

2nd October 2025

JCT Design and Build Contract 2024 (DB 2024)
relating to
the design, construction and completion of the Phase 2 Fit Out of
Accrington Town Square (Market Hall, Market Chambers and Burtons
Chambers)

Hyndburn Borough Council ⁽¹⁾ and
Krol Corlett Construction Limited ⁽²⁾

Agreement

Dated ^{2nd} October 2025

Parties

- (1) **HYNDBURN BOROUGH COUNCIL** whose office is at Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF (hereinafter defined as the **Employer** which expression shall include permitted assignees and successors in title).
- (2) **KROL CORLETT CONSTRUCTION LIMITED** (No. 05974400) whose registered office is Morgan Brightside Building Bradman Road, Knowsley Industrial Park, Knowsley, Merseyside, L33 7UR (hereinafter defined as the **Contractor**).

Background

- (A) The Employer wishes to procure the design, construction and completion of certain works.
- (B) The Contractor has agreed to carry out the design, construction and completion of those works as required by this Agreement and Contract.
- (C) The Employer and Contractor have agreed to incorporate and amend the JCT Design and Build Contract 2024 edition (attached to this agreement at Annex 8) as set out in this Agreement and Contract.

Agreed Terms

1. This Contract shall incorporate all of the provisions of the JCT Design and Build Contract 2024 edition, except that:
 - 1.1 the Agreement and Attestation contained in the JCT Design and Build Contract 2024 edition shall be replaced in their entirety by this Agreement and Attestation; and
 - 1.2 the JCT Design and Build Contract 2024 edition shall be amended as provided in this Agreement, Attestation, Schedule of Amendments and Annexures all as attached to this Agreement.
2. In this Contract, words and expressions shall have the same meanings as are respectively assigned to them in the JCT Design and Build Contract 2024 edition, as amended by this Agreement and Schedule of Amendments.
3. The following documents shall be deemed to form part of and be read and construed as part of this Contract:
 - 3.1 this Agreement, Attestation, Schedule of Amendments and Annexures attached to this Agreement;
 - 3.2 the published JCT Design and Build Contract 2024 edition (as amended by this Agreement, Attestation, Schedule of Amendments and Annexures attached to this Agreement);
 - 3.3 the Employer's Requirements;
 - 3.4 the Schedules;
 - 3.5 the Contractor's Design Documents;
 - 3.6 the Contractor's Proposals;

- 3.7 the Contract Sum Analysis;
 - 3.8 any other documents incorporated by or referred to in any of the above documents.
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4. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby agrees with the Employer to design, carry out and complete the Works and perform its obligations under this Contract, all in accordance with the terms of this Contract.
 5. The Employer hereby agrees to pay the Contractor in consideration of the design, carrying out and completion of the Works and performance of the Contractor's obligations under this Contract, all in accordance with the terms of this Contract, such amounts as shall become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.
 6. This Contract may be executed in any number of counterparts by the Parties, each of which when executed and delivered will constitute an original, but all of which together will constitute one and the same agreement.

Recitals

Whereas

First the Employer wishes to have the design and construction of the following work carried out:

To Market Hall; Installation of new louvre vents at roof level, and new rooflights to roof lanterns, Access and edge protection to maintenance deck and roof, including new access ladders and walkways, Fit-out of Market Hall including F&B kitchens and bar, market stalls and pergolas, associated signage and FF&E, Refurbishment of existing staircases and balustrades, Installation of new public WCs and amenities, including prayer, ablution, and sensory room, Refurbishment of existing trader WC and kitchen facilities, MEP installation including kitchen extract, drainage, local heating, lighting and small power, Roof refurbishment works, including slate roofs, gutters and RWPs, lead flashings, MEP penetrations and PVs and;

To Burtons Chambers; Installation of wall lining to perimeter walls for thermal upgrade and tanking at ground floor, Installation of roof infill to former rooflight opening, Roof works including formation of risers, roof hatch and repairs to roof and parapets, Repairs to rotten timber joists and lintels, Installation of new staircase and platform lift, Fire protection to all floors, New partition walls and doors to form cellular offices and amenity spaces at all floors, FF&E fit-out to all office and common spaces, including circulation areas, WCs, kitchenettes and meeting spaces, Full MEP fit-out including drainage connections and power supply

at

(1) Market Hall; Peel Street, Accrington, BB5 1ER, (2) Burtons Chambers; 61-69 Blackburn Road, BB5 1JJ (**the Works**)

and the Employer has supplied to the Contractor documents showing and describing or otherwise stating its requirements (**the Employer's Requirements**);

Second in response to the Employer's Requirements the Contractor has supplied to the Employer:

- documents showing and describing the Contractor's proposals for the design and construction of the Works (**the Contractor's Proposals**); and
- an analysis of the Contract Sum (**the Contract Sum Analysis**);

Third the Contractor has examined the Employer's Requirements and confirms that:

- (1) the Contractor is satisfied as to the feasibility and practicality of the Employer's Requirements;
- (2) the Contractor shall be fully responsible in all respects for the design of the Works (including without limitation any design in the Employer's Requirements);
- (3) the Contractor's Proposals and the Contract Sum Analysis meet the Employer's Requirements and there is no discrepancy within and/or between these documents; and
- (4) the Employer's Requirements can be carried out within the timescale envisaged therein and at the cost stated in the Contract Sum Analysis;

Fourth for the purposes of the Construction Industry Scheme (**CIS**) under the Finance Act 2004, the status of the Employer is, as at the Base Date, that stated in the Contract Particulars;

Fifth the division of the Works into Sections is shown in the Employer's Requirements or in such other documents as are identified in the Contract Particulars;

Sixth where so stated in the Contract Particulars, this Contract is supplemented by the Framework Agreement identified in those particulars;

Seventh whether any of Supplemental Provisions 1 to 7 apply is stated in the Contract Particulars.

Articles

Now it is hereby agreed as follows:

Article 1: Contractor's obligations

The Contractor shall carry out and complete the design for the Works and carry out and complete the construction of the Works in accordance with the Contract Documents and perform all of its other obligations set out in this Contract.

Article 2: Contract Sum

The Employer shall pay the Contractor at the times and in the manner prescribed by this Contract the VAT-exclusive sum of

[REDACTED]

or such other sum as becomes payable under this Contract.

Article 3: Collaborative working

The Parties shall work with each other and with other project team members in a co-operative and collaborative manner, in good faith and in a spirit of trust and respect. To that end, each shall support collaborative behaviour and address behaviour which is not collaborative.

Article 4: Employer's Agent

For the purposes of this Contract the Employer's Agent is [REDACTED] or other person as the Employer nominates in its place. Save to the extent that the Employer may otherwise specify by notice to the Contractor, the Employer's Agent shall have full authority to receive and issue applications, consents, instructions, notices, requests or statements and otherwise to act for the Employer under any of the Conditions; provided that notwithstanding the appointment of the Employer's Agent the Employer shall retain authority to receive and issue applications, consents, instructions, notices, requests or statements or take other action permitted by or enforce other rights it has under the terms of this Contract, from time to time for the purposes of this Contract.

Article 5: Employer's Requirements and Contractor's Proposals

The Employer's Requirements, the Contractor's Proposals and the Contract Sum Analysis are those referred to in the Contract Particulars.

Article 6: CDM Regulations - Principal Designer and Principal Contractor

For the purposes of the CDM Regulations:

the Principal Designer is the Contractor or such replacement as the Employer at any time appoints to fulfil that role;

the Principal Contractor is the Contractor or such replacement as the Employer at any time appoints to fulfil that role.

Article 7: Building Regulations - Principal Designer and Principal Contractor

For the purposes of the Building Regulations:

the Principal Designer is the Contractor or such replacement as the Employer at any time appoints to fulfil that role;

the Principal Contractor is the Contractor or such replacement as the Employer at any time appoints to fulfil that role.

Article 8: Adjudication

If any dispute or difference arises out of or in connection with this Contract, either Party may refer it to adjudication in accordance with clause 9.3.

Article 9: Arbitration

Not used – Arbitration does not apply

Article 10: Legal proceedings

Without prejudice to Article 8 and clause 9.3, the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and decide any suit, action or proceedings and/or settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Article 11: The Contractor's Deeds of Collateral Warranty

- 11.1 The Contractor shall execute as a deed and deliver to the Employer within 10 Business Days of a written request from the Employer a deed or deeds of collateral warranty in the form set out in Annex 1 to this Contract with only such amendments as the Employer may approve and/or reasonably require in favour of:
- 11.1.1 any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site;
 - 11.1.2 any purchaser of the whole or any part of the Works and/or site;
 - 11.1.3 any organisation providing finance to a purchaser of the whole or any part of the Works and/or site;
 - 11.1.4 any tenant of the whole or any part of the Works and/or site;
 - 11.1.5 the Operator; and
- 11.2 Notwithstanding any other terms of this Contract, the Contractor and Employer agree that should any deed or deeds of collateral warranty from the Contractor, to be provided pursuant to this Article 11, not be executed as a deed and delivered to the Employer within 28 Business Days of a written request from the Employer then the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold the sum of £2,500 per collateral warranty from any future payments to the Contractor until such time as the relevant deed and/or deeds of collateral warranty have been executed and delivered to the Employer in accordance with the provisions of this Article 11.

Article 12: Consultants, Appointments and Deeds of Collateral Warranty

12.1 Not used.

12.2 Not used.

12.3 On the date of this Contract, the Contractor shall have appointed and/or shall appoint the following consultants (or such other consultants as the Employer may approve) for the purposes of the Works:



(together the **Design Consultants** (which term shall include any replacement consultant)).

12.4 The Design Consultants shall be appointed by deed on the terms of the respective draft appointment set out in Annex 3 with such amendments (if any) as the Employer may approve and/or reasonably require.

- 12.5 In addition to the Design Consultants the Contractor may, subject to the Employer's prior written consent, appoint additional consultants for the purposes of the Works (the **Additional Consultants** (which term shall include any replacement consultant)) provided always that such Additional Consultants are appointed by deed on the terms of the respective draft appointment set out in Annex 3 with such amendments (if any) as the Employer may approve and/or reasonably require.
- 12.6 Within 28 Business Days after the appointment of each Design Consultant and Additional Consultant the Contractor shall supply to the Employer a certified copy of the Design Consultant's and Additional Consultant's deed of appointment.
- 12.7 Upon the appointment of every Design Consultant and Additional Consultant, the Contractor shall immediately upon that appointment (in respect of Article 12.7.1) and/or within 10 Business Days of a written request from the Employer (in respect of Articles 12.7.2 to 12.7.6 inclusive) deliver to the Employer a deed or deeds of collateral warranty from such consultant in the form set out in Annex 4 to this Contract, executed as deeds by the Contractor and the consultant as appropriate, with only such amendments as the Employer may approve and/or reasonably require in favour of:
- 12.7.1 the Employer;
 - 12.7.2 any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site;
 - 12.7.3 any purchaser of the whole or any part of the Works and/or site;
 - 12.7.4 any organisation providing finance to a purchaser of the whole or any part of the Works and/or site;
 - 12.7.5 any tenant of the whole or any part of the Works and/or site;
 - 12.7.6 the Operator; and
- 12.8 Should any deed or deeds of collateral warranty from the Design Consultants or Additional Consultants, to be provided pursuant to this Article 12, not be executed as a deed and delivered to the Employer within 28 Business Days of a written request from the Employer then the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold the sum of [REDACTED] per collateral warranty (save for the mechanical and electrical consultant where the amount to be withheld is [REDACTED] per collateral warranty) from any future payments to the Contractor in respect of that particular Design Consultant's or Additional Consultant's work until such time as the relevant deed and/or deeds of collateral warranty have been executed and delivered to the Employer in accordance with the provisions of this Article 12.
- 12.9 If the employment of any consultant (including the Design Consultants and Additional Consultants) is terminated before the completion of the services allocated to them, the Contractor shall as soon as is practicable but on 5 Business Days' notice from the Employer appoint another consultant to complete those services (save any consultant to whom the Employer shall make reasonable objection in writing). The foregoing provisions of this Article 12 shall apply to such replacement consultant, mutatis mutandis.

Article 13: Sub-contractors, Sub-contracts and Deeds of Collateral Warranty

- 13.1 In this Article 13 **Specified Sub-contractors** means any sub-contractor or supplier of the Contractor for the following elements of the Works (or any part thereof):
- Structural steel frame/roof structure
 - Steelwork
 - Ground floor slab
 - Raised access floors
 - Mechanical services
 - Electrical services
 - Fenestration / windows and external doors
 - Curtain walling
 - Lifts
 - Balustrades
 - any other sub-contractor or supplier of the Contractor carrying out material design in relation to the Works

and shall include any replacement of such sub-contractors and/or suppliers provided that the Contractor does not appoint any sub-contractor if there are compulsory grounds for excluding the sub-contractor under procurement legislation. For the avoidance of doubt but without limitation references to subcontractors include suppliers and professional consultants engaged by the Contractor.

- 13.2 Each of the Specified Sub-contractors shall be appointed by deed prior to them carrying out any design works or services in relation to the Works in a form approved by the Employer in accordance with clause 3.4 of the Contract, and within 28 Business Days of the appointment of a Specified Sub-contractor the Contractor shall supply a certified copy of the sub-contract to the Employer provided that the Contractor shall be entitled to delete the sub-contract sum and any commercially sensitive information from the certified copy of the sub-contract documentation to be provided in accordance with this Article.
- 13.3 Upon the appointment of every Specified Sub-contractor, the Contractor shall immediately upon that appointment (in respect of Article 13.3.1) and/or within 10 Business Days of a written request from the Employer (in respect of Articles 13.3.2 to 13.3.6 inclusive) deliver to the Employer a deed or deeds of collateral warranty from such Specified Sub-contractor in the form set out in Annex 2 to this Contract, executed as deeds by the Contractor and the Specified Sub-contractor as appropriate, with only such amendments as the Employer may approve and/or reasonably require in favour of:
- 13.3.1 the Employer;
 - 13.3.2 any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site;
 - 13.3.3 any purchaser of the whole or any part of the Works and/or site;
 - 13.3.4 any organisation providing finance to a purchaser of the whole or any part of the Works and/or site;
 - 13.3.5 any tenant of the whole or any part of the Works and/or site;
 - 13.3.6 the Operator
- 13.4 Should any deed or deeds of collateral warranty from the Specified Sub-contractors, to be provided pursuant to this Article 13, not be executed as a deed and delivered to the Employer within 28 Business Days of a written request from the Employer then the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold the sum of [REDACTED] per collateral warranty (save for the mechanical and electrical sub contractor where the amount to be withheld is [REDACTED] per collateral warranty) from any future payments to the Contractor in respect of that particular Specified Sub-contractor's work until such time as the relevant deed and/or deeds of collateral warranty have been executed and delivered to the Employer in accordance with the provisions of this Article 13.
- 13.5 If the employment of any Specified Sub-contractor is terminated before the completion of the works and/or services allocated to it, the Contractor shall as soon as is practicable but on 5 Business Days' notice from the Employer appoint another sub-contractor to complete those works and/or services (save any sub-contractor to whom the Employer shall make reasonable objection in writing). The foregoing provisions of this Article 13 shall apply to such replacement sub-contractor, mutatis mutandis.

Article 14: Compliance with the appointments and sub-contracts

- 14.1 In relation to the appointments of the Design Consultants, Additional Consultants, Specified Sub-Contractors and any other sub-contractors or suppliers, the Contractor shall:
- 14.1.1 properly enforce the obligations of such consultants, sub-contractors and suppliers under their appointments and shall not determine or vary the terms of any such appointments or release such consultants, sub-contractors or suppliers from their obligations under their respective appointments without the prior written consent of the Employer (such consent not to be unreasonably withheld or delayed);
 - 14.1.2 (without limitation to Article 14.1.1) procure that such consultants, sub-contractors and suppliers comply with their obligations in relation to the provision of deeds of collateral warranties under the terms of their appointments;

- 14.1.3 duly perform and observe all the obligations and duties on the part of the Contractor under the appointments of any such consultants, sub-contractors and suppliers;
- 14.1.4 take all reasonable steps to ensure that such consultants, sub-contractors and suppliers are fully and properly instructed in connection with the Works;
- 14.1.5 diligently take all reasonable steps necessary to procure due performance and observance of the obligations and duties of such consultants, sub-contractors and suppliers;
- 14.1.6 not waive, release, vary or estop itself from enforcing or seeking redress for any such obligation or duty without the prior written consent of the Employer; and
- 14.1.7 take all reasonable steps to not to do or omit to do any act or thing which would entitle any of such consultants, sub-contractors and/or suppliers to treat as terminated by breach their appointment in connection with the Works.

Article 15: Guarantees

15.1 The Contractor shall obtain manufacturer's guarantees in favour of or assignable to the Employer and all manuals, drawings and other information in respect of all items of plant and equipment and other products which are included in the Works as may be reasonably requested by the Employer including (but not limited to) the following:

- mechanical systems
- electrical systems
- lifts
- external doors
- glazing, windows, and curtain walling
- roofing systems and/or products
- balustrades
- kitchen equipment

15.2 Should the guarantees, manuals, drawings or other information to be provided pursuant to this Article 15 which are specifically required as part of the health & safety file and/or the O&M manuals, not be delivered to the Employer within 10 Business Days of a written request from the Employer following the installation and commissioning of the plant or equipment, the Employer shall (subject to the payment provisions in clause 4) be entitled to withhold all future payments to the Contractor in respect of the relevant item of plant, equipment or other product until such time as the relevant guarantee, manual, drawing or other information has been delivered.

Article 16: Performance Bond

- 16.1 Within 10 Business Days of a written request from the Employer, the Contractor shall procure the execution and delivery to the Employer of a performance bond in favour of the Employer in amount equal to [REDACTED] the Contract Sum, in the form set out in Annex 6 to this Contract (with only such amendments as the Employer may approve and/or reasonably require), with the performance bond expiring 3 months following Practical Completion and with a reputable surety based within the UK and approved by the Employer in writing.
- 16.2 If the Contractor does not procure the execution and delivery of the performance bond in accordance with Article 16.1 then, notwithstanding any other term of this Contract, the Employer shall (subject to the payment provisions in clause 4) be entitled to retain out of monies becoming due to the Contractor a sum equal to 10 per cent of the Contract Sum. Any amount so retained shall become due for release to the Contractor only when such performance bond is provided (or, if none is provided, on the date on which a performance bond in the form set out in Annex 6 would have lapsed had it been provided, less any amounts which the Employer may have been entitled to claim under the performance bond had such performance bond been provided).

Article 17: Not Used

Article 18: Professional Team

18.1 The Employer reserves the right to appoint at any time any independent consultants to advise and assist the Employer and details of such consultants shall be notified to the Contractor by the Employer or the Employer's Agent from time to time. The Contractor shall co-operate with such consultants in the performance of their duties and shall liaise with them as necessary (or as the Employer or Employer's Agent on the Employer's behalf may direct) in connection with the Works.

Article 19: Entire agreement

19.1 Following execution and completion of this Agreement by the Parties, this Contract constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the Works (**Prior Arrangements**). Nothing contained in or arising from any Prior Arrangements shall override or modify this Contract, and this Contract and its terms shall be deemed to govern any works and/or services provided by or on behalf of the Contractor to the Employer in relation to the Works, whether carried out before or after the date of this Contract (including under any Prior Arrangements) and all such works and/or services shall be deemed to be part of the Works and shall be deemed to have been performed under the terms of this Contract.

19.2 All payments made by the Employer to the Contractor pursuant to any Prior Arrangements shall be deemed to have been made as part of the Contract Sum. For the avoidance of doubt, the Employer shall have no further liabilities (including any liability to make any payments) under any Prior Arrangements.

19.3 Each Party acknowledges that in entering into this Contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

Article 20: Not Used

Article 21: Supply Chain

21.1 The Contractor shall exercise reasonable skill, care and diligence in accordance with Good Industry Practice in the selection and ongoing monitoring (including financial health and capacity) of its supply chain, including (without limitation) Design Consultants and Specified Sub-Contractors. The Contractor shall provide details and supporting evidence of its compliance with this Article on request by the Employer. The Contractor shall have regard to any guidance issued by the Employer in connection with this Article 21 and shall meet any expectations set out therein or provide justification to the Employer that its approach meets the requirements of this Article.

21.2 Without prejudice to the generality of Article 21.1 above, the Contractor shall ensure that shall not appoint any subcontractor, supplier or consultant in its supply chain who is listed on the Debarment List in accordance with the Procurement Act 2023, and shall replace any such subcontractor, supplier or consultant if the Contractor becomes aware that they are listed on the Debarment List unless the Employer agrees in the circumstances that is not required.

21.3 The Employer may terminate this Contract for default of the Contractor in either of the following circumstances:

21.2.1 breach of Articles 21.1 or 21.2; or

21.2.2 where the Contractor has provided, prior to award of this Contract, inaccurate or misleading information in response to any conditions of participation for the Works set by the Employer

and the provisions of clause 8.7 of this Contract shall apply.

Contract Particulars

*Note: An asterisk * indicates text that is to be deleted as appropriate

Clause etc	Subject	
Fourth Recital and clause 4.5	Construction Industry Scheme (CIS)	Employer at the Base Date is a "contractor" for the purposes of the CIS
Fifth Recital	Description of Sections (if any) <i>(If not shown or described in the Employer's Requirements, state the reference numbers and dates or other identifiers of documents in which they are shown)</i>	Section 1: Market Hall Section 2: Burton Chambers
Sixth Recital	Framework Agreement (if applicable) <i>(State date, title and parties.)</i>	Not applicable
Seventh Recital and Part 1 of Schedule 2	Supplemental Provisions – Part 1 <i>(Where neither entry against one of Supplemental Provisions 1 to 3 below is deleted, that Supplemental Provision <u>does not</u> apply.)</i>	
	Named Sub-Contractors	Supplemental Provision 1 does not apply
	Valuation of Changes – Contractor's estimates	Supplemental Provision 2 applies
	Loss and expense – Contractor's estimates	Supplemental Provision 3 applies
Seventh Recital and Part 2 of Schedule 2	Supplemental Provisions – Part 2 <i>(Where neither entry against one of Supplemental Provisions 4 to 7 below is deleted, that Supplemental Provision applies.)</i>	
	Acceleration Quotation	Supplemental Provision 4 applies
	Health and safety	Supplemental Provision 5 applies
	Cost savings and value improvements	Supplemental Provision 6 applies
	Performance Indicators and monitoring	Supplemental Provision 7 applies

Article 5	Employer's Requirements (State reference numbers and dates or other identifiers of the relevant documents)	Section 1 – Employer's Requirements as listed within the Schedule of Contract Documents rev C1
Article 5	Contractor's Proposals (State reference numbers and dates or other identifiers of the relevant documents)	Section 2 – Contractor's Proposal's as listed within the Schedule of Contract Documents rev C1
Article 5	Contract Sum Analysis (State reference numbers and dates or other identifiers of the relevant documents)	Section 3 – Contract Sum Analysis as listed within the Schedule of Contract Documents rev C1
Article 9	Arbitration (If neither entry is deleted, Article 9 and clauses 9.4 to 9.9 do not apply. If disputes and differences are to be determined by arbitration and not by legal proceedings, it must be stated that Article 9 and clauses 9.4 to 9.9 apply.)	Article 9 and clauses 9.4 to 9.9 (Arbitration) *apply/do not apply Not used – legal proceedings apply
1.1	Base Date	
1.1	BIM Documentation (where applicable) (State title, edition, date or other identifiers of the relevant documents.)	Not applicable
1.1	Date for Completion of the Works (Where completion by Sections does not apply)	
	Sections: Dates for Completion of Sections	Section 1 – Market Hall: [REDACTED] Section 2 – Burton Chambers: [REDACTED]
1.7.3	Addresses for service of notices by the Parties (If a Party's address is not stated, it shall, subject to clause 1.7.3, be that shown at the commencement of the Agreement)	Employer Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF Contractor Morgan Brightside Building Bradman Road, Knowsley Industrial Park, Knowsley, Merseyside, L33 7UR
	The respective email addresses for the Parties are:	Employer's email [REDACTED] Contractor's email [REDACTED]

		or, subject to clause 1.7.3, such other email address as each Party may notify to the other from time to time
1.7.4.2	Service of notices by email <i>(If neither entry is deleted or an email address for each Party is not specified, clause 1.7.4.2 shall not apply.)</i>	Clause 1.7.4.2 Does not apply
2.3	Date of Possession of the site <i>(where possession by Sections does not apply)</i>	-
	Sections: Dates of Possession of Sections	Section Market Hall : [REDACTED] Section Burtons Chambers: [REDACTED]
2.4	Deferment of possession of the site <i>(where possession by Sections does not apply)</i>	Clause 2.4 applies Maximum period of deferment (if less than 6 weeks) is 6 weeks
	Sections: deferment of possession of Sections	Clause 2.4 applies Maximum period of deferment (if less than 6 weeks) is 6 weeks for each Section
2.17.3	Limit of Contractor's liability for loss of use etc (if any)	The Contractor's liability is limited to [REDACTED] each and every claim
2.29.2	Liquidated damages <i>(where completion by Sections does not apply)</i>	-
	Sections: rate of liquidated damages for each Section	Section Market Hal : [REDACTED] per calendar week or part thereof Section Burtons Chamber: [REDACTED] per calendar week or part thereof where liquidated damages are payable concurrently in relation to Section 1 and Section 2, the total amount of liquidated damages payable by the Contractor per week is [REDACTED] and such further sums payable in accordance with clause 2.29.2A.
2.34	Sections: Section Sums	Section 1 – Market Hall: [REDACTED]

		Section 2 – Burton Chambers: [REDACTED]
2.35	Rectification Period (where completion by Sections does not apply) (If no other period is stated, the period is 6 months)	12 months from the date of Practical Completion of the Works
	Sections: Rectification Periods (If no other period is stated, the period is 6 months)	Section Market Hall: 12 months Section Burtons Chamber: 12 months from the date of Practical Completion of each Section
4.2, 4.12 and 4.13	Fluctuations Provision (Unless another option or entry is selected JCT Fluctuations Option A applies). References in this Contract to the JCT Fluctuations Options A, B and C (or any provision as set out in such Option(s)) and in the case of Fluctuations Option C the JCT Formula Rules referred to in paragraph C.1.1.1 of Option C are references to the JCT 2024 edition of those Options or Rules)	* JCT Fluctuations Option A (Contribution, levy and tax fluctuations) applies * JCT Fluctuations Option B (Labour and materials cost and tax fluctuations) applies * JCT Fluctuations Option C (Formula adjustment) applies * no Fluctuations Provision applies * the following Fluctuations Provision applies [●]
	JCT Fluctuations Option A (paragraph A.12) or Option B (paragraph B.13) – percentage addition	[●] per cent Not used - no Fluctuations Provision applies
	JCT Fluctuations Option C (paragraph C.1.2) – JCT Formula Rules	Rule 3: Base Month [●] 20 [●] Rule 3: Non-Adjustable Element [●] per cent Not used - no Fluctuations Provision applies
	(Unless Part II is stated to apply Part I applies)	Rules 10 and 30(i): * Part I/Part II of section 2 of the JCT Formula Rules applies Not used - no Fluctuations Provision applies
4.6	Advance payment (Not applicable where the Employer is a Local or Public Authority)	Clause 4.6 does not apply
4.6	Advance Payment Bond	an advance payment bond is not required.

	<p><i>(Not applicable where the Employer is a Local or Public Authority)</i> <i>(Where an advance payment is to be made, an advance payment bond is required unless stated that it is not required)</i></p>	
4.7.1	<p>Method of payment – alternatives <i>(If no Alternative is selected, Alternative B applies)</i></p>	periodically in accordance with Alternative B (clause 4.13)
4.7.2	<p>Interim Payments - Interim Valuation Dates <i>(The dates apply for each Alternative; if no date is stated, the first Interim Valuation Date is one month after the Date of Possession.)</i></p>	<p>The first Interim Valuation Date is 30th September 2025 and thereafter the last Business Day in each month</p>
4.15.4	<p>Listed Items – uniquely identified <i>(Delete the entry if no bond is required)</i></p>	Not required.
4.15.5	<p>Listed Items – not uniquely identified <i>(Delete the entry if clause 4.15.5 does not apply)</i></p>	Not required.
4.17	<p>Contractor's Retention Bond <i>(Not applicable where the Employer is a Local or Public Authority and, in other cases, not applicable unless stated to apply, with relevant particulars given below)</i></p>	Clause 4.17 does not apply
4.18.1	<p>Retention Percentage <i>(The percentage is 3 per cent unless a different rate is stated; if no retention is required, insert "Nil" or "0".)</i></p>	
4.21.6 and 4.21.7	<p>Relevant Matters <i>(In the case of each clause referred to here, where neither entry against the clause is deleted, that clause does not apply)</i></p>	<p>Clause 4.21.6 <i>(the effects of an epidemic on the execution of the Works etc)</i> Does not apply Clause 4.21.7 <i>(exercise of a statutory power etc)</i> Does not apply</p>
5.5	Daywork	The Percentage Additions to each section of the prime cost or, if they apply in respect of labour, the All-Inclusive Rates, are set out in the following document: Definition of the Prime Cost of Dayworks carried out

		under a Building Contract as issued by the RICS and the Construction Federation as current at the Base Date.
6.4.1	Contractor's Public Liability insurance: injury to persons or property – the required level of cover is not less than	for any one occurrence or series of occurrences arising out of one event
6.5.1	Insurance – liability of Employer	Not required
6.7 and Schedule 3	Works Insurance – Insurance Option applicable	Schedule 3 Insurance Option C applies
	Percentage to cover professional fees <i>(If no other percentage is stated, it shall be 15 per cent)</i>	
	Where Insurance Option A applies and cover is to be provided under the Contractor's annual policy (paragraph A.2) the annual renewal date is <i>(as supplied by the Contractor)</i>	Does not apply.
	Where Insurance Option C applies, paragraph C.1 <i>(Unless otherwise stated, paragraph C.1 applies. If it is not to apply, state the reference number and date or other identifier of the replacement document(s).)</i>	applies
6.10 and Schedule 3	Terrorism Cover – details of the required cover <i>(Unless otherwise stated, Pool Re Cover is required.)</i>	are set out in the following document(s) Pool Re Cover
6.15	Professional indemnity insurance	Not used – see clause 6.15
	Level of cover <i>(If an alternative is not selected the amount shall be the aggregate amount for any one period of insurance. A period of insurance for these purposes shall be one year unless otherwise stated.)</i> <i>(If no amount is stated, insurance under clause 6.15 shall not be required.)</i>	Amount of indemnity required *is for any one claim or series of claims arising out of one event/ *is the aggregate amount for any one period of insurance. and is £[●] Not used – see clause 6.15

		Sub-limits within the overall level of cover [●] Not used – see clause 6.15
		Specific exclusions listed in the relevant schedule(s) (or other policy document(s)) to the relevant policy [●] Not used – see clause 6.15
	Expiry of required period of Professional Indemnity insurance is <i>(If no period is selected, the expiry date shall be 6 years from the date of Practical Completion of the Works.)</i>	*6 years/ *12 years/ *[●] years (not exceeding 12 years) Not used – see clause 6.15
6.17	Joint Fire Code	The Joint Fire Code applies
	If the Joint Fire Code applies, state whether the insurer under Insurance Option A, B or C (paragraph C.2) has specified that the Works are a "Large Project"	Yes
6.20	Joint Fire Code – amendments/revisions <i>(The cost shall be borne by the Contractor unless otherwise stated)</i>	The cost, if any, of compliance with amendment(s) or revision(s) to the Joint Fire Code shall be borne by the Contractor
7.2	Assignment/grant by the Employer of rights under clause 7.2. <i>(If neither entry is deleted, clause 7.2 applies)</i>	Clause 7.2 applies/does not apply
	Sections: rights under clause 7.2 <i>(If clause 7.2 applies, amend the entry if rights under that clause are to apply to certain Sections only)</i>	Rights under clause 7.2 apply to each Section
7.3.1	Performance bond or guarantee from bank or other approved surety <i>(If this entry is not completed or the required form is not specified, a performance bond or guarantee is not required.)</i>	*is required/is not required Not used – see Article 16

	The required form of the bond or guarantee is set out in	{●} Not used – see Article 16
	Initial value	{●} per cent of the Contract Sum Not used – see Article 16
	Period of validity – if not specified in the required form, the expiry date of the performance bond or guarantee is to be <i>(If no entry is selected, the date shall be the date of Practical Completion of the Works.)</i>	*the date of Practical Completion of the Works/ * 2 weeks after the date of expiry of the Rectification Period for the Works/ * the date for issue of the Notice of Completion of Making Good for the Works _____ Not used – see Article 16
	Reduction in value – if not specified in the required form and if expiring later than the date of Practical Completion of the Works, the percentage reduction in the initial value on that date is <i>(if no other percentage is stated, it shall be 50 per cent.)</i>	{●} per cent Not used – see Article 16
7.3.2	Guarantee from the Contractor's parent company	* is required/is not required Not used – see Article 17
	Parent company's name and registration number	{●} Not used – see Article 17
	The required form of the guarantee is set out in	{●} Not used – see Article 17
7.4	Third Party Rights and Collateral Warranties – details of the requirements for the grant by the Contractor and sub-contractors of P&T Rights, Funder Rights and/or (in the case of sub-contractors) Employer Rights in respect of the Works, either as third party rights or by collateral warranties ('Rights Particulars') are set out in the following document <i>(State reference number and date or other identifier of the relevant document.)</i>	{●} Not used – see Articles 11, 12 and 13
8.9.2	Period of suspension	2 months

	<i>(If none is stated, the period is 2 months)</i>	
8.11.1.1 to 8.11.1.7	Period of suspension <i>(If none is stated, the period is 2 months)</i>	2 months
9.1	Notification and negotiation of disputes	The respective nominees of the Parties are: Employer's nominee [REDACTED] Contractor's nominee [REDACTED] or such replacement as each Party may notify to the other from time to time
9.3.1	Adjudication	The Adjudicator is to be nominated by the Nominating body
	Nominating body – where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established) <i>(Delete all but one of the asterisked choices. If the body is to be other than one of those listed, insert the name here.)</i> <i>(If a body has not been selected from those listed here or another body chosen and inserted, the nominating body shall be one of the bodies listed opposite selected by the Party requiring the reference to adjudication)</i>	The nominating body is: The Royal Institution of Chartered Surveyors
9.5.1	Arbitration – appointor of Arbitrator (and of any replacement) <i>(Delete all but one of the asterisked choices. If the body is to be other than one of those listed, insert the name here.)</i> <i>(If no body is selected from those listed here or another body chosen and inserted,</i>	The appointor is: President or a Vice-President: *Royal Institute of British Architects *The Royal Institution of Chartered Surveyors *Chartered Institute of Arbitrators *-[●] Not used – legal proceedings apply

the appointor shall be the President or a Vice-President of the body listed here selected by the Party serving the first notice of arbitration under clause 9.5. For any subsequently served notice of arbitration from any Party under clause 9.5, the appointor shall be the President or a Vice-President of the same body that was selected for the first notice of arbitration)

Attestation

This Contract has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by affixing the common seal of **HYNDBURN BOROUGH COUNCIL** in the presence of:

Insert Common Seal of Company

[Redacted Signature]
Director
[Redacted Signature]
Director/Secretary



Seal No. 15340

Executed as a deed by **KROL CORLETT CONSTRUCTION LIMITED** acting by a director in the presence of a witness:

[Redacted Signature]
Director
[Redacted Signature]
Print Name

Witness Signature: [Redacted]
Witness Name: [Redacted]
Witness Address: [Redacted]

SCHEDULE OF AMENDMENTS

This Contract shall incorporate all the provisions of the JCT Design and Build Contract 2024 edition (subject to the terms set out in the Agreement), including the following amendments to the Conditions:

CONDITIONS

SECTION 1: DEFINITIONS AND INTERPRETATION

DEFINITIONS

- 1.1 Delete the definitions of "**Consultants**", "**Contractor**", "**Employer**", "**Employer Rights**", "**Finance Agreement**", "**Fluctuations Provision**", "**Funder**", "**Funder Rights**", "**P&T Rights**", "**Purchaser**", "**Rights Particulars**" and "**Tenant**".

Amend the definitions in clause 1.1 as follows:

Agreement	delete and insert "the separate Agreement forming part of the documents executed as a deed by the Parties (which replaces the Agreement forming part of the printed JCT Design and Build Contract 2024 edition), including its attached Recitals, Articles and Contract Particulars (which replace the Recitals, Articles and Contract Particulars forming part of the printed JCT Design and Build Contract 2024 edition)."
Article	delete and insert "the separate Articles forming part of the documents executed as a deed by the Parties (which replace the Articles forming part of the printed JCT Design and Build Contract 2024 edition)."
Business Day	after "Public Holiday" insert "in England".
Conditions	At the end of the definition insert "as amended by the Schedule of Amendments".
Contract Documents	delete and insert: all documents listed in the Agreement clauses 3.1 to 3.8 inclusive.
Contract Particulars	delete and insert "the separate Contract Particulars forming part of the documents executed as a deed by the Parties (which replace the Contract Particulars forming part of the printed JCT Design and Build Contract 2024 edition) including the entries made by the Parties."
Contractor's Design Documents	before "drawings" in line 1, insert "designs, calculations, surveys, levels, setting out dimensions, samples,".
Contractor's Persons	at the end of the definition insert "For the avoidance of doubt, references to Contractor's Person or Contractor's Persons shall include (without limitation) all of the Contractor's consultants, Design Consultants, Additional Consultants, sub-consultants, sub-contractors, Specified Sub-contractors and suppliers."
Interest Rate	
Recitals	delete and insert "the separate Recitals forming part of the documents executed as a deed by the Parties (which replace the Recitals forming part of the printed JCT Design and Build Contract 2024 edition)."

Statutory Requirements in line 2, after "force of law", insert "including Building Safety Laws". In line 3, after "this Contract", insert ", any code of practice or guideline for the time being in force under the Health and Safety etc. at Work Act 1974 or the Control of Pollution Act 1974 or the Environmental Protection Act 1990,". In line 3 after "regulation" insert "rule". After "Development Control Requirements" insert "(and in particular so as to comply with any requirements relating thereto which may be stipulated as pre-requisites for the adoption of any services, drains, sewers, pipes, wires, cables, or other service transmission media by any such person (where the same are to be adopted)), and any Statutory Agreements".

Works delete and insert: "the design, carrying out and completion of the works at the site as briefly described in the First Recital, and all work to be designed, carried out and completed and other things to be done or supplied by the Contractor as described in the Contract (including without limitation any changes made to those works in accordance with this Contract, all pre- construction work, any works for the provision of and diversion of services and all ancillary works carried out on or about the site and/or in relation to the works)."

1.1 Insert the following new definitions in clause 1.1:

Anti-Slavery Policy the Employer's anti-slavery policy located at <https://www.hyndburnbc.gov.uk/modern-slavery-and-human-trafficking-statement-2025/> , as amended by notification to the Contractor from time to time.

Asbestos: has the meaning given to it in the Control of Asbestos Regulations 2012 SI 2012/632;

Asbestos Survey: the Asbestos survey(s) set out at Annex 8 – Section 2 to this Contract;

Buildings any building or other erection at the Sites;

Building Safety Laws

1. the Building Safety Act 2022;
2. the Defective Premises Act 1972;
3. the Building Act 1984;
4. the Building Regulations 2010;
5. any statutory instrument, regulation, rule, order, code of practice or guideline made under or relating to the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and/or the Building Regulations 2010 having the force of law that affects the Works;
6. any guidance issued by a government department, the Building Safety Regulator and/or the Health and Safety Executive in connection with the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and/or the Building Regulations 2010; and
7. any building safety laws and regulations now or from time to time in force that affects the Works or performance of any obligations under this Contract.

Building Safety Regulator the Building Safety Regulator as defined in the Building Safety Act 2022.

Construction Products Regulations UK Construction Products Regulation 2011 and the Construction Products Regulations 2013 (SI 2013/1387).

Consent the planning permissions referred to in the Employer's Requirements or any other planning permissions relating to the Works and/or site, approval of reserved matters and all details pursuant thereto, building regulation approval, fire officer approval and any other permissions, approvals, certificates and licences that may be necessary pursuant to the Statutory Requirements or otherwise (including for the avoidance of doubt any consents obtained in accordance with clause 2.42) to the carrying out of the Works and if they are destroyed or damaged, the reinstatement of the Works.

Data Protection Legislation

means all applicable privacy and data protection laws including:

(a) General Data Protection Regulation (Regulation (EU) 2016/679), the Law Enforcement Directive (Directive (EU) 2016/68) and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications as amended, replaced or updated from time to time;

(b) the UK GDPR;

(c) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy;

(d) the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426);

(e) all applicable law about the processing of personal data and privacy; and

(f) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing.

Data Subject

has the meaning given in the Data Protection Legislation.

Existing Structures Scope

means the following scope of work as more particularly described in the Contractor's Proposals:

Wall Finishes

Floor Finishes

Internal Partitions

Works to existing staircases

Ground Bearing Slabs

Rooflight

Steel Work

Curtain-Walling

Aluminium Windows.

Force Majeure

any exceptional event or circumstance which is attributable either to the forces of nature (excluding exceptionally adverse weather conditions) or to

other circumstances not confined in their effects wholly or principally to the Parties, the site or the Works and which:

- (a) is beyond a Party's control;
- (b) such Party could not reasonably have provided against before entering into this Contract;
- (c) having arisen such Party could not reasonably have avoided or overcome;
- (d) is not substantially attributable to the other Party; and
- (e) is not an epidemic;

Group in relation to a company:

- (a) that company and any Subsidiary of that company;
- (b) the ultimate Holding Company of that company; and
- (c) every other company which is a Subsidiary of the same ultimate Holding Company,

in each case from time to time.

Group Company in relation to a Group any member of that Group.

Holding Company

has the meaning given to that term in section 1159 Companies Act 2006 and a company will be treated, for the purposes only of the membership requirement contained in sub-sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) a person (or its nominee) whether by way of security or in connection with the taking of security or (b) its nominee.

Material

means all designs, drawings, calculations, charts, diagrams, sketches, models, plans, specifications, design details, photographs, brochures, reports, notes of meetings, CAD materials, data, databases, schedules, programmes, bills of quantities, budgets, surveys, levels, setting out dimensions and/or all other documents or materials produced or prepared by or on behalf of the Contractor or the Employer in relation to and/or connection with the Works and/or the site (including any and all updates, amendments, additions and revisions to them and any works, designs or inventions contained incorporated or referred to in them for any purpose relating to the Works and/or the site) created before, on or after the date of this Contract.

Moral Rights

moral rights under Chapter IV of Part 1 of the Copyright Designs and Patents Act 1988.

Operator

any first party with the responsibility for management, maintenance and/or operation of the works or whole of the Site or Market Hall, Market Chambers or Burton Chambers.

Personal Data

has the meaning given in the Data Protection Legislation.

Practical Completion

a state in which the Works or the relevant Section are complete in all respects, compliant with all Statutory Requirements, and free from apparent defects, save for any minor items of incomplete work or minor defects the existence, completion or rectification of which in the opinion of the Employer's Agent would not prevent or interfere with the use and enjoyment (or the fitting out for use) of the Works or the relevant Section,

provided that where it is expressly stated in any provisions of the Contract Documents that the testing, commissioning, regulation or adjustment of any mechanical or electrical services is to be completed before the Practical Completion of the Works or the relevant Section, the Works or the relevant Section shall not be considered to be practically completed until the same is done as the Contract Documents require.

Project Team	collectively all persons employed or engaged on or in connection with the Works or any part of them and any other person properly on the site in connection with the Works.
Schedule of Amendments	this Schedule of Amendments attached to the Agreement.
Statutory Agreements	an agreement pursuant to section 38 and/or 278 of the Highways Act 1980 and/or an agreement pursuant to section 104 of the Water Industry Act 1991 and/or an agreement pursuant to section 106 of the Town and Country Planning Act 1990 and/or section 111 of the Local Government Act 1972.
Subsidiary	has the meaning given to that term in section 1159 Companies Act 2006 and a company will be treated, for the purposes only of the membership requirement contained in sub-sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) a person (or its nominee) whether by way of security or in connection with the taking of security or (b) its nominee.
Third Party Agreements	<p>any and all agreements relating to or affecting the Works and/or site or the completed Works (including the execution of the Works and their design) or any part of the Works and/or site, which have been entered into or may be entered into by the Employer from time to time and disclosed to the Contractor (whether on or before the date of this Contract or after the date of this Contract once the Employer has entered into the same) being:</p> <p>as referred to as such in the Employer's Requirements and any agreements for lease.</p>
UK Construction Products Regulation 2011	the UK version of Regulation (EU) No 305/2011, as it forms part of English law under the European Union (Withdrawal) Act 2018.
UK GDPR	means the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, as updated, superseded or repealed from time to time.

INTERPRETATION

1.2 After all instances of "Schedule" insert "or Annex". At the end of the clause insert: "Any reference in these Schedule of Amendments to an Annex is a reference to such Annex to these Schedule of Amendments."

1.3 Delete and insert:

"Subject to clauses 2.10 to 2.16 (inclusive) in the event of any inconsistency occurring between

- (a) not used;
- (b) the Schedule of Amendments;

- (c) the Agreement;
- (d) the Annexures;
- (e) the JCT Design and Build Contract 2024 edition;
- (f) the Schedules;
- (g) the Employer's Requirements;
- (h) the Contractor's Design Documents;
- (i) the Contractor's Proposals;
- (j) the Contract Sum Analysis; and

the document listed earlier in the order (a) – (j) above shall prevail over any document listed later in that order."

- 1.4.4 After "body corporate" insert "or any legal entity having legal capacity". A reference to a person or party providing finance shall include where a person or party is acting on its own account, as agent for a syndicate of other parties, or otherwise.
- 1.4.5 Delete "a statute, statutory instrument or other" and insert "legislation or a legislative provision or".
- 1.6 Delete and insert: "Save as provided under clause 7.4, unless the right of enforcement is expressly provided for, no third party (as defined in the Contracts (Rights of Third Parties) Act 1999) except for any permitted successor or assignee of any Party to this Contract has any rights under that Act to enforce any term of this Contract."
- 1.8.1.1 Delete.
- 1.8.2 Delete clauses 1.8.2 – 1.8.3 and insert:
 - 1.8.2 "The Final Statement or the Employer's Final Statement shall not have effect as provided in clause 1.8.1:
 - 1.8.2.1 in any legal proceedings or adjudication commenced before on or within 28 days after the issue of the Final Statement or the Employer's Final Statement if commenced for the purpose of contesting any such issue as is mentioned in clause 1.8.1;
 - 1.8.2.2 in any legal proceedings begun before on or within 28 days of an adjudicator's decision in any adjudication commenced in accordance with clause 1.8.2.1 if the purpose of such legal proceedings is to contest such decision or the dispute or difference to which such decision relates.
- 1.8.3 After the final conclusion of such adjudication and/or legal proceedings referred to in clause 1.8.2 the Final Statement or the Employer's Final Statement shall be subject to the final outcome of such adjudication and/or legal proceedings.
- 1.8.4 The powers of the court or adjudicator to open up and review any certificate shall not extend to the Final Statement or the Employer's Final Statement to the extent that such statement is given conclusive effect pursuant to clause 1.8 and section 9 shall be construed accordingly."
- 1.9 Delete "Save as stated in clause 1.8, no" and insert "No comment, notice, certificate, instruction, statement or". Delete "of itself" in line 1.
- 1.10 Delete from "either Party's consent" to the end of the clause, and insert "clause 7.1. Notwithstanding any other provision of this Contract, the term **approval**, when used in the context of any approval to be given by the Employer or the Employer's Agent, shall have the meaning 'acceptance of general principles only', and no such approval or direction, admission, approach, consent, confirmation, comment, sanction, acknowledgement or advice made or given by or on behalf of the Employer or the Employer's Agent nor any inspection testing or review of (or failure to inspect test or review) the Works shall in any way diminish or

relieve the Contractor from any of the Contractor's obligations or liabilities under this Contract, nor shall such liabilities or obligations be restricted or qualified in any way".

1.11 Delete and insert:

"Miscellaneous

1.11.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) is governed by and construed in accordance with the law of England and Wales.

1.11.2 All references in these Conditions to "practical completion" shall be deleted and substituted with "Practical Completion".

1.11.3 Nothing contained in this Contract (other than as to the giving of notices) shall oust or limit any right of the Employer under any legislation or legislative provision or statute or rule of law or of equity in the nature of set-off or abatement of price."

1.11.4 **"Freedom of Information**

1.11.4.1 The Contractor recognises that the Employer is subject to legal duties which may require the release of information under the Freedom of Information Act 2000 (**the Act**) or similar legislation or equivalent codes and that the Employer shall be/is under an obligation to provide information on request. Such information may include matters relating to, arising under or out this Contract.

1.11.4.2 The Contractor recognises that each request for information must be considered individually and that any decision to disclose information shall be the decision of the Employer.

1.11.4.3 The Employer shall not be liable to the Contractor for any loss damage harm or other detriment, however caused, arising from the disclosure of any information under the Act or other similar legislation or equivalent codes.

1.11.4.4 The Contractor shall provide such assistance to the Employer as the Employer reasonably requires to enable it to comply with its obligations under the Act or other similar legislation or equivalent codes.

1.11.4.5 The Contractor shall promptly pass any requests for information under or in relation to the Act or other similar legislation or equivalent codes which it receives to the Employer. The Contractor shall not respond directly to any such requests for information unless instructed to do so by the Employer."

1.11.5 **"Data Protection**

1.11.5.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. These Clauses are in addition to, and does not relieve, remove or replace, each Party's obligations under the Data Protection Legislation. It is agreed that:

1.11.5.2 Without prejudice to the generality of Clause 19A.1, both Parties will ensure that they have all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data to each other for the duration and purposes of this agreement.

1.11.5.3 Without prejudice to the generality of Clause 19A1, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this agreement:

1.11.5.3.1 process that Personal Data only on the written instructions of the Employer and only as required for the purpose of the performance of this agreement;

- 1.11.5.3.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Employer , to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 1.11.5.3.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 1.11.5.3.4 not transfer any Personal Data outside of the UK or European Economic Area;
- 1.11.5.3.5 assist the Employer , at the Contractor's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with the Information Commissioner, supervisory authorities or regulators;
- 1.11.5.3.6 notify the Employer without undue delay on becoming aware of a Personal Data breach;
- 1.11.5.3.7 at the written direction of the Employer , delete or return Personal Data and copies thereof to the Employer on termination of the agreement; and
- 1.11.5.3.8 maintain complete and accurate records and information to demonstrate its compliance with this Clause and allow for audits by the Employer or the Employer 's designated auditor.
- 1.11.4. The Employer does not consent to the Contractor appointing any third-party processor of Personal Data under this agreement."

1.11.6 "Building safety compliance limitation period

Notwithstanding any other provision of this Contract, any action under this Contract relating to a breach or alleged breach of the Contractor's obligations to carry out and complete the Works in accordance with clause 2.44 (Compliance with Building Safety Laws) may be brought at any time before the expiration of 12 years from the date of issue of the final Notice of Completion of Making Good under clause 2.36 of the Contract or from the date of termination of the Contractor's employment under Section 8 of the Conditions (whether or not the validity of that termination is contested), whichever is the earlier."

1.11.7 "End User

The Employer confirms that, at the date of this Contract, for the purposes of section 55A of the Value Added Tax Act 1994 (the "VAT Reverse Charge") it is an "end user" in respect of the services to be supplied by the Contractor pursuant to this Contract and accordingly the parties agree that the reverse charge for VAT will not apply to the services supplied under this Contract. The Employer will promptly inform the Contractor if the Employer no longer qualifies as an "end user" for the purposes of the VAT Reverse Charge."

SECTION 2: CARRYING OUT THE WORKS

CONTRACTOR'S OBLIGATIONS

- 2.1.1 In line 1 after "proper" insert ", good" and after "workmanlike manner" insert ", in accordance with good building practice". In line 3 after "shall" insert "carry out and". In line 5 and 6 delete "so far as not described or stated in the Employer's Requirements or the Contractor's Proposals."
- 2.1.7 Insert new clause 2.1.7: "In performing its obligations under this Contract, the Contractor shall and shall take all reasonable steps to ensure that each of its consultants, sub-contractors and suppliers shall comply with the Modern Slavery Act 2015 and the Anti-Slavery Policy."
- 2.2.1 After "procurable, be" insert "of satisfactory quality and". Delete "as described in the Contractor's Proposals or other Contractor's Design Documents" and insert "shall be new and of such kinds and of such quality as to enable the Contractor to comply with the Contract Documents and shall, as far as the Contractor has specified, the Contractor shall use reasonable skill and care in accordance with clause 2.17.1.1 to ensure that such specified materials are suitable for their purposes".
- 2.2.3 Delete "as described in the Contractor's Proposals or other Contractor's Design Documents" and insert "shall be of such quality as to enable the Contractor to comply with the Contract Documents and shall be reasonably suitable for their purposes".
- 2.2.7 Insert new clause 2.2.7: "Subject to clause 2.17.1.1, the Contractor warrants that it has not and shall not use and/or permit the use of and/or specify for use in or in connection with the Works any substances materials equipment products kit practices or techniques which at the time of use by their nature or application do not conform or comply with relevant British Standards or Codes of Practice or regulations or good building practice or any European Union equivalent current at the time of use or permission or specification, nor any substances materials equipment products kit practices or techniques which are generally known or generally suspected within the Contractor's trade and/or the construction industry at the time of use:
- 2.2.7.1 to be deleterious or pose a threat in the particular circumstances in which they are used or specified for use to the health or safety of any person;
 - 2.2.7.2 to be deleterious or pose a threat in the particular circumstances in which they are used or specified for use to the health, safety, stability, performance, physical integrity and/or durability of the Works or any part thereof and/or to other structures, finishes, plant and/or machinery;
 - 2.2.7.3 to reduce or possibly reduce the normal life expectancy of works of a type comparable to the Works;
 - 2.2.7.4 to become deleterious without a level or cost of maintenance which is higher than that which would normally be expected in a works of a type comparable to the Works;
 - 2.2.7.5 not to comply with or have due regard to the report entitled "Good Practice in the Selection of Construction Materials" (current edition) published by the British Council for Offices; and/or
 - 2.2.7.6 to be supplied or placed on the market in breach of the Construction Products Regulations .

The Contractor shall immediately notify the Employer if it becomes aware of any such use, permission or specification or failure to comply with this clause."

POSSESSION

- 2.3 In line 2 after "given to the Contractor" insert "on licence".
- 2.6 Delete and insert: "The Contractor shall permit the execution of work not forming part of this Contract by any persons authorised or licensed by the Employer to carry out work on or near the site and the Employer and/or any such persons may at any time re-enter the site and any

part of the Works for the purposes of executing any work or installing any goods, equipment or other articles. The Contractor shall provide every reasonable facility for use for such persons to execute their work. The Contractor shall not be entitled to an extension of time or to additional cost in respect of such work where the same was referred to in the Contract Documents and/or the Contractor could have foreseen the extent of such work and could have made provision for it in the Contractor's programme".

SUPPLY OF DOCUMENTS, SETTING OUT ETC.

2.7.2 Delete.

2.7.3 In line 1 after "Employer's Agent" insert "(and any other party authorised by the Employer)"

2.7.4 Delete.

2.8 Delete from "Save for any" to "Contractor's Proposals, the" (inclusive) and insert "The".

2.8A Insert new clause 2.8A:

"Contractor's Programme

Within 5 Business Days after the execution of this Contract the Contractor shall provide to the Employer a programme for the carrying out of the Works, and if and whenever there is any material delay to the execution of the Works, the Contractor shall, within 10 Business Days after it becomes apparent that there is to be a material delay, provide to the Employer a revised programme for the carrying out of the Works."

DISCREPANCIES AND DIVERGENCES

2.11 Delete.

2.12 Delete and insert new clause: "If either Party finds that any design in the Contract Documents and other Contractor's Design Documents contains any defect or inadequacy (including any non-compliance with Statutory Requirements) it shall so notify the other Party and the Contractor shall inform the Employer in writing of the Contractor's proposals for removing such defect or inadequacy, and with the Employer's consent the Contractor shall remove such defect or inadequacy in accordance with such proposals (as consented to by the Employer), at the Contractor's cost and without any entitlement to an extension of time pursuant to clause 2.25."

2.13 Delete.

2.14 Delete and insert:

"2.14.1 If either Party finds any discrepancy or divergence in or between any of:

- (a) the Employer's Requirements;
- (b) the Contractor's Proposals and/or other Contractor's Design Documents;
and/or
- (c) any instruction for a Change;

(including any discrepancy or divergence that results from a Change) it shall immediately give written notice of the discrepancy or divergence to the other Party.

2.14.2 Where there is such a discrepancy or divergence in or between any of the Employer's Requirements, the Contractor's Proposals, the Contractor's Design Documents, the Contractor shall inform the Employer in writing of the Contractor's proposals for resolving the discrepancy or divergence, and the Employer shall decide between the discrepant or divergent items or otherwise may accept the Contractor's proposals for resolving the discrepancy or divergence (with any such amendments the Employer may require), and the Contractor shall comply with the decision or acceptance of the Employer without cost to the Employer.

- 2.14.3 Where the discrepancy results from an instruction for a Change, the Employer shall issue a further instruction for a Change to resolve the discrepancy.
- 2.14.4 (Without prejudice to the provisions of clause 2.14.3) the Contractor shall not have or make any claim for an extension of time or for loss and/or expense and clause 8.9 shall not have effect where and to the extent that the cause of the progress of the Works having been delayed affected or suspended is any such discrepancy or divergence as is referred to in clauses 2.14.1 or 2.14.2 or any failure by the Contractor to provide necessary drawings or documents in due time.
- 2.14.5 Nothing in this clause 2.14 shall relieve the Contractor of the obligation to comply with Statutory Requirements nor of its responsibility for the design of the Works."
- 2.15.1 In the second paragraph delete ", save as provided in clause 2.15.2," and insert "and with no extension of time pursuant to clause 2.25".
- 2.15.2.1 In line 1 after "Statutory Requirements", insert "or the requirements of the fire officer". In line 2 after "the Works," delete the remainder of the clause and insert: "the Contractor shall inform the Employer in writing of its proposed alteration or modification and with the Employer's consent the Contractor shall (entirely at its own cost unless the amendment is necessitated by a change to the Statutory Requirements after the Base Date which was not foreseen by the Contractor at the Base Date and could not reasonably have been foreseen by a competent contractor at the Base Date) complete the design and construction of the Works in accordance with the alteration or modification unless instructed by the Employer not to do so".
- 2.15.2.2 In line 1 after "amendment to the" insert "Employer's Requirements or the". In lines 3 and 4 after "Development Control Requirements," delete the remainder of the clause and insert: "the Contractor shall inform the Employer in writing of its proposed amendments and with the Employer's consent the Contractor shall (entirely at its own cost unless the amendment is necessitated by a decision by the relevant authority after the Base Date which was not foreseen by the Contractor at the Base Date and could not reasonably have been foreseen by a competent contractor at the Base Date) complete the design and construction of the Works in accordance with the amendment unless instructed by the Employer not to do so".
- 2.15.2.3 Delete.

DESIGN WORK – LIABILITIES AND LIMITATION

- 2.17.1.1 In line 1 after "comprised in the" insert "Employer's Requirements and/or". In line 4 after "the Contractor" delete the remainder of the clause and insert "warrants that it has exercised and shall continue to exercise in the design of the Works reasonable skill, care and diligence to be expected of a properly qualified and competent designer (or other appropriate professional designer) experienced in carrying out design such as that required under this Contract in relation to works of a similar nature, value, scope, character, complexity and timescale to the Works."
- 2.17.1.2 In line 1 after "Statutory Requirements, insert "and unless otherwise provided for in this Contract,"
- 2.17.2 Delete and insert: "Without derogation from any other provision in this Contract the Contractor shall, subject to clause 2.17.1.1, be fully responsible in all respects for:
- 2.17.2.1 the design of the Works including all design work proposed by or on behalf of the Employer before or on the date of this Contract forming part of the Employer's Requirements;
- 2.17.2.2 without prejudice to 2.17.1, any design work carried out by or on behalf of a Contractor's Person that the Contractor has employed or will employ (including a person employed at the Employer's request), whether such design work is carried out before, on or after the date of this Contract;

- 2.17.2.3 the co-ordination and integration of all design and the interface between design elements for the Works whether carried out by the Contractor or by any other party engaged on the Works; and
- 2.17.2.4 without prejudice to the generality of the foregoing, all aspects of design and design development, selection of goods and materials and the satisfaction of performance specifications included or referred to in the Employer's Requirements, the Contractor's Proposals, the Contractor's Design Documents, this Contract or any Change. "

2.17.3 Delete and insert "Without prejudice to clauses 2.1.1 and 2.17, the Contractor warrants that its design complies and shall comply with Statutory Requirements."

FEES, ROYALTIES AND PATENT RIGHTS

2.20.2 In line 1 delete "the Employer or". In line 3 delete "other" and insert "Employer".

UNFIXED MATERIALS AND GOODS – PROPERTY, RISK ETC.

2.22 Renumber clause 2.22 as clause 2.22.1 and insert new clause 2.22.2: "The Contractor shall ensure that the Listed Items are either set apart or have been clearly and visibly marked individually or inset by letters or figures or by reference to a pre-determined code at the premises where they have been manufactured or assembled or stored. The Contractor shall ensure that the Listed Items are identified as being the property of the Employer."

ADJUSTMENT OF COMPLETION DATE

2.23.1 After "delay" insert ", notice". After "further delay" insert ", further notice".

2.24.4 In line 3, delete "14 days" and insert "21 days"

2.25.1 Insert at the end of the clause: "provided that (a) the Contractor has complied with clause 2.25.6 and (b) any delay caused by a Relevant Event which is concurrent with another delay for which the Contractor is responsible shall not be taken into account."

2.25.2 In line 4, delete "8 weeks" and insert "12 weeks". In the penultimate line of the clause, delete "8 weeks" and insert "12 weeks".

2.25.6.3 At the start of the clause, insert "Save in respect of a Change properly instructed pursuant to clause 5.1.1.4,". At the end of the clause delete "and".

2.25.6.4 Delete the full stop at the end of the clause and insert "; and".

2.25.6.5 Insert new clause 2.25.6.5: " (save where the Relevant Event is as defined in clause 2.26.11 and provided, in that case, that the Contractor has complied fully with any obligation upon the Contractor to maintain insurance against Specified Perils under this Contract) the Contractor shall not be entitled to any extension of time on account of any circumstance arising by reason of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person."

2.26.2.1 Delete.

2.26.4 Delete and replace with "the discovery of Asbestos, subject to the provisions of clause 10.4".

2.26.6 Insert at the end of the clause "or, in the case of any impediment or prevention, save to the extent that the same is in consequence of the reasonable exercise of the rights of the Employer under this Contract".

- 2.26.8 In line 1 after "any of the following" insert ", that was not foreseen by the Contractor at the Base Date and could not reasonably have been foreseen by a competent contractor at the Base Date,". At the end of 2.26.8.2 delete "; or", and delete 2.26.8.3. Delete "or in the case of guidance by the Construction Leadership Council or its successor").
- 2.26.9 Insert at the end of the clause "provided that the Contractor shall have supplied any information required, placed any necessary orders and otherwise performed the Contractor's obligations under this Contract in respect of such work as soon as is reasonably practicable after the date of this Contract so as not to delay or disrupt the Statutory Provider in relation to such works and has taken all reasonable steps to avoid or minimise the delay".
- 2.26.11 Insert at the end of the clause: "provided the Specified Peril was not caused by any negligent act, error, omission, negligence, breach or default on the Contractor's part or on the part of any Contractor's Person".
- 2.26.13 Insert at the end of the clause "provided that such strike, lockout or local combination of trades is of a national nature, does not affect the site of the Works alone and is not restricted to the employees of the Contractor or any sub-contractor, consultant or supplier".
- 2.26.14 Delete.
- 2.26.15 Delete and insert "Force Majeure".

PRACTICAL COMPLETION, LATENESS AND LIQUIDATED DAMAGES

- 2.27 In line 1 after "When" insert "in the reasonable opinion of the Employer's Agent". In line 2, after "clauses 2.37 and 3.16" insert "and, if the Contractor is and remains the Principal Designer, the Contractor has complied with clause 3.16.2". In line 2, after "documents and information" insert "and (where applicable) any other pre-conditions to Practical Completion set out in this Contract have been satisfied".

Insert new clause 2.29.2A:

"2.29.2A A lump sum of [REDACTED] in respect of Section 1 and [REDACTED] in respect of Section 2 is payable in the event that:

- a) There is a delay of more than 4 (four) weeks beyond the Date for Completion, and
 - b) The Contractor has not given notice to the Employer of that delay with a notice period of at least the total aggregate delay notified in the notice prior to the relevant Date for Completion, save where the direct cause of delay could not have been reasonably foreseen by the Contractor, in which circumstances the Contractor shall be required to give notice as soon as is reasonably practicable after becoming aware of such circumstances and taken all reasonable steps to avoid or minimise the delay; and
 - c) The Operator has terminated their operating agreement with the Employer as a result of the delay."
- 2.29.3 Insert at the end of the clause: "Interest shall not be payable by the Employer on any amounts payable or repayable hereunder and shall not invalidate any notice of withholding and/or Pay Less Notice given by the Employer in respect of liquidated and ascertained damages."

PARTIAL POSSESSION BY EMPLOYER

- 2.30 Insert at the end of the clause: "For the avoidance of doubt, any early use by the Employer pursuant to clause 2.5 or the carrying out by the Employer of works not forming part of this Contract shall not be deemed to be or constitute partial possession for the purposes of this clause. Practical Completion of the whole or any part of the Works shall not be deemed to have taken place notwithstanding any notice served by the Contractor under this clause."

- 2.31 Insert at the end of the clause "provided, however, that the Rectification Period for the Relevant Part shall extend until the issue by the Employer of the Notice of Completion of Making Good in respect of the whole of the Works".
- 2.32 Insert at the end the clause "provided that the Employer shall not be required to issue such notice any earlier than 10 Business Days after the end of the Rectification Period applicable to such Relevant Part."

DEFECTS

- 2.35 In line 3 after "Contract", insert "or frost occurring before Practical Completion of the Works or the relevant Section". Insert new paragraph at end of clause "The provisions of this clause 2.35 are without prejudice to any other rights and remedies the Employer may have."
- 2.35.2 In line 1 delete "prior to issue of that schedule, ". In line 3, delete "after delivery of that schedule or".
- 2.35A Insert new clause 2.35A:
- "Defects**
In cases of urgency and/or if the Employer considers (acting reasonably) that any such defect shrinkage or other fault is causing unreasonable inconvenience to any person lawfully in occupation of or using the Works or any part thereof and/or if any defect shrinkage or other fault is likely directly or indirectly to cause any further damage to the Works or any part thereof, the Employer may require any matter notified under clause 2.35 to be made good within such period of time specified by the Employer (acting reasonably) as the circumstances require."
- 2.35B Insert new clause 2.35B: "The foregoing provisions of this clause 2.35 apply mutatis mutandis to any defects, shrinkages or other faults and to any items of incomplete work remaining at Practical Completion."
- 2.35C Insert new clause 2.35C: "For the avoidance of doubt, all references to or including clause 2.35 of this Contract (whether to or including the whole of the terms of clause 2.35 or only part thereof) shall be deemed to include a reference to and/or including clauses 2.35A and 2.35B."
- 2.36 Insert at the end of the clause ", provided that the Employer shall not be required to issue any notice to that effect any earlier than 10 Business Days after the expiry of the relevant Rectification Period."

CONTRACTOR'S DESIGN DOCUMENTS

- 2.37 Delete clause 2.37 and insert:
- 2.37.1 "On or before Practical Completion the Contractor shall without further charge to the Employer supply for the retention and use of the Employer 3 (three) electronic copies on USBs and upload to the Council's Sharepoint site:
- 2.37.1.1 complete copies of the as-built drawings, plans, sections and specifications;
 - 2.37.1.2 drafts of every maintenance and operating manual (including copies of all test and commissioning certificates and/or statements);
 - 2.37.1.3 originals of all warranties, guarantees and certificates or other documents in respect of plant, machinery, equipment and other products installed in the Works;
 - 2.37.1.4 copies of all maintenance and operating agreements;

- 2.37.1.5 the original building control approval or equivalent under Building Regulations and confirmation from the relevant authority that all conditions under the Building Regulations have been complied with;
- 2.37.1.6 the original and copies of the health and safety file; and
- 2.37.1.7 any other information the Employer may reasonably require, including without limitation in relation to Statutory Requirements.

Notwithstanding any provision to the contrary in this Contract the Contractor shall not be entitled to any payment of Retention that would (but for this provision) become due and payable under this Contract until the provisions of clause 2.37.1 have been complied with, provided that the provisions of this clause shall not apply to any retention payable to the Contractor prior to Practical Completion by virtue of clause 2.31.

- 2.37.2 Within three weeks of the date of Practical Completion the Contractor shall without further charge to the Employer supply to the Employer (to the extent they have not been provided in accordance with clause 2.37.1) 3 (three) electronic copies on USBs and upload to the Council's Sharepoint site:
 - 2.37.2.1 complete reproducible sets of the as-built drawings (together with negative and electronic copies);
 - 2.37.2.2 copies of all maintenance and operating manuals, test and commissioning certificates and statements and any service or other agreements available for all heating, air conditioning and other equipment, plant and machinery installed in the Works;
 - 2.37.2.3 all correspondence and documentation relating to obtaining of the Consents together with the originals of the Consents and copies of all associated drawings and plans and copies of all applications relative thereto;
 - 2.37.2.4 evidence that all Consents have been obtained and complied with in full in relation to the Works;
 - 2.37.2.5 copies of the construction phase plan;
 - 2.37.2.6 the original completion certificate issued by the relevant authority under the Building Regulations; and
 - 2.37.2.7 any other information the Employer may reasonably require, including without limitation in relation to Statutory Requirements.
- 2.37.3 If during the course of the Rectification Period errors are discovered in the drawings and information supplied by the Contractor in accordance with clauses 2.37.1 and/or 2.37.2 or if as the result of any adjustment or remedial work carried out during the course of the Rectification Period the said drawings and information no longer show or describe the Works as required by clauses 2.37.1 and/or 2.37.2 then the Contractor as soon as reasonably practicable shall amend the said drawings and Information so that they comply with the requirements of clauses 2.37.1 and 2.37.2 and in doing so the Contractor shall comply with any instructions from the Employer in relation to the manner in which this should be done."
- 2.38.1 After "behalf of the Employer," insert "and save as otherwise provided in clause 2.38.5,".
- 2.38.2 Delete and insert:
 - "2.38.2 The Contractor, with full title guarantee, grants to the Employer an irrevocable, perpetual, non-exclusive, non-terminable, royalty-free licence to use, reproduce and transmit any Material produced or prepared by the Contractor or on the Contractor's behalf for any purpose connected with the Works and/or the site (including without limitation the design, construction, completion, promotion, advertisement, funding, sale, letting, disposal, fitting out, maintenance,

use, occupation, management, repair, reinstatement, re-construction, modification, alteration, refurbishment, re-development, decommissioning, demolition and/or extension) but the intellectual property rights in the Material (produced or prepared by the Contractor or on the Contractor's behalf) shall remain vested in the Contractor. The Employer shall, on written request and (subject to clause 2.38.6) upon paying a reasonable copying charge, be entitled to be supplied by the Contractor with copies of such Material."

- 2.38.3 Delete and insert: "This licence carries the right to grant sub-licences and sub-sub-licences and is transferable without the Contractor's prior consent and subsists notwithstanding the termination of this contract (for any reason)."
- 2.38.4 Replace "Contractor's Design Documents" with "Materials (produced or prepared by the Contractor or on the Contractor's behalf)".
- 2.38.5 Insert new clause 2.38.5: "Not used."
- 2.38.6 Insert new clause 2.38.6: "The Contractor agrees on reasonable request at any time and following reasonable written prior notice to give to the Employer or those authorised by the Employer access to the Material produced or prepared by the Contractor or on the Contractor's behalf and to provide a maximum of three copies of such Material (including copy negatives and electronic copies) thereof at the Contractor's expense".
- 2.38.7 Insert new clause 2.38.7: "The Contractor warrants to the Employer that the Material produced or prepared by the Contractor or on the Contractor's behalf (save to the extent duly appointed sub-contractors or consultants or suppliers have been used to prepare the same) are the Contractor's own original work and that in any event their use or the use of any proprietary designs or products prepared by others in connection with the Works and/or site shall not infringe the rights of any third person. The Contractor further warrants that where duly appointed sub-contractors or consultants or suppliers have been used their work shall be original and that the Contractor shall obtain the necessary consents in relation to clause 2.38.2. If the use, reproduction and/or transmission of the Material produced or prepared by the Contractor or on the Contractor's behalf as specified in clause 2.38.2 is found to infringe the rights of any third person, the Contractor shall indemnify the Employer against all resulting claims, proceedings, costs, damages and expenses."
- 2.38.8 Insert new clause 2.38.8: "The Contractor hereby waives and agrees not to assert (and to procure that any sub-contractors consultants and suppliers do likewise) any Moral Rights in the Material (produced or prepared by the Contractor or on the Contractor's behalf) and/or the Federated Model under the Copyright, Designs and Patents Act 1988 (or any re-enactment or modifications of it) or under any equivalent legislation."

Insert the following new clauses 2.39 to 2.44:

"ADDITIONAL OBLIGATIONS

2.39 Confidentiality

- 2.39.1 The Contractor shall not (and shall procure that the Contractor's Persons shall not) disclose to any person or publish or make any statement concerning this Contract or the Works or any matters arising from or relating to the Contract or the Works directly or indirectly without the prior written authority of the Employer during the Works or at any time thereafter (except as may be required by law or in order to properly perform its obligations under this Contract).
- 2.39.2 Save in respect of the Employer's rights to use the Materials as set out in clause 2.38 and save in respect of the Employer's rights to use information as set out in clause 1.11.4, the Employer and the Contractor shall keep confidential and shall not without the other's written consent disclose to any third party any trade or business secrets or similar confidential information supplied by the other Party except as shall be absolutely necessary for the proper performance of this Contract.

2.40 **Provision of and compliance with Third Party Documents**

2.40.1 The Contractor shall be deemed to have read the Third Party Agreements and to be fully aware of the obligations, risks and liabilities assumed by the Employer under them.

2.40.2 The Contractor shall perform and assume, as part of its obligations under this Contract, the Employer's obligations, liabilities and risks contained within the Third Party Agreements that relate to the carrying out of the Works as if they were expressly referred to in this Contract as obligations, liabilities and risks of the Contractor, all other things being equal.

2.40.3 The Contractor shall exercise reasonable skill and care to ensure that no act, error, omission, negligence, breach or default on its part or on the part of any Contractor's Person in relation to the performance by the Contractor of its obligations under this Contract shall cause, contribute or otherwise give rise to any breach by the Employer of any of its obligations under the Third Party Agreements.

2.40.4 The Employer may issue an instruction requiring the Contractor to comply with additional or amended Third Party Agreements after the date of this Contract. Such instruction shall be treated as a Change.

2.41 **Site conditions**

2.41.1 The Contractor shall be entirely responsible for the existing structure, the building fabric and the building services insofar as they relate to the parts of the existing building as set out in the Existing Structure Scope, save as to where a Provisional Sum is included for any associated works and/or the Schedule of Derogations takes precedence. The Contractor shall not be entitled to any extension of time or to any additional payment in relation to any of the matters for which it is responsible under this clause 2.41.1.

2.41.2 Should the Contractor find defects in any parts of the existing structure, the building fabric or the building services which are not set out in the Existing Structure Scope, the Contractor shall still be responsible for rectification of such defect(s) and the Contractor shall be entitled to a Change in respect of the rectification of any such defects to the extent required to allow the Contractor to complete the Works.

2.42 **Statutory Requirements**

2.42.1 Save as otherwise expressly provided for in this Contract, the Contractor shall be responsible for obtaining and discharging all Consents to enable the Works to be completed in accordance with the Employer's Requirements and should any consent be refused the Contractor shall take such reasonable steps including (if required by the Employer) any appeal to enable the Works to progress.

2.42.2 Save as otherwise expressly provided for in this Contract, where the Employer's authorisation or completion of documentation in respect of the Statutory Requirements is required the Contractor shall furnish the relevant documentation to the Employer and permit the Employer a period of 10 Business Days to authorise or complete it.

2.43 **Not used**

2.44 **"Compliance with Building Safety Laws**

The Contractor warrants to the Employer that:

2.44.1 neither it nor any of the Contractor's Persons has done, or permitted to be done, or will do or permit to be done, anything which:

2.44.1.1 is in breach of any Building Safety Laws; or

2.44.1.2 will result, or is likely to result, in the Employer being in breach of any Building Safety Laws; and

2.44.2 it shall comply, and shall procure compliance by each of the Contractor's Persons with the Building Safety Laws."

SECTION 3: CONTROL OF THE WORKS

ACCESS AND REPRESENTATIVES

- 3.1 Delete "so far as possible" in line 4.
- 3.2 Insert at the end of the clause: "If at any time before the issue of the Notice of Completion of Making Good the Employer shall acting reasonably request the removal of any of the Contractor's personnel from the Works for reasons of negligence, incompetence or misconduct, the Contractor shall promptly remove such personnel and replace them with persons acceptable to the Employer such acceptance not to be unreasonably withheld or delayed".
- 3.2A Insert new clause 3.2A: "The Site Manager of the site is to provide and keep up-to-date a daily diary to record, inter alia, progress, site visits, inspections and testings of goods and materials, and workmanship."
- 3.2B Insert new clause 3.2B: "The Contractor shall attend all project meetings convened by the Employer's Agent upon reasonable notice and at reasonable intervals and representatives of the Employer and of the Employer's other consultants (and any other persons authorised by the Employer and notified to the Contractor in writing for the purpose) shall be permitted to attend such meetings."

SUB-CONTRACTING

- 3.4 After "Design and Build Sub-Contract." insert "The Contractor shall provide the Employer with a draft of each sub-contract for approval prior to such sub-contract being entered into. The Contractor shall notify the Employer and the Employer's Agent if it wishes to appoint a sub-contractor using a different form of sub-contract and shall provide a full copy of that different form of sub-contract to the Employer for approval prior to such sub-contract being entered into."
- 3.4.1 In line 4 delete "a Funder and/or the Employer" and insert "the Employer and/or any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site,". In line 5, delete "a Funder and/or the Employer" and insert "the Employer and/or any organisation providing finance in connection with the Works and/or site or any part of the Works and/or site,".
- 3.4.2.3 At the end of the clause, after "Building Regulations" insert "and Building Safety Laws".
- 3.4.2.5 Delete and insert: "that the sub-contractors provide the deeds of collateral warranty fully in accordance with the provisions of Article 13.3 of this Contract".
- 3.4.2.6 Insert new clause 3.4.2.6: "that in the case of any sub-contracting of the design of the Works or any part of the Works, the sub-contractor or consultant shall throughout the duration of the Works and for a period of 15 years following the date of Practical Completion of the whole of the Works maintain professional indemnity insurance cover with a reputable insurer with a limit of indemnity of not less than that amount stated in the relevant sub-contract in respect of any claims made against the sub-contractor or consultant in relation to the design of the Works or any part thereof , provided always that such insurance is available at commercially reasonable rates."
- 3.4.2.8 Insert new clause 3.4.2.8: "that the subcontract shall be executed as a deed in accordance with Article 13.2 of this Contract".
- 3.4.2.9 Insert new clause 3.4.2.9: "that each party to the sub-contract shall promptly co-operate and collaborate with the Employer, Project Team and the Building Safety Regulator to assist compliance with the Building Safety Laws."

EMPLOYER'S INSTRUCTIONS

- 3.6 At the end of the clause insert "or such costs may be recoverable from the Contractor by the Employer as a debt".
- 3.8 Delete second sentence and insert "Notwithstanding such request the Contractor shall comply with the said instruction and unless it is subsequently decided in any adjudication or legal proceedings that the provision specified by the Employer in answer to the Contractor's request does not empower the issue of the said instruction, then the issue of the same shall be deemed for all the purposes of this Contract to have been empowered by the provision of the Conditions specified by the Employer."
- 3.9.1 In lines 1 and 2, delete from the words "and provided that the" to the end of the clause.
- 3.9.2 Delete.
- 3.11 At the end of the clause insert: "The Contractor shall not be entitled to any extension to the Completion Date for any such instructions".
- 3.12 In line 1 after "Contractor to" insert "provide samples of materials or".
- 3.13.1 After "removal from the site" insert "or rectification".
- 3.13.2 Delete "(to which the proviso in clause 3.9.1 applies)".
- 3.13.3 In line 6, delete from "but clauses 2.25 and 2.26.2.3..." to the end of the clause, and insert "and clauses 2.25 and 2.26.2.3 shall not apply to any instructions issued under this clause."
- 3.15.3 In line 1 delete "asbestos, contaminated material or".

CDM REGULATIONS AND PART 2A OF THE BUILDING REGULATIONS

- 3.16.1 Delete and insert: "The Contractor hereby warrants to the Employer that it has and shall continue to properly, fully and faithfully perform the role and obligations of Principal Contractor and Principal Designer under the CDM Regulations and the Building Safety Laws in relation to the Works.
- 3.16.2 Delete "(where it is the..." to the end of the clause and insert "where it is the Principal Designer:
- 3.16.2.1 for the purposes of the CDM Regulations, it shall without charge prepare, and deliver to the Employer, the health and safety file.
- 3.16.2.2 for the purposes of the Building Regulations, it shall perform all the duties and functions required to be performed thereunder and shall comply with regulations 11F, 11G, 11I, 11J, 11K and 11M.
- 3.16.3.2 In line 1, after "11F," insert "11I,". In line 3, delete "regulation" and insert "regulations 11H and".
- 3.16.4 Replace "." at the end of the clause with ",". Insert new clauses 3.16.5 to 3.16.9:
- "3.16.5 the Contractor warrants that it is competent to fulfil the duties of the Principal Contractor and Principal Designer under the CDM Regulations and the Building Safety Laws in relation to the Works and has allocated or (as the case may be) will allocate adequate resources to enable it to comply with the provisions of this clause;
- 3.16.6 the Contractor warrants that the Contractor's Persons are competent and shall

remain competent to perform all duties and functions required to be performed by them under the CDM Regulations and the Building Safety Laws;

- 3.16.7 as and when requested to do so by the Employer, the Contractor shall give to the Employer a written record of the steps taken under regulation 11E(2) of the Building Regulations when appointing each of the Contractor's Persons"

SECTION 4: PAYMENT

CONTRACT SUM AND ADJUSTMENTS

- 4.2.3 Delete.
- 4.2.5 Insert at the end of the clause "Provided always that the Contractor shall not be entitled to any payment for increased costs of preliminaries arising from the expenditure of any Provisional Sum."

PAYMENT AND NOTICES – GENERAL PROVISIONS

- 4.9.1 Delete "14" and insert "28".
- 4.9.6 At the end of the clause insert: "The Parties agree that this clause 4.9.6 is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998."
- 4.9.7 Delete the first sentence.
- 4.10.4 Delete and insert: "Any right of the Employer to deduct or to set-off any amount (whether arising under any term of this Contract or under any rule of law or of equity) shall be exercisable against any monies due or to become due to the Contractor, whether or not such monies include or consist of any Retention."
- 4.11.1 After "intention to suspend the performance of" insert "any or all of".
- 4.11.3 Delete the words "or on request" and, at the end of the clause, insert "The Contractor shall, on request, submit such further details as are reasonably requested by or on behalf of the Employer."

INTERIM PAYMENTS – CALCULATION OF SUMS DUE

- 4.12.1.4 Delete. In the sentence that follows deleted clause 4.12.1.4, delete "any applicable Fluctuations Provision or".
- 4.12.2.5 Delete.
- 4.12.3.2 Delete "or under any applicable Fluctuations Provision,".
- 4.13.1.3 Insert before the semi-colon at the end: "and provided further that the Contractor has supplied to the Employer reasonable evidence that property in such materials or goods shall pass to the Employer". In the sentence that follows clause 4.13.1.3, delete "any applicable Fluctuations Provision or".
- 4.13.2.5 Delete.
- 4.13.3.2 Delete "or under any applicable Fluctuations Provision".

RETENTION

- 4.16 Delete and insert: "The Employer shall be under no fiduciary obligation to the Contractor or any other party with regard to any Retention and shall be under no obligation to set aside in a separate account any amount representing the Retention or to reinvest the Retention or any part of it. The Employer shall be entitled to the full beneficial interest in any interest accruing on the Retention and shall be under no obligation to account to the Contractor for any such interest."
- 4.17.5 Delete "of the type referred to in clause 7.3.1".
- 4.18.1 In line 2 after "practical completion" insert "or for which the drawings and other information referred to in clause 2.37 have not been provided to the Employer".
- 4.18.2.1 In lines 1 and 2, after "practical completion" insert "and for which the drawings and other information referred to in clause 2.37 have been provided to the Employer".

LOSS AND EXPENSE

- 4.19.1 After "subject to clause 4.19.2" insert ", 4.19.3, 4.19.4 and 4.19.5".

Insert the following new clauses after clause 4.19.2:

- "4.19.3 Without affecting clause 4.19.2, no such entitlement arises and the Contractor shall not claim that such an entitlement arises where any such loss and/or expense arises by reason of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person (other than any amount that is recoverable by the Employer under a policy of insurance maintained in accordance with Insurance Option B or Insurance Option C, if applicable).
- 4.19.4 The Contractor shall use reasonable endeavours to prevent or minimise any disruption to the regular progress of the Works and to mitigate any direct loss and/or expense that it incurs."
- 4.20.2 After "reasonably necessary" insert "and/or otherwise reasonably requested by the Employer".
- 4.20.4 Delete and insert: "The amount of the loss and/or expense which has been or is being incurred shall be ascertained and added to the Contract Sum, provided that the Contractor has complied with its obligations to provide notice, fully in accordance with clause 4.20.1 and 4.20.2."
- 4.21 At the start of the clause delete "The" and insert "Subject to clause 4.21A, the".
- 4.21.2.2 In line 2 after "or test" insert "or series of inspections or tests". At the end of clause insert "or unless the inspection or test was reasonably required as a result of a previous inspection or test or series thereof".
- 4.21.3 Delete and replace with "the discovery of Asbestos, subject to the provisions of clause 10.4".
- 4.21.5 Insert at the end of the clause "or, in the case of any impediment or prevention, save to the extent that the same is in consequence of the reasonable exercise of the rights of the Employer under this Contract."
- 4.21.6 Delete.
- 4.21.7 Delete.

- 4.21A Insert new clause 4.21A: "Notwithstanding the provisions of clauses 4.19 to 4.23, the Contractor shall not become entitled to the addition of any amount to the Contract Sum or to any other payment in respect of any cost, loss or expense incurred by reason of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person. For the avoidance of doubt, all references to or including clause 4.21 of this Contract (whether to or including the whole of the terms of clause 4.21 or only part thereof) shall be deemed to include a reference to and/or including this clause 4.21A."
- 4.23 Delete and insert: "Reimbursement of the Contractor for loss and/or expense under clauses 4.19, 4.20, 4.21 and 4.22 shall be deemed to be full compensation for the Contractor in respect of the matters for which the compensation is paid and the Employer shall have no further liability to the Contractor in respect of such matters arising under the Contract or generally at law."

SECTION 5: CHANGES

GENERAL

- 5.1.1.4 Insert new clause 5.1.1.4: "the acceleration of the Completion Date for the Works or Section."
- 5.1.3 At the end of clause 5.1.2.4 change "." to "; and" and insert new clause 5.1.3: "without prejudice to the rest of this clause 5.1, an instruction from the Employer supplementing or amending the Third Party Agreements".
- 5.2 Insert at the end of the clause: "The Contractor shall not be entitled to any payment for increased cost of preliminaries arising from the expenditure of any Provisional Sum."

THE VALUATION RULES

- 5.6 At the end of the clause insert ", provided always that the substantial change in the conditions does not arise by reason of act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person."

Insert the following new clauses 5.8 to 5.13:

QUOTATIONS BEFORE CHANGES INSTRUCTIONS

- 5.8 **Employer may issue preliminary notice of Change**
Before the Employer issues an instruction effecting a Change pursuant to clause 3.5 the Employer may give to the Contractor a preliminary notice of Change which indicates that any proposed Change to which that preliminary notice relates is to be valued, and the length of any extension of time and the amount of any loss and/or expense to which the Contractor may become entitled in respect thereof shall then be determined in accordance with clauses 5.9 to 5.13.
- 5.9 **Information to be provided by Contractor**
Within such reasonable period as the Employer may specify (being not less than 10 Business Days after the receipt by the Contractor of any such preliminary notice of Change as is referred to in clause 5.8) the Contractor shall provide the Employer with:
- 5.9.1 an estimate of the valuation of the proposed Change in the form of a quotation or quotations from the Contractor; and
- 5.9.2 an estimate of the length of any extension of time and the amount of any loss and/or expense to which the Contractor may become entitled pursuant to clauses 2.23 to 2.26 and 4.19 to 4.22 in respect of the proposed Change.

- 5.10 **Procedure following receipt of Contractor information**
- 5.10.1 Following receipt by the Employer of the estimates referred to in clause 5.9 the Employer shall for a period of 5 Business Days, or such longer period as the Employer may specify, conduct negotiations with the Contractor with a view to agreeing the said estimates.
- 5.10.2 If agreement is reached as referred to in clause 5.10.1 the Employer shall issue an instruction to the Contractor pursuant to clause 3.5 confirming the Change (a **Confirmation Instruction** for the purposes of clauses 5.8 to 5.13) and the Employer shall then grant an extension of time pursuant to clauses 2.23 to 2.26 of the agreed length (if any) and effect shall be given to the agreed expense (if any) by making an addition to or deduction from the Contract Sum.
- 5.10.3 If no agreement can be reached in relation to the estimates referred to in clause 5.9 the Employer shall decide whether the proposed Change should be cancelled or whether a Confirmation Instruction should be issued, in which latter case the Valuation Rules shall apply.
- 5.11 **Consequences of a formal Change instruction not being issued**
If the Employer does not issue a Confirmation Instruction pursuant to clauses 5.10.2 or 5.10.3, the Contractor shall have no claim arising out of or in connection with any proposed Change or any failure by the Employer to agree estimates.
- 5.12 **Work not to be carried out until formal Change instruction issued**
Whenever the Employer issues a preliminary notice of Change pursuant to clause 5.8, no work pursuant to the proposed Change to which the preliminary notice relates shall be commenced until such time as the Employer so instructs.
- 5.13 **Instruction, comments etc not to be treated as a Change unless expressly stated to be a Change**
No act omission comment or document prepared by or on behalf of the Employer shall, in the absence of an instruction confirming that it is to be treated as such, amount to a Change for this purposes of this clause 5."

SECTION 6: INJURY, DAMAGE AND INSURANCE

PERSONAL INJURY AND PROPERTY DAMAGE

- 6.1 In line 3 after "Works", insert "or in the performance of the Contractor's obligations under or in connection with this Contract or out of the presence on site of any person or persons for any other reason,".
- 6.2 In line 3 after "personal" insert "(including without limitation any expense, liability, loss or claim arising from but not limited to obstruction, trespass, nuisance or interference with any right of way, light, air or water)". In line 4 after "Works" insert "or in the performance of the Contractor's obligations under or in connection with this Contract". At the end of the clause after "or any Contractor's Person" and insert "or arising out of the presence on site of any person or persons for any reason whatsoever".
- 6.2.2 Renumber 6.2 as 6.2.1 and insert new clause 6.2.2 "Without prejudice to the generality of clause 6.2.1 the Contractor shall at all times prevent any public or private nuisance (including without limitation any such nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on a public highway) or other interference with the rights of any adjoining or neighbouring land owner, tenant or occupier or any Statutory Provider or other third party arising out of the carrying out of the Works or of any obligation pursuant to, under or in connection with this Contract, and shall defend or at the Employer's option assist the Employer in defending any action or proceedings which may be instituted in relation thereto howsoever such action may arise."

- 6.2.3 Insert new clause 6.2.3: "Without prejudice to the Contractor's obligations under clause 6.2.2 or elsewhere in this Contract the Contractor shall ensure at all times that there is no trespass by the Contractor or any Contractor's Person (including without limitation any nuisance caused by noxious fumes, noisy working operations or the deposit of any material or debris on the public highway, the oversailing of tower crane jibs or the erection of a scaffold or hoarding) on or over any adjoining or neighbouring property arising out of, or in the course of, or caused by the carrying out of the Works or of any obligation pursuant to under or in connection with this Contract, and shall take all reasonable safety and other measures to prevent damage or injury to any persons (including but without limitation the occupiers of adjoining or neighbouring property and members of the public). If the carrying out of the Works or of any obligation pursuant to under or in connection with this Contract would otherwise be an act of trespass or is likely to necessitate any interference (including without limitation the oversailing of any tower crane jibs or the erection of a scaffold or hoarding) with the right of any adjoining or neighbouring land owners, tenants or occupiers, or other persons then the Contractor shall without cost to the Employer obtain the prior written agreement of such land owners, tenants or occupiers or other relevant persons. Such agreement shall be subject to the approval of the Employer before execution. The Contractor shall comply in every respect with any conditions contained in any such agreement without cost to the Employer, and shall not be entitled to any extension of time as a result of any condition or obligation contained in that agreement."
- 6.2.4 Insert new clause 6.2.4: "The Contractor shall be liable for and shall indemnify the Employer against any and all expense, liability, loss, claim or proceedings whatsoever and howsoever arising resulting from any such nuisance or interference or trespass, save only to the extent that such nuisance or interference or trespass is a consequence of a Change or other instruction of the Employer (which is not itself the result of any act, error, omission, negligence, breach or default by or on behalf of the Contractor or any Contractor's Person) and which could not have been avoided by the Contractor using all reasonable and practical means. For the avoidance of doubt the Employer may issue to the Contractor such instructions as the Employer considers necessary if any injunction is granted or Court Order is made in consequence of any such nuisance or interference, but (save as aforesaid) no such instruction shall be construed as a Change."

INSURANCE AGAINST PERSONAL INJURY AND PROPERTY DAMAGE

- 6.4.4 Insert new clause 6.4.4: "The Contractor shall not do or permit or suffer to be done any act or thing which may vitiate any policy or policies of insurance effected and/or maintained or to be effected and/or maintained by the Contractor under this Contract or (insofar as they have been notified to the Contractor) any policy or policies of insurance effected and/or maintained by the Employer and/or any organisation providing finance in connection with the Works and/or site or all or any part of the Works and/or site and/or any other party."
- 6.5.1 Delete "names of the Employer and the Contractor" and insert "joint names of the Employer, the Contractor and (if requested by the Employer) any organisation providing finance in connection with the Works and/or site or all or any part of the Works and/or site".

INSURANCE OF THE WORKS AND EXISTING STRUCTURES

- 6.14 Delete and insert: "If in consequence of the loss of or any damage to an Existing Structure the Employer determines that it is impracticable or not in the Employer's commercial interests to proceed with the Works, the Employer may by written notice with immediate effect terminate the Contractor's employment under this Contract, in which event clause 8.12 (except clause 8.12.3.5) shall apply."

PROFESSIONAL INDEMNITY INSURANCE

6.15 Delete and insert:

"6.15.1 The Contractor shall effect and maintain professional indemnity insurance covering (inter alia) all its liability hereunder upon customary and usual terms and conditions prevailing for the time being in the UK insurance market, and with reputable insurers licensed to carry on such insurance business in the UK, with a limit of indemnity of not less than £10,000,000 (ten million pounds) for any one occurrence or series of occurrences arising out of any one event at all relevant times during the Works and for a period of 12 (twelve) years from the date of Practical Completion of the Works, provided always that such insurance is available at commercially reasonable rates and terms and conditions.

The said terms and conditions shall not include any term or condition to the effect that the Contractor must discharge any liability before being entitled to recover from the insurers, or any other term or condition which might adversely affect the rights of any person to recover from the insurers pursuant to the Third Parties (Rights Against Insurers) Act 2010, or any amendment or re-enactment thereof.

6.15.2 For the purposes of this clause 6.15, "commercially reasonable" rates and terms and conditions shall mean such level of premium rates and on such terms and conditions at which other contractors of a similar size and financial standing as the Contractor generally performing works substantially similar to the Works at each renewal date generally continue to take out such insurance. For the avoidance of doubt, any increased or additional premium or terms and conditions required by insurers by reason of the Contractor's own claims record or other act, error, omission, negligence, breach, default, matters or things particular to the Contractor shall be deemed to be within commercially reasonable rates and terms and conditions.

6.15.3 The Contractor shall immediately inform the Employer if such insurance ceases to be available at commercially reasonable rates or terms and conditions (or if there is any material reduction in the scope or level of cover offered by such insurance) in order that the Contractor and the Employer can discuss means of best protecting the respective positions of the Employer and the Contractor in respect of the Works.

6.15.4 The Contractor shall fully co-operate with any measures reasonably required by the Employer, including (without limitation) completing any proposals for insurance and associated documents. The Contractor shall maintain such insurance at rates above commercially reasonable rates or on different terms and conditions, if the Employer undertakes in writing to reimburse the Contractor in respect of the net cost of such insurance to the Contractor above commercially reasonable rates or in respect of the additional cost of taking out insurance on different terms and conditions. Alternatively, if the Employer effects such insurance at rates at or above commercially reasonable rates or takes out insurance on different terms and conditions at additional cost, the Contractor shall reimburse the Employer in respect of what the net cost of such insurance to the Employer would have been at commercially reasonable rates or on commercially reasonable terms and conditions.

6.15.6 The above obligations shall continue notwithstanding termination of this Contract or determination of the Contractor's employment under this Contract in either case for any reason whatsoever."

6.16 Delete.

JOINT FIRE CODE – COMPLIANCE

6.19.2 At the end of the clause insert: "or may be recoverable from the Contractor by the Employer as a debt."

SECTION 7: ASSIGNMENT, PERFORMANCE BONDS AND GUARANTEES, THIRD PARTY RIGHTS AND COLLATERAL WARRANTIES

ASSIGNMENT

7. Delete Section 7 in its entirety and insert:
- “7.1 The Contractor shall not assign transfer or charge any benefit arising under or out of this Contract without the prior written consent of the Employer (at its absolute discretion).
- 7.2 The Employer may at any time without the consent of the Contractor assign transfer and/or charge the benefit of all or any of the Contractor's obligations under this Contract and/or any benefit arising under or out of this Contract:
- (a) as security to any organisation providing finance in connection with the Works and/or site or any part thereof (and such rights may be re-assigned on redemption);
 - (b) by absolute assignment to any Group Company; and
 - (c) by absolute assignment on two other occasions only.”
- 7.3 The Contractor shall not contend that any person, to whom any benefit arising under or out of this Contract is assigned transferred or charged under this clause 7, may not recover any sum under this Contract because that person is an assignee and not a named party to this Contract, or because the loss or damage suffered has been suffered by such person only and not by the Employer, or because such loss is different from that which would have been suffered by the Employer.

SECTION 8: TERMINATION

GENERAL

- 8.1.4.3 Delete and insert "it applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986."
- 8.2.1 At the end of the clause insert: "provided always that this clause 8.2.1 shall not apply to any notice or notices given pursuant to clause 8.5."

TERMINATION BY EMPLOYER

- 8.4.1.3 In line 2 after "remove" insert "or rectify".
- 8.4.1.5 After "3.16" delete ", " and insert "; or".
- 8.4.1.6 Insert new clause 8.4.1.6: "fails to comply with clause 6.15; or"
- 8.4.1.7 Insert new clause 8.4.1.7: "fails to comply with Articles 11, 12, 13 , 14, 15, 16, 17."
- 8.5.3.1 Delete "to 8.7.6 and (if relevant) clause 8.8".
- 8.5.3.2 Delete.
- 8.5.3.3 After "the Employer may" insert ", at the Contractor's expense,".
- 8.6 After "acting on its behalf" insert "or associated with the Contractor". At the end of the clause insert: "For the purpose of this clause 8.6, whether a person is associated with another person shall be determined in accordance with section 8 of the Bribery Act 2010 and a person associated with the Contractor includes, but is not limited to, any Contractor's Persons."
- 8.6A Insert new clause 8.6A:

"Termination – Contractor to vacate site

Notwithstanding clause 2.3 upon any determination of the Contractor's employment (and any purported termination by notice given by the Employer) or if this Contract is determined repudiated or discharged in any other manner and notwithstanding that the validity of such determination repudiation or discharge may be disputed by the Contractor, the Contractor shall immediately vacate the site and deliver to the Employer possession of the site."

8.7.2 After "the Contractor shall" and before the colon insert ", at the Contractor's expense".

8.7.2.1 At the end of the clause insert: "If within a reasonable time after such requirement has been made the Contractor has not complied therewith in respect of temporary buildings, plant, tools, equipment, goods and/or materials belonging to the Contractor, then the Employer may (but without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor."

8.7.2.2 Delete and insert: "provide the Employer (within 10 Business Days) with copies of all the Contractor's Design Documents then prepared whether or not previously provided including without limitation all such documents referred to in clause 2.37 which have been prepared before the date of determination (whether in the course of preparation or completed)".

8.7.6.1 Delete and insert "the amount of any direct loss and/or damage and/or additional expense caused to the Employer as a result of the determination;"

8.7.6.2 Delete and insert "the amount of any payment made or otherwise discharged in favour of the Contractor; and"

8.7.6.3 Delete and insert "the total value of work properly executed at the date of determination of the employment of the Contractor, ascertained in accordance with the Conditions, together with any amounts due to the Contractor under the Conditions at the date of determination not included in such total value."

TERMINATION BY CONTRACTOR

8.9.1.2 Delete.

8.9.2 In lines 6 and 7 after "Contractor's Person", insert: "or, in the case of any impediment or prevention, save to the extent that the same is in consequence of the exercise of the rights of the Employer under this Contract,".

8.10.3 At the end of the clause insert: "and an extension of time for completion shall be given under clause 2.25 equal to the period of suspension".

TERMINATION BY EITHER PARTY AND REGULATION 73(1)(A) OF THE PC REGULATIONS

8.11.1.1 Delete and insert "Force Majeure".

CONSEQUENCES OF TERMINATION UNDER CLAUSES 8.9 TO 8.11, ETC.

8.12.2.1 After "dispatch", insert "and in such manner and with such precautions as shall prevent injury, death or damage of the classes in respect of which before the date of termination of the Contractor's employment the Contractor was liable to indemnify the Employer under clauses 6.1 and 6.2,".

8.12.5.5 Delete.

SECTION 9: SETTLEMENT OF DISPUTES

ADJUDICATION

9.3.2.2 After "the Adjudicator shall", insert "subject to both parties' prior agreement (including in relation to the level of any relevant costs)".

At the end of the clause insert: "Copies of the Adjudicator's instructions to any such expert and any written advice or report received from such an expert shall be supplied to the Parties as soon as practicable."

9.3.2.3 Insert new clause 9.3.2.3: "the Adjudicator shall have power to determine more than one dispute under this Contract at the same time, and if requested to do so by either Party shall determine any matter raised by such Party in the nature of set-off, abatement or counterclaim at the same time as the Adjudicator determines any other matter referred to the Adjudicator."

9.3.2.4 Insert new clause 9.3.2.4: "at the same time as the Adjudicator gives any decision, the Adjudicator shall give reasons for the decision in writing."

9.3.2.5 Insert new clause 9.3.2.5: "The Adjudicator shall notify the Employer and the Contractor as soon as practicable, if the Adjudicator becomes aware that the Adjudicator has any interest in the Works, the subject matter of the adjudication, or the Parties."

ARBITRATION

Delete clauses 9.4 to 9.9.

SECTION 10 - ASBESTOS

10 **Insert** new clause 10:

10 **"Asbestos**

10.1 Unless the exposure arises directly or indirectly as a result of any act or omission of the Contractor or any Contractor's Person, the Employer accepts full responsibility (including any financial or other consequences which arise directly or indirectly) for death and personal injury in respect of exposure to Asbestos in the Buildings, where exposure takes place prior to the date on which the Contractor takes control of the Sites.

10.2 The Contractor accepts, in relation to the Buildings entire responsibility (including any financial and other consequences which result whether directly or indirectly) for:

10.2.1 any Asbestos identified in the Asbestos Survey; and

10.2.2 unless access to carry out additional surveys was denied and then only to the extent access was denied, any Asbestos that would have been identified had the Contractor carried out such additional surveys as it would have been reasonable to expect an experienced contractor to have carried out in the circumstances.

10.4 The discovery of any Asbestos in the Buildings which has not been identified in the Asbestos Surveys (other than liabilities and matters referred to in clause 10.2.2) shall be deemed to be a Relevant Event and Relevant Matter subject to and in accordance with clauses 2.25 and 4.20. Any work which is instructed by the Employer to be carried out in consequence of the discovery of such Asbestos shall be deemed, without double counting, to be a Change."

Schedules

Schedule 1 – Design Submission Procedure

In line 2 of paragraph 8.3, after "shall" insert "limit or exclude the Contractor's obligations or liabilities under this Contract or".

Schedule 2 – Supplemental Provisions

In line 2 of paragraph 1.6, delete "clauses 2.1.1 to 2.1.4" and insert "clause 2.1".

In line 1 of paragraph 4.1.4, delete "2.1.1 to 2.1.4" and insert "2.1".

Schedule 5 – Third Party Rights

Delete.

ANNEXURES

- Annex 1** Contractor Deed of Collateral Warranty
- Annex 2** Sub-Contractor Deeds of Collateral Warranties
- Annex 3** Consultants' Deed of Appointment
- Annex 4** Design Consultant Deeds of Collateral Warranties
- Annex 5** Not Used
- Annex 6** Performance Bond
- Annex 7** Not Used
- Annex 8** JCT Design and Build Contract 2024 Edition