



Terms and Conditions for Construction Works

1. Definitions and interpretation

1.1 The following definitions shall apply in these Conditions:

"Agreement" the contract between the Customer and Jaques Int Limited for the completion of the Works in accordance with these Conditions.

"CDM Regulations" means the Construction (Design and Management) Regulations 2015.

"Commencement Date" means the date of commencement of the Works at the Site, as notified to the Customer by Jaques Int Ltd.

"Completion" means, unless otherwise stated in the quotation, when the Works are commissioned and complete, save for any minor items or defects the existence, completion or rectification of which would not prevent the use of the Works as a whole.

"Completion Date" means the date agreed with customer subject to any extension of time that Jaques Int Ltd is entitled to pursuant to clause 9.3.

"Conditions" these terms and conditions.

"Consents" means the Customer's Consents and Jaques Int Ltd Consents.

"Contract Price" is the price or cost detailed within the quotation, as adjusted from time to time in accordance with clause 9 of this Agreement.

"Customer" means the entity engaging Jaques Int Ltd to complete the Works.

"Customer's Consents" means all consents, licences, authorisations, permissions, planning and building regulation permissions, accreditations, surveys and approvals stated in the quotation that the Customer is responsible for obtaining and any other consents, licences, authorisations, permissions, accreditations, surveys and approvals necessary in connection with the Works other than Jaques Int Ltd Consents.

"Date of Completion" means either the invoice date stated in the Completion invoice or completion of Jaques onsite operations or written or verbal confirmation as the date.

"Defects Notification Period" relating to completed works not including material guarantees means, unless otherwise stated in the quotation, the period of 6 months from the Date of Completion.

"Insolvency Event" means in relation to either party: (a) the passing of a resolution for winding-up or a court of competent jurisdiction makes an order for the winding-up or the dissolution of a party; (b) any steps are taken for the making of an administration order or the appointment of an administrator under the out-of-court procedure under the Enterprise Act 2002 or notice is given of an intention to appoint an administrator in relation to a party or any steps are taken for the appointment of a receiver or administrative receiver, or an encumbrancer takes possession of or sells any of a party's assets; (c) the making of an arrangement or composition with its creditors generally or makes an application to a court of competent jurisdiction for protection from its creditors generally; (d) if the party ceases to carry on business at any time for 30 consecutive days; or (e) if the party is unable to pay its debts (within the meaning of that term under section 123, Insolvency Act 1986).

"Jaques" means Jaques Int Ltd.

"Jaques' Documents" means the documents, designs, drawings, plans, data, specifications and reports developed or produced by Jaques as part of or in relation to the Works.

"Jaques' Personnel" means all personnel who Jaques utilises for the purposes of the Works including all staff, labour and other employees of Jaques and any sub-contractor or supplier.

"Materials" means items, goods, components, materials and equipment of all kinds intended to form a permanent part of the Works.

"Manufacturer Warranted Goods" means those components forming part of the Works which are supplied together with the benefit of Manufacturers' Warranties.

"Manufacturers' Warranties" has the meaning set out in clause 3.4.

"Order" means the Customer's order for the completion of the Works as set out in the signed

Customer Order Confirmation or Customer Purchase Order.

"Quotation" means the quotation by Jaques to the Customer in relation to the Works.

"Site" means the site and property at which the Works are to be carried out as stated in the quotation.

"Statutory Requirements" any law, statute, regulation or order issued by any governmental or regulatory body or authority which relates to the Works.

"Statutory Scheme" means the Scheme for Construction Contracts Statutory Instrument 1998 No 649 or any such enactment or amendment to such legislation as is in force from time to time.

1.2 If the Customer appoints an agent, project manager or representative on its behalf in connection with the Works, Jaques shall be entitled to assume that such person(s) shall have full authority to receive and issue applications, consents, approvals, instructions, certificates, notices, requests and otherwise to act for the Customer under the Agreement.

2. Basis of contract

2.1 The Order constitutes confirmation from the Customer to proceed with works in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted by Jaques commencing the Works, at which point, and on which date the Agreement shall come into existence.

2.3 These Conditions apply to the Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, including but not limited to, those contained within the Customer's purchase order, or acknowledgement of the Order, or which are implied by law, trade custom, practice or course of dealing.

2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

3. Contractor's general obligations

3.1 Jaques shall carry out and complete the Works: (a) in a good and workmanlike manner; (b) in accordance with Statutory Requirements; (c) in relation to the design and specification of the Works, exercising the skill, care and diligence to be expected of a properly qualified and competent designer experienced in designing and specifying Works of a

similar scope, nature and complexity to the Works; and (d) substantially in accordance with the Agreement, provided always that Jaques shall be entitled, at its discretion, to make reasonable variations to the quotation.

3.2 Subject to clause 3.3, Materials shall be of satisfactory quality and a standard appropriate to the Works.

3.3 Unless otherwise stated in the quotation, in relation to the Manufacturer Warranted Goods: (a) Jaques shall be responsible for the installation of the Manufacturer Warranted Goods but shall have no liability in relation to such goods except as set out in clause 3.2. (b) To the extent that there is any defect or other fault in the Manufacturer Warranted Goods and such failure causes the Customer to suffer any loss or damage, the Customer's right to recover such losses, costs or damages from Jaques is subject to and conditional upon the extent to which Jaques may recover the equivalent losses, costs or damages pursuant to the supply terms between Jaques and the manufacturer of such goods.

3.4 Jaques shall supply the Customer with copies of any manufacturer warranties which are available in relation to the Manufacturer Warranted Goods (the "Manufacturers' Warranties"). Jaques hereby assigns to the Customer any benefit of the Manufacturers' Warranties with automatic effect from the date of completion (or if sooner, upon termination) to the extent that the Customer is not already a beneficiary of such warranties.

3.5 Where specified and previously agreed in the quotation, Jaques shall act as 'principal contractor' and 'designer' for the purposes of the CDM Regulations. The Customer may appoint in other roles under the CDM Regulations in relation to the Works and the Customer shall notify Jaques of the name and contact details for the person(s) it appoints.

3.6 If acting as Principal Contractor, Jaques shall be responsible for managing site safety requirements. Costing may be included in the contract value, or, where stated, charges will be passed onto the Customer.

3.7 Where requested, Jaques shall provide to the Customer a handover document, to include copy of the drawings and operation and maintenance manual in relation to the Works within 60 days of Completion.

4. Customer's obligations

4.1 The Customer shall provide Jaques with all information required by Jaques in relation to the Site

(including, without limitations, its condition, structure and electrical infrastructure) and information regarding matters affecting the Site reasonably necessary in relation to the Works within any reasonable time requested by Jaques and in any event prior to the Commencement Date (including, without limitation, all information necessary to enable Jaques to perform its obligations in connection with and discharge its duties under the CDM Regulations).

4.2 The Customer shall be responsible for the accuracy of all information provided to Jaques. Jaques shall be entitled to rely upon any information provided by or on behalf of the Customer.

4.3 The Customer shall be responsible for obtaining (prior to the Commencement Date) and maintaining (at all relevant times) at its own cost all Consents.

4.4 The Customer shall not omit any part of the Works without the prior written consent of Jaques, not to be unreasonably withheld or delayed.

4.5 The Customer is responsible under the Waste Electrical and Electronic Equipment Regulations 2006 (the "WEEE Regulations") for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any Materials supplied under this Agreement that has become waste electrical and electronic equipment ("WEEE"). The Customer will indemnify Jaques against any claims or legal proceedings that are brought or threatened against Jaques by a third party which would not have been caused or made had the Customer fulfilled its express or implied obligations under this clause or in connection with the WEEE Regulations.

4.6 If previously agreed, the customer shall provide any lifting equipment and operations as required for the purpose of offloading on site. In the event of operations being provided; the customer would be responsible for reparations to any damage to materials.

4.7 Where required, the customer shall provide clean and dry storage for equipment when not in use but on site.

4.8 Where required, the customer shall provide clean and dry storage for materials delivered to site to ensure no spoilage before use on site.

4.9 Unless otherwise agreed, the customer shall provide a clean supply of water and electricity for use by Jaques Int whilst on site.

5. Access

5.1 The Customer shall provide to Jaques and Jaques' Personnel full and unencumbered access to the Site to enable Jaques to comply with its obligations under this Agreement.

5.2 Jaques shall comply with any reasonable site rules and regulations in relation to the Site that are provided to it prior to the date of this Agreement.

6. Time for Completion

6.1 Jaques shall commence the Works on the Commencement Date and shall use reasonable endeavours to achieve Completion of the Works by the Completion Date.

6.2 Unless otherwise stated in the quotation, Jaques shall not be liable for any loss or damage in connection with any delay of the Works, liquidated or unliquidated.

7. Completion

7.1 When in Jaques' reasonable opinion the Works at the Site are complete as specified in "Date of Completion".

7.2 The Customer shall carry out an inspection of the Works and notify Jaques within 30 days' of the date of such pursuant to clause 7.1.

7.3 If the Customer (acting reasonably): (a) is satisfied that Completion has been achieved in respect of the Works, the Customer pays the completion invoice within the payment terms; or (b) is not satisfied that the Works have achieved Completion, it shall, within the notice period specified in clause 7.2 notify Jaques and state in what way it considers that the relevant Works have failed to achieve Completion, in which event, Jaques shall then promptly undertake all necessary rectification work and, once completed, give notice to the Customer in accordance with clause 7.1 that the Works are complete.

7.4 In the event of a dispute between Jaques and the Customer on the completion of works, Jaques shall be entitled to be remunerated on a quantum meruit basis at a fair commercial rate for work done and materials supplied.

8. Defects

8.1 Jaques shall undertake any work to remedy any defects which arise during the Defects Notification Period in the Works due to any failure of Jaques to comply with its obligations under this Agreement.

8.2 During the Defects Notification Period, the Customer shall notify Jaques in writing as soon as

reasonably practicable after becoming aware of a defect and Jaques shall remedy such defect within a reasonable time.

8.3 During the Defects Notification Period, the Customer shall provide access to the Site in accordance with clause 5 for Jaques and Jaques' Personnel to allow Jaques to perform its obligations pursuant to this clause 8.

9. Contract Price

9.1 The Customer shall pay Jaques the Contract Price for the Works in accordance with clause 10.

The Contract Price is exclusive of VAT, taxes and levies.

9.2 In the event that Jaques incurs additional loss and/or expense by reason of: (a) any instruction from the Customer to the Contactor which constitutes an addition or variation to the Works and/or the Site; (b) any information provided by the Customer being inaccurate, incomplete or deficient in any way or if Jaques discovers conditions at the Site which differ from those stated in this information in any way; (c) any changes to existing or new site rules or regulations at the Site; (d) a failure by the Customer to provide to Jaques and Jaques' Personnel access to the Site in accordance with clause 5; (e) any delay, impediment, prevention or default by the Customer or its staff, employees, contractors and suppliers; (f) any adverse weather conditions; (g) the carrying out of any work by any other third party in connection with the Works, or the failure to carry out such work; (h) suspension for non-payment by Jaques of its obligations under this Agreement in accordance with its statutory rights; or (i) force majeure, Jaques shall be entitled to apply to the Customer for loss and/or expense suffered or incurred by Jaques and the amount of such loss and/or expense shall be added to the Contract Price. Jaques shall provide reasonable supporting information with any such application; (j) any delays due to restrictions or unavailability of materials.

9.3 Jaques shall be entitled to, and the Customer shall grant, a reasonable extension to the Completion Date for any delay caused to the Works by any events referred to in clause 9.2.

10. Payment

10.1 Unless otherwise stated in the quotation, on commencement of the Works, Jaques may submit an application for payment in the form of an invoice to the Customer throughout the course of the works and the Customer shall pay to Jaques the Contract Price.

10.2 A payment shall become due when an invoice is issued with a due date, issued pursuant to clause 10.1.

The final date for payment will be the due date stated on the invoice. In the absence of a due date stated on the invoice, payment shall be 14 days from the invoice date.

10.3 In the event of the Customer requesting additional work outside of the Contract Price, additional invoices will be issued and payable by the Customer according to the due date. 10.4 If the Customer fails to pay the amount or any part of it by the VAT invoice due date for payment, Jaques shall be entitled to receive interest on the amount unpaid for the period of delay at the rate of 8% above the base rate of the Bank of England.

11. Risk and property

11.1 Risk of damage to or loss of the Works at the Site shall pass to the Customer on the Date of Completion of the Works.

11.2 Notwithstanding any other provision of this Agreement, ownership of the Works and any Materials shall not pass to the Customer until Jaques has been paid the Contract Price and any total variation invoice amount.

11.3 Until such time as ownership of the Works passes to the Customer, Jaques shall be entitled to require the Customer to deliver up the Works to Jaques at any time and Jaques shall be entitled and is hereby granted an irrevocable licence by the Customer to enter upon the Site and repossess the Works using any means of access to the Works Jaques may deem necessary or desirable (including the Customer's plant, equipment and scaffolding).

12. Drawings and technical documents

12.1 Jaques shall retain the copyright and other intellectual property rights in Jaques' Documents.

12.2 Except as expressly stated in this Agreement, no rights or licences are transferred or granted by Jaques in relation to Jaques' Documents to the Customer or any other third party.

13. Termination

13.1 Either party may terminate this Agreement immediately on the occurrence of an Insolvency Event in relation to the other party.

13.2 If Jaques is in fundamental and persistent breach of this Agreement, the Customer may serve written notice on Jaques specifying the default and

requiring its remedy and if Jaques fails to remedy any default notified by the Customer pursuant to clause 13.2 within a reasonable period from the Customer, the Customer may by further notice terminate the employment of Jaques under this Agreement.

13.3 If the employment of Jaques is terminated due to either an Insolvency Event occurring in relation to Jaques or pursuant to clause 13.2: (a) Jaques shall promptly cease the Works and vacate the Site. (b) the Customer shall: (i) acting reasonably seek to agree with Jaques the value of the Works and any other sums due to Jaques for work executed in accordance with this Agreement; (ii) pay to Jaques the value of any Works carried out and for which Jaques has not been paid; (iii) be entitled to employ others to carry out and complete the outstanding Works and to make good any defects in the Works.

13.4 If the Customer: (a) does not pay by the final date for payment the amount properly due to Jaques in respect of any application for payment; or (b) is in breach of this Agreement; or (c) causes or contributes to (whether by act or omission) an act of breach or prevention and such breach or prevention has prevented Jaques from carrying out any of its obligations under this Agreement for a continuous period of 7 days, Jaques may serve written notice on the Customer specifying the default and requiring its remedy and if the Customer fails to remedy any default notified by Jaques pursuant to clause 13.4 within a reasonable period of notice from Jaques, Jaques may by further notice terminate this Agreement.

13.5 If the employment of Jaques is terminated due to either an Insolvency Event occurring in relation to the Customer or pursuant to clause 13.4: (a) Jaques shall promptly cease the Works; (b) the Customer shall pay to Jaques: (i) the value of the Works and any other sums due to Jaques for work executed in accordance with this Agreement; (ii) the cost of Materials ordered for the Works which have been delivered to Jaques or of which Jaques is liable to accept delivery; (iii) the amount of any loss or expense suffered by Jaques as a result of termination including a fair allowance for loss of profit.

14. Limitation of liability

14.1 Unless otherwise stated in the quotation, Jaques shall not be liable to the Customer for loss of profit, loss of revenue, loss of renewable benefits, loss of use of electricity or equipment, loss of production or down time costs, loss of opportunity, loss of contract, loss of goodwill, business interruption and consequential or indirect loss.

14.2 Subject to clause 14.3 and unless otherwise stated in the quotation, Jaques' aggregate liability arising under or in connection with this Agreement (whether arising in contract, tort, by reason of indemnification, breach of statutory duty, equity or otherwise) in relation to the Works and the Site shall not exceed an amount equivalent to the Contract Price.

14.3 Nothing in this Agreement shall exclude or limit the liability of either party for death or personal injury resulting from negligence or fraud or fraudulent misrepresentation.

14.4 Jaques' liability under this Agreement shall be in lieu of any contract term implied by law as to the quality or fitness for any purpose or the workmanship of any part of the Works and, save as expressed in this Agreement, Jaques shall not be liable, whether in contract, in tort (including but not limited to negligence) or by reason of breach of statutory duty or otherwise, in respect of defects in the Works or damage to the Site, or for any damage or loss of whatsoever kind attributable to such defects or damage or any work done or service rendered in connection therewith.

14.5 Notwithstanding any other provision of this Agreement or the method of execution of this Agreement by the parties, no action or proceedings shall be commenced against Jaques under this Agreement after the expiry of the Defects Notification Period.

14.6 Unless otherwise stated in the quotation, Jaques' liability under or in connection with this Agreement or the Works shall be limited to the cost of repair or replacement of any defect in the Works.

15. Force majeure

15.1 Subject to sub-clause 15.2 neither party shall be deemed to be in breach of this Agreement, or otherwise liable to the other, by reason of any delay in performance or non-performance of any of its obligations under this Agreement to the extent that such delay or non-performance is due to an event of force majeure.

15.2 The party affected by the event of force majeure shall immediately give the other party written notification of the nature and extent of the event, take all reasonable steps to alleviate its effects, shall resume performance as soon as practicable and shall within a reasonable timeframe notify the other party that the event has ended.

15.3 If a party is affected by an event of force majeure and the written notice in relation to the event has not been withdrawn within 6 months, the other party may terminate this Agreement with immediate effect by serving a written notice on the affected party. The service of such notice shall be without prejudice to any rights or obligations which have accrued prior to termination. In the event of termination pursuant to clause 15.3, the parties shall bear their own costs.

16. Disputes

16.1 Any dispute or difference arising between the parties in connection with this Agreement may be referred to adjudication in accordance with the Statutory Scheme.

16.2 Subject to clause 16.1 above, if any dispute or difference as to any matter or thing of whatsoever nature arising under this Agreement or in connection therewith, except in connection with the enforcement of any decision of an adjudicator appointed to determine a dispute or difference arising there under, shall arise between the parties either during the progress or after the completion or abandonment of the Works or after the termination of this Agreement it shall be referred to arbitration in accordance with the Arbitration Act 1996.

17. Assignment and sub-contracting

17.1 Neither party may assign, transfer, charge or otherwise encumber this Agreement or any right, benefit or interest under it, without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

17.2 Jaques shall be entitled to sub-contract the performance of any of its obligations under this Agreement without the consent of the Customer.

18. Entire agreement

18.1 This Agreement sets out the entire agreement and understanding between the parties and supersedes all prior agreements, understandings or arrangements (whether oral or written) in respect of the subject matter of this Agreement.

19. Confidentiality

19.1 Subject to clause 19.2 each party shall treat as strictly confidential all information received or obtained as a result of entering into or performing this Agreement which relates to the provisions or subject matter of this Agreement, to any other party to this Agreement or the negotiations relating to this Agreement.

19.2 Any party may disclose information which would otherwise be confidential if and to the extent that: (a) it is required to do so by law or regulatory or governmental body to which it is subject; (b) it considers it necessary to disclose the information to its professional advisers, auditors and bankers; (c) the information has come into the public domain through no fault of that party; (d) Jaques wishes to utilise any details in connection with the Customer or the Works as part of its sales and marketing activities, in which case the Customer shall provide reasonable assistance to Jaques including providing a testimonial for use in connection with Jaques' case studies; (e) Jaques wishes to disclose the information to one of its sub-contractors or suppliers; or (f) each party to whom it relates has given its consent in writing.

20. Governing law

This Agreement and any dispute, claim or obligation (whether contractual or non-contractual) arising out of or in connection with it, its subject matter or formation shall be governed by English law.

21. Third Party Rights

No express term of this Agreement nor any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise by any person who is not a party to it.