

PYE HOMES STANDARD TERMS AND CONDITIONS OF PURCHASE FOR GOODS AND/OR SERVICES

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following expressions shall have the following meanings:

- Beneficiary:** means any Funder, any Purchaser, any Tenant and/or any other third party who may have an interest in the Property, Goods or Services;
- BSA:** means the Building Safety Act 2022;
- Building Regulations:** means the Building Regulations 2010 (SI 2010/2214);
- Building Safety Laws:** means:
- (a) the BSA
 - (b) the Defective Premises Act 1972;
 - (c) the Building Act 1984;
 - (d) the Building Regulations;
 - (e) any statutory instrument, regulation, rule, order, code of practice or guideline made under the BSA, the Defective Premises Act 1972, the Building Act 1984 and the Building Regulations having the force of law which affects the development of the Property;
 - (f) any guidance issued by a government department, the Building Safety Regulator and/or the Health and Safety Executive in connection with the BSA, the Defective Premises Act 1972, the Building Act 1984, the Building Regulations and/or any statutory instrument, regulation, rule, order, code of practice or guideline relating to the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and/or the Building Regulations; and
 - (g) any building safety laws and regulations now or from time to time in force which affects the Property or performance of any obligations under the Contract.

Building Safety Regulator:	means the Building Safety Regulator as defined by the BSA;
Business Day:	means a day other than a Saturday, Sunday or public or bank holiday in England, when banks in London are open for business;
CDM Regulations:	the Construction (Design and Management) Regulations 2015 (SI 51) as may be amended, supplemented or replaced from time to time;
Collateral Warranty:	a collateral warranty from the Supplier for the benefit of any Beneficiary in the form contained at Appendix 1;
Conditions:	means the standard terms and conditions of purchase set out in this document, as may be amended from time to time in accordance with clause 24;
Construction Operation:	means those as defined as such in section 105 of the Housing Grants, Construction and Regeneration Act 1996;
Contract:	means the contract between PYE and the Supplier for the supply of Goods or Services or Goods and Services in accordance with these Conditions and which shall be formed pursuant to clause 2.2;
Deleterious:	means any materials, equipment, products or kits that are generally accepted in the construction industry at the relevant time as posing a threat to the health and safety of any person; or posing a threat to the structural stability, performance or physical integrity of the development to which the Goods are to be incorporated or any part or component of the same; or reducing, or possibly reducing, the normal life expectancy of the development to which the Goods are to be incorporated or any part or component of the same; or not being in accordance with any relevant British Standard, relevant code of practice, good building practice; or the guidance contained in the publication "Good Practice in the selection of Construction Materials" published in 2011 by the British Council of Offices, as may be amended or replaced from time to time; or having been supplied or placed on the market in breach of the UK Construction Products Regulation 2011 and the Construction Products Regulations 2013 (SI 2013/1387); or are combustible cladding or

insulation materials for the building envelope above the ground floor slab, including: (a) PIR or PUR in composite panels; (b) PIR or PUR insulation; and (c) aluminium, zinc or other metal composite materials (ACMs, ZCMs, etc.);

Delivery Date:	means such date and time as is stipulated in the Order, or, if none is so stipulated, within five (5) Business Days of the date of submission of the Order by PYE;
Delivery Location:	means such part of the relevant Development Site or such other location as is stipulated in the Order, or, if none is so stipulated, the location notified by PYE to the Supplier;
Development Site:	means any site owned, controlled and/or operated by PYE on its own behalf or for others, at which residential and/or other development work is taking place;
Funder:	means any person, firm, company or bank (acting for itself and, where it leads for a syndicate of persons, as agent and trustee for them) who agrees to provide finance in connection with the Property or any part of it;
Goods:	means the goods, materials and products (or any part of them) to be supplied, delivered and installed (if applicable), which are the subject of the Order;
Intellectual Property Rights:	means patents, copyright, designs, utility models, trademarks, database rights, know-how and trade secrets and any similar or equivalent rights, whether registered or unregistered, anywhere in the world;
Order:	means a purchase order placed by PYE for the purchase and supply of Goods or Services or Goods and Services made in writing, by an authorised representative of PYE;
Purchaser:	means any person purchasing the Property or any part of it;
Property:	means any residential or commercial property constructed at any Development Site;
PYE:	means J. A. Pye (Oxford) Limited (company number: 00591940) whose registered office is at The Estate Office, Blenheim Palace, Woodstock, Oxon, United Kingdom, OX20 1PP (including for the avoidance of doubt, any trading names or styles under which J. A.

Pye (Oxford) Limited trades from time to time), or such other legal entity within the group of companies known as 'The Blenheim Estates' which shall have sought the goods or services or goods and services in question as named in the relevant Order, which entity shall be considered to have acted on its own behalf and, for the purpose only of conferring on them the benefit of PYE's rights under the relevant contract, on behalf of all other members of The Blenheim Estates group of companies;

PYE Materials:	shall have the meaning set out in clause 3.6(j);
PYE Policies:	means those policies, codes, rules and/or regulations of PYE as notified by PYE to the Supplier (including any applicable Supplier Code of Conduct, PYE's procurement and local purchasing policy, health and safety and site regulations which apply at the Development Site and other security requirements of PYE) in each case as may be updated by PYE from time to time with or without notice to the Supplier but as are otherwise available on request from time to time;
Services:	means the work, installation or services (or any of them) to be provided and where necessary delivered by the Supplier to PYE pursuant to the Order and any applicable specification and/or project brief, which may be updated by PYE from time to time;
Supplier:	means the person or firm who receives an Order and from whom PYE purchases the Goods or Services or Goods and Services subject to these Conditions;
Supplier Code of Conduct:	means any PYE supplier code of conduct in force from time to time;
Tenant:	means any tenants who agree to take a lease of all or any part of any Property; and
Variation:	means a variation, modification, omission, addition or other alteration (including but not limited to the nature, scope, quantity, delivery arrangements, installation requirements or Delivery Dates) in respect of the Goods or the Services.

- 1.2 In the event of any conflict between the terms (including any special conditions) set out in any Order and these Conditions, the Order shall take priority.

- 1.3 Words importing the singular shall include the plural and vice versa, and words importing persons shall include bodies corporate, unincorporated associations and partnerships.
- 1.4 Only persons expressly authorised in writing by PYE to negotiate and/or enter into contracts on behalf of PYE shall be deemed to have authority from PYE for their instructions and/or acts.
- 1.5 Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- 1.6 Any obligation on a party not to do something includes an obligation to not allow that thing to be done.
- 1.7 A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- 1.8 A reference to "**writing**" or "**written**" includes email, but not fax.

2. OFFER, ACCEPTANCE AND BASIS OF CONTRACT

- 2.1 The Supplier's quotation (or similar) or other correspondence or documents issued by the Supplier to PYE shall constitute an offer on the part of the Supplier to supply Goods or Services or Goods and Services to PYE, in accordance with and subject to these Conditions.
- 2.2 The Supplier's offer pursuant to clause 2.1 shall be deemed to be accepted by PYE only at such time as PYE submits to the Supplier an Order (which shall be deemed to incorporate these Conditions and any other document(s) attached or referred to in the Order), at which point and on which date the Contract shall come into existence.
- 2.3 Each Order submitted by PYE pursuant to clause 2.2 shall form a separate Contract as between the Supplier and PYE.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 The Supplier hereby waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
- 2.6 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is so specified.

- 2.7 Notwithstanding the date that PYE and the Supplier enter into a Contract, any goods supplied or services performed by or on behalf of the Supplier prior to the date of the Contract in anticipation of PYE entering into a Contract with the Supplier (including but not limited to any goods supplied or work carried out pursuant to any letters of intent) shall be subject to the terms of the relevant Contract. Any monies already paid as at the date of the relevant Contract by PYE to the Supplier in connection with any Goods and/or Services shall be treated as payments on account of the price determined pursuant to clause 9.1.

3. SUPPLY OF GOODS AND/OR SERVICES

- 3.1 The Supplier will at all times ensure that all Goods supplied shall:

- (a) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);
- (b) correspond with the Order and any relevant description, specification, drawing or sample;
- (c) be fit for all purposes for which they may reasonably be used and, in addition, for any purpose expressly specified by PYE;
- (d) comply with all and not contravene any applicable statutory and regulatory requirements and standards relating to product safety, the manufacture, labelling, packaging, storage, handling, sale and delivery of the Goods and shall not be Deleterious;
- (e) where incorporating any wood or timber products, be from sustainable sources as certified by either the Programme for the Endorsement of Forest Certification or the Forest Stewardship Council and further, the Supplier shall provide accreditation and evidence satisfactory to PYE to prove the origin of such wood or timber products;
- (f) be compatible with any equipment, goods or materials and existing buildings and structures, as more particularly described in the Order;
- (g) comply with such additional quality and safety standards as PYE may from time to time notify to the Supplier in writing (and, in this respect, PYE will use its reasonable endeavours to provide reasonable notice of any material additional quality and safety standards); and
- (h) be free from defects in design, materials and workmanship (including, but not limited to colour matching, where applicable) and remain so until two (2) years from legal completion of the sale of the relevant Property or, if not incorporated into any Property, twelve (12) months after the date of delivery of the Goods.

- 3.2 So far as it is able, the Supplier shall pass on to PYE the benefits of any warranties or guarantees given by any third party supplier in relation to the Goods.

- 3.3 Insofar as the Supplier is responsible for the design of the Goods or any part thereof it warrants and undertakes to PYE that it shall produce such design exercising the level of skill and care to be expected of a properly qualified and competent designer experienced in producing goods of a similar size, scope and complexity as the Goods.

- 3.4 The Supplier warrants that it shall not specify, approve or authorise for use or use or permit to be used in the Goods any materials, goods, equipment, products or kits which at the time of use:
- (a) by their nature or application contravene or are not in accordance with any relevant statutory requirement, British Standard or code of practice or good building practice; or
 - (b) are generally accepted, or generally known or suspected, in the construction industry to be deleterious or pose a threat to health and safety or to the structural stability, performance, physical integrity or durability of buildings and/or structures and/or finishes and/or plant and machinery in the particular circumstances in which they are specified, approved or authorised for use or used; or
 - (c) reduce, or possibly reduce, the normal life expectancy of the Goods or any part or component of the Goods.
- 3.5 The Supplier shall ensure that copies of any test certificates or product guarantees or warranties referred to in the Order or the Contract (or otherwise required under any statutory requirements or by a regulatory body or as part of any requisite consents) are provided to PYE upon delivery of the Goods.
- 3.6 In providing the Services, the Supplier shall:
- (a) meet any performance dates for the Services specified in the Order or that PYE notifies to the Supplier in writing and time is of the essence in relation to any of those performance dates;
 - (b) co-operate with PYE in all matters relating to the Services, and comply with all instructions of PYE;
 - (c) perform the Services with all reasonable care, skill and diligence expected of an expert in the Supplier's industry, profession or trade;
 - (d) use personnel who are suitably skilled, experienced and qualified to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
 - (e) ensure that the Services will conform with all descriptions, standards and specifications set out in any relevant service specification and/or project brief (as the same may be updated by PYE from time to time), and that any deliverables produced and delivered as part of the Services shall be fit for any purpose that PYE expressly or impliedly makes known to the Supplier;
 - (f) ensure that at all times it has and maintains all the licences, permissions, authorisations, consents, approvals and permits necessary to carry out its obligations under the Contract in respect of the supply of Goods and/or provision of the Services.

- (g) provide, at no cost to PYE, all equipment, tools, appliances, vehicles and facilities and such other items as are required to provide the Services (save as may otherwise be agreed in writing by PYE);
- (h) in so far as the Services relate, ensure that no Deleterious materials are used in any Property in which the Services are being performed;
- (i) use the best quality goods, materials, standards and techniques, and ensure that any and all goods and materials supplied and used in the Services or transferred to PYE, will be free from defects in workmanship, installation and design and that no damage is caused to any fixture, fitting or other item in any Property in which Services are being performed;
- (j) hold all materials, equipment and tools, drawings, specifications and data supplied by (or on behalf of) PYE to the Supplier (**PYE Materials**) in safe custody at its own risk; maintain the PYE Materials in good condition until returned to PYE, and not dispose of or use the PYE Materials other than in accordance with PYE's written instructions or authorisation;
- (k) not do or omit to do anything which may cause PYE to lose or breach any licence, authority, consent, approval, permission (including without limitation any applicable planning consent or permission), warranty or guarantee upon which it relies for the purposes of conducting its business, and the Supplier acknowledges and accepts that PYE may rely or act on the Services;
- (l) comply with and adhere to all applicable health and safety rules, regulations and security requirements in relation to each Development Site;
- (m) co-operate with any other contractors and personnel authorised by PYE who are working at a Development Site or within a Property and otherwise in accordance with reasonable instructions given by PYE in relation to the scheduling and timetable of performance of the Services;
- (n) have regard to the comfort and convenience of any residents and occupiers and causing the minimum disruption possible to any third parties carrying out works for PYE on the Development Site;
- (o) make good any damaged caused by it or its personnel in carrying out the Services to PYE's reasonable satisfaction;
- (p) remove all rubbish, surplus materials and temporary equipment and ensure that access routes and surrounding areas remain accessible at all times; and
- (q) comply with any additional obligations as set out in the Order or any agreed service specification.

3.7 PYE only accepts responsibility for such quantities of Goods and/or level of Services as are specifically set out in the Order.

3.8 PYE may inspect and test the Goods at any time on or before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such

inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

- 3.9 If, following such inspection or testing, PYE considers that the Goods do not comply or are unlikely to comply with the Supplier's obligations at clause 3.1 and/or clause 3.4, PYE shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary and appropriate to ensure compliance.
- 3.10 PYE may conduct further inspections and tests as it deems necessary after the Supplier has carried out its remedial actions. The Supplier's obligations shall not in any way be reduced as a result of any such inspection or tests carried out by or on behalf of PYE.
- 3.11 PYE shall not be deemed to have accepted any Goods and/or Services until PYE has had a reasonable time to inspect them following delivery or completion of performance (as the case may be) or, if later, within a reasonable time after any latent defect in the Goods and/or Services has become apparent.
- 3.12 PYE gives no warranty and makes no representation as to the accuracy or sufficiency of any information, reports, plans or surveys relating to a Development Site and/or any Property, which shall have been provided or are provided to the Supplier (whether before or after the date of an Order) by PYE or on PYE's behalf.
- 3.13 Within ten (10) Business Days of a request from PYE to do so (in light of the nature of the Goods and/or Services in question), the Supplier shall provide a fully executed Collateral Warranty for the benefit of any Beneficiary in the same form as at Appendix 1 with any changes approved by PYE (acting reasonably).

4. DELIVERY OF GOODS

- 4.1 The Supplier will ensure that:
 - (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - (b) delivery of the Goods will adhere to any specific delivery requirements stipulated in the Order or otherwise notified in writing by PYE to the Supplier (to include any specific vehicular size restrictions or access requirements);
 - (c) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods (including the code number or reference number of the Goods (where applicable)), special storage instructions (if any) and subject to clause 4.5, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (d) each delivery note is duly signed by the Supplier (or its nominated carrier) and a member of PYE's staff.
- 4.2 The Supplier shall deliver the Goods:

- (a) on the Delivery Date;
 - (b) at the Delivery Location; and
 - (c) during PYE's normal operating hours (as notified to the Supplier) or as otherwise instructed by PYE.
- 4.3 Unless otherwise agreed in writing by PYE, delivery of the Goods shall be completed on the completion of unloading of the Goods by (or on behalf of) the Supplier at the Delivery Location.
- 4.4 PYE shall not be bound to carry out any work to enable delivery to take place but, if PYE elects to carry out any such work, the Supplier shall pay on an indemnity basis to PYE forthwith on receipt of a demand in writing from PYE any and all costs incurred or paid by PYE in enabling delivery to take place.
- 4.5 The Supplier shall not deliver the Goods in instalments without PYE's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, any failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle PYE to the remedies set out in clause 8.

5. RISK AND TITLE

- 5.1 Risk of damage to or loss of the Goods shall pass to PYE upon completion of delivery in accordance with clause 4.3 provided that the Goods delivered are strictly in accordance with the Order and these Conditions. For the avoidance of doubt, any loss of or damage to the Goods prior to the passing of the title in accordance with clause 5.2 is at the sole risk of the Supplier.
- 5.2 The title to and property in the Goods shall pass to PYE upon delivery, unless payment for the Goods is made prior to delivery in which case title to said Goods shall pass to PYE once payment has been made and the Goods shall be appropriated by the Supplier to the Order forthwith upon such payment being made.
- 5.3 Notwithstanding the provisions of clause 5.2, PYE is entitled to resell the Goods before ownership of the Goods has passed to PYE (for which purpose the Supplier hereby authorises PYE to do so as its agent and to retain and apply any proceeds of sale in accordance with these Conditions).
- 5.4 If payment for the Goods is made prior to delivery the Supplier undertakes that:
 - (a) it is in possession of the Goods as bailee for PYE until such time as they are delivered to PYE pursuant to these Conditions;
 - (b) it will, at its own cost, store the Goods separately from its own goods and/or all other goods of any third party and in such a manner which makes them readily identifiable as Goods belonging to PYE;

- (c) it will, at its own cost, maintain the Goods in satisfactory condition insured on PYE's behalf for their full price against all risks to the reasonable satisfaction of PYE. The policy or policies of insurance referred to in this clause 5.4(c) shall be shown to PYE on request together with satisfactory evidence of payment of the premium or premiums;
- (d) it grants to PYE and its representatives (or shall procure the grant to PYE and its representatives, as the case may be) an irrevocable licence at any time to enter any premises where the Goods are or may be (or may have been) designed, manufactured or stored in order to inspect them or to recover them; and
- (e) the entire proceeds of such Goods or the insurance policy referred to in clause 5.4(c) shall be held on trust for PYE and shall not be mingled with any other money nor paid into any overdrawn bank account and shall at all times be identifiable as PYE's money.

5.5 Where it has been agreed by the parties in writing that Goods are to be supplied on a “sale or return” basis, PYE shall be entitled in its absolute discretion to return any unopened Goods to the Supplier at the Supplier’s risk and expense on a date agreed between the parties in writing or, in the absence of agreement, 31 December in any year, provided that if the Goods in question are perishable goods, they are within the ‘use by’ or ‘best before’ date as indicated on the original packaging.

5.6 If payment for the Goods has already been made, the Supplier shall refund the total amount paid in respect of the returned Goods within fourteen (14) days of PYE returning the Goods to the Supplier.

5.7 In no circumstances may the Supplier supply or convey title to any Goods returned or rejected by PYE to any third party without having previously removed all marks associated with PYE including, without limitation, references or imagery relating to the Palace.

6. CHANGES/VARIATIONS

6.1 The Supplier shall carry out any Variations required by PYE and no change shall vitiate the relevant Contract. No Variations shall be complied with or paid for unless the subject of an instruction in writing by PYE. Variations shall be valued by agreement between PYE and the Supplier or, if they fail to agree, in accordance with the rates and prices in the Order or (if no applicable rates and prices exist) such prices as shall be fair and reasonable in the circumstances.

6.2 PYE reserves the right to take any action in the event of an emergency or unforeseen situation arising in connection with a Contract and in particular may require the Supplier to deliver the Goods in advance of the time specified. The Supplier shall use all reasonable endeavours to comply with PYE’s instructions in such an event.

6.3 In the event a Variation results in any works, services, goods, materials, plant or equipment being omitted from the relevant Contract, PYE shall deduct an appropriate sum from the

price in accordance with clause 6.1 and it shall be entitled to engage another supplier to carry out and complete the order for such omitted works, services, goods, materials, plant or equipment without terminating the Supplier's engagement under the relevant Contract. PYE shall not be liable to the Supplier for any costs, losses, damages or expenses accrued, suffered or incurred by the Supplier arising from such omission. The act of giving work to or placing an order with a third party or instructing a third party to supply such omitted works, services, goods, materials, plant or equipment shall not be treated or construed as a breach of contract by PYE.

7. AUDIT AND RECORDS

- 7.1 The Supplier shall during the term of the Contract and for a period of six (6) years following expiry or termination of the Contract maintain such information, data and records relating to: (i) the supply of Goods and provision of the Services; (ii) the calculation of the charges; and (iii) the performance by the Supplier of its obligations under the Contract as PYE may reasonably require, and shall on request produce them for inspection by PYE or its representatives or, on receipt of reasonable notice, allow or procure for PYE and/or its representatives access to any premises where any such information, data and records are stored for the purposes of inspecting and/or taking copies of and extracts from such records.
- 7.2 Notwithstanding clause 7.1, the Supplier shall, upon reasonable notice provided by PYE, allow PYE (or its representatives) to access and audit the Supplier's premises, personnel, systems, records and any other information or documentation related to the Contract and the supply of Goods and/or provision of the Services. The Supplier shall provide PYE (and its representatives) with all reasonable co-operation, access and assistance in relation to each such access and audit.
- 7.3 PYE and its representatives shall have the right to take copies of any records, information or documentation which it reasonably requires and remove such copies and the Supplier shall provide the necessary facilities to assist in copying free of charge.

8. PYE REMEDIES

- 8.1 If the Supplier fails to deliver the Goods by the Delivery Date or to perform the Services by the applicable date, PYE shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
- (a) PYE may proceed with the Contract but deduct from the price payable for the Goods and/or Services (as applicable) by way of partial compensation such amount as PYE shall reasonably assess represents the loss to PYE resulting from such delay (or, where PYE has paid in advance, the Supplier shall refund to PYE such amount);
 - (b) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (c) to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make;

- (d) to recover from the Supplier any costs incurred or paid by PYE in obtaining substitute goods or services from a third party;
- (e) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered;
- (f) to claim damages for any additional costs, losses or expenses incurred or paid by PYE which are in any way attributable to the Supplier's failure to meet such dates; and
- (g) to charge the Supplier as liquidated damages, five percent (5%) of the value of the relevant Goods and/or Services for each day's delay or default.

8.2 If the Supplier has delivered Goods that do not comply with the requirements set out in clause 3.1 and/or clause 3.4, then, without limiting or affecting other rights or remedies available to it, PYE shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred or paid by PYE in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, losses or expenses incurred or paid by PYE arising from the Supplier's failure to supply Goods in accordance with clause 3.1 and/or clause 3.4.

8.3 If the Supplier has supplied Services that do not comply with the requirements of clause 3.6 then, without limiting or affecting other rights or remedies available to it, PYE shall have one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
- (c) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- (d) to recover from the Supplier any expenditure incurred or paid by PYE in obtaining substitute services or deliverables from a third party; and

- (e) to claim damages for any additional costs, loss or expenses incurred or paid by PYE arising from the Supplier's failure to comply with clause 3.6.

- 8.4 In circumstances where PYE terminates the Contract in accordance with sub-clauses 8.1(b), 8.2(a) or 8.3(a), PYE shall have no liability for any work in progress at the time of the termination or for any other loss suffered or incurred by the Supplier and the Supplier shall promptly refund to PYE any sums paid in advance.
- 8.5 These Conditions shall extend to any substituted or remedial services or repaired or replacement goods supplied by the Supplier.
- 8.6 PYE's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

9. PRICES

- 9.1 The price payable by PYE for the Goods and/or Services shall be the price stipulated in the Order, or if no price is so stipulated, the price agreed in writing between the Supplier and PYE.
- 9.2 No variation of the price stipulated in the Order will be accepted and payable by PYE under any circumstances unless agreed in writing in advance by PYE.
- 9.3 Unless otherwise expressly stipulated in the Order, the price of the Goods and/or Services shall be inclusive of (as applicable) all charges for packaging, packing, shipping, carriage, insurance and delivery and any duties, imposts, excises or levies (other than value added tax which is payable in addition at the then prevailing rate, subject to receipt of a valid value added tax invoice). No extra charges shall be payable by PYE unless agreed in writing and signed by PYE.
- 9.4 Where Goods and/or Services are subject to value added tax, the amount legally demandable is to be rendered as a separate item of account.
- 9.5 PYE shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown in any price lists or other similar materials of the Supplier.

10. INVOICING AND PAYMENT

- 10.1 Subject to Clause 10.6, in respect of the Goods, the Supplier shall invoice PYE on or at any time after completion of delivery (save where otherwise agreed in writing by PYE). Again, subject to Clause 10.6, in respect of Services, the Supplier shall invoice PYE on completion of the Services (save where otherwise agreed in writing by PYE). Each invoice shall include such supporting information required by PYE to verify the accuracy of the invoice to include as a minimum, the applicable purchase order number, the applicable PYE entity and where applicable, proof of delivery.

- 10.2 Invoices must be addressed to the person, entity and address stated in the Order or as otherwise notified from time to time by PYE and must quote such information as reasonably requested by PYE. Any failure by the Supplier to comply with this clause 10.2 may result in rejection by PYE of the Supplier's invoice.
- 10.3 In consideration of the supply of Goods and/or Services by the Supplier, unless otherwise agreed in writing by PYE, PYE shall pay undisputed invoiced amounts within thirty (30) days of the end of the month of receipt of a correctly rendered and valid invoice to a bank account nominated in writing by the Supplier.
- 10.4 PYE reserves the right at any time to withhold, deduct or set-off from any sums due or becoming due to the Supplier any sums due or claimed by PYE to be due from the Supplier to PYE whether in respect of the Goods and/or Services supplied pursuant to an Order or otherwise.
- 10.5 If PYE fails to make any undisputed payment properly due under the Contract on the due date for payment (or the Final Date for Payment if clause 10.6 applies) and the Supplier has provided PYE with not less than fourteen (14) days written notice of such overdue amount, then the Supplier may charge PYE, and PYE shall pay the Supplier (upon the Supplier's reasonable written demand), interest on the unpaid amount at the rate of two percent (2%) per annum above the Bank of England's base lending rate from time to time, from the due date for payment until payment is received in full by the Supplier.
- 10.6 PROVIDED ALWAYS THAT should the provision of the Goods or Services amount to a Construction Operation, the payment provisions in this clause 10.6 shall apply and take precedence over all other terms:
- (a) the Supplier may apply for payment of the Goods and/or Services by application (**Application**) made on the last working day of each calendar month;
 - (i) the Application shall specify:
 - (A) all of the Goods and the Services provided under the Contract/Order;
 - (B) details of each of the same applied for since the date of the previous application;
 - (C) the unit price and/or rate for the provision of each of the same in accordance with the Order;
 - (ii) the Application shall not include any Goods which have not been delivered in accordance with the Contract or where the Supplier is to provide Services to fit the same into any Property or at any of the Development Sites owned or operated by PYE, which have not been so fitted or installed in accordance with the Contract.
 - (b) PYE may in respect of each Application serve a payment notice (**Payment Notice**) incorporating the Application and specifying those Goods and those Services covered by such Application which it does not consider have been delivered or provided in accordance with the Contract and should not therefore have been

incorporated within the Application within fifteen (15) Business Days of the later of the date of the Application or the date of receipt of the Application;

- (c) On a date (**Final Date for Payment**) a further ten (10) Business Days after the later of the date of the Payment Notice or the last date upon which the Payment Notice could be served if no Payment Notice is given, the Supplier shall be due the sum set out in the Payment Notice or if no notice is given the sum set out in the Application (**Notified Sum**);
- (d) In the event that PYE considers that an amount less the Notified Sum is to be paid then not less than two (2) Business Days prior to the Final Date for Payment PYE may issue a pay less notice (**Pay Less Notice**) setting out what PYE intends to pay and the basis upon which such payment is to be made which Pay Less Notice may incorporate the Supplier's Application and state the deductions to be made from the same together with the reasons for such deductions.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 PYE and its respective licensors shall retain ownership of all of its Intellectual Property Rights, whether existing on, after or before the date of the Contract. Nothing in the Contract shall transfer, assign, rent or sub-lease the ownership of any such Intellectual Property Rights to the Supplier.
- 11.2 Where Goods are supplied by the Supplier under the Supplier's brand, the Supplier will retain ownership of all Intellectual Property Rights in those Goods. The Supplier grants to PYE a fully paid-up, worldwide, non-exclusive, royalty free, perpetual and irrevocable licence to advertise, market, promote and re-sell the Goods in the course of its business, subject to any brand guidelines agreed in writing in advance by PYE.
- 11.3 Except as expressly contemplated by clause 11.2, all inventions, designs, methods, processes, data discovered or generated as a result of or in the course of the Contract and all Intellectual Property Rights therein and in anything produced or delivered in the course of the performance of the Contract (including any designs, drawings, models, plans, specifications, design details, photographs, brochures and other documents, works or data) shall belong to PYE and the Supplier hereby assigns all such rights to PYE and shall execute any documents and do anything necessary to vest such rights in PYE or as it directs without making any charge.
- 11.4 The Supplier acknowledges that all rights (including Intellectual Property Rights) in the PYE Materials are and shall remain the exclusive property of PYE. PYE grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to use any such PYE Materials provided by PYE to the Supplier for the term of the Contract for the purpose of providing the Goods and/or Services to PYE but for no other purpose. The licence granted by this clause 11.4 shall automatically end on expiry or termination of the Contract.
- 11.5 The Supplier undertakes that it will not use any Intellectual Property Rights of PYE (or any group company of PYE) other than as expressly authorised in writing in advance by PYE. For

the avoidance of doubt, the Supplier will not use any name(s) or logo(s) of PYE and/or The PYE Estates group of companies in any customer listing, advertising or publicity without PYE's prior written consent.

12. INDEMNITY

- 12.1 The Supplier shall indemnify PYE and keep PYE indemnified against any and all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by PYE arising out of or in connection with:
- (a) any claim made against PYE for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the PYE Materials);
 - (b) any claim made against PYE by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or any other deliverables, to the extent that the defects are attributable to the acts or omissions of the Supplier, its directors, officers, employees, workers, representatives, consultants, contractors or agents;
 - (c) any claim made against PYE by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services, to the extent that such claim arises out of the breach, default, negligent or wrongful performance or failure or delay in performance of the Contract by the Supplier, its directors, officers, employees, workers, representatives, consultants, contractors or agents;
 - (d) any breach of the requirements set out in clause 14 and/or any PYE Policies; and
 - (e) any recall of any defective Goods, and if such circumstances arise, the parties shall in good faith agree whether or not and how the defective Goods in question should be recalled but in the absence of any agreement the final decision rests with PYE whose decision shall be final and binding on the Supplier.
- 12.2 This clause 12 shall survive termination of the Contract.

13. INSURANCE

- 13.1 The Supplier shall have in force with a reputable insurance company and shall require any sub-contractor to have in force for so long as the Supplier supplies Goods and/or Services to PYE and for a period of twelve (12) years thereafter (or such longer period as is relevant for claims in relation to Sections 1 or 2A of the Defective Premises Act 1972 or section 38 of the Building Act 1984):
- (a) employer's liability insurance for a minimum amount of £10,000,000 (ten million pounds) for a single event or series of related events in a single calendar year;

- (b) public liability insurance covering as a minimum all matters which are the subject of each Order and these Conditions in the sum of not less than £10,000,000 (ten million pounds) per incident (or series of related incidents) PROVIDED ALWAYS that such amount shall be increased to £20,000,000 (twenty million pounds) per incident (or series of related incidents) in respect of Services to be supplied in respect of Palace buildings or inside the Palace;
- (c) professional indemnity insurance and product liability insurance in each case covering as a minimum all matters which are the subject of an Order and these Conditions in the sum of not less than £10,000,000 (ten million pounds) per incident (or series of related incidents),

in each case, such insurance cover being available in respect of an Order as at the date the Order is accepted and throughout the period for which insurance is required to be held pursuant to this clause 13.

- 13.2 The Supplier shall produce to PYE on demand both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance policy referred to in clause 13.1.

14. COMPLIANCE WITH RELEVANT LAWS AND POLICIES AND RELIANCE

- 14.1 In performing its obligations under the Contract, the Supplier shall:

- (a) comply with all applicable laws, statutes, regulations and codes from time to time in force (including those relating to data protection, anti-bribery, anti-tax evasion, anti-slavery and/or human trafficking and anti-harassment);
- (b) comply with any relevant Building Safety Laws;
- (c) comply with any obligations imposed on them under the CDM Regulations;
- (d) comply with and abide by the PYE Policies; and
- (e) notwithstanding clause 14.1(d), comply with PYE's initiatives regarding diversity, inclusion and accessibility of its visitors, staff, personnel and communities, as made known to the Supplier by PYE from time to time.

- 14.2 The Supplier warrants and confirms to PYE that they have complied with all of their obligations under the Building Safety Laws and that none of their officers, employees, agents or sub-contractors have done, or permitted to be done, or will permit to be done, anything which is in breach or likely to be in breach (or will result in, or will be likely to result in PYE being in breach) of any Building Safety Laws. The Supplier further warrants and confirms that they are competent to carry out their required roles under the relevant Building Safety Laws.

- 14.3 The Supplier acknowledges and accepts that, in entering into the Contract, PYE has relied on information and representations made by the Supplier including (where applicable):

- (a) details and information provided in response to any invitation to tender process or otherwise;

- (b) details disclosed or made available to PYE (including in any contractor selection and approval document) or otherwise; or
- (c) information, specifications or descriptions provided by or on behalf of the Supplier in connection with the provision of the Goods and/or Services prior to the date of the Order,

and the Supplier hereby warrants and represents that all such information and data is true, accurate and complete in all respects and not misleading.

15. LIMITATION OF LIABILITY

15.1 Nothing in the Contract shall limit or exclude either party's liability for:

- (a) death or personal injury caused by that party's negligence, or the negligence of its employees, agents, consultants or sub-contractors (as applicable);
- (b) fraud or fraudulent misrepresentation; or
- (c) any matter in respect of which it would be unlawful for that party to exclude or restrict liability.

16. TERMINATION AND CONSEQUENCES OF TERMINATION

16.1 Without affecting any other right or remedy available to it, PYE may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of ten (10) days after being notified in writing to do so;
- (b) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- (d) the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy;
- (e) the Supplier undergoes a change of "Control" (such term shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression "change of Control" shall be construed accordingly); or
- (f) the Supplier and/or its directors, officers, employees, workers, representatives, consultants, contractors or agents do anything which, in the reasonable opinion

of PYE, exposes PYE or any of its group companies to disrepute, contempt, scandal or ridicule, or would tend to shock, insult or offend the public, or reflects unfavourably on PYE's or any of its group companies' reputation or services and/or brings any of PYE's brands into disrepute.

16.2 Notwithstanding clause 16.1, PYE may suspend the provision of the Services or terminate the Contract (in whole or in part) at any time for convenience upon giving the Supplier five (5) days' notice in writing.

16.3 On the expiry or termination of the Contract for whatever reason, the Supplier shall (without prejudice to clause 8):

- (a) promptly (at PYE's election) return to PYE or dispose of in accordance with PYE's written instructions all deliverables provided or delivered in connection with the Services (whether or not then complete); any other equipment, property or materials belonging to or under the control of PYE (including the PYE Materials and Goods which have been paid for but not received); confidential information and all other data and documents and copies thereof disclosed or supplied to the Supplier pursuant to or in relation to the Contract. If the Supplier fails to do so, then PYE may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and
- (b) within ten (10) days of the expiry or termination of the Contract, submit its final invoice to PYE (which, for the avoidance of doubt, must comply with the provisions of clause 10) and, subject to the terms of the Contract, PYE shall pay such valid, properly due and undisputed invoice in accordance with clause 10.3. Notwithstanding the foregoing, PYE shall pay to the Supplier only such sum as is actually and properly due in respect of the Goods and/or Services which have been supplied to and accepted by PYE and PYE shall not be liable for any work in progress at the time of the expiry or termination or for any loss to the Supplier including consequential loss.

16.4 Expiry or termination of the Contract shall not affect the parties' rights and remedies that have accrued as at expiry or termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of expiry or termination.

16.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after expiry or termination of the Contract shall remain in full force and effect.

17. CONFIDENTIALITY

17.1 Without prejudice to clause 17.2, the Supplier shall at all times keep secret and confidential any information (other than information which is in the public domain otherwise than as a result of a breach hereof) which it may acquire in relation to the business and affairs of PYE

(and/or any of its group companies) including, without limitation, information relating to the business, affairs, customers, clients, suppliers, plans, intentions and market opportunities of PYE and/or any of its group companies and their respective operations, processes, product information, know-how, designs, trade secrets and software) and save as contemplated by clause 17.2 shall not use or disclose such information except with the prior written consent of PYE or as may otherwise be required by applicable laws.

- 17.2 The Supplier may disclose PYE's confidential information to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the Supplier's rights or carrying out its obligations under the Contract. The Supplier shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 17.
- 17.3 The Supplier shall not make any announcement or otherwise publicise the existence of or disclose to any person the terms of the Contract, the wider transactions contemplated by it, or the relationship between the parties without the prior written consent of PYE.

18. ASSIGNMENT AND OTHER DEALINGS

- 18.1 PYE may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- 18.2 The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of PYE.
- 18.3 The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of PYE. If PYE consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

19. NOTICES

- 19.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case) or by email to an address notified in writing to the other party.
- 19.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand: at the time the notice is delivered to the proper address; or
 - (b) if sent by pre-paid first-class post or other next working day delivery service: at 9.00am on the second Business Day after posting; or
 - (c) if sent by email: at the time of transmission.

- 19.3 If deemed receipt under clause 19.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 19, 'business hours' means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 19.4 This clause 19 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.

20. SEVERABILITY

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 20, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. WAIVER

- 21.1 Except as set out in clause 2.5, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 21.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

22. NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

23. ENTIRE AGREEMENT

- 23.1 The Contract (which includes these Conditions and the documents referred to in them) constitutes the entire agreement between the parties and supersedes any previous agreement between the parties relating to the subject matter of the Contract.
- 23.2 The Supplier acknowledges that in entering into the Contract, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance, warranty or understanding (whether negligently or innocently made) of any PYE representative (whether party to the Contract or not) other than as expressly set out in these Conditions as a warranty given by PYE.

- 23.3 Nothing in this clause 23 shall, however, operate to limit or exclude any liability for fraud, fraudulent misrepresentation, death or personal injury to the extent that the same may not lawfully be excluded.

24. VARIATION

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless agreed in writing and signed by the parties or their authorised representatives.

25. THIRD PARTY RIGHTS

- 25.1 In addition to PYE, any entity within the group of companies known as 'The Blenheim Estates' may, with the written consent of PYE enforce the terms of the Contract in accordance with the Contracts (Rights of Third Parties) Act 1999. No other person or body who is not a party to the Contract shall have the right to enforce any of its terms by virtue of that Act.
- 25.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

26. LIMITATION PERIOD

- 26.1 Notwithstanding the manner in which a Contract has been entered into, the statutory contractual limitation period in respect of the Supplier's obligations and liabilities under the Contract shall extend to the expiration of twelve (12) years after the date of completion of the Services and delivery of all Goods to PYE under the Contract and any Order.
- 26.2 For the avoidance of doubt, the provisions of the Limitation Act 1980 (and any subsequent amendment, extension or re-enactment) relating to claims in contract are excluded and do not apply to claims, actions or proceedings by PYE against the Supplier under a Contract. The Supplier agrees that it will not rely upon a defence under the Limitation Act 1980 (and any subsequent amendment, extension or re-enactment) in any action or proceedings brought by PYE under the Contract.
- 26.3 Either party may commence an action or proceedings against the other:
- (a) in accordance with sections 1 or 2A of the Defective Premises Act 1972 or section 38 of the Building Act 1984 or to claim a contribution in relation to any liability under that legislation in accordance with the Civil Liability (Contribution) Act 1978; or
 - (b) for a breach of this appointment that arises from a failure to comply with sections 1 or 2A of the Defective Premises Act 1972 or section 38 of the Building Act 1984 or that gives rise to a failure to comply with that legislation in relation to the Contract or any part thereof, provided that any such action or proceedings is subject to the limitation periods that would apply if they were commenced under

that legislation or the Civil Liability (Contribution) Act 1978 and is not subject to any shorter limitation period applicable to a claim for breach of contract under the Limitation Act 1980.

- 26.4 Nothing in this clause 26 limits either party's obligation to maintain insurance for the periods specified in this appointment or rights in relation to any failure to maintain insurance for such periods.

27. DISPUTE RESOLUTION

- 27.1 The Supplier will co-operate and assist PYE in dealing with any dispute that PYE may have with any third party in relation to a Contract in so far as it relates to the Goods and/or Services.
- 27.2 Should this Contract or any Order be deemed to be for the provision of Construction Operations, then this clause 27.2 shall apply and any dispute relating to such may be referred to adjudication in accordance with the Scheme for Construction Contracts SI1998 No 649 at any time, as amended, (the **Scheme**) except that:
- (a) the “**Adjudicator**” means such person as PYE and the Supplier choose by mutual agreement or such other person as may be appointed from time to time by the President or the Vice President of the Royal Institution of Chartered Surveyors;
 - (b) the responding party to any adjudication shall have a minimum of fourteen (14) days from receipt of the relevant referral notice (**Referral Notice**) to respond to the Referral Notice;
 - (c) the parties agree that the Adjudicator shall have jurisdiction to consider and determine any matter raised by PYE in its response to a Referral Notice served by the Supplier, including but not limited to, any counterclaims, set offs or abatements which PYE might raise in its response, notwithstanding the fact that PYE may have failed to serve a notice of intention to pay less pursuant to section 111 of the Housing Grants, Construction and Regeneration Act 1996 as amended (**Act**) and/or a Pay Less Notice pursuant to clause 10.6(d);
 - (d) the Adjudicator shall also have jurisdiction, and shall be deemed required to or by any Referral Notice issued by the Supplier, to make an award in relation to matters raised by PYE in its response to such Referral Notice and that any such award shall be set off against any award made in favour of the Supplier pursuant to its Referral Notice;
 - (e) the referring party in any adjudication proceedings may not rely upon any report or statement or opinion which has not been previously seen by the other party and which the other party has not had a reasonable opportunity to consider, prior to the adjudication. If, notwithstanding this, the referring party submits to the Adjudicator such a document the Adjudicator shall have no jurisdiction to take its contents into account on reaching its decision. This clause shall take preference over clause 17 of the Scheme;

- (f) the Adjudicator shall be required to give detailed reasons in support of his decision, including stating expressly what evidence he has relied upon and what evidence he has discounted and why, in making his decision. The Adjudicator shall apply the usual rules of evidence for civil proceedings;
- (g) the Adjudicator may correct any clerical or typographical errors in their decision within five (5) days of it being made;
- (h) the time for the Adjudicator's decision shall be forty-two (42) days not twenty-eight (28) days from referral;
- (i) provided always that if any provision of this clause 27 is or becomes to any extent invalid or unenforceable under any applicable law (including a failure to comply with the requirements of the Act), then such provision shall be severed and the remainder of the provisions of clause 27 shall continue in full force and effect;
- (j) the Adjudicator's decision is binding until the dispute or difference is finally determined by legal proceedings as provided in clause 28.

28. GOVERNING LAW AND JURISDICTION

- 28.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law.
- 28.2 Each party irrevocably agrees that the English courts shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Last updated: March 2025

APPENDIX 1 – FORM OF COLLATERAL WARRANTY

DATED

202[]

(1) [CONSULTANT]

(2) [BENEFICIARY]

[(3) J.A. PYE (OXFORD) LIMITED

DEED OF CONSULTANT COLLATERAL WARRANTY

([insert consultant's discipline])

relating to a project at

[insert]

DATED

PARTIES

- (1) [] (company number: []) whose registered office is at [] (**Consultant**).
- (2) [] (company number: []) whose registered office is at [] (**Beneficiary**).
- (3) J.A. Pye (Oxford) Limited (company number: 00591940) whose registered office is at The Estate Office, Blenheim Palace, Woodstock, Oxon, United Kingdom, OX20 1PP (including for the avoidance of doubt, any trading names or styles under which J. A. Pye (Oxford) Limited trades from time to time), or such other legal entity within the group of companies known as 'The Blenheim Estates' which shall have sought the goods or services or goods and services in question as named in the relevant Order, which entity shall be considered to have acted on its own behalf and, for the purpose only of conferring on them the benefit of PYE's rights under the relevant contract, on behalf of all other members of The Blenheim Estates group of companies (**Employer**).]¹

RECITALS

- (A) By the Appointment, the Employer has employed the Consultant to perform the Services.
- (B) [Describe Beneficiary's interest.]²
- (C) As a condition of and in consideration of the Beneficiary's agreement the Consultant has agreed to enter into this deed for the benefit of the Beneficiary. [The Beneficiary has also paid £1 to the Employer as consideration under this deed.]

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

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

Appointment:	the contract dated [] between the Employer (1) and the Consultant (2) (and any further agreement varying or supplementing it) under which the Consultant has agreed to perform the Services.
Beneficiary:	includes any person to whom the benefit of this deed and/or any rights under it have been validly assigned in accordance with clause [7].
Building Regulations:	the Building Regulations 2010 (SI 2010/2214);
Building Safety Laws:	.1 the Building Safety Act 2022;

¹ Delete if Beneficiary does not have step-in rights.

² Delete and/or amend as appropriate.

.2 the Defective Premises Act 1972;

.3 the Building Act 1984;

.4 the Building Regulations;

.5 any statutory instrument, regulation, rule, order, code of practice or guideline made under the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and the Building Regulations having the force of law which affects the Property;

.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, the Building Regulations and/or any statutory instrument, regulation, rule, order, code of practice or guideline relating to the Building Safety Act 2022, the Defective Premises Act 1972, the Building Act 1984 and/or the Building Regulations; and

.7 any building safety laws and regulations now or from time to time in force which affects the development of the Property or performance of any obligations under this deed.

Building Safety Regulator:

the Building Safety Regulator as defined by the Building Safety Act 2022;

[Consultant:

*includes any person who may become a partner of the Consultant after the date of this deed.]*³

Deleterious:

has the meaning given to it in the Appointment.

Development Site:

the site of the development of the Property as more particularly described in the Appointment.

Documents:

has the meaning given to it in the Appointment.

Employer:

*[[insert name of Employer] and]*⁴ includes any person to whom the benefit of the Appointment has been validly assigned.

³ Delete if Consultant is a limited company.

⁴ Insert if Employer is not a party to the warranty.

[Fund: *[insert name of Fund].]*⁵

Goods: the goods, materials and products (or any part of them) to be supplied, delivered and installed (if applicable), which are the subject of the Order

Order: an order placed by the Employer for the purchase and supply of Goods or Services or Goods and Services made in writing or by telephone (and confirmed in writing within two (2) Business Days), by an authorised representative of the Employer

Property: any relevant Property (“Property” is defined in the Appointment) on which the Consultant has been engaged to provide Services/[SPECIFIC PROPERTY].

Required Standard: has the meaning given to it in the Appointment.

Services: the services performed or to be performed by the Consultant as more particularly described in the Appointment and in any relevant Order.

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

⁵ Include only if Beneficiary has step-in rights which are sub-ordinated to the Fund.

- 1.10 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 1.11 If the Consultant is two or more persons, the expression “the Consultant” includes the plural number and obligations in this deed expressed or implied to be made with or by the Consultant are to be treated as made with or by such persons jointly and severally.

2. CONSULTANT’S WARRANTIES

- 2.1 The Consultant warrants to the Beneficiary that it has observed and performed and will continue to observe and perform all its obligations under or arising out of the Appointment in accordance with the terms of the Appointment, provided always that the Consultant shall owe no greater obligations to the Beneficiary under this deed than it owes to the Employer under the Appointment.
- 2.2 The Consultant warrants to the Beneficiary that, in the performance of the Services, it has exercised and will continue to exercise the Required Standard.
- 2.3 Without limiting clause 2.2, the Consultant warrants and undertakes to the Beneficiary that it has not specified and shall not specify or approve for use in the development of the Property anything which is Deleterious at the time of specification or use. The Consultant shall notify the Beneficiary promptly if the Consultant becomes aware of any proposed or actual use in the development of the Property of anything that is or may be Deleterious.
- 2.4 The Consultant extends to the Beneficiary the benefit of all warranties on the part of the Consultant contained in the Appointment.
- 2.5 The Consultant acknowledges that the Beneficiary shall be deemed to have relied and shall continue to rely upon the warranties given by the Consultant under this clause 2.
- 2.6 The Consultant acknowledges to the Beneficiary that, at the date of this deed, the Appointment remains in full force and effect and the Employer has paid all sums properly due to the Consultant under the Appointment.
- 2.7 The Consultant warrants that:
- (a) neither it nor any of its officers, employees, agents or sub-consultants has done, or permitted to be done, or will do or permit to be done, anything which:
 - (i) is in breach, or is likely to have been in breach of any Building Safety Laws; or
 - (ii) will result, or is likely to result, in the Contractor or the Employer being in breach of any Building Safety Laws; and
 - (b) it shall comply, and shall procure compliance by each of officers, employees, agents and sub-consultants with the Building Safety Laws.

3. **[OBLIGATIONS PRIOR TO DETERMINATION OF THE CONSULTANT'S ENGAGEMENT⁶**

- 3.1 The Consultant shall not exercise nor seek to exercise any right to determine its engagement under the Appointment for any reason, including any breach on the part of the Employer, without giving to the Beneficiary not less than [21] days' notice of its intention to do so and specifying the grounds for the proposed determination.
- 3.2 Any period stipulated in the Appointment for the exercise by the Consultant of a right of determination shall be extended, as necessary, to take account of the period of notice required under clause 3.1.
- 3.3 Compliance by the Consultant with clause 3.1 shall not be treated as a waiver of any breach on the part of the Employer giving rise to the right of determination, nor otherwise prevent the Consultant from exercising its rights after the expiration of the notice, unless the right of determination shall have ceased under the provisions of clause 4.

4. **[“STEP-IN” RIGHT**

- 4.1 The right of the Consultant to determine its engagement under the Appointment shall cease if, within the period of [21] days referred to in clause 3.1, the Beneficiary [(which expression shall for the purposes of this clause 4 include any receiver, administrative receiver or other appointee (in each case a “Nominee”) appointed by the Beneficiary)]⁷ shall give notice to the Consultant:
- (a) requiring it to continue its obligations under the Appointment;
 - (b) acknowledging that the Beneficiary is assuming all the obligations of the Employer under the Appointment; and
 - (c) undertaking to the Consultant to discharge all payments which may subsequently become due to the Consultant under the terms of the Appointment and to pay to the Consultant within 7 days any sums which have become due and payable to it under the Appointment but which remain unpaid[.][;]

[provided that:

- (d) in this proviso and in clause [4.8] *Fund Warranty* means a deed made or to be made between the Consultant, the Fund and the Employer in respect of the Property under which the Fund has a right equivalent (with the appropriate changes) in all material respects to the right granted by clause 4.1 to the Beneficiary, save that the period for the exercise of that right by the Fund shall expire 14 days after service of the Consultant's simultaneous notices on the Beneficiary and the Fund of its intention to determine its engagement under the Appointment;

⁶ Clauses 3 and 4 are to be included only if Beneficiary has step-in rights.

⁷ Include only where Beneficiary is a bank providing finance.

- (e) any notice served by the Consultant on the Beneficiary pursuant to clause 3.1 shall be invalid unless a similar notice has been simultaneously served upon the Fund;
 - (f) the Beneficiary shall have no power to give notice to the Consultant under clause 4.1 within the period of 14 days referred to in clause 4.1(d) unless the Fund shall previously have notified the Beneficiary that it will not exercise its equivalent right under the Fund Warranty;
 - (g) the Beneficiary shall have no power to give notice to the Consultant under clause 4.1 in response to a notice under clause 3.1 if the Fund has already exercised its equivalent right under the Fund Warranty in response to the Consultant's simultaneous notice to the Fund; and
 - (h) any notice given by the Beneficiary which is in breach of clause 4.1(f) or clause 4.1(g) shall be invalid.]⁸
- 4.2 Upon compliance by the Beneficiary with the requirements of clause 4.1, the Appointment shall continue as if the right of determination on the part of the Consultant had not arisen and as if the Appointment had been entered into between the Consultant and the Beneficiary to the exclusion of the Employer.
- 4.3 Notwithstanding that as between the Employer and the Consultant the Consultant's right of determination of its engagement under the Appointment may not have arisen, the provisions of clause 4.2 shall apply if the Beneficiary gives notice to the Consultant and the Employer to that effect and the Beneficiary complies with the requirements on its part under clause 4.1[, provided that the Beneficiary may only give notice under this clause 4.3 if it shall first have given the Fund and the Consultant notice of its intention to do so and the Fund has consented expressly to the exercise of such right by the Beneficiary]⁹.
- 4.4 [Any notice given by the Beneficiary which is in breach of clause 4.3 shall be invalid.]¹⁰
- 4.5 The Consultant shall be bound to assume that, as between the Employer[, the Fund]¹¹ and the Beneficiary, circumstances have occurred which permit the Beneficiary to give notice under clause 4.3.
- 4.6 The Consultant, acting in accordance with the provisions of this clause 4, shall not incur any liability to the Employer.
- 4.7 [If the Beneficiary appoints a Nominee to exercise its rights under this clause 4, the Nominee shall act on behalf of the Employer and shall have no personal liability to the Consultant, but

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

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

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

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

the Beneficiary shall be liable to the Consultant as guarantor for the payment of all sums from time to time due to the Consultant from the Nominee.]]¹²

- 4.8 [If the Fund exercises its equivalent right under clause 4.1 or clause 4.3 of the Fund Warranty, the provisions of clauses 3 and 4 shall have effect as if all references to the Fund and the Fund Warranty had been deleted and as if all references to the Employer were references to the Fund.]]¹³

5. USE OF DOCUMENTS

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

6. INSURANCE

- 6.1 Without limiting its other obligations under this deed or otherwise at law, the Consultant shall maintain professional indemnity insurance with a limit of indemnity of not less than £10,000,000 in respect of any one claim for a period beginning on the date of this deed and ending 15 years after the date the certificate of making good of defects has been issued on the last Property that the Consultant provided Services in relation to, notwithstanding the termination (for any reason) of the Consultant's engagement under the Appointment provided that such insurance is available at commercially reasonable rates to consultants performing services substantially similar to the Services.

¹² Include only where Beneficiary is a bank providing finance.

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

- 6.2 The insurance referred to in clause 6.1 shall:
- (a) be maintained with reputable insurers lawfully carrying on insurance business in the United Kingdom; and
 - (b) be subject only to such conditions and excesses as may be usual in the United Kingdom market at the time.
- 6.3 Any increased or additional premium required by insurers because of the Consultant's claims record or other acts, omissions, matters or things particular to the Consultant shall be deemed to be within commercially reasonable rates.
- 6.4 As and when reasonably required to do so by the Beneficiary, the Consultant shall produce documentary evidence that the insurance required by this clause 6 is being properly maintained.
- 6.5 The Consultant shall promptly notify the Beneficiary if at any time it is unable to obtain insurance as required by this clause 6 at commercially reasonable rates or at all or if there is any material reduction in the scope or level of cover offered by such insurance. The Consultant shall fully co-operate with any measures reasonably required by the Beneficiary, including:
- (a) the Consultant obtaining in respect of that period such reduced insurance cover (if any) as is available; or
 - (b) maintaining insurance at rates above commercially reasonable rates, if the Beneficiary reimburses the Consultant the net cost of that insurance above commercially reasonable rates.

7. ASSIGNMENT

The Beneficiary may at any time assign the benefit of this deed and/or any rights arising under it on notice to the Consultant and without the consent of the Consultant being required:

- (a) [to any further person providing finance or re-finance in connection with the Property;
 - (b) by absolute legal assignment on two other occasions only.]¹⁴
- OR**
- (c) [by way of security to any person providing finance or re-finance in connection with the Property (including any reassignment on redemption of security);
 - (d) freely by absolute legal assignment between the Beneficiary and any holding or subsidiary company of the Beneficiary or any other subsidiary of the Beneficiary's holding company;

¹⁴ Use where Beneficiary is a Fund.

- (e) by absolute legal assignment on two other occasions only.]¹⁵

The Consultant shall not contend that any person to whom the benefit of this deed is assigned under this clause 7 may not recover any sum under this deed because that person is an assignee only or otherwise is not the original Beneficiary or because the loss or damage suffered has been suffered by such person only and not by the original Beneficiary, or because such loss is different from that which would have been suffered by the original Beneficiary.

8. THIRD PARTIES

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

9. [WARRANTIES IN FAVOUR OF OTHERS

The Consultant shall, within 14 days of being requested so to do by the Beneficiary, execute and deliver to the Beneficiary a deed of collateral warranty (in terms substantially similar to this deed but excluding clauses 3, 4 and 9) in favour of any person who acquires an interest in the Property from the Beneficiary and/or any first person who has entered into a lease or an agreement for lease for any part of the Property, provided that a collateral warranty in favour of such person has not already been requested by the Employer under the Appointment.]¹⁶

10. OTHER REMEDIES

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

¹⁵ Delete if Beneficiary is a Fund.

¹⁶ Consider for inclusion if Beneficiary is the Employer, a fund or purchaser.

- (b) any approval or consent given or withheld or purported to be given or withheld by or on behalf of the Beneficiary;
- (c) any testing of any work, goods, materials, plant or equipment; or
- (d) any other independent inquiry into any relevant matter which the Beneficiary may make or fail to make.

11. LIMITATION

- 11.1 Subject to clause 11.2, the Consultant shall have no liability under this deed in any action or proceedings for any breach of this deed which may be commenced against the Consultant after 12 years after completion of the Services (or, if earlier, 12 years after the termination of the Consultant's engagement under the Appointment).
- 11.2 Notwithstanding any other provision of this deed, any action under this deed relating to a breach or alleged breach of the Consultant's obligations to perform the Services in accordance with clause [2.7] may be brought at any time before the expiration of 15 years from the date the certificate of making good of defects has been issued on the last Property that the Consultant provided Services in relation to or from the date of termination of the Consultant's engagement under the Appointment (whether or not the validity of that termination is contested), whichever is the earlier.

12. NOTICES

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

13. GOVERNING LAW AND JURISDICTION

- 13.1 This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 13.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

14. COUNTERPARTS

This deed may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one original.

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

EXECUTED as a DEED by)
)

[CONSULTANT] acting by:

.....
Director

.....
Director/Secretary

EXECUTED as a **DEED** by

)

[BENEFICIARY] acting by:

)

.....
Director

.....
Director/Secretary