

AmatrixCE Ltd

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[Amatrixce LTD] incorporated and registered in England and Wales with company number [09663520] whose registered office is at [5 Highbury Corner, London, N5 1RD].

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in this agreement.

1.1 Definitions

Architectural Plans: Architectural drawing or architect's drawing is a technical drawing of a building or section (or building project) that falls within the definition of architecture, these are to be sent in AutoCAD DXF (Drawing Interchange Format, or Drawing Exchange Format).

Customer's Equipment: any equipment, systems, cabling or facilities provided by the Customer and used directly or indirectly in the supply of the Services.

Customer's Manager: the Customer's manager for [[the OR a] Project OR the Services], appointed in accordance with clause 5.1.

Deliverables: all Documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to [[a OR the] Project Plan OR the Services] in any form, including [computer programs, data, reports and specifications (including drafts) OR other deliverables specified].

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

In-put Material: all Documents, information and materials provided by the Customer relating to the Services, including [computer programs, data, reports and specifications OR other in-put materials specified].

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.]

Pre-existing Materials: all Documents, information and materials provided by the Supplier relating to the Services which existed prior to the commencement of this agreement, including

[computer programs, data, reports and specifications **OR** other pre-existing materials specified].

Project: [the **OR** a] project as described in [the **OR** a] proposal fee letter or quotation.

Project Milestones: a date by which a part of the Project is estimated to be completed, as set out in the Project Plan.

Project Plan: the detailed plan describing [the **OR** a] Project and setting out the estimated timetable (including Project Milestones) and responsibilities for the provision of the Services agreed in accordance with clause 3.

Services: the services to be provided by the Supplier under this agreement as set out in [Schedule 1 **OR** [the **OR** a] Proposal Quote **OR** fee letter [, together with any other services which the Supplier provides or agrees to provide to the Customer].

Supplier's Equipment: any equipment, including tools, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.

Supplier's Manager: the Supplier's manager for [the Services **OR** [the **OR** a] Project] appointed under clause 4.3.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

1.2 Clause[, Schedule and paragraph] headings shall not affect the interpretation of this agreement.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) [and that person's personal representatives, successors and permitted assigns].

1.4 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to any party shall include that party's personal representatives, successors and permitted assigns.

1.8 A reference to a statute or statutory provision is a reference to it as [amended, extended or re-enacted from time to time **OR** it is in force as at the date of this agreement].

1.9 A reference to a statute or statutory provision shall include all subordinate legislation made [from time to time **OR** as at the date of this agreement] under that statute or statutory provision.

1.10 A reference to **writing** or **written** includes e-mail [and fax **OR** but not fax].

1.11 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

1.12 References to clauses [and Schedules] are to the clauses [and Schedules] of this agreement [and references to paragraphs are to paragraphs of the relevant Schedule].

1.13 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Commencement and duration

2.1 The Supplier shall provide the Services to the Customer on the terms and conditions of this agreement.

2.2 The Supplier shall provide the Services to the Customer from [the date specified in the Proposal Quote or fee letter].

2.3 The Services supplied under this agreement shall continue to be supplied [until the Project is completed in accordance with the Proposal Quote **OR** fee letter for a period of [TERM] as stated in the Proposal Quote or fee letter] [and, after that, shall continue to be supplied unless this agreement is terminated by one of the parties giving to the other not less than [1] months' notice, [such notice to expire on [DATE] or at any time after that date]], unless this agreement is terminated in accordance with clause 12.

3. Proposal Quote

3.1 [The] Proposal Quote[s] **OR** Fee Letter shall be agreed in the following manner:

(a) the Customer shall provide the Supplier with a request for a Proposal Quote **OR** Fee Letter, setting out the requirements and specifications of the services which it is requesting from the Supplier, including a description of what work is to be done, dates by which [it **OR** each stage of the work] is requested to be started and finished, Deliverables, In-put Material and such other information as the Supplier may request to allow the Supplier to prepare a draft Proposal Quote **OR** Fee Letter;

(b) the Supplier shall, as soon as reasonably practicable, provide the Customer with a draft Proposal Quote **OR** Fee Letter; and

(c) the Supplier and the Customer shall discuss and agree the draft Proposal Quote **OR** Fee Letter and when it has been agreed, the customer shall sign a copy of it and it shall become [a] Schedule [2] to and subject to this agreement.

(d) the Proposal Quote is subject to change following a site visit, this ensures the safest structural design is implemented.

3.2 [The Supplier shall charge for the preparation of the Project Plan on a time and materials basis in accordance with clause 7.]

3.3 Once the Proposal Quote **OR** Fee Letter has been agreed and signed in accordance with clause 3.1(c), no amendment shall be made to it except in accordance with clause 6 and clause 15.

4. Supplier's obligations

4.1 The Supplier shall use reasonable endeavours to [manage and complete OR provide] the Services, and to deliver the Deliverables to the Customer, in accordance with [Schedule 1 OR the Proposal Quote] OR Fee Letter in all material respects.

4.2 The Supplier shall use reasonable endeavours to meet [any performance dates OR Project Milestones] specified in [Schedule 1 OR the Proposal Quote] OR Fee Letter, but any such dates shall be estimates only and time for performance by the Supplier shall not be of the essence of this agreement.

4.3 The Supplier shall appoint the Supplier's Manager [in respect of each Project] who shall have authority contractually to bind the Supplier on all matters relating to the [Services OR Project]. The Supplier shall use reasonable endeavours to ensure that the same person acts as the Supplier's Manager throughout the term of [this agreement OR Project], but may replace him from time to time where reasonably necessary in the interests of the Supplier's business.

4.4 [The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at [any of] the Customer's premises and that have been communicated to it under clause 5.1(e), provided that it shall not be liable under this agreement if, as a result of such observation, it is in breach of any of its obligations under this agreement.]

5. Customer's obligations

5.1 The Customer shall:

(a) co-operate with the Supplier in all matters relating to the Services and appoint the Customer's Manager [in relation to [the Services OR [each OR the] Project]], who shall have the authority contractually to bind the Customer on matters relating to [the Services OR that Project];

(b) provide, for the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as [reasonably] required by the Supplier [or any of them];

(c) provide, in a timely manner, such In-put Material and other information as the Supplier may [reasonably] require, and ensure that it is accurate in all material respects;

(d) be responsible (at its own cost) for preparing and maintaining the relevant premises for the supply of the Services[, including identifying, monitoring, removing and disposing of any hazardous materials from [any of] its premises in accordance with all applicable laws, before and during the supply of the Services at those premises, and informing the Supplier of all of the Customer's obligations and actions under this clause 5.1(d)];

(e) inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at [any of] the Customer's premises;

(f) [ensure that all Customer's Equipment is in good working order and suitable for the purposes for which it is used [in relation to the Services] and conforms to [all relevant United Kingdom standards or requirements];]

(g) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Supplier's Equipment, the use of In-put Material and the use of the Customer's Equipment in relation to the Supplier's Equipment [insofar as such licences, consents and legislation relate to the Customer's

business, premises, staff and equipment], in all cases before the date on which the Services are to start;

(h) keep, maintain [and insure] the Supplier's Equipment [in good condition OR in accordance with the Supplier's instructions as notified [in writing OR by the Supplier's Manager] from time to time] and shall not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation; and

5.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay.

5.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this agreement, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

5.4 The Customer shall not, without the prior written consent of the Supplier, at any time from the date of this agreement to the expiry of [any time] after the [completion of the Project OR the last date of supply of the Services OR termination of this agreement], solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee[, consultant or subcontractor] of the Supplier in the provision of the Services.

5.5 Any consent given by the Supplier in accordance with clause 5.4 shall be subject to the Customer paying to the Supplier a sum equivalent to 20% of the then current annual remuneration of the Supplier's employee [,consultant or subcontractor] or, if higher, 20% of the annual remuneration to be paid by the Customer to that employee[, consultant or subcontractor].

6. Change control

6.1 The Customer's Manager and the Supplier's Manager shall speak at least once every [month] to discuss matters relating to the [Services OR Project]. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.

6.2 If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:

- (a) the likely time required to implement the change;
- (b) any necessary variations to the Supplier's charges arising from the change;
- (c) the likely effect of the change on the Project Plan; and
- (d) any other impact of the change on this agreement.

6.3 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its

charges, the Services[, the relevant Project Plan] and any other relevant terms of this agreement to take account of the change and this agreement has been varied in accordance with clause 15.

6.4 Notwithstanding clause 6.3, the Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. [If the Supplier requests a change to the scope of the Services for any other reason, the Customer shall not unreasonably withhold or delay consent to it. **OR** The Supplier may, from time to time [and subject to Customer's prior written consent, which shall not be unreasonably withheld or delayed] change the Services, provided that [such changes do not materially affect the nature or quality of the Services and,] where practicable, it will give the Customer at least [three months'] notice of any change.]

6.5 The Supplier may charge for the time it spends assessing a request for change from the Customer on a time and materials basis in accordance with clause 7.

7. Charges and payment

7.1 In consideration of the provision of the Services by the Supplier, the Customer shall pay the charges as set out in Schedule 3, which shall specify whether they shall be on a time and materials basis, a fixed price basis or a combination of both. clause 7.2 shall apply if the Supplier provides Services on a time and materials basis and clause 7.3 shall apply if the Supplier provides Services for a fixed price. The remainder of this clause 7 shall apply in either case.

7.2 Where Services are provided on a time and materials basis:

(a) the charges payable for the Services shall be calculated in accordance with the Supplier's standard daily fee rates, [as amended from time to time [by the Supplier giving not less than [three] months' written notice to the Customer] **OR** in accordance with clause 7.5];

(b) the Supplier's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day, worked between [9.00 am] and [6.00 pm] on weekdays (excluding public holidays);

(c) the Supplier shall be entitled to charge an overtime rate of [50]% of the normal daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the [Project **OR** Services] outside the hours referred to in clause 7.2(b);

(d) all charges quoted to the Customer shall be exclusive of VAT, which the Supplier shall add to its invoices at the appropriate rate;

(e) the Supplier shall ensure that every individual whom it engages on the Services completes time sheets recording time spent on the [Services **OR** Project], and the Supplier shall use such time sheets to calculate the charges covered by each monthly invoice referred to in clause 7.2(f); and

(f) the Supplier shall invoice the Customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause 7.2 and clause 7.4. [Each invoice shall set out the time spent by each individual whom it engages on the Services and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts.]

7.3 Where Services are provided for a fixed price, the total price for the Services shall be the amount set out in [Part 1 of Schedule 3 OR the Proposal Quote] OR Fee Letter [as amended from time to time in accordance with clause 7.5]. The Customer shall pay the total price to the Supplier (without deduction or set-off) in instalments, as set out in [Part 2 of Schedule 3 OR the Proposal Quote] OR Fee Letter [on the Supplier achieving the corresponding Project Milestone]. [On achieving a Project Milestone OR At the end of a period specified in [Part 2 of Schedule 3 OR the Proposal Quote OR Fee Letter] in respect of which an instalment is due], the Supplier shall invoice the Customer for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in clause 7.4.

7.4 Any fixed price [and daily rate] contained in [Part 1 of Schedule 3 OR Proposal Quote] OR Fee Letter excludes:

(a) the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services, the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the Supplier for the supply of the Services. Such expenses, materials and third party services shall be invoiced by the Supplier [at cost]; and

(b) VAT, which the Supplier shall add to its invoices at the appropriate rate.

7.5 [The parties agree that the Supplier may review and increase [its standard daily fee rates OR the charges set out in [Schedule 3 OR the Proposal Quote OR Fee Letter]], provided that such charges cannot be increased more than once in any [3] month period.] The Supplier shall give the Customer written notice of any such increase [1] month before the proposed date of that increase. If such increase is not acceptable to the Customer, it may, within [1 month] of such notice being received or deemed to have been received in accordance with clause 24, terminate the agreement [by giving [NUMBER] months written notice to the Supplier OR with immediate effect by giving written notice to the Supplier].

7.6 The Customer shall pay each invoice submitted to it by the Supplier, in full and in cleared funds, within [14] days of receipt to a bank account nominated in writing by the Supplier.

7.7 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date:

(a) the Customer shall pay interest on the overdue amount at the rate of [8.5]% per annum above [Barclays]'s base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount; and

(b) the Supplier may suspend all Services until payment has been made in full.

7.8 All sums payable to the Supplier under this agreement shall become due immediately on its termination, despite any other provision. This clause 7.8 is without prejudice to any right to claim for interest under the law, or any such right under this agreement.

7.9 All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8. Intellectual property rights

8.1 As between the Customer and the Supplier, all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials shall be owned by the Supplier. Subject to clause 8.2, the Supplier licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and the Services. If [the Supplier terminates this agreement under clause 12.1 **OR** this agreement is terminated], this licence will automatically terminate.

8.2 The Customer acknowledges that, where the Supplier does not own any of the Pre-existing Materials, the Customer's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.

9. Confidentiality and the Supplier's property

9.1 The Customer undertakes that it shall not [at any time **OR** at any time during this agreement, and for a period of [five] years after termination of this agreement,] disclose to any person technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents, consultants or subcontractors [or of any member of the group of companies to which the Supplier belongs] and any other confidential information concerning the Supplier's business or its products which the Customer may obtain, except as permitted by clause 9.2.

9.2 The Customer may disclose the Supplier's confidential information:

(a) to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 9; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.3 The Customer shall not use the Supplier's confidential information for any purpose other than to perform its obligations under this agreement.

9.4 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer (including Pre-existing Materials and the Supplier's Equipment) shall, at all times, be and remain [as between the Supplier and the Customer] the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

10. Limitation of liability

10.1 Nothing in this agreement limits or excludes the Supplier's liability for:

(a) death or personal injury caused by its negligence;

(b) fraud or fraudulent misrepresentation; or

(c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

10.2 Subject to clause 10.1, the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement for:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of or damage to goodwill;
- (f) loss of use or corruption of software, data or information;
- (g) any indirect or consequential loss.

10.3 Subject to clause 10.1 and clause 10.2, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement shall be limited to:

- (a) [project value as determined in the Proposal Quote] per claim; and
- (b) in respect of all claims (connected or unconnected) in any consecutive 12 (twelve) month period, the equivalent of the total charges paid by the Customer in that period.

10.4 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

11. Data protection

The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Supplier [in connection with [the Services]].]

12. Termination

12.1 Without affecting any other right or remedy available to it, either party may terminate this agreement with immediate effect by giving [written] notice to the other party if:

- (a) [the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than [14] days after being notified [in writing] to make such payment;]

(b) the other party commits a material breach of any [other] term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of [14] days after being notified [in writing] to do so;

(c) [the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;]

(d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or [(being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing apply];

(e) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];

(f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) [other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];

(g) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);

(h) the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

(i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

(j) [the other party (being an individual) is the subject of a bankruptcy petition or order;]

(k) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within [14] days;

(l) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.1(d) to clause 12.1(k) (inclusive);

(m) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; [or]

(n) [the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation[; or]]

(o) [there is a change of control of the other party[(within the meaning of section 1124 of the Corporation Tax Act 2010)].]

12.2 [For the purposes of clause 12.1(b), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from over [the term of this agreement **OR** any [2]-month period during the term of this agreement]. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.]

13. Consequences of termination

13.1 On termination or expiry of this agreement:

(a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;

(b) the Customer shall, [within a reasonable time,] return all of the Supplier's Equipment, Pre-existing Materials and Deliverables. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping;

(c) the following clauses shall continue in force: clause 8 (Intellectual property rights), clause 9 (Confidentiality and the Supplier's property), clause 10 (Limitation of liability), clause 13.1, clause 24 (Notices), clause 26 (Dispute resolution), clause 27 (Governing law and jurisdiction).

13.2 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

14. Force majeure

14.1 Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation:

(a) acts of God, flood, drought, earthquake or other natural disaster;

(b) epidemic or pandemic;

(c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;

(d) nuclear, chemical or biological contamination or sonic boom;

(e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition[, or failing to grant a necessary licence or consent];

(f) collapse of buildings, fire, explosion or accident; [and]

(g) [any labour or trade dispute, strikes, industrial action or lockouts [(other than in each case by the party seeking to rely on this clause, or companies in the same group as that party)];]

(h) [non-performance by suppliers or subcontractors [(other than by companies in the same group as the party seeking to rely on this clause)]; and]

(i) interruption or failure of utility service.

14.2 Provided it has complied with clause 14.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

14.3 [The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.]

14.4 The Affected Party shall:

(a) as soon as reasonably practicable after the start of the Force Majeure Event[but no later than [5] days from its start], notify the other party [in writing] of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

(b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

14.5 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than [3] [weeks], the party not affected by the Force Majeure Event may terminate this agreement by giving [2] [weeks'] written notice to the Affected Party.

14.6 If the Force Majeure Event prevails for a continuous period of more than [2] months, either party may terminate this agreement by giving [14] days' written notice to all the other party. On the expiry of this notice period, this agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this agreement occurring prior to such termination.

15. Variation

Subject to clause 3 and clause 6, no variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

16. Waiver

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

17. Rights and remedies

[Except as expressly provided in this agreement, the **OR** The] rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

17.1 Good and/or services must be to a reasonable standard. The term 'reasonable' can be clarified by an industry professional or manufacturer or an independent expert

18. Severance

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

18.2 If [one party gives notice to the other of the possibility that] any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

19. Entire agreement

19.1 This agreement 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 its subject matter.

19.2 Each party agrees that it 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 agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

19.3 Nothing in this clause shall limit or exclude any liability for fraud.

20. Conflict

Option 1: Agreement prevails over another document

[If there is an inconsistency between any of the provisions of this agreement and the provisions of [Project Plan **OR** Proposal Quote], the provisions of this agreement shall prevail.

OR

Option 2: Body of the agreement prevails over the schedules

If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.]]

21. Assignment and other dealings

21.1 This agreement is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

21.2 The Supplier may at any time assign, transfer, mortgage, charge or deal in any other manner with any or all of its rights and obligations under this agreement[, provided that the Supplier gives prior written notice to the Customer].

22. No partnership or agency

22.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. Third party rights

No one other than a party to this agreement[, their successors and permitted assignees,] shall have any right to enforce any of its terms.

24. Notices

24.1 [For the purposes of this clause, but subject to clause 24.7, notice includes any other communication.]

24.2 A notice given to a party under or in connection with this agreement:

(a) shall be in writing and in English or accompanied by an accurate translation into English;

(b) [shall be signed by or on behalf of the party giving it;]

(c) shall be sent to the party for the attention of the contact and at the address[, fax or DX number] listed in clause 24.3;

(d) [shall **OR** may] be sent by a method listed in clause 24.5; and

(e) [unless proved otherwise] is deemed received as set out in clause 24.5 if prepared and sent in accordance with this clause.

24.3 The parties' addresses and contacts are as set out in the Project Proposal **OR** project quote.

24.4 A party may change its details given in the table in clause 24.3 by giving notice, the change taking effect for the party notified of the change at [9.00 am] on the later of:

(a) the date, if any, specified in the notice as the effective date for the change; or

(b) the date [five] Business Days after deemed receipt of the notice.

24.5 This table sets out:

(a) delivery methods for sending a notice to a party under this agreement ; and

(b) for each delivery method, the corresponding delivery date and time when delivery of the notice is deemed to have taken place provided that all other requirements in this clause have been satisfied and subject to the provisions in clause 24.6:

Delivery method	Deemed delivery date and time
Email	Confirmation by receipt via email.
Online Signature.	Signed and submitted through online portal, confirmed by receipt via email.
Delivery by hand.	On signature of a delivery receipt [or at the time the notice is left at the address].
Pre-paid first class [recorded delivery] post or other next working day delivery service[providing [proof of postage OR proof of delivery]].	[9.00 am] on the [second] Business Day after posting [or at the time recorded by the delivery service].
Pre-paid airmail [providing [proof of postage OR proof of delivery.]]	[[9.00 am] on the [fifth] Business Day after posting [or at the time recorded by the delivery service.]
Fax.	At the time of transmission.
Document exchange (DX).	[9.00 am] on the [second] Business Day after being put into the DX.

24.6 For the purpose of clause 24.5 and calculating deemed receipt:

(a) all references to time are to local time in the place of deemed receipt; and

(b) if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.

24.7 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24.8 A notice given under [or in connection with] this agreement is not valid if sent by e-mail.

25. Counterparts

25.1 This agreement may be executed in any number of counterparts, each of which when executed [and delivered] shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

25.2 [Transmission of [an executed counterpart of this agreement (but for the avoidance of doubt not just a signature page) **OR** the executed signature page of a counterpart of this agreement] by (a) fax or (b) e-mail (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this agreement. If either method of delivery is adopted, without prejudice to the validity of the agreement thus made, each party shall provide the others with the original of such counterpart as soon as reasonably possible thereafter.]

25.3 [No counterpart shall be effective until each party has executed [and delivered] at least one counterpart.]

26. Multi-tiered dispute resolution procedure

26.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then [except as expressly provided in this agreement,] the parties shall follow the procedure set out in this clause:

(a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, that all parties shall attempt in good faith to resolve the Dispute;

(b) if one of any parties are for any reason unable to resolve the Dispute within [30] days of service of the Dispute Notice, the Dispute shall be referred to the SENIOR OFFICER of all parties who shall attempt in good faith to resolve it; and

(c) if the SENIOR OFFICER of one of any parties are for any reason unable to resolve the Dispute within [30] days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than [30] days after the date of the ADR notice.

26.2 [The commencement of mediation shall not prevent the parties commencing or continuing [court or arbitration] proceedings in relation to the Dispute under any clause decided by the supplier, which clause shall apply at all times.

OR

No party may commence any [court or arbitration] proceedings under any clause decided by the supplier in relation to the whole or part of the Dispute until [30] days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.]

26.3 If the Dispute is not resolved within [30] days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of [30] days, or the mediation terminates before the expiration of the said period of [30] days, the Dispute shall be finally resolved by [the courts of England and Wales **OR** arbitration proceedings] in accordance with any clause decided by the supplier in this Agreement.

27. Governing law

This agreement 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) shall be governed by and construed in accordance with the law of England and Wales.

28. Jurisdiction

[Each party irrevocably agrees that the courts of England and Wales shall have [exclusive **OR** non-exclusive] jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated of the Proposal Quote **OR** Project Plan **OR** Fee Letter.

Schedule 1 services

The description of the services to be provided under this agreement are listed in the latest Proposal Quote **OR** Fee letter **Or** Project Plan that is confirmed by the client via one of the delivery methods for sending out a notice in clause 24.5.

Schedule 2 Project Plan

The Project Plan agreed in accordance with clause 3, including any project milestones agreed is set out in the latest Proposal Quote **OR** Fee letter that is confirmed by the client via one of the delivery methods for sending out a notice in clause 24.5.

Schedule 3 Pricing

Part 1. Price

The Fixed Price agreed is set out in the latest Proposal Quote **OR** Fee letter that is confirmed by the client via one of the delivery methods for sending out a notice in clause 24.5.

Any possible amendments to the scheme following design, which the architect, Building Inspector or client may require will be invoiced according to the time expended by our engineers at the hourly rates of £110.00 per hour for design and £70.00 per hour for an AutoCAD technician

Part 2. Payment

Invoices will be submitted weekly for payment as the work progresses. All invoices are to be paid within a 14-day period.