

Terms and Conditions of Quotation and Contract

The following conditions shall apply to all Contracts entered into by or on behalf of Omega Red Group Ltd (hereinafter called "the Company") for the Supply of Goods and/or Services.

In these conditions: -

"Acknowledgment of Order" means the Company's Acknowledgment of Order to which these Terms and conditions are annexed;

"CDM Regulations:

Means the Construction (Design and Management) Regulations 2015;

"Customer" means the company, firm or person whose request Goods are to be supplied by the Company of the Services are to be carried out and who is required to pay for the Goods and/or Services

"Company" means Omega Red Group Limited of 6 Dabell Avenue, Blenheim Ind. Estate, Bulwell, Nottingham NG6 8WA (Company No. 02197902).

"Completion" means completion of the Contract by the Company to the specifications set out in the Acknowledgment of Order; or such specification as may have been varied by the agreement of the Company and the Customer in writing;

"Contract" means the Contract between the Company and the Customer for the carry out of the supply of Goods and/or Services in accordance with these Conditions;

"Contract Premises" means the premises specified in the Contract to which the Goods and/or Services are supplied;

"Goods" means the Goods (or any of them) described in the Quotation and includes (without limitation) in the case of an order for services, the services to be supplied or work to be performed pursuant to the Contract;

"Insolvent" means insolvent, within the meaning of section 113 of the Housing Grants, Construction and Regeneration Act 1996 (as amended or re-enacted from time to time);

"Order" means any order issued by the Customer for the carrying out of the Works or Supply of Goods, and where appropriate shall also include any instruction varying or modifying the terms of any of the Contract or Works Information

"Price" means the total of all sums set out in the Quotation or the Order Acknowledgement or such other sum as shall become payable for the Goods and/or Services; in accordance with the Contract plus, if applicable, VAT;

"Quotation" means a Quotation submitted by the Company in writing for the supply of the Goods and/or Services of these works on these Terms and Conditions and includes all specifications issued pursuant thereto.

"Site" means the place where the Services are to be carried out;

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1. General Acceptance by the Company of the Customer's order is conditional upon acceptance by the Customer of these Terms and Conditions, which shall prevail over any inconsistent terms or conditions of the Customer expressed or implied (apart from alterations to or departures from these Conditions specifically agreed by an authorised person on behalf of the Company in writing). The headings are for convenience only and shall not affect construction of these Terms and Conditions.

2. Customer Obligations

1. The Customer shall pay the Price to the Company for the Goods, Services and Works provided in accordance with these Conditions.
2. The Customer shall comply with CDM Regulations, shall provide sufficient access to the Site for the Company to perform its obligations under the Contract and shall in no way hinder or prevent the Company, whether by act or omission, from performing such obligations.
3. Unless agreement to the contrary has been confirmed in writing by the Company prior to the commencement of the Works the Customer will be fully responsible for the following in relation to the Goods, Services and Works:
 - i. Assessing the suitability of the Services and Works in relation to the design requirements.
 - ii. The satisfaction of all local authority planning regulations and obtaining of any licences or permits required in relation to the Services/Works
4. The surveying of and location of all underground services and installations including obtaining relevant drawings from all utility operators present in the area, marking any services position approximate to the line of the Works and carrying out trial excavations in order to confirm the exact position of the services that are in any way sensitive to the proposed works;
5. Any and all claims arising out of damage to the services caused as a result of error or omission on the part of the Customer in relation to the performance of its duties and obligations under clause 4.3.2 above;
6. (where required by the nature and location of the Services/Works) all matters relating to the establishment and maintenance of an appropriate system of traffic management throughout the period of the Works.

3. Formation and Parties

1. All Quotations issued by the Company shall be valid until the Quotation Expiry Date set out in the Quotation. In the event that no Quotation Expiry Date is stipulated the Quotation shall be valid for a period of 30 days from the date thereof.
2. The Customer's order to the Company is an offer to enter into a Contract upon these Conditions. Acceptance occurs, and the Contract is formed only upon the Company dispatching to the Customers its Acknowledgment of Order. A Quotation by the Company does not constitute an offer.

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3. The Contract supersedes any arrangements, understandings, promises or agreements made or existing between the Company and the Customer prior to or simultaneously with the Contract and constitutes the entire understanding between the Company and the Customer in connection with the supply of Goods and/or Services under the Contract.
4. The Customer shall not assign the benefit of the Contract without the Company's prior written consent.
5. The Contract is not cancellable by the Customer without the express consent of an authorised person on behalf of the Company.
6. If the Company agrees cancellation by the Customer, the Customer shall indemnify the Company in full against all expenses incurred up to the time of cancellation, together with a reasonable amount by way of liquidated damages for breach of contract as specified by the Company, such sum being acknowledged by the Customer as representing a genuine pre-estimate of the Company's loss of profit and not in any event to exceed the Price.
7. Except as otherwise expressly provided nothing in the Contract shall confer or purport to confer on any third party any benefit or right to enforce any term of the Contract.
8. The Company has the express benefit or right to enforce any term of the Contract on any third party related in any way to the Contract.
9. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Company and the Customer.
10. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company. Except as otherwise expressly provided, nothing in this Contract shall confer or purport to confer on any third party any benefit or right to enforce any term of this Contract.

4. The Price

1. The Price shall be the Company's quoted price as stated in the Acknowledgment of Order. The Price is exclusive of VAT or any similar taxes, levies or duties which shall be due at the rate ruling on the date of invoice or, if different, the basic tax point (as defined in regulations governing VAT from time to time in force).

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2. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Company without giving notice to the Customer.
3. The Company reserves the right to vary the Price at any time without notice to take account of any variation in the cost of materials, labour, transport duties, taxes, exchange rates or any costs of whatsoever nature between the date of the Contract and the completion of payment.
4. Except as otherwise stated under the terms of any quotation or in any price list of the Company, and unless otherwise agreed in writing between the Customer and the Company, all prices are given by the Company on an ex works basis, and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Customer shall be liable to pay the Company's charges for transport packaging and insurance.

5. Time for the Supply of Goods

1. The Company will use its reasonable endeavours to supply the Goods and where the supply of Goods includes services to perform the services at the rates and within the time estimated in its Acknowledgment of Order (if so specified), but the Company shall not be liable for any loss or damage whatsoever suffered by the Customer as the result of any failure by the Company, for whatsoever reason, to effect delivery or to complete work at the rate or within the time so specified.
2. Unless specifically agreed in writing between the Company and the Customer the time of supply of Goods and performance of services shall not be of the essence of the Contract.
3. The Customer shall not be entitled to refuse late supply of Goods or to treat late supply of Goods as a breach of Contract.
4. The time estimated to effect supply of Goods and where the supply of Goods includes services to perform the services shall be subject to all necessary information being supplied to the Company and adequate facilities being provided to the Company to enable work to be started and continued in accordance with the Company's programme.
5. In the event that a date for Completion is specified in the Acknowledgment of Order and: -
 - (a) the amount or nature of extra or additional work or
 - (b) extremes of weather or

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(c) any delay, impediment or prevention by the Customer or

(d) other special circumstances which may occur, other than through a default or breach of Contract by the Company or for which it is responsible is such as fairly to entitle the Company to an extension of time for Completion, then provided that the Company shall as soon as reasonably practicable have given the Customer notice of claim for an extension of time with full supporting details, the Customer shall grant the Company either prospectively or retrospectively such extension of time for completion as may be reasonable.

6. Delivery

1. Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Company in Writing. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer.
2. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate Contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as whole repudiated.
3. If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable control or by reason for the Customer's fault, and the Company is accordingly liable to the Customer; the Company's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods.
4. When the Contract is one for supply of Goods only, then claims against the Company for short or incorrect delivery of Goods to the Contract Premises shall be notified to the Company within 3 days of receipt of the Goods, failure by the Customer to notify the Company of any such short or incorrect delivery within the allotted time period will be deemed by the Company as acceptance by the Customer of the Goods. The Company shall make good shortages or errors in delivery within a reasonable time thereafter and the Company shall not thereafter be liable for any loss whatsoever arising out of such shortages or errors in delivery.
5. For the provision of Services, the works are priced on the basis of the Company delivering the works from Monday to Friday between 9am and 5pm (excluding bank and public holidays). Please note any works required outside of these hours will constitute as a variation to the works which will increase the price and require the issue of a valid variation by the Customer in writing.

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7. Variations

No variation of the Services/Works will be valid unless first agreed in writing between the Customer and the Company setting out:

1. The details of the variation to the Services/Works; and
2. The value of the variation and any change to the Price.
3. Upon carrying out any agreed variation the Price will be changed as agreed between the Customer and the Company and the Company shall be paid any loss and/or expense incurred by the Company due to the regular progress of the Services/Works being affected by compliance with any agreed variation. The Company shall (acting reasonably) determine the fair and reasonable amount of that loss and/or expense.

8. Risk

1. Risk of damage to or loss of the Goods shall pass to the Customer: -
 - a. In the case of the Goods to be delivered at the Company's premises, at the time when the Company notifies the Customer that the Goods are available for collection; or
 - b. In the case of Goods to be delivered otherwise than at the Company's premises, at the time of the delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.
2. All Goods brought on to the Contract site whether fixed or unfixed and notwithstanding Condition 12.1 below shall be at the sole risk of the Customer and in the event of Goods or any part thereof being lost, damaged, destroyed or stolen, howsoever occurring before payment for them in full has been made to the Company, the Customer shall nonetheless pay to the Company the full value of any such Goods and the full value of any work damaged, destroyed or lost together with any additional costs incurred by the Company in replacing any such Goods and in reinstating or restoring any such work shall be paid by the Customer provided, however, that the Customer shall not be responsible for any damage or loss sustained arising solely from the negligence of the Company, its servants and/or agents.
3. Safe storage accommodation is to be provided by the Customer at the Contract Premises for all materials and equipment for use in connection with the Contract and the Customer shall also accept and hold safe all such materials and equipment delivered to the Contract site before the arrival of the Company, its servants and/or agents.
4. Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other Goods agreed to be sold by the Company to the Customer for which payment is then due.

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5. Until such time as the property in the Goods passes to the Customer (and provided that the Goods are still in existence and have not been re-sold) the Company shall be entitled at any time to require the Customer to deliver up the Goods to the Company and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Goods are stored and repossess the Goods.
6. The Customer shall not be entitled to pledge, or in any way charge by way of security for any indebtedness, any of the Goods which remain the property of the Company, but if the Customer does so, all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

9. Substitution

1. Should any materials or parts specified or required for completion of the Contract be unavailable for the timely satisfaction of the Contract, substitutes, deemed by the Company to be suitable for the intended purpose, as understood by the Company, will be supplied if available and shall be agreed with the Customer in full satisfaction and performance of the Contract.
2. If such substitutes are higher in cost than the additional amount of cost shall be added to the Price.
3. In the event that the Company is unable to obtain substitutes which the Company deems suitable for unavailable materials or parts, the Company's obligation to complete performance shall, upon notification to the Customer be suspended until such time as the unavailable materials or parts become available.

10. Compliance with Law and Regulations

It shall be the sole responsibility of the Customer to comply in every respect with all relevant Planning and Building Regulation requirements, statutes, orders in council, regulations, by-laws or other lawful requirements and to obtain all necessary consents, licences, permits or authorities which may be required in connection with the Goods.

11. Warranty

1. If within twelve months after Completion a material defect in the Goods supplied or services performed shall be discovered and: -
 - (a) the Customer notifies the Company within Seven days after discovery giving particulars and permits the Company to inspect the same; and
 - (b) such defect has arisen from faulty materials employed or workmanship carried out by the Company existing but not discoverable upon inspection at time of supply of Goods or (as the case may be) performance or services; then the Company shall at

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its sole discretion be entitled to supply replacements or (as the case may be) rectify defective work provided always that the Company is given full and unobstructed access to the Contract Premises.

2. The Company's liability under this Condition applies only to defects appearing before the Customer makes any modification or alteration to the Goods and whilst the Goods are being properly used or stored and in particular (but without limitation) the Company shall not be liable in the case of defects arising from: -
 - (a) normal deterioration;
 - (b) repair of or modification to the Goods by or on behalf of the Customer;
 - (c) defects in or subsidence to any structure or surface to which the Goods are affixed or attached;
 - (d) wilful damage, negligence, misuse or any other interference with the Goods by the Customer or any other person;
 - (e) extremes of weather.
3. The above warranty is given by the Company subject to the following conditions:
 - a. The Company shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Customer.
 - b. The Company shall be under no liability in respect of any defect arising from fair wear and tear, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Company's approval.
4. The Company shall be under no liability under the above warranty (or any other warranty, conditions or guarantee) if the total price for the Goods has not been paid by the due date for payment.
5. The above warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company.

12. Non-Interference

The Customer agrees that at all times during the supply of Goods and where included, the performance of services, neither it nor its agents, employees and invitees shall interfere in any way with any of the Goods without the consent of the Company.

13. Items supplied by the Customer

The customer shall be liable for all drawings, specifications and instructions (if any) issued to the Company with the Order or pursuant to the Contract and shall indemnify and keep indemnified the Company against all loss directly or indirectly arising out of any error in or omission from such drawings, specifications and instructions, and against all costs, claims, demands and expenses whatsoever including the infringement or

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potential infringement of any patent, copyright, registered design or other third party right arising out of the Company's use of such drawings, specifications or instructions.

14. Limits of Liability

1. The Customer acknowledges that: -
 - (a) all specifications and details in catalogues, quotations and acknowledgments of order or similar documents or by word of mouth and all forecasts of performances, howsoever given are approximate only;
 - (b) all specifications and details in catalogues, quotations or similar documents or by word of mouth and all forecasts, of performances, howsoever given are approximate only and do not form part of the Contract (unless otherwise agreed by the parties) and that in respect of such specifications, details and forecasts the Company shall be under no liability nor shall the Customer be entitled to any remedy under the provisions of the Misrepresentation Act 1967.
2. The Company's liability under Condition 9 shall be accepted by the Customer in lieu of any warranty or condition, whether express or implied by law, as to the quality or fitness for any particular purpose of the Goods and, save as provided in these Conditions, the Company shall not be under any liability to the Customer (whether in contract, tort or otherwise) for any defects in the Goods, materials supplied or workmanship performed by the Company or for any damage, loss, death or injury resulting from such defects and the Customer shall indemnify the Company against any claims in respect thereof. For the purposes of this paragraph the Company contracts on its own behalf and on behalf of and as trustee for its sub-contractors, servants and agents.
3. For the avoidance of doubt the Company's maximum liability to the Customer for the provision of Goods and/or services shall not exceed 10% of the value of the Contract or Order for all matters except those matters which cannot be capped at law.
4. The Company shall not be liable, whether by way of indemnity or by reason of breach of contract, tort or breach of statutory duty or in any other manner for consequential or indirect loss of whatever nature suffered by the Customer or for special damages, loss of use (whether complete or partial) of the Goods, or loss of profit or of any contract.
5. The Customer shall indemnify and keep indemnified the Company against all actions, claims, costs, damages, demands and expenses or other loss arising out of a defect in the Goods (including, without limitation, all liabilities incurred under the Consumer Protection Act 1987) to the extent occasioned or contributed to by an act or omission of the Customer its servants, agents or persons under its control.
6. Nothing in these conditions shall serve to exclude the liability of the Company or the Customer for:-
 - a) death or personal injury resulting from negligence or breach of contract or breach of statute; or
 - b) fraud or fraudulent misstatement; or
 - c) any other act or omission for which the governing law prohibits the exclusion or limitation of liability.

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7. The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Company's obligation in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as caused beyond the company's reasonable control: -
 - a. Act of God, explosion, flood, tempest, fire or accident;
 - b. War or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - c. Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority.
 - d. Import or export regulations or embargoes;
 - e. Strike, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);
 - f. Difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery;
 - g. Power failure or breakdown in machinery.

15. Material and Ownership

1. The title in the Goods, whether fixed or unfixed, shall not pass to the Customer until the full price and all sums from time to time owing by the Customer to the Company (whether under this or any other Contract) shall have been paid in full; such goods are referred to as "Retained Goods". Until payment of all such sums the Customer shall hold the Retained Goods in a fiduciary capacity for and on behalf of the Company.
2. No resale shall be made by the Customer of any Retained Goods (whether in their delivered state or mixed or incorporated into other Goods prior to re-sale) until property therein shall have passed in accordance with Condition 13.1 and in any case where any authorised re-sale shall be effected the re-sale shall be deemed to have been made by the Customer for the Company and the Customer shall hold the proceeds from the sale for and on behalf of the Company up to the full value thereof or to the full value of all sums from time to time owing by the Customer to the Company.
3. Upon the happening of any of the following events the Customer shall place Retained Goods at the Company's disposal and shall be deemed irrevocably to authorise the Company to enter upon the Contract Premises and any other premises of the Customer, with or without vehicles, for the purposes of removing Retained Goods:-
 - (a) forthwith on notice from the Company if the customer is in default of any of its obligations under this or any other Contract with the Company or if the Company has reasonable doubts as to the ability or willingness of the Customer to pay any sum to it on the due date; or

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(b) if the Customer causes a meeting of or makes any arrangement or composition with its creditors; or

(c) if the Customer becomes insolvent or appears to be unable to pay a debt or to have no reasonable prospect of paying a debt (within the meaning of Section 268 of the Insolvency Act 2000); or, being a company, appears unable to pay its debts (within the meaning of Section 123 of that Act); or

(d) if there is presented a petition for the winding up of the Customer or for the appointment of an Administrator of its undertaking; or

(e) if the Customer has an Administrator or Administrative Receiver appointed over any of its assets or undertakings or a winding up order made against it or it goes into voluntary liquidation (otherwise than for the purposes of bona fide reconstruction or amalgamation of a solvent company);

(f) the repossession of Retained Goods by the Company in accordance with this Conditions shall be without prejudice to all or any of the Company's other rights against the Customer under the Contract.

16. Payment

1. Payment of the Price and VAT shall be due within 28 days of the date of an invoice submitted by the Company.
2. The Company may submit invoices for interim payment where considered appropriate by the Company in respect of Goods supplied and/or services performed as the case may be up to the date of invoice, which shall be due for payment within 28 days of the date of invoice. Time for payment shall be of the essence of the Contract.
3. Interest on overdue invoices shall accrue from (and including) the date when payment becomes due from day to day until but excluding the date of payment at a rate of 8% above the Bank of England base rate from time to time in force and shall accrue at such a rate after as well as before any judgement. Said interest shall in no circumstances be construed as an agreement by the Company to provide extended credit and is in addition to any other rights that the Company has arising out of such delay.
4. The Company shall be entitled to cancel the Contract or to postpone any supply until payment has been received, in the event that the Company has reasonable doubts about the Customer's ability or willingness to pay on the due date.
5. Prices for work included in a Quotation are based upon uninterrupted access to the Contract Premises up to completion of the supply of Goods.

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16. Final Payment

1. The final date for each payment shall be 28 days after the due date.
2. On or before the final date for payment, the Customer shall pay to the Company either:
 - i. The sum stated as due in the Company's invoice issued under the Contract ("the notified sum"); or
 - ii. The sum that the Customer considers to be due as specified in any notice as set out under clause 16.3.
3. If the Customer intends to pay less than the sum stated as due from him in the Company's invoice, he shall not later than 5 days before the final date for payment give the Company notice of that intention stating the sum that he considers to be due to the Company at the date he gives notice under this clause 9.3 and the basis on which that sum has been calculated. Where such notice has been given, the sum to be paid on or before the final date for payment shall not be less than the amount stated as due in the notice.
4. In relation to the requirements for giving of notices under this clause 16, it is immaterial that the amount then considered to be due may be zero.
5. If the Customer fails to pay a sum, or any part of it due to the Company by the final date for payment, the Customer shall, in addition to any unpaid amount that should properly have been paid, including the amount of any VAT properly chargeable, pay the Company interest on that amount at the rate of 8% per annum above the official dealing rate of the Bank of England for the period from the final date for payment until such payment is made.

17. Suspension

1. If the Customer fails to pay the sum payable in accordance with clause 8 to the Company by the final date of payment, then the Company may give a written notice of his intention to suspend the performance of his obligations under the Contract. If the Customer's failure to make payment continues for 7 days after the giving of such notice, then the Company may suspend performance of any or all of those obligations until payment is made in full.
2. Where the Company exercises his right of suspension under clause 17.1, he shall be entitled to a reasonable amount in respect of costs and expenses reasonably incurred by him as a result of the exercise of that right.

18. Force Majeure

1. The Company shall not be liable to the Customer if unable to carry out any provision of the Contract for any reason beyond its control including (but without limitation) act of God, legislation, war, civil commotion, fire, flood, drought, failure of power supply, lock out, strike, stoppage or other action by employees or third parties in contemplation or furtherance of any dispute or owing to any inability to procure parts or materials required for the performance of the Contract.

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2. The Company shall notify the Customer as soon as reasonably practicable after circumstances preventing performance arise. During the continuance of such a contingency the Company may within its absolute discretion, withhold, reduce or suspend performance of its contractual obligations, so far as prevented or hindered by such contingency, liability to the Customer, for any loss or damage whatsoever suffered directly or indirectly by reason of any such withholding, reduction or suspension.

19. Special Risks

Unless the Contract makes express reference to any special risks to be insured under the RIBA Standard Form of Agreement 2010, the Quotation submitted by the Company has been prepared on the basis that no such insurance cover is required and accordingly, the cost of such cover is not included in the Price.

20. Health and Safety

The Customer shall provide all necessary facilities at the Contract Premises, to include First Aid, shelter and accommodation for clothing, meals, washing and sanitary purposes, enabling the Company to conform in all respects with all relevant Health and Safety regulations to include but not restricted to the Construction (Design and Management) Regulations 2015.

21. Confidentiality

1. Both the Company and the Customer shall:
 - a) keep confidential any Confidential Information relating to the other which they obtain under or in connection with the Contract and will use it only for the purpose for which it is intended and/or disclosed; and
 - b) at the request and option of the other return all Confidential Information which is in physical form including all copies or destroy all remaining records and delete and arrange for the deletion of all Confidential Information from any computer, word processor or any other equipment which contains the Confidential Information.
2. The Customer may not disclose Confidential Information received from the Company or any third party in connection with the Contract to anyone other than to professional advisers and employees and, where necessary for the Works, to any sub-consultant or subcontractor provided that the information is disclosed solely in connection with the Works and provided that all recipients are bound by similar obligations of confidentiality and non-disclosure. The rights under this clause do not allow the Customer to disclose information relating to prices and fees to competitors of the Company.
3. The restrictions in this clause will continue to apply for the duration of the Contract and for six years after the expiry or termination of the Contract or any Order to which it relates, whichever is the later. The restrictions shall not apply to Confidential Information which is disclosed:

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- a) with the consent of the person to whom the information relates;
- b) to the extent required by law or by any competent regulatory authority or recognised stock exchange, after notification to the person to whom the information relates if notification is practicable in the circumstances; or
- c) that is already in the public domain other than through breach of this clause.

22. Data Protection

The Company and the Customer will duly observe all obligations under the Data Protection Act 1998 which arise in connection with the Contract or any Order.

23. Bribery Act

The Company and the Customer will comply with all applicable laws, statutes and regulations relating to anti-bribery including but not limited to the Bribery Act 2010.

24. Housing Grants, Construction and Regeneration Act 1996

Insofar as the Housing Grants Construction and Regeneration Act 1996 applies to the Contract or any Order, the Scheme for Construction Contracts (England and Wales) Regulations 1998 are hereby incorporated and the adjudicator shall be nominated by the President for the time being of the Royal Institute of Chartered Surveyors.

25. Notices

Any notice under these Conditions shall be properly given if in writing and handed to or sent by first class post, or by facsimile transmission, to the address of the intended recipient as stated in the Contract or to such address as the Company and the Customer from time to time shall notify to each other as their respective addresses for service and shall be deemed serviced if sent by hand when so delivered, if sent by pre-paid first class post within 48 hours of posting, if sent by facsimile, upon sending, subject to confirmation of uninterrupted transmission by a transmission report, and transmission being made prior to 17.00 hours on a business day, that day but otherwise on the next following business day. A business day for this purpose being any week day (Monday to Friday inclusive) which is not a bank holiday or public holiday.

26. Indemnity

1. If any claim is made against the Company that the Goods infringe or that their use or resale infringes the patent, copyright, design, trademark or other industrial or intellectual property rights of any other person, the Customer shall indemnify the Company against all loss, damages, cost and expenses awarded against or incurred by the Customer in connection with the claim, or paid or agreed to be paid by the Company in settlement of the claim, provided that: -
 - a. The Company is given full control of any proceedings or negotiations in connection with any such claim;

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- b. The Customer shall give the Company all reasonable assistance for the purposes of any such proceedings or negotiations:
- c. Except pursuant to a final award, the Customer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Company (which shall not be unreasonably withheld);
- d. The Customer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Customer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Customer recovers any sums under any such policy or cover (which the Customer shall use its best endeavours to do);
- e. The Company shall be entitled to the benefit of; and the Customer shall accordingly account to the Company for, all damages and costs (if any) awarded in favour of the Customer which are payable by, or agreed with the consent of the Customer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
- f. Without prejudice to any duty of the Customer at common law, the Company shall be entitled to require the Customer to take such steps as the Company may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Customer is liable to indemnify the Company under this clause.

27. Insolvency of the Customer

1. This clause applies if: -
 - a. The Customer makes any voluntary arrangement with its creditors or becomes subject to an Administration order or (being an individual or firm) becomes bankrupt or (being a Company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 - b. An encumbrancer takes possession of, or a receiver or administrator is appointed to, any of the property of the Customer; or
 - c. The Customer ceases, or threatens to cease, to carry on business; or
 - d. The Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
 - e. If this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreements or arrangements to the contrary.
2. Each of these Conditions and each paragraph hereof shall be construed as a separate Condition; should any provision hereof be found to be invalid or unenforceable or an unreasonable restriction of The Company's liability then such provision shall apply with such modification as may be necessary to make it valid and effective.
- 3.

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28. Export Terms

1. In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of the Incoterms and these Conditions the latter shall prevail.
2. Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 25 shall (subject to any special terms agreed in Writing between the Customer and the Company) apply notwithstanding any other provision of these Conditions.
3. The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods in to the country of destination and for the payment of any duties thereon.
4. Unless otherwise agreed in Writing between the Customer and the Company; the Goods shall be delivered CIF incoterms by air or sea port shipment and the Company shall be under no obligation to give notice under Section 32 (3) of the Sale of Goods Act 1979.
5. The Customer shall be responsible for arranging for testing and inspection of the Goods at the Company's premises before shipment, or in respect of any damage during transit.
6. Payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Customer in favour of the Company and confirmed by the Bank in the United Kingdom acceptable to the Company or; if the Company has agreed in Writing on or before acceptance of the Customer's order to waive this requirement, by acceptance by the Customer, payment terms can be agreed during the time of quotation.
7. Each of these Conditions and each paragraph hereof shall be construed as a separate Condition; should any provision hereof be found to be invalid or unenforceable or an unreasonable restriction of The Company's liability then such provision shall apply with such modification as may be necessary to make it valid and effective.
8. The Customer undertakes not to offer the Goods for resale or to sell the Goods to any person if the Company knows or has reason to believe that that person intends to resell the Goods.

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29. Construction and Jurisdiction

1. English Law shall govern construction and operation of the Contract and the Customer agrees to submit to the exclusive jurisdiction of the English Courts.
2. Each of these Conditions and each paragraph hereof shall be construed as a separate Condition; should any provision hereof be found to be invalid or unenforceable or an unreasonable restriction of The Company's liability then such provision shall apply with such modification as may be necessary to make it valid and effective.

30. Termination

1. Each party ("the terminating party") shall be entitled by written notice to the other party to terminate the Company's employment under the Contract forthwith if the other party at any time:
 - a. Is in material breach of his obligations under the Contract which he fails to rectify within 7 days of a written notice from the terminating party specifying the breach and requiring that it be remedied within period; or
 - b. Is insolvent
2. If, before completion of the Services/Works problems are encountered by the Company in carrying out the Services/Works which are outside of the Company's control or for matters outside the scope of the Services/Works quoted for within the Quotation and not envisaged at the time the Quotation was submitted, then the Company may give notice in writing to the Customer immediately terminating the Company's employment under the Contract.
3. In the event of termination by the Company as a result of a material breach by the Customer or as a result of the Customer becoming insolvent or pursuant to clause 30.2 then, following the submission of an invoice to the Customer by the Company, the Company shall be entitled to be paid by the Customer and the Customer shall pay the Company:
4. 100% of the value of the work carried out by the Company plus the whole of any amounts payable under the Contract to the Company together with any other sums due and payable to the company up to the date of termination the reasonable costs of removal from the Site less the total amount due in previous payment to the Company; and
5. The amount of any resultant loss, damage and/or expense incurred by the Company which the Company would not have incurred had the Contract been duly performed in full and the due date of the payment shall be the date the Company submits the invoice.
6. The invoice for the purpose of clause 30 will specify:
 - a. The sum that the Company considers will be due on the due date; and
 - b. The basis on which that sum is calculated,

And shall be the payment notice for the purpose of Section 110 (A) (1) of the Housing Grants, Construction and Regeneration Act 1996 as amended by Part 8 of the Local Democracy, Economic Development and Construction Act 2009.

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31. Services

1. The Company accept no liability for new or existing services and utilities in any event and will not be held liable for damage thereof.