipate and avoid any conflict of operations. Any delays which may arise due to the Contractor's lack of co-ordination of the work of various Nominated Sub-Contractors will not be accepted as a reason for an extension of time for the completion of the Works.
- 1.68** The Contractor shall similarly be responsible for ensuring that every Nominated Sub-Contractor is in all respects satisfied with the condition of surfaces, assemblies or things whatsoever prepared or finished by the Contractor or others to receive his work; the Contractor shall obtain the Sub-Contractor's written approval of such surfaces, etc., before allowing the Sub-Contractor to commence his work.
- 1.69** The cost of any alterations or additional work consequent upon the non-fulfilment of the stipulations set out in either of the three preceding paragraphs shall be borne by the Contractor without charge to the Employer.
- 1.70** Obtain and submit at times to be agreed with the C.A., applications from Nominated Sub-Contractors for interim payments. Also obtain Nominated Sub-Contractors' final accounts and check and agree them with the C.A.
- 1.71** The clauses above regarding co-operation and co-ordination with Nominated Sub-Contractors shall also apply equally to works by Public Bodies.

- 1.72** Works by others directly engaged by the Employer  
The Contractor shall co-operate and attend upon all Sub-Contractors and specialists and tradesmen employed directly by the Employer so that their work can proceed concurrently with his work. Items given for general attendance on such work shall be deemed to include all items of general attendance previously stated for works carried out by a Nominated Sub-Contractor.

### TEMPORARY WORKS

- 1.73** Temporary Accommodation  
The Contractor shall have the use of the former Wickes Showroom only for his site office and stores, with the Contractor responsible for providing at their own cost adequate furniture to provide suitable accommodation for the S.O.'s site meetings. Where Section 2 states the demolition Contractor shall provide welfare facilities, Section 2 prevails.
- 1.74** Temporary Fans & Walkways  
The Contractor shall provide all necessary fans, walkways and guard rails to the public footpaths, together with lighting by day and by night for the protection of public during the progress of the Works.
- 1.75**  
The Contractor shall maintain the fans, walkways and guard rails, etc. and shall obtain all necessary licences (including renewal of any existing licences), serve all notices and pay all fees in connection therewith, the amounts of which shall be deemed to be included in the Contract Sum.
- 1.76**  
The Contractor shall allow for moving or adapting the fans/walkways, guard rails, etc., as and when required during the progress of the Works, and shall dismantle and clear away at completion of the works, but not until all danger to the public has passed, and make good all works disturbed.
- 1.77** Temporary Screens  
The Contractor shall be responsible for providing all necessary temporary screens (other than those specifically required as follows) for the works as he deems necessary and shall allow for moving or adapting as and when required during the progress of the Works.
- 1.78**  
Screens should be of such construction so as to minimise the penetration of noise and dust arising from the works and the Contractor should ensure that the screens are erected and removed at a time so as to cause the minimum disturbance to the adjoining owners or occupiers.
- 1.79**  
When work is ceased at the end of each day, all access or openings formed in existing buildings are to be sealed in an approved manner before the site is vacated in order that the premises may be left secure.
- 1.80** Telephones  
The Contractor shall provide temporary telephone facilities on the site and shall pay all charges (including the cost of calls) in connection therewith.

- 1.81** Water Supplied by Client.
- 1.82** Artificial Lighting, The Contractor shall make arrangements to provide all artificial  
Electric Current, Etc. lighting, electric power and other energy required for the  
execution of the Works from existing supplies provided by the  
Client. The provision of light and where appropriate, power for  
Sub-Contractors and Local Authorities and Statutory Undertakers  
executing work in connection with this scheme is included in the  
items for general and other attendance with the Sub-Contract  
and Local Authority and Public Undertakings Sums.
- 1.83** Not Used.
- 1.84** Name Boards & The Contractor may erect his name board bearing his name and  
Advertising those of his sub-contractors in an approved  
position. The Contractor's board must not exceed 20 square feet  
and all boards are to be approved by the C.A. The boards shall  
be supplied and erected at the Contractor's own expense. No  
other advertisements by the Contractor or Sub-Contractors, etc.  
of any description, including individual sub-contractors' boards or  
bill posting, will be permitted upon any part of the site.
- 1.85** The Contractor confirms they have included providing  
independent CAT 3 checks on all temporary works.

#### **PROTECTION, DRYING AND OF THE CLEANING WORKS**

- 1.86** Protect Work The Contractor shall protect the whole of the Works from  
'damage' by inclement weather and suspend all work which  
in the opinion of the C.A. will prevent the work maintaining  
the specified quality. Any special precautions approved by  
the C.A. and adopted to enable the work to continue to  
inclement weather will be at the Contractor's expenses.
- 1.87** The Contractor shall include for all necessary protection of the  
existing structure and the works executed and in addition for  
temporary casings, coverings, planked barrow runs, padding  
ladders and scaffolding bearing on the work and for all other  
measures for protection the existing structure and the work  
from damage or spoiling.
- 1.88** Protection of The Contractor shall provide for the efficient protection of the  
Persons & public, the Employer's servants and property and also of  
Property adjoining or neighbouring property during the progress of the  
Works included in or required to be done in connection with the  
Contract.



- 1.89** The Contractor shall take all precautions to eliminate as far as possible the danger to the public and other persons arising from the entry and exit of vehicles to and from the site.
- 1.90 Shoring** The Contractor shall safeguard the existing structure and adjacent buildings by providing shoring, needling and strutting if deemed necessary whether or not specifically mentioned. He shall maintain it, clear it away when no longer required and make good all damaged surfaces.
- 1.91 Other Property** The Contractor shall protect public and adjacent property from damage, and make good any damage caused or pay for reinstatement. If access to adjacent property is required, he shall obtain permission and pay fees involved.
- 1.92 Safety** The Contractor shall erect and maintain screens and barriers necessary for the safety of the public and workmen and clear them away when no longer required.
- 1.93 Inconvenience** The Contractor shall minimise inconvenience caused by the works to adjacent occupiers and the public, by silencing noisy plant, providing adequate dust sheets and hoarding, keeping footpaths and roads free from mud and dirt, and any other means necessary.
- 1.94 Security** The Contractor shall be responsible for watching and lighting by day and night as necessary for the duration of the works, and provide for the safekeeping of all materials on site whether loose or fixed. He shall protect the works as necessary from vandals, trespassers and squatters or other unauthorised persons.
- 1.95 Hoarding** The Contractor will be providing a permanent hoarding around the required areas of the site to protect against unauthorized access to the site and to act as a barrier against noise, debris dust from leaving the site. Refer to Section 2 herein for specific requirements.

## COMPLETION

- |              |                          |  |   |
|--------------|--------------------------|--|---|
| <b>1.96</b>  | Making Good              |  | The Contractor shall make good in all trades all existing work disturbed during the works, either on the site or on adjacent properties.  |
| <b>1.97</b>  | Drying Out               |  | N/A   |
| <b>1.98</b>  | Removal of Rubbish, Etc. |  | The Contractor shall remove all surplus rubbish, debris and surplus materials, including any resulting from Sub-Contractors' work as the work proceeds and at completion. No rubbish shall be burnt on site without the C.A.'s approval. The Contractor shall take all reasonable steps to prevent tipping other than at a recognised tips, and clear away at no extra cost any material deposited elsewhere. |
| <b>1.99</b>  | Cleaning, etc.           |  | N/A   |
| <b>1.100</b> | Inspection               |  | The Contractor shall provide all necessary facilities and attendance for the C.A. to inspect the whole of the work thoroughly prior to practical completion.  |

## **DEMOLITION GENERALLY**

- A Demolition tender document is to be read in accordance with the Construction Management Plan provided at Appendix E, the Demolition Management Plan provided at Appendix F, and Community Working Group documentation provided at Appendix G.

### **Code of Practice**

- B The requirements of the following shall apply where relevant
- C BS6187 - Demolition
- D BS5228 Part 2 - Noise control on construction and demolition sites

### **Burning on site**

- E Burning on site of materials etc., arising from the demolitions will not be permitted

## **WORKMANSHIP**

### **Use or Disposal of any Materials found on Site**

- F No excavations shall be carried out solely for the purpose of obtaining material to remove from the site for whatever purpose.

In the event of the discovery on the site of any items believed by the Employer, it's Agent or the Contractor to be fossils, coins, artefacts of historical value or antiquity, structures and other remains believed by the same to be of geological, historical or archaeological interest, the Contractor must inform the Employer. Any artefacts found shall be deemed to be the absolute property of the Employer. Furthermore, the Contractor shall give reasonable facilities to any persons nominated to watch, photograph or examine any excavations or to remove any early foundations or materials provided that in so doing such persons shall do nothing whatsoever which may in the opinion of the Contractor impede the execution of the works, in which event the Contractor must inform the Employer.

As soon as the Contractor becomes aware of the nature of any such article, the Contractor shall take all reasonable and practical precautions to prevent such article being removed or damaged and shall as soon as is reasonably possible upon discovery thereof acquaint the Employer of such discovery and carry out the Employer's reasonable requirements.

### **Removal of materials containing asbestos**

- G Any removal of asbestos shall be undertaken in accordance with the following:-
- (i) All current revisions and amendments to the Approved Code of Practice and Guidance Note "work with asbestos insulation and asbestos coating" and all other Guidance Notes from the Health and Safety Executive
  - (ii) The Health and Safety at Work Act 1974
  - (iii) The Asbestos at Work Regulations 1988
  - (iv) The Control of Pollution (Special Waste) Regulations 1980
  - (v) The Asbestos (Licensing) Regulations 1983
  - (vi) The collection and disposal of waste regulations 1988
  - (vii) Guidance Note EH36 Work With Asbestos Cement
  - (viii) Control of Pollution Act 1974
  - (ix) The recommendations of the Asbestos Information Centre
- H The removal of all materials containing asbestos shall be executed by a firm who is licensed by the Health and Safety Executive
- I Operators shall wear approved respirators and protective clothing and the work should be segregated from anyone not wearing protective equipment in a room which can be shut off or in a screened area
- J The working areas must be kept free from asbestos dust by cleaning whenever necessary but at least at the end of the working day with an industrial vacuum cleaner correctly filtered for asbestos

### **Crushing of suitable materials on site**

- K The masonry and concrete arisings crushing and storage in separate stockpiles is not permitted unless otherwise agreed by the LA and for the Employer.
- L If subsequently agreed the locations of stockpile and crushing plant shall be agreed with the Employers Agent, however they shall be situated to minimise noise and dust nuisance to the adjoining properties.
- M If subsequently agreed after crushing the materials shall be screened to ensure compliance with the specification for Class 6F1 or 6F2 material in accordance with the Manual of Contract Documents for Highway Works: Volume 1 (MCHW1), Specification for Highway Works, 600 Series, Table 6/1.

### **Disposal of materials containing asbestos**

- N All materials shall be placed in sealed polythene bags and deposited in closed lockable skips.
- O Plastic sacks shall be of a type designed for containing asbestos wastes and shall be marked as containing asbestos.
- P Materials shall not be broken up to fit in plastic bags but should be carefully wrapped in polythene sheet.
- Q The contents of skips shall be deposited at a tip licensed by the appropriate Local Authority for asbestos waste and the Employer's Agent shall be notified by the Contractor which tip is being used. The Contractor shall provide the client with evidence that all asbestos waste has been deposited at a licensed tip.
- R The Contractors attention is brought to the Asbestos Report appended, and has allowed for removal of all asbestos identified therein, together with any asbestos above ground only.

### **Cutting off services**

- S The Contractor shall satisfy himself that all Electricity, Gas and Water are disconnected prior to the commencement of the Works and he will be held responsible for any injury or damage to persons or property by his failure to do so.
- T The Contractor should be aware that unless confirmed otherwise in the Statutory Utility searches appended, or the additional information to be provided during the tender period, electricity services to any substations and buried within the ground may remain connected for the duration of the demolition works and he should take all necessary precautions to undertake the demolition around such services.

### **Voids (resulting from foundation removal)**

- U Voids created by the removal of foundations in connection with the Works are to be surveyed prior to backfilling to provide the requisite coordinates of the formation.
- V Voids are generally expected to be limited in nature resulting from foundation removal and will be backfilled with loose material, battered back to provide a stable and level surface, with significant voids to be backfilled using suitable compacted granular material imported to site as required. The granular material is to be compacted using a suitable Method Specification that complies with MCHW1 of Table 6/4, which provides layer thicknesses for various different compaction plant.

## SECTION 2

### SCOPE OF WORKS

- i) Service of a Section 80/81 Demolition Notice to the Local Authority before commencement and payment of all associated fees;
- ii) The obtaining of all required highway licences and payment of all associated fees;
- iii) The provision of all plant and equipment and tools to carry out Works as outlined in this Scope of Works in relation to all Phase 1 and Phase 2 Demolition Works defined in the Contract Drawings;
- iv) The Contractor will keep competent management on site during all works with proven and demonstrable skills, knowledge, experience, qualifications and competence as defined by CDM 2015 Regulation - L153;
- v) The Contractor must produce and comply with a Site Waste Management Plan (SWMP) which includes information about compliance with statutory legislation and reducing waste to landfill;
- vi) The Contractor will comply with the draft Construction Management Plan prepared by Silver, provided at Appendix E, and any subsequent amendments required by the London Borough of Camden until all works are completed.
- vii) The Contractor will comply with the draft Demolition Management Plan prepared by Clifford Devlin Limited, provided at Appendix F, and any subsequent amendments required by the London Borough of Camden until all works are completed;
- viii) Compliance with all guidance contained in the "Community Liaison Guidance" and participation at Construction Working Group meetings in accordance with the "Construction Working Groups" guidance provided at Appendix G until all works are completed, including attendance and participation at a Community Liaison/Community Working Group launch/introduction meeting, and thereafter four further Community Liaison/Community Working Group Meetings.
- ix) Allowance for the engagement of a temporary works coordinator with the required skills, knowledge, experience and qualification to discharge the duty in relation to all temporary and propping works designed by Iesis Structures;
- x) Site set up including welfare to facilitate the works, utilising the former Wickes Show Room located upon the ground floor of the front building.

- xi) Erection of all required temporary protective screens, hoardings or the like, including internally within the single storey retained structures (adjoining the front office block) which may remain occupied during the Phase 1 and Phase 2 demolition works.
- xii) All necessary protection to existing roads and pavements;
- xiii) All necessary protection required by Network Rail in relation to the Thameslink West Hampstead Railway Station platform and associated Network Rail tracks, property and apparatus;
- xiv) All necessary protection to existing plant and apparatus around the site;
- xv) The internal strip-out of all parts of the Travis Perkins Building complete.  
  
All materials arising are to be allowed for removal from site to a suitable licensed tip;
- xvi) Submission of Notices to the HSE as required and the asbestos remediation to all areas defined as Phase 1 and Phase 2 in conjunction with the Asbestos Survey Report contained within Appendix H, including any additional remediation required and identified during the Works above ground and which have not been recorded or defined in the Asbestos Survey Report;
- xvii) To immediately notify the Contract Administrator of any asbestos material below ground and that is not noted in the Asbestos Survey Report contained at Appendix H, and accept and act upon without delay of any instruction to remove the unforeseen asbestos.
- xviii) The main activities of the Contractor will be to demolish all buildings, structures, sheds, coverings, shelving, slabs, features, and fixtures defined in the Phase 1 and Phase 2 scope described in the Demolition Drawings, excluding any boundary walls (party wall or otherwise) and excluding the sloping portion of the former Travis Perkins structure, including removal of all asbestos containing materials identified, and removal of redundant foundations to a depth of 1.5m below ground level, and breaking up and removal of the builders merchants yard slab/hardstanding.  
  
Remove off site all debris arising from the works as it accumulates.  
  
All materials arising are to be allowed for removal from site to a suitable licensed tip in accordance with an agreed Site Waste Management Plan.
- xix) The breaking out completely all foundations including steel and reinforcement and remove from site, to any depths as required for complete removal, to a minimum of 1.5 metres;
- xx) Backfilling all voids left after removal of any foundations, tanks, etc using clean soil from site, battered back and left stable and level.

- xxi) As applicable compliance with all Demolition Party Wall Awards including for all temporary works and shoring with accordance to Party Wall Awards and site boundaries and will take responsibility for any damage caused to neighbouring structures. The Contractor will prioritise the temporary works design coordination with the Employers appointed structural engineer (Iesis Structures) and method statements in relation to Party Walls to assist the Employer in closing out the Party Wall Agreements as necessary;
- xxii) All necessary access measures required for safe demolition;
- xxiii) All necessary temporary propping and support works, sufficient to maintain all adjoining structures, including adjoining owners land and structures, all highways, etc., including temporary propping and support works to the retained sloping structure in accordance with Iesis Structures drawing and details (as applicable);
- xxiv) All necessary visual monitoring to adjacent structures;
- xxv) Preserve drainage outlet points, and sewers, subject to specific clarification of which drainage outlet points require preserving prior to the commencement of the yard slab removal;
- xxvi) Provision of waste removal certificates;
- xxvii) Taking all reasonable measures to prevent nuisance to adjoining properties from dust, noise, smoke and debris;
- xxviii) The Contractor has included for all temporary haul roads for access and egress and maintenance throughout the Contract period;
- xxix) The Contractor's tender includes for wrapping protection (non-acoustic) to the existing building for the duration of the demolition works as necessary;
- xxx) All works shall be executed in strict accordance with B.S.6187 and H.S.E. guidelines 1 and 2. No burning of materials will be allowed on site. All necessary precautions to minimise dust nuisance will be taken. Statutory noise pollution requirements shall be fully complied with.
- xxxii) The Contractor will be deemed to have included for temporary/permanent on and off site signage (including Health & Safety signs), security fencing and traffic management to the satisfaction of the Local Authority;
- xxxiii) The Contractor will be deemed to have included all scaffolding required for the full execution and completion of their works;
- xxxiiii) The Contractor will have vibration and dust monitoring throughout the duration of their works in accordance with the Demolition Management Plan, and the Dust Management Plan contained at Appendix P (prepared by Accon Uk Limited);



- xxxiv) The Contractor has allowed for dust suppression throughout the duration of their works in accordance with the Demolition Management Plan;
- xxxv) The Contractor will provide all required traffic management for the duration of the works;
- xxxvi) Erection of 18mm thick marine plywood site hoardings, and pair of gates to facilitate vehicular access to the Site (assume gate width of 4.0 metres), to fully secure and enclose the site following the demolition, set out in a position to be agreed with the Employer.

All hoarding and gates to be a minimum 2400mm high, with panel widths 1200mm, neatly finished with treated softwood plinths, header pieces and over-battens at plywood board junctions, and painted with one coat primer and two further full coats of paint, to a colour to be agreed with the Employer. Include for all structural engineering design and calculations, supported with a Warranty in the form included herein.

The Contractor will design, supply and install a hoarding to match the above hoarding, to provide a safe pedestrian route leading from the West End Lane public highway to the existing Potteries Path entrance.

- xxxvii) Erection of 18mm thick marine plywood protection to the retained single storey buildings where exposed following demolition of the two-storey Travis Perkins building, and clad with non-tearable felt and battens to maintain watertightness to those retained structures;
- xxxviii) Provide handover pack at completion, including but not limited to: post demolition survey, asbestos remediation and certification, certification of backfilling, any temporary works be retained after;

### **SECTION 3**

#### **STANDARD CONTRACT AMENDMENTS**

**FORM OF JCT Intermediate Form of Contract 2016**  
**CONTRACT** With Amendments listed below.

**EMPLOYER**

A2Dominion Developments Limited  
The Point,  
37 North Wharf Road  
London, W2 1BD

**CONTRACTOR (Subject to Contract)**

Clifford Devlin Limited  
Clifford House  
Towcester Road  
London, E3 3ND

**SCHEDULE OF AMENDMENTS**

to the JCT Intermediate Building Contract

2016 Edition

relating to a project at

**156 West End Lane, West Hampstead, London NW6 1SD**

## **SCHEDULE OF AMENDMENTS TO THE JCT INTERMEDIATE BUILDING CONTRACT 2016 EDITION**

The Contract will comprise the Intermediate Building Contract 2016 Edition issued by the JCT subject to the following amendments:-

### **THE ARTICLES**

3  
CONTRACT ADMINISTRATOR  
- Silver DCC Limited (trading as "Silver")

4  
QUANTITY SURVEYOR  
- Silver DCC Limited (trading as "Silver")

5  
PRINCIPAL DESIGNER  
-Silver DCC Limited (trading as "Silver")

6  
PRINCIPAL CONTRACTOR  
-Principal Contractor: Clifford Devlin Limited

9  
LEGAL PROCEEDINGS  
-Amendments: none.  
-Requirement: Allow for the obligations, liabilities and services described therein against the headings detailed below.

### **CONTRACT PARTICULARS**

Clause 1.1  
BASE DATE  
-Base Date: 1<sup>st</sup> December 2019

Clause 1.1  
DATE FOR COMPLETION OF THE WORKS  
-Date for completion of the Works (where completion by sections does not apply):  
24<sup>th</sup> April 2020  
-Requirement: Allow for the obligations, liabilities and services described therein against the headings detailed below.

### **CONTRACT PARTICULARS**

Clause 1.7  
ADDRESSES FOPR SERVICE OF NOTICES  
-Employer: The Point, North Wharf Road, Paddington, London W2 1AF  
-Contractor: Clifford House, Towcester Road, London, E3 3ND

Clause 2.4

DATE OF POSSESSION OF THE SITE

-Date of Possession of the site: 1<sup>st</sup> February 2020

Clause 2.5

DEFERMENT OF POSSESSION OF THE SITE

-Clause 2.5 Applies

-Where clause 2.5 applies, maximum period of deferment is 6 weeks

Clause 2.23.2

LIQUIDATED DAMAGES

-Damages: At the rate of £7,500.00 per week or part thereof

Clause 2.30

RECTIFICATION PERIOD

-Period: 6 (six) months from the date of practical completion of the Works.

Clause 4.7

ADVANCE PAYMENT AND ADVANCE PAYMENT BOND

-Advance payment: 4.7 does not apply

Clause 4.8.1

DATES OF ISSUE OF INTERIM CERTIFICATES

-The first date is: to be confirmed, thereafter payment will be on the same date in each month or the nearest Business Day in that month.

Clause 4.9.1

PERCENTAGE OF THE TOTAL VALUE OF WORK, ETC.

-Percentage: 95%

Clause 4.9.1

PERCENTAGE OF THE TOTAL VALUE OF THE WORKS OR SECTION

-Percentage: 100%

- Requirement: Allow for the obligations, liabilities and services described therein against the headings detailed below:

**CONTRACT PARTICULARS**

Clause 4.10.4

LISTED ITEMS – UNIQUELY IDENTIFIED

-Listed items: Clause 4.10.4 will be deleted.

Clause 4.10.5

LISTED ITEMS – NOT UNIQUELY IDENTIFIED

-Listed items: Clause 4.10.5 will be deleted.

Clause 4.3 & 4.9 and Schedule 4

CONTRIBUTION, LEVY AND TAX FLUCTUATIONS

-Schedule 4 (Fluctuations Option): will be deleted

-Percentage addition for Fluctuation Option: not applicable

Clause 6.4.1

CONTRACTOR'S INSURANCE – INJURY TO PERSONS OR PROPERTY

-Insurance cover (for any one occurrence or series of occurrences arising out of one event): £10 million pounds

Clause 6.5.1

**INSURANCE – LIABILITY OF EMPLOYER**

- Insurance may be required
- Minimum amount of indemnity for any one occurrence or series of occurrences arising out of one event: £10 million pounds

Clause 6.7 and Schedule 1

**INSURANCE OF THE WORKS – INSURANCE OPTIONS**

- Schedule 1: Insurance Option A applies
- Percentage to cover professional fee: 15 (fifteen) per cent
- If Option C applies, annual renewal date (as supplied by the Contractor): TBC

Clause 6.10 and Schedule 1

**TERRORISM COVER**

- Details of the required cover:
- will not be required

Clause 6.12

**JOINT FIRE CODE**

- The Joint Fire Code: Does not apply
- Requirement: Allow for the obligations, liabilities and services described therein against the headings detailed below:

**CONTRACT PARTICULARS**

Clause 8.9.2

**PERIOD OF SUSPENSION (TERMINATION BY CONTRACTOR)**

- Period of suspension: 2 months.

Clauses 8.11.1.1 to 8.11.1.5

**PERIOD OF SUSPENSION (TERMINATION BY EITHER PARTY)**

- Period of suspension: 2 months.

Clause 9.2.1

**ADJUDICATION**

- The Adjudicator is:  
Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established). The Royal Institute of Chartered Surveyors.

**THE CONDITIONS**

**SECTION 1: DEFINITIONS AND INTERPRETATION**

1.5

**RECKONING PERIOD OF DAYS**

- Amendments: none.

1.12

**APPLICABLE LAW**

- Amendments: none.

**SECTION 2: CARRYING OUT THE WORKS**

**SECTION 3: CONTROL OF THE WORKS**

3.7

NAMED SUBCONTRACTOR

General: The work listed below and described in the Contract Documents is to be executed by the following persons who are hereby named as subcontractors as provided in intermediate Building Contract clause 3.7. (For each person a completed Form of Tender and Agreement ICSub/Nam, together with the Numbered Documents referred to therein, is included with the Main contract tender documents.)

-Work to be executed: not applicable

-Named person: not applicable

-Agreement: not applicable

-Subcontractor's drawings, etc. to be prepared during the course of the Contract: not applicable

-Allow for attendance: not applicable

SECTION 4: PAYMENT

Delete 14 Days and insert 28 Days

SECTION 5: VARIATIONS

SECTION 6: INJURY, DAMAGE AND INSURANCE

SECTION 7: ASSIGNMENT

SECTION 8: TERMINATION

SECTION 9: SETTLEMENT OF DISPUTES

EXECUTION

-The Contract: Will be executed as a deed

CONTRACT GUARANTEE BOND

-Contract Guarantee Bond: n/a.

**SCHEDULE 1:**

**Form of Collateral Warranty  
(Contractor to Fund/Purchaser/Tenant)**

DATED 201

**[CONTRACTOR]**

**[BENEFICIARY]**

**[[EMPLOYER]]**

**DEED OF COLLATERAL WARRANTY**

relating to a project at

[ ]



**DATED**  
**PARTIES**

1 Contractor [ ] (company no [ ]) whose registered office is at [ ]  
2 Beneficiary [ ] (company no [ ]) whose registered office is at [ ]  
[3 Employer [ ] (company no [ ]) whose registered office is at [ ]<sup>1</sup>

**RECITALS**

A By the Contract, the Employer has employed the Contractor to carry out and complete the Works.  
B [The Beneficiary has agreed to provide finance for the Works.  
or  
The Beneficiary has agreed to purchase [part of] the Property.  
or  
The Beneficiary has agreed to take a lease of [part of] the Property.  
or  
The Beneficiary has agreed to take an interest in [part of] the Property.]<sup>2</sup>  
C As a condition of and in consideration of the Beneficiary's agreement the Contractor has agreed to enter into this deed for the benefit of the Beneficiary.

**OPERATIVE PROVISIONS**

**1. Definitions and interpretation**

**1.1 Unless the contrary intention appears, the following definitions apply:**

*Beneficiary* includes any person to whom the benefit of this deed and/or any rights arising under it have been validly assigned in accordance with clause [7];  
*Contract* the contract dated [ ] between the Employer (1) and the Contractor (2) (and any further agreement varying or supplementing it) under which the Contractor has agreed to carry out and complete the Works;  
*Employer* [[insert name of Employer] and]<sup>3</sup> includes any person to whom the benefit of the Contract has been validly assigned;  
[Fund [insert name of Fund];]<sup>4</sup>  
*Practical Completion* practical completion of the Works as certified or otherwise evidenced pursuant to the Contract;  
*Property* the property at [ ];  
*Proprietary Material* all drawings, details, plans, specifications, schedules, reports, calculations, software and other work (and any designs, ideas and concepts contained in them) prepared, conceived or developed by or on behalf of the Contractor in the

<sup>1</sup> Delete if Beneficiary does not have step-in rights.

<sup>2</sup> Delete and/or amend as appropriate.

<sup>3</sup> Insert if Employer is not a party to the warranty.

<sup>4</sup> Include only if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<i>Statutory Requirements</i>	course of or as a result of carrying out the Works; any requirements imposed by: (a) any Act of Parliament; (b) any instrument, rule or order made under any Act of Parliament; (c) any regulation or byelaw of any local authority, statutory undertaker or other body which has jurisdiction with regard to the Works or to whose systems the Works are or will be connected; or (d) any planning permission, building regulation approval or other consent or approval required for the execution of the Works; and
<i>Works</i>	the [design and] construction works carried out or to be carried out by the Contractor at the Property as more particularly defined and described in the Contract.

- 1.2 Any obligation on a party to this deed to do an act includes an obligation to procure that it is done.
- 1.3 If a party is placed under a restriction in this deed, the restriction includes an obligation on the party not to permit the infringement of the restriction by any person.
- 1.4 References to liability include, where the context allows, claims, demands, proceedings, damages, losses, costs and expenses.
- 1.5 Words importing the singular meaning shall include, where the context so admits, the plural meaning and vice versa.
- 1.6 Words denoting the masculine gender shall include the feminine and neuter genders and words denoting natural persons shall include corporations and firms and all such words shall be construed interchangeably in that manner.
- 1.7 The clause headings in this deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
- 1.8 Unless the contrary intention appears, references in this deed to numbered clauses are references to the relevant clause in this deed.
- 1.9 References in this deed to any statutes or statutory instruments

include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments, regulations and codes of practice made under it.

2. Contractor's warranties

2.1 The Contractor warrants to the Beneficiary that it has observed and performed and will continue to observe and perform all its obligations under or arising out of the Contract in accordance with the terms of the Contract, provided always that:

2.1.1 the Contractor shall owe no greater obligations to the Beneficiary under this deed than it owes to the Employer under the Contract;

2.1.2 the Contractor shall be entitled in any proceedings under this deed to rely on any limitation in the Contract and to raise the equivalent rights in defence of liability (but excluding set-offs or counterclaims) as if the Beneficiary had been named as a joint employer with the Employer under the Contract; and

2.1.3 the Contractor shall not be liable to the Beneficiary in respect of any delay to the completion of the Works [unless and until the Beneficiary has given notice to the Contractor under clause 4.1 or clause 4.3]<sup>5</sup>.

2.2 Without limiting clause 2.1, the Contractor warrants to the Beneficiary that:

2.2.1 it has exercised and will continue to exercise, in the performance of its obligations under the Contract, all the skill, care and diligence which may reasonably be expected of a qualified and competent design and build contractor experienced in carrying out work of a similar size, scope, nature and complexity to the Works;

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<sup>5</sup> Delete if Beneficiary does not have step-in rights.

- 2.2.2 the Works as completed will comply with any performance specification or requirement included or referred to in the Contract;
  - 2.2.3 the Works have been and will be carried out and completed in a good, sound, substantial and workmanlike manner using good quality and appropriate materials and in all respects in accordance with the Contract;
  - 2.2.4 unless otherwise instructed or authorised by the Employer or the [Architect/Employer's Agent] on his behalf under the Contract, none of the materials referred to in clause [ ] of the Contract has been or will be used in the construction of the Works; and
  - 2.2.5 the Works as completed will in all respects comply with the Statutory Requirements.
- 2.3 The Contractor extends to the Beneficiary the benefit of all warranties on the part of the Contractor contained in the Contract.
- 2.4 The Contractor acknowledges that the Beneficiary shall be deemed to have relied and shall continue to rely upon the warranties given by the Contractor under this clause 2.
- 2.5 The Contractor acknowledges to the Beneficiary that, at the date of this deed, the Contract remains in full force and effect and the Employer has paid all sums properly due to the Contractor under the Contract.
3. [Obligations prior to determination of the Contractor's employment]<sup>6</sup>
- 3.1 The Contractor shall not exercise nor seek to exercise any right to determine its employment under the Contract for any reason, including any breach on the part of the Employer, without giving to the Beneficiary not less than [21] days' notice of its intention to do so and specifying the grounds for the proposed determination.

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<sup>6</sup> Delete clauses 3 and 4 if Beneficiary does not have step-in rights.

3.2 Any period stipulated in the Contract for the exercise by the Contractor of a right of determination shall be extended, as necessary, to take account of the period of notice required under clause 3.1.

3.3 Compliance by the Contractor with clause 3.1 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of determination, nor otherwise prevent the Contractor from exercising its rights after the expiration of notice, unless the right of determination shall have ceased under the provisions of clause 4.

4. “Step-in” right

4.1 The right of the Contractor to determine its employment under the Contract shall cease if, within the period of [21] days referred to in clause 3.1, the Beneficiary [(which expression shall for the purposes of this clause 4 include any receiver, administrative receiver or other appointee (in each case a “Nominee”) appointed by the Beneficiary)]<sup>7</sup> shall give notice to the Contractor:

4.1.1 requiring it to continue its obligations under the Contract;

4.1.2 acknowledging that the Beneficiary is assuming all the obligations of the Employer under the Contract; and

4.1.3 undertaking to the Contractor to discharge all payments which may subsequently become due to the Contractor under the terms of the Contract and to pay to the Contractor within 7 days any sums which have become due and payable to it under the Contract but which remain unpaid[.];]

[provided that:

4.1.4 in this proviso and in clause [4.8] Fund Warranty means a deed made or to be made between the Contractor, the Fund and the Employer in respect of the Works under which the Fund has a right equivalent (with the appropriate changes) in all material respects to the right granted by clause 4.1 to the Beneficiary, save that the period for the exercise of that right

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<sup>7</sup> Include only where Beneficiary is a bank providing finance.

by the Fund shall expire 14 days after service of the Contractor's simultaneous notices on the Beneficiary and the Fund of its intention to determine its employment under the Contract;

- 4.1.5 any notice served by the Contractor on the Beneficiary pursuant to clause 3.1 shall be invalid unless a similar notice has been simultaneously served upon the Fund;
- 4.1.6 the Beneficiary shall have no power to give notice to the Contractor under clause 4.1 within the period of 14 days referred to in clause 4.1.4 unless the Fund shall previously have notified the Beneficiary that it will not exercise its equivalent right under the Fund Warranty;
- 4.1.7 the Beneficiary shall have no power to give notice to the Contractor under clause 4.1 in response to a notice under clause 3.1 if the Fund has already exercised its equivalent right under the Fund Warranty in response to the Contractor's simultaneous notice to the Fund; and
- 4.1.8 any notice given by the Beneficiary which is in breach of clause 4.1.6 or clause 4.1.7 shall be invalid.]<sup>8</sup>

4.2 Upon compliance by the Beneficiary with the requirements of clause 4.1, the Contract shall continue as if the right of determination on the part of the Contractor had not arisen and as if the Contract had been entered into between the Contractor and the Beneficiary to the exclusion of the Employer.

4.3 Notwithstanding that as between the Employer and the Contractor the Contractor's right of determination of its employment under the Contract may not have arisen, the provisions of clause 4.2 shall apply if the Beneficiary gives notice to the Contractor and the Employer to that effect and the Beneficiary complies with the requirements on its part under clause 4.1[, provided that the Beneficiary may only give notice under this clause 4.3 if it shall first have given the Fund and the

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<sup>8</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

Contractor notice of its intention to do so and the Fund has consented expressly to the exercise of such right by the Beneficiary]<sup>9</sup>.

- 4.4 [Any notice given by the Beneficiary which is in breach of clause 4.3 shall be invalid.]<sup>10</sup>
- 4.5 The Contractor shall be bound to assume that, as between the Employer [, the Fund]<sup>11</sup> and the Beneficiary, circumstances have occurred which permit the Beneficiary to give notice under clause 4.3.
- 4.6 The Contractor, acting in accordance with the provisions of this clause 4, shall not incur any liability to the Employer.
- 4.7 [If the Beneficiary appoints a Nominee to exercise its rights under this clause 4, the Nominee shall act on behalf of the Employer and shall have no personal liability to the Contractor, but the Beneficiary shall be liable to the Contractor as guarantor for the payment of all sums from time to time due to the Contractor from the Nominee.]<sup>12</sup>
- 4.8 [If the Fund exercises its equivalent right under clause 4.1 or clause 4.3 of the Fund Warranty, the provisions of clauses 3 and 4 shall have effect as if all references to the Fund and the Fund Warranty had been deleted and as if all references to the Employer were references to the Fund.]<sup>13</sup>

## 5. Use of Proprietary Material

- 5.1 The copyright in the Proprietary Material shall remain vested in the Contractor, but the Contractor grants to the Beneficiary an irrevocable royalty-free non-exclusive licence to use and to reproduce any or all of the Proprietary Material for any purpose connected with the Works and/or the Property, including (without limitation) the execution and completion of the Works and the subsequent maintenance, letting,

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<sup>9</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>10</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>11</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>12</sup> Include only where Beneficiary is a bank providing finance.

<sup>13</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

occupation, management, sale, advertisement, extension, alteration, reinstatement and repair of the Property.

- 5.2 The licence referred to in clause 5.1 carries the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the determination (for any reason) of the Contractor's employment under the Contract.
- 5.3 Insofar as the Contractor is the author (as defined in the Copyright, Designs and Patents Act 1988) of the Proprietary Material and/or of the Works, the Contractor waives any moral rights which it might otherwise be deemed to possess under Chapter IV of that Act in respect of them.
- 5.4 The Contractor shall procure for the Beneficiary a waiver corresponding to that in clause 5.3 from any sub-contractor employed by the Contractor who is an author (as referred to in the Copyright, Designs and Patents Act 1988) of any part of the Proprietary Material and/or of the Works in respect of them.
- 5.5 The Contractor shall provide a complete set of copies of the Proprietary Material to the Beneficiary without charge on Practical Completion and shall provide further copies of any or all of the Proprietary Material to the Beneficiary on request and upon payment by the Beneficiary of the Contractor's reasonable copying charges.
- 5.6 The Contractor shall not be liable for the consequences of any use of the Proprietary Material for any purpose other than that for which it was prepared.
6. Insurance
- 6.1 Without limiting its other obligations under this deed or otherwise at law, the Contractor shall maintain professional indemnity insurance to cover each and every professional liability which it may incur under this deed, with a limit of indemnity of not less than £[ ] in respect of each and every claim, provided that such insurance



continues to be available in the European Union market on reasonable terms and at commercially reasonable premium rates to contractors of similar standing to the Contractor.

- 6.2 The insurance referred to in clause 6.1 shall:
- 6.2.1 be subject only to such conditions and excesses as may be usual in the European Union market at the time; and
  - 6.2.2 be maintained with reputable insurers with a place of business in the United Kingdom, from the date of this deed and for a period expiring not less than 12 years after Practical Completion and notwithstanding the determination (for any reason) of the Contractor's employment under the Contract.
- 6.3 As and when reasonably required to do so by the Beneficiary, the Contractor shall produce documentary evidence that the insurance required by this clause 6 is being properly maintained.
- 6.4 The Contractor shall promptly notify the Beneficiary if at any time it is unable to obtain insurance as required by this clause 6 on reasonable terms and at commercially reasonable premium rates or at all or if there is any material reduction in the scope or level of cover offered by such insurance.
- 6.5 The Contractor shall not compromise, settle or waive any insurance claim which it may have in respect of any professional liability under this deed without the prior consent of the Beneficiary, provided that nothing in this clause precludes the Contractor's insurers from taking over (in the name of the Contractor) the defence of any claim made by the Beneficiary under this deed and (in that capacity) from conducting and settling it as they see fit.

## 7. Assignment

The Beneficiary may at any time assign the benefit of this deed and/or any rights arising under it by way of absolute legal assignment [to any further person providing finance or re-finance in connection with the Works]<sup>14</sup> [to any subsequent purchaser of Beneficiary's interest in the

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<sup>14</sup> Use where Beneficiary is a Fund.

Property (subject to a maximum of two such assignments) and/or by way of charge to any mortgagee of the Property]<sup>15</sup> on notice to the Contractor, without the consent of the Contractor being required.

8. Third parties

8.1 Any holding or subsidiary company of the Beneficiary or any company associated with it may in its own right enforce any term of this deed.

8.2 Except as provided in clause 8.1, it is not intended that any third party (other than the Beneficiary) should have the right to enforce a provision of this deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

8.3 The parties may rescind or vary this deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

9. Warranties in favour of others

The Contractor shall, within 14 days of being requested so to do by the Beneficiary, execute and deliver to the Beneficiary a deed of collateral warranty (in terms substantially similar to this deed but excluding clauses 3, 4 and 9) in favour of any person who acquires an interest in the Property from the Beneficiary and/or any first person who has entered into a lease or an agreement for lease for any part of the Property, provided that a collateral warranty in favour of such person has not already been requested by the Employer under the Contract.

10. Other remedies

10.1 Nothing in this deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Contractor in the absence of this deed.

10.2 The liability of the Contractor under this deed shall not be released, diminished or in any other way affected by:

10.2.1 the appointment by the Beneficiary of any person to survey the Property or to monitor the carrying out of the Works or to

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<sup>15</sup> Delete if Beneficiary is a Fund.

inspect any documents relating to them on behalf of the Beneficiary or the failure to appoint such a person;

10.2.2 any approval or consent given or withheld or purported to be given or withheld by or on behalf of the Beneficiary; or

10.2.3 any other independent inquiry into any relevant matter which the Beneficiary may make or fail to make.

**11. Limitation**

No action or proceedings for any breach of this deed shall be commenced against the Contractor after the expiry of 12 years following Practical Completion.

**12. Notices**

Any notice or other communication required under this deed shall be given in writing and shall be deemed to have been properly given if compliance is made with section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962).

**13. Governing law and disputes**

The application and interpretation of this deed shall in all respects be governed by English law and any dispute or difference arising under this deed shall be subject to the jurisdiction of the English courts.

Delivered as a deed on the date of this document.

Executed as a deed by

**[CONTRACTOR]**  
in the presence of:

Director

Director/Secretary

Executed as a deed by **[BENEFICIARY]**  
in the presence of:

Director

Director/Secretary

Executed as a deed by **[EMPLOYER]**  
in the presence of:

Director

Director/Secretary<sup>16</sup>

*Add attestation for Beneficiary and Employer where Beneficiary has step-in rights.*

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<sup>16</sup> Amend as appropriate if the Consultant is a partnership.

**SCHEDULE 2**

**Forms of Collateral Warranty  
(Sub-Contractor to Employer/Fund/Purchaser/Tenant)**

DATED

201

**[SUB-CONTRACTOR]**

**[EMPLOYER/BENEFICIARY]**

**DEED OF WARRANTY**

relating to a project at

[ ]

**DATED**  
**PARTIES**

- 1 Sub-Contractor [ ] (company no [ ])  
whose registered office is at [ ]
- 2 [Employer/Beneficiary] [ ] (company no [ ])  
whose registered office is at [ ]

**RECITALS**

- A By the Contract, the Employer has employed the Contractor to carry out and complete the Works.
- B Pursuant to the provisions of the Contract, the Contractor with the consent of the Employer has employed the Sub-Contractor under the Sub-Contract to carry out and complete the Sub-Contract Works.
- C Recite nature of the Beneficiary's interest in the Property.]<sup>17</sup>
- D In consideration of the foregoing the Sub-Contractor has agreed to enter into this deed in favour of the [Employer/Beneficiary].

**OPERATIVE PROVISIONS**

**1. Definitions and interpretation**

- 1.1 Unless the contrary intention appears, the following definitions apply:
- <sup>18</sup>*Beneficiary* includes any person to whom the benefit of this deed and/or any rights under it have been validly assigned in accordance with clause 5.1;]
- Contract* the contract dated [ ] between the Employer (1) and the Contractor (2) (and any further agreement varying or supplementing it) under which the Contractor has undertaken to carry out and complete the Works;
- Contractor* [ ] (company no [ ])  
whose registered office is at [ ]
- <sup>19</sup>*Employer* includes any person to whom the benefit of this deed and/or any rights under it have been validly assigned in accordance with clause 6.1;]
- <sup>20</sup>*Employer* [ ] (company no [ ])  
whose registered office is at [ ]
- Practical Completion* practical completion of the Works as certified or otherwise evidenced pursuant to the Contract;
- Property* the property at [ ];
- Proprietary Material* all drawings, details, plans, specifications, schedules, calculations, software and other work (and the designs contained in them) prepared or to be prepared by or on behalf of the Sub-Contractor in connection with the

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<sup>17</sup> Omit from Employer warranty.  
<sup>18</sup> Omit from Employer warranty.  
<sup>19</sup> Include in Employer warranty only.  
<sup>20</sup> Omit from Employer warranty.

<i>Sub-Contract</i>	Works; the sub-contract dated [ ] between the Contractor (1) and the Sub-Contractor (2) (and any further agreement varying or supplementing it) whereby the Sub-Contractor has undertaken to carry out and complete the Sub-Contract Works;
<i>Sub-Contractor</i>	the person named as the second party above;
<i>Sub-Contract Works</i>	those parts of the Works to be carried out by the Sub-Contractor as more particularly defined and described in the Sub-Contract; and
<i>Works</i>	the [design and] construction works carried out or to be carried out by the Contractor at the Property as more particularly defined and described in the Contract.

- 1.2 The clause headings in this deed are for the convenience of the parties only and do not affect its interpretation.
- 1.3 Words importing the singular meaning shall include, where the context so admits, the plural meaning and vice versa.
- 1.4 Words denoting the masculine gender shall include the feminine and neuter genders and words denoting natural persons shall include corporations and firms and all such words shall be construed interchangeably in that manner.
- 1.5 Where the context so admits, references in this deed to a clause are to a clause of this deed.
- 1.6 References in this deed to any statute or statutory instrument shall include and refer to any statutory amendment or re-enactment thereof from time to time and for the time being in force.

2. Sub-Contractor's warranties

2.1 The Sub-Contractor warrants and undertakes to the [Employer/Beneficiary] as follows:

2.1.1 that he has exercised and will continue to exercise all reasonable skill, care and diligence:

- (a) in the performance of his duties and responsibilities pursuant to and within the scope of his employment under the Sub-Contract;
- (b) in relation to the design of the Sub-Contract Works insofar as the Sub-Contractor is responsible therefore pursuant to the terms of the Sub-Contract;
- (c) in the selection of materials and goods insofar as the same have been or will be selected by the Sub-

- Contractor, his sub-contractors or suppliers in accordance with the Sub-Contract; and
- (d) in the satisfaction of any performance specification or requirement included or referred to in the documents comprising the Sub-Contract;
- 2.1.2 that the Sub-Contract Works have been and will be carried out and completed in a good, sound, substantial and workmanlike manner using good quality and appropriate materials and in all respects in accordance with the Sub-Contract;
- 2.1.3 that he has observed and performed and will continue to observe and perform all the terms and obligations on his part to be observed and performed under the Sub-Contract; and
- 2.1.4 that none of the materials referred to in clause [ ] of the Contract has been or will be used in the Sub-Contract Works.
- 2.2 The Sub-Contractor acknowledges that the [Employer/Beneficiary] shall be deemed to have relied and to continue to rely upon the warranties and undertakings given by the Sub-Contractor under this clause 2, provided always that:
- 2.2.1 the Sub-Contractor shall owe no greater obligations to the [Employer/Beneficiary] under this deed than he owes to the Contractor under the Sub-Contract; and
- 2.2.2 no action or proceedings for any breach of this deed shall be commenced against the Sub-Contractor after the expiry of 12 years from the date of Practical Completion.
3. [Determination and Novation of the Sub-Contract]
- 3.1 The Sub-Contractor shall not, without first giving to the Employer not less than 21 days' prior notice, exercise any right he may have to determine his employment under the Sub-Contract or treat the same



as having been repudiated by the Contractor or withhold performance of his obligations thereunder.

3.2 In the event that the employment of the Contractor under the Contract is determined for any reason whatsoever, the Sub-Contractor shall continue to carry out and complete his obligations under the Sub-Contract and shall within 7 days of the Employer's request so to do execute a deed of novation in such form as the Employer may reasonably require transferring the rights and obligations of the Contractor under the Sub-Contract to the Employer (in which event the Sub-Contractor shall not thereafter unreasonably withhold his consent to a further novation of the Sub-Contract by the Employer) or to any person nominated by the Employer. Provided always that the provisions of this clause 3.2 shall not apply if the Employer shall so notify the Sub-Contractor within 14 days of the date of determination as aforesaid.

3.3 If the Employer shall notify the Sub-Contractor under clause 3.2, the Sub-Contractor shall have no claim whatsoever against the Employer for any damage, loss or expense howsoever arising out of or in connection with such notification or this deed.]<sup>21</sup>

4. Use of Proprietary Material

4.1 The copyright in the Proprietary Material shall remain vested in the Sub-Contractor, but the Sub-Contractor grants to the [Employer/Beneficiary] an irrevocable royalty-free non-exclusive licence to use and to reproduce any or all of the Proprietary Material for any purpose whatsoever connected with the Works and/or the Property, including (without limitation) the execution and completion of the Works and the subsequent maintenance, letting, occupation, management, sale, advertisement, extension, alteration, reinstatement and repair of the Property.

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<sup>21</sup> Include in Employer warranty only.

- 4.2 The licence referred to in clause 4.1 carries the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the determination (for any reason) of the Sub-Contractor's employment under the Sub-Contract.
- 4.3 The Sub-Contractor shall provide copies of any or all of the Proprietary Material to the [Employer/Beneficiary] upon request and upon payment by the [Employer/Beneficiary] of the Sub-Contractor's reasonable copying charges.
- 4.4 The Sub-Contractor shall not be liable for the consequences of any use of the Proprietary Material for any purpose other than that for which it was prepared.
5. Insurance
- 5.1 The Sub-Contractor undertakes to the [Employer/Beneficiary] to maintain with a reputable insurance company with a place of business in the United Kingdom, from the date hereof and for a period expiring no earlier than 12 years after Practical Completion and notwithstanding the determination for any reason of the Sub-Sub-Contractor's employment under the Sub-Contract, [professional indemnity/product liability] insurance without unusual or onerous conditions or excesses to cover its liabilities under this deed, with a limit of indemnity of not less than £[ ] [in respect of each and every claim/in the aggregate in any period of insurance], provided always that such insurance continues to be available in the European Union market upon reasonable terms and at commercially reasonable premium rates.
- 5.2 As and when he is reasonably required to do so by the [Employer/Beneficiary], the Sub-Contractor shall produce for inspection by the [Employer/Beneficiary] documentary evidence that such insurance is being properly maintained.
- 5.3 The Sub-Contractor shall forthwith notify the [Employer/Beneficiary] if such insurance ceases to be available upon reasonable terms and at

commercially reasonable premium rates or if for any other reason the Sub-Contractor is unable to continue to maintain such insurance.

6. Assignment and Third Parties

6.1 The [Employer/Beneficiary] may at any time assign, charge or transfer the benefit of this deed and/or any rights arising hereunder to any person acquiring an interest in the whole or any part of the Property upon notice to the Sub-Contractor provided that (save in the case of an assignment to any company or other body corporate which is a subsidiary or associated company of the [Employer/Beneficiary] or which is wholly owned directly or indirectly by the [Employer/Beneficiary]) not more than two such assignments shall be permitted without the consent of the Sub-Contractor being required.

6.2 Unless the right of enforcement is expressly granted, it is not intended that any third party should have the right to enforce a provision of this deed pursuant to the the Contracts (Rights of Third Parties) Act 1999.

7. Other remedies

7.1 Nothing in this deed shall in any way prejudice or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the [Employer/Beneficiary] would have against the Sub-Contractor in the absence of this deed.

7.2 The liability of the Sub-Contractor under this deed shall not be released, diminished or in any other way affected by:

7.2.1 the appointment by the [Employer/Beneficiary] of any person to survey the Property or to monitor the carrying out of the Works or to inspect any documents relating to them on behalf of the [Employer/Beneficiary] or the failure to appoint such a person;

7.2.2 any approval or consent given or withheld or purported to be given or withheld by or on behalf of the [Employer/Beneficiary]; or

7.2.3 any other independent inquiry into any relevant matter which

the [Employer/Beneficiary] may make or fail to make.

**8. Notices**

Any notice or other communication required under this deed shall be given in writing and shall be deemed to have been properly given if compliance is made with section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962).

**9. Governing law and disputes**

The application and interpretation of this deed shall in all respects be governed by English law and any dispute or difference arising hereunder shall be subject to the jurisdiction of the English courts.

Delivered as a deed on the date of this document. Executed as a deed by **[SUB-CONTRACTOR]**

in the presence of:

Director

Director/Secretary

*Where the contractor is a partnership use the following; note that all partners must execute the document unless a partnership resolution or power of attorney provides otherwise:*

Executed as a deed by [                    ] for  
and on behalf of the Consultant in the  
presence of:

Name of Witness

Address

Occupation

Executed as a deed by  
**[EMPLOYER/BENEFICIARY]**

in the presence of:

Director

Director/Secretary

*Add attestation for Beneficiary and Employer where Beneficiary has step-in rights.*

**SCHEDULE 3**

**Form of Collateral Warranty  
(Consultant to Employer/Fund/Purchaser/Tenant)**

DATED 201

[CONSULTANT]

[BENEFICIARY]

[EMPLOYER]

**DEED OF COLLATERAL WARRANTY**

*(insert consultant's discipline)*

in respect of a project at  
[ ]

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**DATED** [ ]  
**PARTIES**

- 1 Consultant [ ] (company no [ ] )  
whose registered office is at [ ]  
or  
the persons listed in schedule [10] to the Appointment,  
carrying on business together in partnership as  
[ ] at [ ]  
2 Beneficiary [ ] (company no [ ] )  
whose registered office is at [ ]  
3 Employer [ ] (company no [ ] )  
whose registered office is at [ ]<sup>22</sup>

**RECITALS**

- A By the Appointment, the Employer has employed the Consultant to perform the Services [and by a deed of novation dated [ ] the rights and obligations of the Employer under the Appointment have been transferred to the Contractor]<sup>23</sup>.
- B [The Beneficiary has agreed to provide finance for the Development.  
or  
The Beneficiary has agreed to purchase [part of] the Property.  
or  
The Beneficiary has agreed to take a lease of [part of] the Property.  
or  
The Beneficiary has agreed to take an interest in [part of] the Property.]<sup>24</sup>
- C As a condition of and in consideration of the Beneficiary's agreement the Consultant has agreed to enter into this deed for the benefit of the Beneficiary.

**1. OPERATIVE PROVISIONS**

**1.1 Unless the contrary intention appears, the following definitions apply:**

- Appointment* the contract dated [ ] between the Employer (1) and the Consultant (2) (and any further agreement varying or supplementing it) under which the Consultant has agreed to perform the Services;
- Beneficiary* includes any person to whom the benefit of this deed and/or any rights under it have been validly assigned in accordance with clause [7];
- [Consultant* includes any person who may become a partner of the Consultant after the date of this deed;]<sup>25</sup>
- [Contractor* [ ] (company no [ ] ) whose registered office is at [ ];<sup>26</sup>
- Development* the development of the Property as more particularly described in the Appointment;

<sup>22</sup> Delete if Beneficiary does not have step-in rights.

<sup>23</sup> Include only if Appointment novated to a contractor.

<sup>24</sup> Delete and/or amend as appropriate.

<sup>25</sup> Delete if Consultant is a limited company.

<sup>26</sup> Include only if Appointment novated to a contractor.

Demolition Tender Document

<i>Employer</i>	[[ <i>insert name of Employer</i> ] and] <sup>27</sup> includes any person to whom the benefit of the Appointment has been validly assigned;
<i>[Fund</i>	<i>insert name of Fund];</i> <sup>28</sup>
<i>Practical Completion</i>	practical completion of the construction of the Development as defined in the Appointment;
<i>Property</i>	the property at [ ];
<i>Proprietary Material</i>	all [ <i>drawings, details, plans, specifications, schedules, valuations, certificates, reports, calculations, software</i> ] <sup>29</sup> and other work (and any designs, ideas and concepts contained in them) prepared, conceived or developed by or on behalf of the Consultant in the course of or as a result of performing the Services; and
<i>Services</i>	the services performed or to be performed by the Consultant in respect of the Development as more particularly described in the Appointment.

- 1.2 Any obligation on a party to this deed to do an act includes an obligation to procure that it is done.
- 1.3 If a party is placed under a restriction in this deed, the restriction includes an obligation on the party not to permit the infringement of the restriction by any person.
- 1.4 References to liability include, where the context allows, claims, demands, proceedings, damages, losses, costs and expenses.
- 1.5 Words importing the singular meaning shall include, where the context so admits, the plural meaning and vice versa.
- 1.6 Words denoting the masculine gender shall include the feminine and neuter genders and words denoting natural persons shall include corporations and firms and all such words shall be construed interchangeably in that manner.
- 1.7 The clause headings in this deed are for ease of reference only and are not to be taken into account in the construction or interpretation of any provision to which they refer.
- 1.8 Unless the contrary intention appears, references in this deed to numbered clauses are references to the relevant clause in this deed.
- 1.9 References in this deed to any statutes or statutory instruments include any statute or statutory instrument amending, consolidating or replacing them respectively from time to time in force, and references to a statute include statutory instruments, regulations and codes of practice made under it.
- 1.10 If the Consultant is two or more persons, the expression “the Consultant” includes the plural number and obligations in this deed expressed or implied to be made with or by the Consultant are to be treated as made with or by such persons jointly and severally.

## 2 Consultant’s warranties

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<sup>27</sup> Insert if Employer is not a party to the warranty.

<sup>28</sup> Include only if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>29</sup> Amend according to Consultant’s discipline.



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- 2.1 The Consultant warrants to the Beneficiary that it has observed and performed and will continue to observe and perform all its obligations under or arising out of the Appointment in accordance with the terms of the Appointment, provided always that:
- (a) the Consultant shall owe no greater obligations to the Beneficiary under this deed than it owes to the [Employer/Contractor] under the Appointment; and
  - (b) the Consultant shall be entitled in any proceedings under this deed to rely on any limitation in the Appointment and to raise the equivalent rights in defence of liability (but excluding set-offs or counterclaims) as if the Beneficiary had been named as a joint employer with the [Employer/Contractor] under the Appointment.
- 2.2 The Consultant warrants to the Beneficiary that, in the performance of the Services, it has exercised and will continue to exercise all the skill, care and diligence which may reasonably be expected of a qualified and competent consultant of the relevant discipline experienced in the provision of such services in respect of works of a similar size, scope, nature and complexity to the Development.
- 2.3 Without limiting clause 2.2, the Consultant warrants to the Beneficiary that it has not specified or authorised for use and will not specify or authorise for use in the construction of the Development:
- (a) any of the materials identified as potentially hazardous in the British Property Federation/British Council for Offices report *Good practice in the selection of construction materials* (current edition), other than in accordance with the recommendations as to good practice contained in section 2 of that report; and
  - (b) any other material which (or the use of which as specified by the Consultant) does not comply with relevant British Standard specifications (or their European Union equivalent) and codes of practice and good building practice or is otherwise generally known within the Consultant's profession at the time of specification to be deleterious or harmful to health or to the durability of the Property in the particular circumstances in which it is proposed to be used; and the Consultant shall notify the Beneficiary promptly if it becomes aware of any proposed or actual use in the construction of the Development of any materials otherwise than in accordance with this clause.
- 2.4 The Consultant extends to the Beneficiary the benefit of all warranties on the part of the Consultant contained in the Appointment.
- 2.5 The Consultant acknowledges that the Beneficiary shall be deemed to have relied and shall continue to rely upon the warranties given by the Consultant under this clause 2.
- 2.6 The Consultant acknowledges to the Beneficiary that, at the date of this deed, the Appointment remains in full force and effect and the [Employer/Contractor] has paid all sums properly due to the Consultant under the Appointment.
- 3. Obligations prior to determination of the Consultant's engagement<sup>30</sup>**
- 3.1 The Consultant shall not exercise nor seek to exercise any right to determine its engagement under the Appointment for any reason, including any breach on the part of the Employer, without giving to the Beneficiary not less than [21] days' notice of its intention to do so and specifying the grounds for the proposed determination.
- 3.2 Any period stipulated in the Appointment for the exercise by the Consultant of a right of determination shall be extended, as necessary, to take account of the period of notice required under clause 3.1.

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<sup>30</sup> Clauses 3 and 4 are to be included only if Beneficiary has step-in rights and Employer is the original employer (i.e. not the Contractor).

Demolition Tender Document

3.3 Compliance by the Consultant with clause 3.1 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of determination, nor otherwise prevent the Consultant from exercising its rights after the expiration of the notice, unless the right of determination shall have ceased under the provisions of clause 4.

**4. “Step-in” right**

4.1 The right of the Consultant to determine its engagement under the Appointment shall cease if, within the period of [21] days referred to in clause 3.1, the Beneficiary [(which expression shall for the purposes of this clause 4 include any receiver, administrative receiver or other appointee (in each case a “Nominee”) appointed by the Beneficiary)]<sup>31</sup> shall give notice to the Consultant:

- (a) requiring it to continue its obligations under the Appointment;
- (b) acknowledging that the Beneficiary is assuming all the obligations of the Employer under the Appointment; and
- (c) undertaking to the Consultant to discharge all payments which may subsequently become due to the Consultant under the terms of the Appointment and to pay to the Consultant within 7 days any sums which have become due and payable to it under the Appointment but which remain unpaid[.];]

[provided that:

- (d) in this proviso and in clause [4.8] *Fund Warranty* means a deed made or to be made between the Consultant, the Fund and the Employer in respect of the Development under which the Fund has a right equivalent (with the appropriate changes) in all material respects to the right granted by clause 4.1 to the Beneficiary, save that the period for the exercise of that right by the Fund shall expire 14 days after service of the Consultant’s simultaneous notices on the Beneficiary and the Fund of its intention to determine its engagement under the Appointment;
- (e) any notice served by the Consultant on the Beneficiary pursuant to clause 3.1 shall be invalid unless a similar notice has been simultaneously served upon the Fund;
- (f) the Beneficiary shall have no power to give notice to the Consultant under clause 4.1 within the period of 14 days referred to in clause 4.1.4 unless the Fund shall previously have notified the Beneficiary that it will not exercise its equivalent right under the Fund Warranty;
- (g) the Beneficiary shall have no power to give notice to the Consultant under clause 4.1 in response to a notice under clause 3.1 if the Fund has already exercised its equivalent right under the Fund Warranty in response to the Consultant’s simultaneous notice to the Fund; and
- (h) any notice given by the Beneficiary which is in breach of clause 4.1.6 or clause 4.1.7 shall be invalid.]<sup>32</sup>

4.2 Upon compliance by the Beneficiary with the requirements of clause 4.1, the Appointment shall continue as if the right of determination on the part of the Consultant had not arisen and as if the Appointment had been entered into between the Consultant and the Beneficiary to the exclusion of the Employer.

4.3 Notwithstanding that as between the Employer and the Consultant the Consultant’s right of determination of its engagement under the Appointment may not have arisen, the provisions of clause 4.2 shall apply if the Beneficiary gives notice to the Consultant and the Employer to that effect and the Beneficiary complies with the requirements on its part under clause 4.1[, provided that the Beneficiary may only give notice under this clause 4.3 if it shall first have given the Fund and the Consultant notice of its intention to do so and the Fund has consented expressly to the exercise of such right by the Beneficiary]<sup>33</sup>.

4.4 [Any notice given by the Beneficiary which is in breach of clause 4.3 shall be invalid.]<sup>34</sup>

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<sup>31</sup> Include only where Beneficiary is a bank providing finance.

<sup>32</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>33</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>34</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

Demolition Tender Document

- 4.5 The Consultant shall be bound to assume that, as between the Employer[, the Fund]<sup>35</sup> and the Beneficiary, circumstances have occurred which permit the Beneficiary to give notice under clause 4.3.
- 4.6 The Consultant, acting in accordance with the provisions of this clause 4, shall not incur any liability to the Employer.
- 4.7 [If the Beneficiary appoints a Nominee to exercise its rights under this clause 4, the Nominee shall act on behalf of the Employer and shall have no personal liability to the Consultant, but the Beneficiary shall be liable to the Consultant as guarantor for the payment of all sums from time to time due to the Consultant from the Nominee.]<sup>36</sup>
- 4.8 [If the Fund exercises its equivalent right under clause 4.1 or clause 4.3 of the Fund Warranty, the provisions of clauses 3 and 4 shall have effect as if all references to the Fund and the Fund Warranty had been deleted and as if all references to the Employer were references to the Fund.]<sup>37</sup>

## 5. Use of Proprietary Material

- 5.1 The copyright in the Proprietary Material shall remain vested in the Consultant, but the Consultant grants to the Beneficiary an irrevocable royalty-free non-exclusive licence to use and to reproduce any or all of the Proprietary Material for any purpose connected with the Development and/or the Property, including (without limitation) the execution and completion of the Development and the subsequent maintenance, letting, occupation, management, sale, advertisement, extension, alteration, reinstatement and repair of the Property.
- 5.2 The licence referred to in clause 5.1 carries the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding the expiry or determination (for any reason) of the Consultant's engagement under the Appointment.
- 5.3 The Consultant acknowledges that it is the author (as referred to in the Copyright, Designs and Patents Act 1988) of the Proprietary Material and waives any moral rights which it might otherwise be deemed to possess under Chapter IV of that Act in respect of the Proprietary Material and of the Development.
- 5.4 The Consultant shall provide a complete set of copies of the Proprietary Material to the Beneficiary without charge on Practical Completion and shall provide further copies of any or all of the Proprietary Material to the Beneficiary on request and upon payment by the Beneficiary of the Consultant's reasonable copying charges.
- 5.5 The Consultant shall not be liable for the consequences of any use of the Proprietary Material for any purpose other than that for which it was prepared by the Consultant.

## 6. Insurance

- 6.1 Without limiting its other obligations under this deed or otherwise at law, the Consultant shall maintain professional indemnity insurance to cover each and every professional liability which it may incur under this deed, with a limit of indemnity not less than £[ ] in respect of each and every claim *[(but such limit may apply in the aggregate in any year of insurance in relation to claims arising out of pollution and/or contamination)]*<sup>38</sup>, provided that such insurance continues to be available in the European Union market on reasonable terms and at commercially reasonable premium rates to consultants performing services substantially similar to the Services.

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<sup>35</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>36</sup> Include only where Beneficiary is a bank providing finance.

<sup>37</sup> Include if Beneficiary has step-in rights which are sub-ordinated to the Fund.

<sup>38</sup> For Structural Engineer only.

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- 6.2 The insurance referred to in clause 6.1 shall:
- (a) be subject only to such conditions and excesses as may be usual in the European Union market at the time; and
  - (b) be maintained with reputable insurers with a place of business in the United Kingdom, from the date of this deed and for a period expiring not less than 12 years after Practical Completion and notwithstanding the expiry or determination (for any reason) of the Consultant's engagement under the Appointment.
- 6.3 As and when reasonably required to do so by the Beneficiary, the Consultant shall produce documentary evidence that the insurance required by this clause 6 is being properly maintained.
- 6.4 The Consultant shall promptly notify the Beneficiary if at any time it is unable to obtain insurance as required by this clause 6 on reasonable terms and at commercially reasonable premium rates or at all or if there is any material reduction in the scope or level of cover offered by such insurance.
- 6.5 The Consultant shall not compromise, settle or waive any insurance claim which it may have in respect of any professional liability under this deed without the prior consent of the Beneficiary, provided that nothing in this clause precludes the Consultant's insurers from taking over (in the name of the Consultant) the defence of any claim made by the Beneficiary under this deed and (in that capacity) from conducting and settling it as they see fit.

## 7. Assignment

The Beneficiary may at any time assign the benefit of this deed and/or any rights arising under it by way of absolute legal assignment [to any further person providing finance or re-finance in connection with the Development]<sup>39</sup> [to any subsequent purchaser of Beneficiary's interest in the Property (subject to a maximum of two such assignments) and/or by way of charge to any mortgagee of the Property]<sup>40</sup> on notice to the Consultant, without the consent of the Consultant being required.

## 8. Third parties

- 8.1 Any holding or subsidiary company of the Beneficiary or any company associated with it may in its own right enforce any term of this deed.
- 8.2 Except as provided in clause 8.1, it is not intended that any third party (other than the Beneficiary) should have the right to enforce a provision of this deed pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 8.3 The parties may rescind or vary this deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

## 9. Other remedies

- 9.1 Nothing in this deed shall in any way limit or affect any other rights or remedies (whether under any contract, at law, in equity or otherwise) which the Beneficiary would have against the Consultant in the absence of this deed.
- 9.2 The liability of the Consultant under this deed shall not be released, diminished or in any other way affected by:
- (a) the appointment by the Beneficiary of any person to survey the Property or to monitor the carrying out of the Development or to inspect any documents relating to them on behalf of the Beneficiary or the failure to appoint such a person;
  - (b) any approval or consent given or withheld or purported to be given or withheld by or on behalf of the Beneficiary; or

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<sup>39</sup> Use where Beneficiary is a Fund.

<sup>40</sup> Delete if Beneficiary is a Fund.

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- (c) any other independent inquiry into any relevant matter which the Beneficiary may make or fail to make.

**10. Limitation**

No action or proceedings for any breach of this deed shall be commenced against the Consultant after the expiry of 12 years following Practical Completion.

**11. Notices**

Any notice or other communication required under this deed shall be given in writing and shall be deemed to have been properly given if compliance is made with section 196 of the Law of Property Act 1925 (as amended by the Recorded Delivery Service Act 1962).

**12. Governing law and disputes**

The application and interpretation of this deed shall in all respects be governed by English law and any dispute or difference arising under this deed shall be subject to the jurisdiction of the English courts.

**13. Net Contribution Clause**

The Consultant's liability for costs under this Deed shall be limited to that proportion of such costs which it would be just and equitable to require the Consultant to pay having regard to the extent of the Consultant's responsibility for the same and on the basis that **[the other consultants involved on the project should be added in here]** has provided contractual undertakings in respect of the Works and shall be deemed to have paid to the Beneficiary such proportion which it would be just and equitable for them to pay having regard to the extent of their responsibility.

Delivered as a deed on the date of this document.

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Executed as a deed by **[CONSULTANT]**  
in the presence of:

Director

Director/Secretary

*Where the Consultant is a partnership use the following; note that all partners must execute the document unless a partnership resolution or power of attorney provides otherwise:*

Executed as a deed by [                    ]  
for and on behalf of the Consultant in the  
presence of:  
Name of Witness

Address  
Occupation

Executed as a deed by **[BENEFICIARY]**  
in the presence of:

Director

Director/Secretary

Executed as a deed by **[EMPLOYER]**  
in the presence of:

Director

Director/Secretary<sup>41</sup>

*Add attestation for Beneficiary and Employer where Beneficiary has step-in rights.*

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<sup>41</sup> Amend as appropriate if the Consultant is a partnership.