



**dated 15 FEBRUARY 2017**

**THE ROYAL BOROUGH OF KINGSTON UPON THAMES  
and**

**SAVILLS (UK) LIMITED**

**AGREEMENT**

**for the purchase of Client Advisor Services for the Housing Estate  
Regeneration Programme**

## Contents

<b>1</b>	4
<b>2</b>	8
<b>3</b>	8
<b>4</b>	9
<b>5</b>	9
<b>6</b>	9
<b>7</b>	9
<b>8</b>	10
<b>9</b>	10
<b>10</b>	10
<b>11</b>	10
<b>12</b>	11
<b>13</b>	11
<b>14</b>	12
<b>15</b>	12
<b>16</b>	14
<b>17</b>	14
<b>18</b>	14
<b>19</b>	15
<b>20</b>	15
<b>21</b>	15
<b>22</b>	17
<b>23</b>	18
<b>24</b>	18
<b>25</b>	19
<b>26</b>	19
<b>27</b>	19
<b>28</b>	19
<b>29</b>	19
<b>30</b>	19
<b>31</b>	21
<b>32</b>	21
<b>33</b>	22
<b>34</b>	22
<b>35</b>	23
<b>36</b>	23
<b>37</b>	24
<b>38</b>	24
<b>39</b>	24
<b>40</b>	24

41 24  
42 24  
43 24  
44 24  
45 25  
46 25  
47 25

**Schedule 1 - Services**

**Schedule 2 - Order**

**Schedule 3 - NOT USED**

**Schedule 4 - Supplier collateral warranty**

**Schedule 5 - Tender Submission**

**Schedule 6 - Fee Profile**

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THIS AGREEMENT dated

2017 is made BETWEEN:

- (1) The Royal Borough Of Kingston Upon Thames whose principal office is at Guildhall, High Street, Kingston Upon Thames, KT1 1EU (the Customer), for itself and as an agent for its present and future subsidiaries; and
- (2) Savills (UK) Limited (registration number 02605138) whose registered office is at 33 Margaret Street, London, W1G 0JD (the Supplier which expression includes its successors in title, transferees and assigns),

each a Party and together the Parties.

**IT IS AGREED** as follows:

## 1 Interpretation

1.1 In this Agreement the following terms shall have the following meanings:

"Agreed Service Levels"	the service levels specified in Schedule 1 and/or the Order (and any variation to such service levels agreed in writing by the Parties);
"Applicable Laws"	all laws (including any guidance inserted under statutory authority and all applicable European Community regulations, directions and other legislation) statutes, treaties, ordinances, judgements, decrees, injunctions, writs, orders, codes of practice, rules, regulations, permissions and interpretations of any court, arbitrator, government body, agency or authority applicable to the Services and all planning permissions together with attached conditions;
"Associated Person"	a person (including an employee, agent or subsidiary) who performs services for or on the Supplier's behalf;
"Bribery Act"	the Bribery Act 2010;
"Commencement Date"	15 February 2017;
"Community Benefit Strategy"	the Customer's Community Benefit Strategy forming part of the Order as amended from time to time;
"Confidential Information"	in relation to each Party, all information in respect of the business and financing of that Party including any ideas, business methods, finances, prices, business, financial, marketing, development or manpower plans, customer lists or details, computer systems and software, know-how or other matters connected with the products or services manufactured, marketed, provided or obtained by that Party (or, in the case of the Customer, any member of the Customer's Group), and information concerning either Party's relationships with actual or potential customers and the needs and

		requirements of such persons;
"Corrupt Activity"		extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence, money-laundering or any similar activity bribery and/or corruption including, without limitation, any activity, practice or conduct which would or could constitute an offence under the Bribery Act;
"Customer Purchase Order Number"	Order	the order number stated on the Order issued by the Customer in connection with the provision of the Services;
"Documents"		all existing and future plans, drawings, models, details, sections, specifications, schedules, reports, bills of quantities, data, calculations, data recorded in machine readable form, computer software and other similar documents and any designs contained within them relating to the Services prepared and to be prepared by the Supplier. References to data shall include all digital and electronic data and all programmes upon which such data is stored;
"Final Account Due Date"		the date 35 Working Days from the date of completion of the Services;
"Final Account Payment"	Final Date for	The date twenty one (21) days after the Final Account Due Date or the date a Default Notice is issued (as the case may be);
"Finance Act"		the Finance Act 2004 which governs the Construction Industry Scheme 2007;
"Fixed Price Period"		the fixed price period set out in the Schedule during which the Price for the Services may not be altered by the Supplier;
"Gifts and Hospitality Policy"		the Customer's gifts and hospitality policy, a copy of which will be provided to the Supplier on request, as may be amended from time to time;
"Group Company"		any subsidiary company or holding company of the Customer or another subsidiary or holding company of such company as subsidiary and holding company are defined in section 1159 Companies Act 2006;
"Insolvency Event"		(a) for a company, the passing of a resolution for winding up (otherwise than for the purpose of a solvent amalgamation or reconstruction where the resulting entity assumes all of the obligations of the Supplier or the Customer) or a court making an order to that effect; or  (b) for a partnership, on its dissolution; or

	(c) for either a company or a partnership or an individual, on ceasing to carry on its business or substantially the whole of its business, becoming or being declared insolvent or committing any act of bankruptcy or convening a meeting of or making or proposing to make any arrangement or composition with its creditors or the appointment of a liquidator, administrator (whether by the court or otherwise), administrative receiver, receiver, administrative trustee or similar officer over any of its assets;
"Intellectual Property Rights"	<p>(a) all inventions, patents, registered designs, design rights, know-how, inventions, trade secrets, Confidential Information, trademarks and service marks (whether registered or not) and all applications for protection of any of the same; and</p> <p>(b) any trade, brand or business names and any distinctive sounds used to differentiate the goods and services of a business; and</p> <p>(c) any utility models and copyright (including all such rights in computer software and databases); and</p> <p>(d) any moral rights; and</p> <p>(e) the goodwill attaching to any of the above and any applications for any of the above; and</p> <p>(f) any rights or forms of protection of a similar nature to any of the above and having equivalent or similar effect to any of them in each case which may subsist anywhere in the world;</p>
"Interest Rate"	<p>■ per annum over the base rate from time to time of the Bank of England;</p>
"Joining Agreement"	the Joining Agreement as set out in Schedule 3;
"Key Performance Indicators"	the key performance indicators as set out in the Order;
"Liabilities"	includes, in relation to any matter, all costs, charges, claims, fines, penalties, expenses, demands, proceedings and other liabilities incurred or suffered (directly or indirectly) by a person in relation to such matter;
"Liquidated Damages"	liquidated damages as calculated in accordance with the provisions of Schedule 1;
"Liquidated Damages Percentage"	the liquidated damages percentage as calculated in accordance with Schedule 1;

"Moral Rights"	the moral rights under chapter IV of Part 1 of the Copyright Designs and Patents Act 1988;
"Order"	the Customer's order for the Services in the form substantially the same as that appended at Schedule 1;
"Price"	the price to be paid by the Customer for the Services and payment terms as set out in Schedule 1;
"Relevant Employees"	every employee engaged wholly or partially in the provision of the Services;
"Restricted Employee"	any person who has been involved to any material extent in the supply of the Services;
"Service Commencement Date"	the date set out in the Order;
"Service Period"	the period set out in the Order during which the Supplier will provide the Services under this Agreement;
"Services"	the services described in Schedule 1 and set out in the Order;
"Specification"	the Customer's specification for the Services set out in the Order;
"Sub-Contractor"	any person to whom any part of this Agreement has been sub-let in accordance with its terms and its legal representatives, successors and permitted assigns;
"TUPE"	the Transfer of Undertakings (Protection of Employment) Regulations 2006;
"Unique Property Reference Number"	the number stated on the Order issued by the Customer connection with the provision of the Services;
"Working Day"	any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory bank holiday in the country for which the Services are to be carried out under the Order/Agreement.

## 1.2 **In this Agreement:**

- 1.2.1 any gender includes any other gender; and
- 1.2.2 the singular includes the plural and vice versa; and
- 1.2.3 references to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality); and
- 1.2.4 references to clauses, paragraphs and the schedules are to clauses and paragraphs of and the schedules to this Agreement and references within schedules to paragraph numbers shall, unless otherwise stated, be to paragraphs of that schedule; and

- 1.2.5 the schedules form part of this Agreement and the expression this Agreement includes the schedules; and
- 1.2.6 the headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement; and
- 1.2.7 references to the Services are to any part of it or them; and
- 1.2.8 any reference to a statutory provision includes a reference to any modification, consolidation or re-enactment of the provision from time to time in force and all subordinate instruments, orders or regulations made under it; and
- 1.2.9 a reference to any of the Parties includes, where appropriate, persons deriving title under it; and
- 1.2.10 references to "dispose" include charging, selling, leasing, assigning or transferring or agreeing to do any of the same, granting an option or similar right, creating a trust or other equitable interest and "disposal" shall be construed accordingly; and
- 1.2.11 any document referred to as being "in agreed form" is one which is in a form agreed by or on behalf of the Parties and which has been signed or initialled for identification purposes by or on behalf of the Parties; and
- 1.2.12 general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things; and
- 1.2.13 "subsidiary" and "holding company" shall have the meanings given to them by section 1159 of the Companies Act 2006 and "subsidiary undertaking" shall be construed in accordance with section 1162 of the Companies Act 2006; and
- 1.2.14 "affiliate" means, in relation to a person, any person that is connected with the first mentioned person within the meaning of section 1122 of the Corporation Tax Act 2010; and
- 1.2.15 references to a person acting "directly or indirectly" include acting alone or jointly with or by means of any other person; and
- 1.2.16 references to any document (including this Agreement) or a provision of a document shall be construed as a reference to that document or provision as from time to time supplemented, varied or replaced; and
- 1.2.17 references to writing include any method of reproducing words in a legible and non-transitory form.

## 2 **Term**

Subject to clause 20 this Agreement shall commence on the Commencement Date and shall continue until the expiry of 18 months with two options to extend the Agreement for six months each after that date (the **Term**). The Parties acknowledge that the Customer may issue one or more Orders to the Supplier which extend beyond the Term of this Agreement.

## 3 **Agreement to purchase**

With effect from the Commencement Date the Customer agrees to purchase and the Supplier agrees to supply the Services as described in and on the terms set out in Schedule 1 and the



Order.

#### 4 **Precedence**

In the event of any inconsistency occurring between the contents of respectively and in that order this Agreement, Schedule 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5 and any Documents the contents of the document earlier in the order listed here shall prevail over any document later in that order.

#### 5 **[NOT USED]**

#### 6 **Price**

6.1 The Customer shall pay to the Supplier the Price in accordance with Schedule 1 as full remuneration for the proper performance of the Services.

#### 7 **Payment**

##### 7.1 **The Price and obligation to pay**

7.1.1 The Price includes all travel, accommodation, subsistence, carriage/delivery costs and other expenses incurred in the provision of the Services unless otherwise agreed in writing by the Parties. The Price is exclusive of any value added tax but shall include any customs or excise tax, import or other duties and transportation, implementation, installation and delivery costs.

7.1.2 The Customer shall be responsible for payment to the Supplier of the Price, subject to and adjusted in accordance with this Agreement.

##### 7.2 **[NOT USED]**

##### 7.3 **Effect of notices and VAT invoices**

7.3.1 Neither the issue by any party of any notice or of a VAT invoice nor the payment of any amount shall in any way affect the right of the Customer or the Supplier to contend that any of the Services has or have not been properly valued and that any amount has been improperly paid or withheld and, in calculating any notice, either Party shall be entitled to reconsider and, if necessary, adjust any assessment made in arriving at a sum or figure given in any previous notice.

7.3.2 Neither the issue by any party of any notice or of a VAT invoice or the payment of any amount by the Customer shall constitute or imply or be evidence of the Customer's approval or acceptance of any part of the Services or shall in any way affect the responsibilities of the Supplier under this Agreement.

##### 7.4 **Interest on late payment**

Any delay in a due payment beyond the Final Date for Payment shall entitle the payee to be paid interest at the Interest Rate.

##### 7.5 **Fluctuations**

Amounts in Schedule 1 shall be subject only to such fluctuation provisions, if any, as are set out in Schedule 1.

## 7.6 **Information**

The Supplier shall allow the Customer's representative to visit its offices and to inspect its financial records in relation to the Services at any time subject to reasonable prior notice.

## 7.7 **[NOT USED]**

## 7.8 **[NOT USED]**

## 8 **Delivery**

8.1 The Services shall commence on the Service Commencement Date and shall continue for the Service Period.

8.2 Time for performance of the Services is of the essence of the contract. Notwithstanding this, if for any reason the Customer requests performance to be delayed, the Supplier shall agree to such request at no extra cost to the Customer and the provisions of this clause 8 shall apply to any such revised date for delivery or performance.

8.3 Performance by instalments shall not be accepted by the Customer unless previously agreed in writing. If Services are to be performed by instalments, this will be treated as a single contract and not severable.

## 9 **Cancellation**

If the Customer wishes to cancel this Agreement in respect of all or any part of the Services to be supplied to it and/or in respect of any or all Orders made (other than for any breach by the Supplier or other event entitling the Customer to terminate under clause 21) then the Customer will be entitled to do so at any time up to 14 Working Days prior to the relevant Service Commencement Date upon giving written notice to the Supplier.

## 10 **[NOT USED]**

## 11 **Liquidated Damages**

11.1 If the Supplier shall fail to provide the Services in accordance with the Agreed Service Levels, the Customer shall issue to the Supplier a written notice specifying the failures and specifying a date by which the Supplier is to rectify such failures.

11.2 If the Supplier shall fail to provide the Services in accordance with the Agreed Service Levels by the date specified in accordance with clause 11.1, then the Customer shall have the right to deduct Liquidated Damages from the Price, such Liquidated Damages to be calculated by applying the Liquidated Damages Percentage for each period specified in the Order for the period between the date of the notice issued pursuant to clause 11.1 and the date of rectification of the failures in line with the Agreed Service Levels, provided that the amount of Liquidated Damages so deducted shall not in any 12 month period exceed the maximum levels stated in the Order.

11.3 The Parties agree that the level of the proposed Liquidated Damages and Liquidated Damages Percentages represent a reasonable and genuine pre-estimate of the Liabilities likely to be suffered or incurred by the Customer if the Services are not provided in accordance with the Agreed Service Levels.

11.4 The payment of Liquidated Damages will not relieve the Supplier from its obligation to ensure that the Services are provided in accordance with the Agreed Service Levels or from any other liability or obligation under this Agreement.

## 12 Variations

- 12.1 At any time during the continuance of this Agreement the Customer may request and the Supplier may recommend variations to any part of the Services or the Specification as applicable (known as a **Variation**).
- 12.2 The Supplier shall, free of charge, notify the Customer within seven (7) Working Days of the effect on this Agreement (including the Price and any other changes) of implementing such Variation.
- 12.3 The Supplier shall submit to the Customer as soon as reasonably practicable a full written quotation for such Variation specifying the increase or decrease (if any) which will be required to the Price (and any other changes), and the changes (if any) which will be required to this Agreement.
- 12.4 Upon receipt of such quotation in accordance with clause 12.3 the Customer may elect either:
- 12.4.1 to accept such quotation in which case this Agreement shall be amended in accordance with such quotation; or
- 12.4.2 to withdraw the proposed Variation in which case this Agreement shall continue in force unchanged.
- 12.5 Until such time as any Variation is formally agreed between the Parties in writing in accordance with this clause 12 and clause 38, the Supplier will, unless otherwise agreed in writing, continue to perform and be paid as if such Variation had not been required. For the avoidance of doubt, the Supplier agrees that the preparation of a quotation under clause 12.3 will not cause any delay in the provision of the Services.

## 13 Indemnity

- 13.1 The Supplier warrants that:
- 13.1.1 it is fully experienced, qualified, equipped, organised and financed to perform its obligations under this Agreement; and
- 13.1.2 the Services will be provided so as to comply with the Agreed Service Levels and the terms of this Agreement; and
- 13.1.3 the Services will be provided using all professional skill, care and diligence as is to be reasonably expected from a properly qualified and competent provider experienced in the provision of services of a similar size, type, scope and complexity to the Services; and
- 13.1.4 the Services will be provided in a manner consistent with achieving the Key Performance Indicators identified in the relevant Order; and
- 13.1.5 the Services will be provided in accordance with all Applicable Laws and in the event that the Supplier infringes any of the Applicable Laws, the Supplier shall be solely liable for the consequences of such infringement and hold the Customer harmless in respect of any actions, claims, proceedings or demands of whatever nature arising out of or in connection with such infringement; and
- 13.1.6 all of its employees, agents and Sub-Contractors assigned to the performance of the Services are appropriately trained and possess such skill, experience and qualifications necessary for the proper performance of the Services; and

13.1.7 that the Services will be carried out in accordance with the general requirements of safety in terms of risk presented to the health and safety of persons.

13.2 If the Supplier receives written notice from the Customer of any breach of the warranties listed at clause 13.1 above, whether during the Term or following the termination or expiry of this Agreement, then the Supplier shall without delay and at its own expense remedy the defect or error in question.

13.3 The Supplier shall indemnify the Customer against all Liabilities which the Customer may incur which arise from breach of any warranty or any other provision of this Agreement including those arising, directly or indirectly, from:

13.3.1 any act, omission, default or negligence of the Supplier, or any Sub-Contractor of the Supplier and their respective employees or agents; and/or

13.3.2 any injury (including death) to any persons or loss of or damage to any property,

provided that the Supplier shall not be liable for any Liabilities to the extent that they result from any negligent act or omission of the Customer or its employees.

## 14 **Warranties**

14.1 The Supplier shall on signature of this Agreement or within 14 Working Days of the Customer's written request so to do execute a deed of warranty in the form set out in Schedule 4 in favour of the Customer.

14.2 In the event that the Supplier sub-lets any part of the Services pursuant to clause 25 the Supplier shall within 14 Working Days of the Customer's request to do so procure that the Sub-Contractor executes as a deed a collateral warranty in favour of the Customer in the form set out in Schedule 5 (mutatis mutandis) and deliver the same to the Customer.

14.3 If the Supplier fails to deliver any deed of warranty requested under this clause 14 within 14 Working Days of the request as aforesaid provided that the deed of warranty has been correctly presented to the Supplier for execution, the Customer shall not be obliged to make any further payment to the Supplier under this Agreement until such warranties are delivered duly executed to the Customer.

14.4 The Supplier shall ensure that all product guarantees, manufacturers' warranties and any other form of security it receives in relation to the Services are either addressed to the Customer or are assignable to the Customer. The Supplier shall on or before completion of the Services assign the benefit of such product guarantees and warranties to the Customer and shall supply evidence of such assignment to the Customer.

## 15 **Access and facilities**

15.1 Subject to clause 15.2, the Customer shall afford to the Supplier's authorised personnel (at all reasonable times and with prior agreement) such access to the Customer's premises in accordance with the Customer's security policies from time to time in force (but not exclusive access) as may be necessary for the performance of its obligations under this Agreement.

15.2 The Customer shall have the right to refuse admittance to, or order the removal from, its premises of any person employed by or acting on behalf of the Supplier or any Sub-Contractor who, in the opinion of the Customer (which shall be final), is not a fit and proper person to be at the Customer's premises.

- 15.3 Action taken under clause 15.2 shall immediately be confirmed in writing to the Supplier by the Customer and shall not relieve the Supplier of its obligations under this Agreement.
- 15.4 The Supplier shall take reasonable care to ensure that in the execution of the Services neither it nor any Sub-Contractor nor any personnel of any of them unnecessarily interferes with the operations of the Customer or any Group Company or their respective employees, agents and sub-contractors.
- 15.5 The Customer shall, upon request by the Supplier, make available to the Supplier such facilities and personnel in connection with the Services as may from time to time be agreed. The terms on which such facilities and personnel shall be made available shall be agreed at the relevant time following receipt of the Supplier's request.
- 15.6 The Supplier may bring on to the Customer's premises such of the Supplier's materials as may be necessary for the proper performance of the Supplier's obligations under this Agreement and such other of the Supplier's materials as may be agreed by the Customer and it shall use reasonable endeavours to ensure that any such materials having a material value are clearly marked as belonging to the Supplier or any relevant third party.
- 15.7 The Supplier shall make good any damage to the Customer's premises caused by the presence of the Supplier's materials or arising as a consequence of the removal of the Supplier's materials from the Customer's premises.
- 15.8 The Supplier shall at all times whilst on the Customer's premises or on any other site whilst undertaking the Services comply with and ensure that its employees, agents and SubContractors comply with:
- 15.8.1 all Applicable Laws relating to the provision of Services; and
- 15.8.2 all health and safety legislation; and
- 15.8.3 all security and safety regulations and rules from time to time in force on those premises or site and will be deemed to have full knowledge of such regulations, copies of which shall be supplied on request; and
- 15.8.4 all relevant policies of the Customer (copies of which shall be supplied on request).
- 15.9 The Supplier shall clear away and remove from the Customer's premises or any other site all installation plant, service material, rubbish and temporary works and leave the premises or site in clean and workmanlike condition at the end of each day. The Supplier may by prior arrangement with the Customer leave such equipment and spare parts on such premises or site as may be necessary to carry out its duties under this Agreement but does so at its own risk. For the avoidance of doubt, the Supplier shall not store any materials on the Customer's premises without prior written approval from the Customer.
- 15.10 Where access to tenanted property(ies) of the Customer (or a Group Company) is required for the proper performance of the Services, the Supplier shall consult with the Customer (or relevant Group Company) and comply with the relevant access and tenant notification policies as notified by the Customer (or relevant Group Company) prior to accessing (or attempting to access) that property.
- 15.11 The Supplier shall not enter a property to carry out any of the Services in the event that a child, children or a person or persons who appears to be under the age of 18 is present in the property either by themselves or without an adult who appears to be over the age of 18 also being present in the property.

15.12 In the event that the Supplier becomes aware that an occupier or occupiers of a premises where the Supplier is carrying out any of the Services appears to be vulnerable or at risk (a non-exclusive list of which includes an elderly person who appears frail or who is living in poor conditions; or a baby or child appears to be being treated badly by its parent or another person) it shall notify the Customer of its concerns immediately.

15.13 The Supplier shall:

15.13.1 expeditiously investigate all claims for damage or loss to a tenant's goods, chattels, possessions and personal property; and

15.13.2 reimburse the tenant where the circumstances would indicate that such loss or damage may have been caused by the Supplier, its operatives, Sub-Contractors, agents or representatives; and

15.13.3 Indemnify the Customer against any claim made against the Customer for any such damage or loss that may have been caused by the Supplier, its operatives, Sub-Contractors, agents or representatives.

## 16 **Information and assistance**

16.1 The Supplier shall provide to the Customer:

16.1.1 all information as the Customer requires to ensure that the Services comply with and that the Customer fulfils its obligations under all Applicable Laws and industry codes of practice; and

16.1.2 all information relating to any possible risks to health and safety presented by the Services.

16.2 The Supplier shall be responsible for and shall pay any extra costs occasioned by any discrepancies, errors or omissions in documentation or other information supplied in writing by it, whether they have been approved by the Customer or not, provided that such discrepancies, errors or omissions are not due to inaccurate documentation and information supplied or decisions made in writing by the Customer to the Supplier.

16.3 The Customer may request, and the Supplier agrees to provide, the Supplier's assistance and co-operation in developing electronic procurement and electronic invoicing procedures throughout the Term. Both Parties agree that title to any Intellectual Property Rights which result from the development of such procedures shall vest entirely in the Customer.

17 **[NOT USED]**

## 18 **Insurance**

18.1 The Supplier shall take out and maintain throughout the period from the commencement of its obligations under this Agreement [(and, in respect of professional indemnity insurance only, until the expiry of the period of twelve years from the date of completion of the Services under this Agreement or the last part or section thereof)] an annually renewable professional indemnity and public indemnity insurance policy with insurers of substance and repute which shall apply in respect of all matters arising in relation to the Services which are the responsibility of the Supplier under the terms of this Agreement for an indemnity limit of not less than [REDACTED] [REDACTED] for each and every claim and without unusual or onerous conditions or excesses and employer's liability insurance of not less than [REDACTED] [REDACTED] for each and every incident.

- 18.2 The Supplier shall immediately inform the Customer if such insurance is not maintained or renewed or for any reason becomes void or unenforceable or ceases to be available on commercially reasonable terms in order that the Supplier and the Customer can discuss reasonable means of protecting the Customer and the Supplier shall take such reasonable steps as may be requested by the Customer.
- 18.3 The Supplier shall when reasonably required to do so from time to time produce to the Customer for inspection documentary evidence that such insurance is being properly maintained.
- 18.4 The Supplier shall not compromise, settle or waive any claim which it may be entitled to make under any insurance policy referred to in clause 18.1 in respect of any professional liability which it may incur under this Agreement, without the prior consent of the Customer (such consent not to be unreasonably withheld or delayed) provided that nothing in this clause 18.4 shall preclude the Supplier's insurers from taking over the handling of any claim in the name of the Supplier and (in that capacity) from conducting and settling the same as they see fit.
- 18.5 The Supplier will provide all facilities, assistance and information reasonably required by the Customer or its insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the performance of this Agreement.
- 19 **[NOT USED]**
- 20 **Force majeure**
- 20.1 Neither the Supplier nor the Customer shall be liable to the other or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Services, if the delay or failure was beyond that Party's reasonable control.
- 20.2 Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond either Party's reasonable control:
- 20.2.1 act of God, act of terrorism, explosion, flood, tempest, or fire; or
- 20.2.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition; or
- 20.2.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; or
- 20.2.4 import or export regulations or embargoes; or
- 20.2.5 difficulties in the market in obtaining raw materials, fuel, parts or machinery; or
- 20.2.6 power failure or breakdown in machinery; or
- 20.2.7 weather conditions which the Met Office records in the area nearest to the area in which the Services are being performed as being exceptionally adverse for the time of year, provided that no cause(s) shall constitute an acceptable reason for delay or failure under clause 20.1 where the Services are specifically related to providing support or assistance to the Customer, a Group Company, their property or their tenants in the event of such cause(s) occurring.
- 21 **Termination after specified events**
- 21.1 This Agreement or any schedule or part of a schedule may be terminated with immediate effect by

the Customer giving written notice of termination to the Supplier on or at any time after the occurrence of an event specified in clause 21.2.

21.2 The events are:

21.2.1 the Supplier committing a material breach of this Agreement which is incapable of remedy;  
or

21.2.2 the Supplier committing a material breach of an obligation under this Agreement which is capable of remedy and failing to remedy the breach within fourteen (14) Working Days starting on the day after receipt of written notice from the Customer giving reasonable details of the breach and requiring the Supplier to remedy the breach; or

21.2.3 the Supplier committing more than one breach of this Agreement, the cumulative effect of such breaches being:

(a) sufficient to justify the inference that the Supplier would continue to deliver a substandard performance over the entire remaining period of the Term; or

(b) serious in the widest sense of having a serious effect on the benefit which the Customer would have otherwise derived over the entire unexpired period of the Term (in the opinion of the Customer whose opinion shall be final); or

21.2.4 if the Customer in any twelve (12) month period becomes entitled on two (2) occasions or more to deduct from the Price the maximum Liquidated Damages Percentage in respect of any one or more Agreed Service Levels; or

21.2.5 a change in legislation, change of control of the Customer, merger or takeover, or other significant business reason reducing or eliminating the Customer's requirements for the Services; or

21.2.6 any representation or warranty made or repeated by the Supplier in this Agreement or any Document referred to in it or in connection with this Agreement shall prove to have been incorrect or misleading in any respect as at the time made or repeated; or

21.2.7 the Supplier stops payment of its debts or ceases or threatens to cease to carry on its business or substantially the whole of its business or is unable to pay its debts as they fall due or is deemed unable to pay its debts or enters into any arrangements with its creditors generally; or

21.2.8 the Supplier suffers an Insolvency Event; or

21.2.9 it becomes unlawful for the Supplier to perform all or any of its obligations under this Agreement or any document referred to in it or any authorisation, approval, consent, licence, exemption, filing, registration, notarisation or other requirement of any governmental, judicial or public body or authority necessary to enable the Supplier to comply with its obligations under this Agreement or any document referred to in it or to carry on its business is not obtained or, having been obtained, is modified, revoked, suspended, withdrawn or withheld or fails to remain in full force and effect; or

21.2.10 the Supplier (being a natural person) shall die or become mentally incapacitated, or (being a partnership or other unincorporated association) shall be dissolved or become subject to any bankruptcy or analogous insolvency procedure in any jurisdiction; or

21.2.11 any event analogous to those set out in clauses 21.2.7 to 21.2.10 shall occur in any



jurisdiction in which the Supplier is incorporated or resident or carries on business.

**21.3 For the purposes of clauses 21.2.1 and 21.2.2:**

21.3.1 a breach is capable of remedy if the Customer has agreed with the Supplier that time is not of the essence in performance of the obligation breached and if the Supplier can comply with that obligation within the fourteen (14) Working Day period; and

21.3.2 a breach can be material irrespective of whether any actual loss has been incurred or will be incurred as a consequence of the breach or intended breach and a material breach means a breach (including an anticipatory breach) which is serious in the widest sense of having a serious effect on the benefit which the Customer would otherwise derive from a substantial portion of this Agreement over the Term.

21.4 If any of the events specified in clauses 21.2.7 to 21.2.11 occur in relation to the Supplier, the Customer shall be entitled to give the administrative receiver, administrator, liquidator or other similar person appointed in relation to the Supplier the option of carrying out this Agreement subject to his providing a guarantee for the due and faithful performance of this Agreement up to an amount to be agreed with the Customer.

21.5 In the event of termination under this clause 21 by the Customer, the Customer shall have the right, by prior notice to the Supplier, to enter the Supplier's premises for the purpose only of removal of any items of equipment or materials which are clearly marked as being the property of the Customer.

21.6 The Customer may terminate the provision of the Services or any part thereof at any time and for any reason giving the Supplier not less than ninety (90) calendar days written notice of termination. The Customer and the Supplier will discuss arrangements for the orderly completion of Orders in hand and, for the avoidance of doubt, the Supplier's obligations under this Agreement shall continue during the ninety (90) calendar day notice period.

**22 Effects of termination**

22.1 Any expiry or termination of this Agreement or any Order for whatever reason shall not affect any rights, remedies or liabilities which have accrued on or before the date of termination or expiry.

22.2 Upon termination or expiry of this Agreement or the Schedules for whatever reason the Supplier shall return to the Customer the originals and any copies of any Documents or materials in its possession or control (including those stored electronically) which contain or record any of the Confidential Information of the Customer or any Group Company which have been provided to it by the Customer or Group Company.

22.3 In respect of the period between the date that notice of termination is given and the effective date of termination (the **Termination Date**) the Supplier shall continue to perform the Services, and shall use all reasonable endeavours to ensure that the termination of this Agreement (or of the provision of the Services) is effected as efficiently as possible and shall co-operate fully with the Customer and any person appointed by the Customer to provide Services so as to ensure the uninterrupted provision of Services to the Customer.

22.4 The Supplier shall within three (3) Working Days after the Termination Date deliver up to the Customer all materials supplied by the Customer together with all work performed up to and including the Termination Date and any materials incorporating any Confidential Information of, or relating to, the Customer or any Group Company and all copies thereof and destroy or erase any Confidential Information of, or relating to, any Group Company contained in any materials prepared by or on behalf of the Supplier or recorded in any memory device and within fourteen

(14) calendar days after the Termination Date the Supplier shall certify in writing to the Customer that the Supplier has fully complied with its obligations under this clause 22.4.

22.5 The Supplier shall within five (5) Working Days of the Termination Date return to the Customer any payments which may have been made in respect of Services which have not been performed as at the Termination Date.

22.6 In the event of termination following the occurrence of an event specified in clause 21.2, the Customer may complete the Services using (an)other supplier(s) and the Customer shall not be bound to make any further payment to the Supplier. Once the full and final cost of completion of the Services by (an)other supplier(s) has been ascertained, if such amount, when added to the amounts already paid by the Customer to the Supplier in respect of the Services prior to the Termination Date, exceeds the Price, then the difference shall be payable to the Customer by the Supplier.

22.7 The Supplier acknowledges and agrees that upon termination of this Agreement, for whatever reason, the Customer must be able to ensure that any successor supplier (the **Successor**) will be able to take on and successfully perform duties and obligations (the **Duties**) which are the same as or similar to the duties and obligations of the Supplier under this Agreement. As a condition of this Agreement, the Supplier undertakes that it shall, at its own cost, provide such services, assistance, licences, documentation and information and do such things as the Customer or any actual or proposed Successor may request to ensure an orderly and efficient handover of Duties to the Successor and to ensure that any Successor is able to provide services to the Customer which are the same as or similar to those provided by the Supplier under this Agreement.

22.8 For the avoidance of doubt, the provisions of this Agreement expressed to have effect after termination or expiry shall do so following termination or expiry for whatever reason.

## 23 **Waiver**

23.1 No failure to exercise or any delay in exercising any right or remedy under this Agreement shall operate as a waiver of it or of any other right or remedy under it. No single or partial exercise of any such right or remedy shall prevent any further or other exercise of it or the exercise of any other right or remedy.

23.2 Any waiver given by the Customer must be in writing and expressly stated by an authorised representative of the Customer to be a waiver. Such a waiver will only apply to the specific events to which it is stated to relate and not to any other events, whether past or future.

23.3 The rights and remedies provided by this Agreement are cumulative and (unless otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law or by this Agreement.

## 24 **Confidentiality**

24.1 Except as permitted by this Agreement, neither Party shall use or disclose to any third party any of the other Party's Confidential Information without the prior written consent of that other Party.

24.2 The provisions of clause 24.1 shall not apply to:

24.2.1 any information which is or becomes public knowledge otherwise than through any breach of this Agreement or any other contract between the Supplier and any Customer or Group Company; or

24.2.2 any information which can be demonstrated by documentary evidence to have been in the

possession of the receiving Party before being divulged to it by the disclosing Party; or

24.2.3 any information obtained from a third party who is free to divulge it without breaching any duty of confidentiality; or

24.2.4 any information which is ordered to be disclosed by a court or tribunal of competent jurisdiction or which must be disclosed as a result of governmental regulation.

24.3 The Supplier shall divulge Confidential Information only to those of its employees who are directly involved in the performance of this Agreement and shall ensure that such employees are aware of and comply with these obligations as to confidentiality and that its Sub-Contractors are bound by the requirements of this clause 24 as if they were a Party to this Agreement.

24.4 The provisions of this clause 24 shall continue in force notwithstanding the termination of this Agreement for any reason.

## 25 **Assignment and sub-contracting**

25.1 The Customer may at any time assign the benefit of this Agreement and/or any rights arising under it subject to a maximum of two such assignments and/or by way of a charge to any mortgagee of the relevant property on notice to the Supplier without the consent of the Supplier being required.

25.2 The Supplier shall not without the prior written consent of the Customer, which shall not be unreasonably withheld or delayed, dispose of or deal in any other manner with this Agreement or any of its rights or beneficial interests under it, or purport to do any of the same, nor sub-contract any or all of its obligations under this Agreement.

## 26 **Representatives**

Each Party will nominate in writing upon the signing of this Agreement the person who will act as its nominated contact for the purposes of this Agreement and who will be responsible for providing any information which may be required by the other Party to perform its obligations under this Agreement.

## 27 **Employees and Sub-Contractors**

If an employee or Sub-Contractor of the Supplier (or any employee of a Sub-Contractor of the Supplier) assigned to the performance of this Agreement is judged by the Customer's representative not to be performing satisfactorily this will be drawn to the attention of the Supplier's nominated representative. A clear statement of the required change in performance will be established. If the employee or Sub-Contractor in question is unable to meet this standard of performance with immediate effect, the Supplier will replace that person without delay.

28 **[NOT USED]**

29 **[NOT USED]**

## 30 **Anti-corruption**

30.1 **The Supplier undertakes to the Customer that:**

30.1.1 it has not and its current and former directors, officers and employees have not and shall not engage in any Corrupt Activity; and

30.1.2 it has not and its current and former directors, officers and employees have not and shall

not engage in any activity, practice or conduct which could or would place the Customer in breach of section 7(1) of the Bribery Act; and

30.1.3 it has and shall maintain and implement:

- (a) procedures to ensure compliance with clauses 30.1.1 and 30.1.2; and
- (b) procedures to ensure compliance with the Customer's Gifts and Hospitality Policy as updated from time to time; and
- (c) adequate procedures designed to prevent any Associated Person from undertaking any Corrupt Activity and/or conduct that would give rise to an offence under section 7 of the Bribery Act; and

30.1.4 it shall include undertakings similar to those contained in this clause 30.1 in any contract it may enter into with Sub-Contractors and provisions similar to those contained in clause 30.2 which shall be capable of enforcement directly by the Customer pursuant to the Contracts (Rights of Third Parties) Act 1999; and

30.1.5 from time to time, at the reasonable request of the Customer, it will confirm in writing that it has complied with its undertakings under clauses 30.1.1 to 30.1.3 inclusive and will provide any information reasonably requested by the Customer in support of such compliance.

30.2 The Supplier shall maintain adequate records to assist in verifying its compliance with the provisions of this clause 30 (including without limitation books of account showing all payments made by the Supplier in connection with this Agreement) and shall permit the Customer and its third party representatives, on reasonable notice during normal business hours, but without notice in the case of any reasonably suspected breach of clauses 30.1.1 to 30.1.3 inclusive, to access and take copies of such records and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 30. The Supplier shall give all necessary assistance to the conduct of such audits.

30.3 Audit access by any third party representative of the Customer in accordance with clause 30.2 shall be subject to such representative agreeing to be bound by confidentiality obligations equivalent to those in clause 23 in respect of the information obtained provided that all information obtained may be disclosed to the Customer.

30.4 The Supplier shall indemnify the Customer against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by, or awarded against, the Customer as a result of any breach of this clause 30 by the Supplier or any breach of provisions equivalent to clauses 30.1 and 30.2 in any contract with a Sub-Contractor.

30.5 In the event of breach of clauses 30.1.1 or 30.1.2 or if an Associated Person (or anyone employed by or acting on behalf of an Associated Person) engages or has engaged in a Corrupt Activity or any activity, practice or conduct which could or would place the Customer in breach of section 7(1) of the Bribery Act the Parties agree that the Customer shall be entitled to act in accordance with clauses 30.5.1 to 30.5.5 below, as appropriate:

30.5.1 if the breach is committed by the Supplier or by a director, officer or employee not acting independently of the Supplier the Customer may terminate this Agreement; and/or

30.5.2 if the breach is committed by a director, officer or employee acting independently of the Supplier the Customer may give notice to the Supplier of termination and this Agreement shall terminate unless within fourteen (14) calendar days of receipt of such

notice the Supplier terminates the director, officer or employee's employment and if necessary procures the performance of such part or parts of the Services by another person; and/or

30.5.3 if the breach is committed by an Associated Person or by a director, officer or employee of the Associated Person not acting independently of the Associated Person then the Customer may give notice to the Supplier of termination and this Agreement will terminate unless within twenty eight (28) calendar days of such notice the Supplier terminates the relevant sub-contract or supply agreement and procures the performance of such Services by another person; and/or

30.5.4 if the breach is committed by a director, officer or employee of an Associated Person acting independently of the Associated Person then the Customer may give notice to the Supplier of termination and this Agreement will terminate unless within twenty eight (28) calendar days of receipt of such notice the Associated Person terminates the director, officer or employee's employment and (if necessary) procures the performance of such part of the Services by another person; and/or

30.5.5 if the breach is committed by any other person not specified in clauses 30.5.1 to 30.5.4 then the Customer may give notice to the Supplier of termination and this Agreement will terminate unless within twenty eight (28) calendar days of receipt of such notice the Supplier procures the termination of such person's employment and of the appointment of their employer (where not employed by the Supplier or the sub-contractor or supplier) and if necessary procures the performance of such part of the Services by another person.

30.6 In the event of breach of clause 30.1.3 by the Supplier the Customer may give notice to the Supplier of termination and this Agreement shall terminate unless within fourteen (14) calendar days of receipt of such notice the Supplier remedies such breach.

30.7 In the event of any termination under clause 30.5 or 30.6 the Parties agree that the Customer shall be entitled by notice in writing to the Supplier to terminate the Supplier's employment under any other contract between the Parties (whether in relation to the Services or otherwise) and any such termination shall be deemed to be termination for Supplier default.

30.8 The provisions of clause 21 and 22 (including 22.5) inclusive apply to any termination under clauses 30.5 or 30.6.

31 **[NOT USED]**

32 **Dispute resolution**

32.1 As soon as either Party is aware of any difference or dispute arising out of or in connection with this Agreement or the supply of Services hereunder, it shall give notice to the other Party.

32.2 The Parties shall meet within ten (10) Working Days of such notice to seek to achieve an agreed solution to the notified difference or dispute within a period of twenty eight (28) calendar days.

32.3 The procedures under clauses 32.1 and 32.2 are without prejudice to the rights of either Party to refer any difference or dispute to adjudication in accordance with the procedures set out in clause 32.4.

32.4 **The procedure for adjudication is as follows:**

32.4.1 The Customer and the Supplier both have the right to refer a difference or dispute for

adjudication by giving notice at any time of the intention to do so. The notice shall be given and the adjudication shall be conducted under the model adjudication procedure published by the Construction Industry Council current at the date of the difference or dispute (the **Model Adjudication Procedure**).

32.4.2 For the purposes of the Model Adjudication Procedure, the term "dispute" shall have the same meaning as "difference or dispute" in this Agreement.

32.4.3 The adjudicator shall be required to give reasons for his or her decision and clause 23 of the Model Adjudication Procedure shall be treated as amended accordingly.

32.4.4 Without prejudice to the rights of the Customer or the Supplier under this Agreement, each Party shall comply with any decision of the adjudicator. If either the Customer or the Supplier fail to do so, then the other shall be entitled to take legal proceedings to secure such compliance pending final determination of the difference or dispute, and the term "summary enforcement" in clause 32 of the Model Adjudication Procedure shall be read accordingly.

32.5 Any difference or dispute that is not resolved by adjudication in accordance with clause 32.4 may be referred by either Party to the courts of England and Wales.

32.6 If any dispute or difference arising under this Agreement raises the same or parallel issues as a related dispute or difference under any other agreement between the Customer and another party in relation to the supply of Services under the Agreement, and if the related dispute or difference has already been referred to adjudication under the terms of that agreement, the Parties shall (wherever practicable and if the adjudicator agrees) refer the matter to the same adjudicator for decision with a view to the two references being consolidated.

### 33 **Non-solicitation**

33.1 For the Term and for a period of six months thereafter, neither Party shall (except with the prior written consent of the other Party):

33.1.1 solicit (with a view to offering employment) or otherwise seek to entice away from the employment of the other Party any Restricted Employee; or

33.1.2 employ or enter into a contract for the provision of services by any Restricted Employee.

For the avoidance of doubt, this restriction does not prevent employment arising genuinely from an open advertising campaign and not specifically targeted at Restricted Employees.

33.2 The restrictions set out in this clause 33 are considered reasonable by the Parties and each of them acknowledges (having taken legal advice) that the provisions of this clause 33 are necessary for the protection of the proprietary and commercial interests of the other.

### 34 **Notices**

34.1 Any notice or other communication given under this Agreement shall be in writing in the English language and shall either be delivered personally or sent by e-mail or facsimile transmission and subsequently confirmed by letter or other means of telecommunication in permanent written form to the address or facsimile number of the Party who is to receive such communication as set out in this clause 34 or to such other address or facsimile number in the United Kingdom as may from time to time be specified in writing by the relevant Party as its address for the purpose of this clause 34.

34.2 **The address and facsimile number of each Party is:**

34.2.1 **The Customer**

Marked for the attention of: [REDACTED] and copied separately to the Procurement Director and the nominated procurement manager

E-mail: [REDACTED]

Address: Guildhall 2, 2 High St, Kingston upon Thames, London, KT1 1EU

and copied separately to the Procurement Director and the nominated procurement manager): [REDACTED]

Address: Guildhall, 2 High St, Kingston upon Thames, London, KT1 1EU

E-mail: [REDACTED]

34.2.2 **The Supplier**

Address: [ensure address is in the United Kingdom]

E-mail : [ ]

34.3 **A communication shall be deemed to have been received:**

34.3.1 if delivered personally, at the time of delivery; and

34.3.2 if sent by prepaid recorded, special delivery or first class post, on the second Working Day after the date of posting; and

34.3.3 if sent by prepaid air mail post, on the fifth Working Day from the date of posting; and

34.3.4 if sent by e-mail or facsimile on the date of completed transmission.

34.4 A communication received or deemed to be received in accordance with clause 34.3 on a day which is not a Working Day or after 5.00pm on any Working Day shall be deemed to be received at 9.00am on the next Working Day.

34.5 Each Party undertakes to notify the other Party in accordance with this clause 34 if the address or facsimile number specified in this clause 34 is no longer an appropriate address for the service of communications.

35 **Publicity**

Neither the Supplier nor its Sub-Contractors shall without the prior written consent of the Customer advertise or publicly announce or otherwise disclose to any person that it is undertaking work for the Customer or any member of the Customer's group.

36 **Independent contractor**

For the purposes of this Agreement the Supplier is acting as an independent contractor. The Supplier shall have no right, power or authority whatsoever to create any obligation, express or implied, on behalf of the Customer or any member of the Customer's group, unless the Customer has specifically authorised the same in writing.

37 **No partnership, agency or employment**

Nothing in this Agreement or in any document referred to in it or any arrangement contemplated by it shall indicate either Party is or shall become a partner, agent, fiduciary or employee of the other Party and the execution, completion and performance of this Agreement or any document referred to in it shall not confer on any Party any power to bind or impose any obligations to any third parties on the other Party or to pledge the credit of the other Party.

38 **Variation**

No amendment or variation of the terms of this Agreement or any documents entered into or delivered in accordance with its provisions shall be effective unless made or confirmed in writing and signed by all the Parties to this Agreement or such document.

39 **Severance**

39.1 If any provision of this Agreement shall be found by any court or body or authority of competent jurisdiction to be invalid or unenforceable, such provision shall be severed from the remainder of this Agreement which shall remain in full force and effect to the extent permitted by law.

39.2 If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted or modified, the provision in question shall apply (where the Parties agree in writing), with such modification as may be necessary to make it valid.

40 **Default interest**

If the Supplier or the Customer fails to pay any amount payable by it under this Agreement beyond the final date for payment, it shall entitle the payee to be paid interest on the overdue amount from the due date up to the date of actual payment (before as well as after judgment) at the Interest Rate. Such interest shall accrue on a daily basis and be compounded quarterly.

41 **Guarantee**

If so required by the Customer, any Supplier which has a holding company will procure that within fourteen (14) calendar days of the date of this Agreement its ultimate holding company shall enter into a guarantee and indemnity in the form required by the Customer.

42 **Governing law and jurisdiction**

42.1 This Agreement is governed by and shall be construed in accordance with the laws of England and Wales.

42.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this Agreement (or any documents entered into in accordance with its provisions) and, for such purposes, irrevocably submits to the exclusive jurisdiction of the courts of England and Wales.

43 **Counterparts**

This Agreement may be executed in any number of counterparts all of which taken together constitute one and the same document and any Party may execute this Agreement by signing any one or more of such counterparts.

44 **Rights of third parties**



44.1 For the purpose of the Contracts (Rights of Third Parties) Act 1999 this Agreement does not create, confer or purport to confer any benefit or right enforceable by any person not a Party to it except that a person who is a permitted successor to or assignee of the rights of a Party to this Agreement shall be deemed to be a Party to this Agreement.

44.2 Any variation, rescission or termination of any term of this Agreement shall only be effective if agreed in writing between the Customer and the Supplier and no other person's agreement or consent shall be required for such variation, rescission or termination.

#### 45 **Entire agreement**

45.1 This Agreement including any document specifically referred to in it and any representations or statements made by the Supplier in connection with the subject matter of this Agreement together constitute the entire agreement and understanding between the Customer and the Supplier relating to its subject matter but without prejudice to the rights and liabilities of the Parties accrued before the date of this Agreement.

45.2 Nothing in this clause 45 shall operate to limit or exclude any liability for fraud.

#### 46 **Limitation period**

The Supplier shall have no liability under this Agreement in any action or proceedings for any breach of this Agreement which may be commenced by the Customer against the Supplier after the date twelve (12) years from the date of completion of the Services.

#### 47 **Additional Customer joining procedure**

47.1 The Supplier acknowledges that a PfP Group Company or any public body identified in the contract notice may join this Agreement as a "Customer" (a **New Customer**) at any time throughout the Term.

47.2 Each New Customer, the Customer and the Supplier shall enter into a Joining Agreement in the form set out in Schedule 3 and each New Customer shall not call-off any Order pursuant to this Agreement until such Joining Agreement has been executed as a deed by the Customer, the New Customer(s) and the Supplier.

47.3 From the date of the Joining Agreement, the New Customer shall, for the purposes of this Agreement (excluding this clause 47), be a Customer and shall assume the rights and obligations of the Customer hereunder in respect of any Orders that the relevant New Customer instructs under this Agreement, and for the avoidance of doubt each Customer (including any New Customer) shall be severally liable in respect of their obligations under this Agreement.

47.4 The Customer and each New Customer shall be severally liable to the Supplier in respect of any duties and obligations arising under this Agreement and/or any Order from the date they become members of this Agreement and no Customer shall be liable to the Supplier for any act or omission of any other Customer. For the avoidance of doubt the rights of any Customer hereunder may be enforced by each individual Customer severally.

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

**Savills (UK) Limited** (registered company number 02605138) whose registered office is at 33 Margaret Street, London, W1G 0JD (the **Supplier** which expression includes its successors in title, transferees and assigns)

Executed as a deed by)  
the **Supplier** affixing its            )  
common seal in the                 )  
presence of:                            )

Director

Directory/Secretary

The Common Seal of **THE MAYOR AND BURGESSES of THE ROYAL BOROUGH OF KINGSTON UPON THAMES** was hereunto affixed to this deed in the presence of:

Mayor

Corporate Solicitor

## Schedule 1 - Services

### **Brief for Client Advisor/Lead Consultant role on the Cambridge Road Estate Regeneration Scheme**

#### **1 Background**

The Greater London Authority (GLA) estimates that an additional 42,000 new homes are required in London every year.

The London Plan March 2015 (consolidated with alterations since 2011) projects that by 2036 there will be 180,000 residents living in the Kingston Borough, an increase in number of over 13,000 above those currently living in Kingston.

The Royal Borough of Kingston upon Thames (RBK) started work on its programme of estate regeneration in 2015 to help deliver growth and provide additional new high quality mixed-tenure homes together with facilities and amenities to support their residents. It will be funding initial works itself with an expectation that receipts from a development partner for market housing will fund the provision of the new affordable housing and community benefits.

The Council has prioritised its Cambridge Road estate as Phase 1 of the estate regeneration programme.

A significant amount of work has been undertaken by RBK in assessing the viability of the potential regeneration of the Cambridge Road Estate. This has been undertaken by architects and finance experts in assessing a number of options and significant resident engagement has sought a view on these options in order to agree three 'preferred' options that can be further developed once a developer partner has been appointed.

#### **2 Vision, aims and objectives**

RBK's estate regeneration programme will help ensure Kingston has housing that is the best it can be for all its residents. The Council's view is that some of the current housing stock does not meet that requirement and will not be able to cope with the growth of population that Kingston will see over the next few decades. The estate regeneration programme will help ensure the Council can support more Kingston residents to live and work in its Borough.

The programme will support RBK's proposals for growth, maximising the number of homes to be developed on its estates whilst providing all necessary amenities and infrastructure, including open space, and achieving excellent quality design and construction.

The Council has established a set of outcomes, principles, and priorities and these are set out below. They will form the bases of the housing estate regeneration programme.

##### **2.1 Outcomes**

1. Providing additional housing for the borough as an important aspect of our planning for growth strategy;
2. Providing more choice of size and type of homes including affordable rented, shared ownership and home ownership;
3. More efficient use of Housing Revenue Account (HRA) land asset with an increased income stream;
4. Building sustainable homes and communities where people want to live;
5. Improving the physical character of the borough; and

6. Environmental improvements with more energy efficient homes.

## **2.2 Key principles**

1. Any development proposals need to be able to absorb the onsite re-housing and decanting requirements;
2. Any development proposals need to include covering the costs of leasehold buy-backs with an option considered of offering like-for-like replacement in lieu of re-purchase with the appropriate support for leaseholders;
3. As a minimum any development proposals must replace on site the existing social rented units (and leasehold units too if like-for-like replacement is offered);
4. Subject to viability appraisals the development proposals should seek to increase the amount of on-site affordable housing through a range of affordable tenures; and
5. The Council will retain a legal interest in the development sites.

## **2.3 Priorities**

1. Affordability;
2. Resident involvement;
3. Delivering growth;
4. Quality;
5. Speed of delivery;
6. Sustainability;
7. Mixed communities; and
8. Financial gain.

The hierarchy of these priorities will be tested through the option and viability appraisal process. There are key financial requirements for the programme:

1. The capital cost of the scheme including providing the new affordable housing, supporting infrastructure and other community benefits will be met by receipts from the market housing; and
2. Opportunities will be maximised for revenue generation for the Council.

## **3 Description of Services**

The scheme is now at a critical point and RBK wishes to build momentum in the project by progressing the procurement of a developer partner, undertaking the master planning and entering into a development agreement.

Pursuant to the Professional Services Hub framework agreement, Savills (UK) Limited have been asked to provide a fee proposal to undertake the role of Client Advisor Services/Lead Consultant in support of RBK's in-house Regeneration team. These services will be critical in ensuring the necessary expertise and resource is committed to the programme to ensure the best outcomes for the Council when procuring a Development Partner Agreement.

### **3.1 Deliverables**

Savills (UK) Limited have been asked to provide a costed proposal to deliver three key areas:

1. Preparation
  - Review and agree route to market e.g. GLA London Development Panel;
  - Soft market testing (and EOI if using the LDP);
  - Develop Heads of Terms;
  - Develop a Pre-Contract Agreement to enable work to proceed following selection of a preferred bidder;
  - Prepare opportunity brochure;
  - Prepare and collate all key documentation;
  - Set up data room; and

- Prepare a Communications Plan.

## 2. Market Engagement

- Publication of the opportunity;
- Lead sifting brief;
- Invite proposals from shortlisted bidders;
- Manage all clarifications;
- Assess financial offers;
- Work with legal advisors in assessing comments on HOTs and Pre-Contract Agreement;
- Lead evaluation of final proposals; and
- Assist in managing input from wider stakeholders.

## 3. Preferred Bidder/Pre Contract Period

- Provide recommendations from a property and commercial perspective;
- Work with Council's legal advisors to progress the Development Agreement through to signing;
- Review any post tender changes to cost base;
- On going planning advice and review of preferred bidder proposals;
- Attend meetings where required; and
- Provide regular progress reports.

## 4. Price & Payment Terms

### 4.1 Price

The Council has allocated a maximum budget of £500,000.00 for this Contract.

### 4.2 Invoicing and Payment

**Invoices in respect of the Instruction will only be processed for payment where:**

Invoices are addressed to [REDACTED] Programme Director - Estate Regeneration and emailed directly to [REDACTED] Housing Programme Officer [REDACTED] and [REDACTED] [REDACTED] Programme Director - Estate Regeneration [REDACTED]

Payments for the services will be made in accordance with the fee profile in Schedule 6. Invoices should therefore be submitted in the timeframes detailed in Schedule 6.

### 5. Fixed Price Period

The Contract will run for an initial period of 18 months, with two options for extensions of six months each ("18+6+6"). Prices will remain fixed during the Contract Term.

### 6. Agreed Service Levels

As detailed in section 3 (Deliverables) above.

### 7. Liquidated Damages Percentage

Not applicable.

**Schedule 2 - Order Form**

**NOT USED**

**NOT USED**

**Schedule 4 - Supplier Collateral Warranty**

**To be inserted**



**Schedule 5 - Tender Submission**

## Schedule 6 - Fee Profile