

TERMS AND CONDITIONS OF ENGAGEMENT
C&D Access Ltd (hereinafter referred to as "the Supplier")

1 Interpretation

- 1.1 In these Conditions:
- 'Conditions'** means the standard terms and conditions of business set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Employer and the Supplier
- 'Contract'** means the Tender and these Conditions
- 'Contract Sum'** means the agreed VAT exclusive sum to be charged by the Supplier for providing the Goods and Services referred to in the Contract.
- 'Employer'** means, without prejudice to the generality of the term, the party requesting the Goods and Services to be provided which may be a Main Contractor or other Contractor.
- 'Employer's Equipment'** means any equipment, systems, cabling or facilities provided by the Employer and used directly or indirectly in the supply of the Goods and Services
- 'Deliverables'** means all documents, products, materials and plant developed by the Supplier or its agents, sub-contractors, consultants and employees in relation to the Goods and Services including any deliverables specified in the Contract or Tender
- 'Document'** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form
- 'Goods'** means the goods and materials (including any instalment of the goods or any parts for them) which the Supplier is to deliver in accordance with these Conditions
- 'Intellectual Property Rights'** means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade, dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection worldwide
- 'Material'** means all documents, information and materials provided by the Employer relating to the Services including (without limitation) computer programmes, data, reports, specifications, surveys and any other such information required to enable the Supplier to effectively carry out the Services
- 'Pre-Existing Materials'** means all Documents, information and materials provided by the Supplier relating to the Goods and Services which existed prior to the commencement of the Contract.
- 'Provisional Sum'** includes a sum provided for work that the Employer may or may not decide to have carried out, or which cannot be accurately specified in the Contract
- 'Tender'** means the quotation for Goods and Services provided by the Supplier together with any documentation therewith.
- 'Services'** means the services (including any part performance thereof) to be provided by the Supplier under the Contract together with any other services which the Supplier provides or agrees to provide to the Employer
- 'Site'** means the site where the Supplier will deliver the Goods set out in the Contract
- 'Statutory Requirements'** means any statute, statutory instrument, regulation, rule or order made under any statute or directive having the force of law which affects the Goods or Services or the performance of any obligations under the Contract and any regulation or bye-law of any local authority or statutory undertaker which has jurisdiction with regards to the Goods and Services
- 'Variation'** means the alteration or modification of the design, quality or quantity of the work included in the Contract and accompanying specification including the addition, omission or substitution of any work and the alteration of the kind or standard of any of the Materials or Goods to be used in the work
- 'VAT'** means value added tax chargeable under English law for the time being and any similar additional tax
- 'Writing/Written'** includes electronic mail and comparable means of communication.
- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time. The headings in these Conditions are for convenience only and shall not affect interpretation.

2 Applicability of Conditions

- 2.1 These Conditions shall:-
- 2.1.1 Apply to and be incorporated into the Contract; and
- 2.1.2 Prevail over any inconsistent terms and conditions contained, or referred to, in the Employer's purchase order, confirmation of order, acceptance of a Tender, or specification or other Document supplied by the Employer, or implied by law, trade custom, practice or course of dealing.
- 2.1.3 Instructing, allowing or enabling the Supplier to commence the Services or manufacture/procurement of the Goods constitutes an acceptance by the Employer to the Supplier's offer (in the Tender and/or the Supplier's order acknowledgement document), subject always to these Conditions
- 2.1.4 The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter
- 2.1.5 Each party acknowledges that, in entering into the Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty, whether made negligently or innocently (other than for breach of contract) other than as expressly provided in writing in the Contract.
- 2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Employer and the Supplier.
- 2.3 Any advice or recommendation given by the Supplier or its employees or agents to the Employer or its employees or agents as to the Services which is not confirmed in writing by the Supplier is followed or acted upon entirely at the Employer's own risk, and accordingly the Supplier shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.4 Any typographical, clerical or other error or omission in any sale literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

3 Documents and Specifications

- 3.1 For the avoidance of doubt unless expressly provided in the Tender the Supplier has no design responsibility or design liability for any element of the Services. It is the Employer's obligation to furnish the Supplier with any design or specification prior to submission of the Tender.
- 3.2 Notwithstanding anything to the contrary expressly or impliedly indicated by the Employer in any correspondence or documentation, the Supplier shall not inherit, adopt or take on any design responsibility or liability from the Employer or the Employer's design team.
- 3.3 Any drawings, illustrations, specifications or descriptive material of any sort produced by the Supplier are approximations only and shall not form part of the Contract. No warranty or guarantee is given for the accuracy of the same.
- 3.4 The Employer shall be responsible to the Supplier for ensuring the accuracy of the terms of any documentation (including any applicable specification) submitted by the Employer, and for giving the Supplier any necessary information relating to the Goods and Services within a sufficient time to enable the Supplier to issue a price and perform the Contract in accordance with its terms.
- 3.5 The quantity, quality and description of, and any specification for, the Goods and Services shall be those set out in the Tender but subject always to Clause 4.2.
- 3.6 If any Goods are to be manufactured or any process is to be applied to the Goods or the Services are to be provided by the Supplier in accordance with a specification submitted by the Employer, the Employer shall indemnify the Supplier against all loss, damages, costs and expenses awarded against or incurred by the Supplier in connection with or paid or agreed to be paid by the Supplier in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Supplier's use of the Employer's specification.
- 3.7 The Supplier reserves the right to make any changes in the specification of the Goods and Services which are required to conform with any applicable statutory or EC requirements or,

where the Goods and Services are to be supplied to the Supplier's specification, which do not materially affect their quality or performance or provision.

4 Charges and Payment

- 4.1 In consideration of the provision of the Goods and Services by the Supplier, the Employer shall pay the Contract Sum, adjusted as necessary, in the manner agreed, including the payment of any deposit if required, and the payment of all instalments, if payment by instalments has been agreed
- 4.2 Unless otherwise stated in the Tender or agreed in writing, the price will be subject to remeasurement based on upon the quantities and specification of work agreed between the parties and carried out. For the avoidance of doubt, this provision does not allow the Employer to unilaterally omit any aspect of the Contract. The Supplier's rates are subject to variation pending the quantities and specification of work carried out.
- 4.3 The price does not make allowance for any main contractor discount or retention.
- 4.4 The Employer shall be responsible for the costs of reinstatement of all unavoidable damage caused by or as a result of the Services or access required for the Services.
- 4.5 The Employer shall pay each and every payment in full by the date agreed, either by cheque or into a bank account nominated by the Supplier
- 4.6 Without prejudice to any other right or remedy that it may have, if the Employer fails to pay the Supplier in accordance with these Conditions the Supplier may:
- 4.6.1 Suspend all services until payment has been made in full; and
- 4.6.2 Claim interest on any outstanding payments at a rate of 8% per annum above the current base lending rate from time to time of the Bank of England, accruing on a daily basis
- 4.7 Time for payment shall be of the essence of the Contract
- 4.8 All sums payable to the Supplier under this Contract shall become due immediately on its termination
- 4.9 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Employer to the Supplier against any liability of the Supplier to the Employer
- 4.10 Subject to Clause 12.1 should the Employer's default in payment continue for a continuous period of 7 days, the Supplier shall be entitled to terminate the Contract on giving the Employer written notice of termination. The Supplier shall in addition be entitled to claim from the Employer the loss of profit suffered by the Supplier on the work left to complete at the date of termination
- 4.11 The Price shall be deemed to have been calculated in the manner set out below and shall be subject to adjustment in the events specified hereunder.
- 4.11.1 The Price is based upon the types and rates of duty, if any, and tax, if any (other than any VAT which is treated, or is capable of being treated, as input tax by the Supplier), by whomsoever payable which at the Order Date are payable on the import, purchase, sale, appropriation, processing, use or disposal of the materials, goods, electricity, fuels, materials taken from the site as waste or any other solid, liquid or gas necessary for the execution of the Works by virtue of any Act of Parliament. A type and a rate so payable are in these Conditions referred to as a 'tender type' and a 'tender rate'.
- 4.11.2 If, in relation to any materials or goods or any electricity or fuels or materials taken from the site as waste or any other solid, liquid or gas necessary for the execution of the Works including temporary site installations for those Works, a tender rate is increased or decreased or a tender type ceases to be payable or a new type of duty or tax (other than any VAT which is treated, or is capable of being treated, as input tax by the Supplier) becomes payable on the import, purchase, sale, appropriation, processing, use or disposal of any of the above things after the Order Date then in any such case the net amount of the difference between what the Supplier actually pays in respect of those materials, goods, electricity, fuels, materials taken from the site as waste or any other solid, liquid or gas and what he would have paid in respect of them had the alteration, cessation or imposition not occurred shall, as the case may be, be paid to or allowed by the Supplier. In this paragraph "a new type of duty or tax" includes an additional duty or tax and a duty or tax imposed in regard to any of the above in respect of which no duty or tax whatever was previously payable (other than any VAT which is treated, or is capable of being treated, as input tax by the Supplier).
- 4.11.3 The Supplier will notify the Employer of any such event within a reasonable period of time and the Employer and Supplier may agree what shall be deemed for all the purposes of this Contract to be the net amount payable to or allowable by the Supplier in respect of the occurrence of any such event.
- 4.11.4 Any amount which from time to time becomes payable to or allowable by the Supplier by virtue of this Clause 4.11 (inclusive) shall be taken into account in calculating the Price and any amounts payable to the Supplier.
- 4.11.5 As soon as is reasonably practicable the Supplier shall provide such evidence and computations as the Employer may reasonably require to enable the amount payable to or allowable by the Supplier by virtue of this Clause 4.11 (inclusive) to be ascertained.
- 4.11.6 No addition to or deduction from the Price or inclusion in the calculation made by virtue of this Clause 4.11 (inclusive) shall alter in any way the amount of profit of the Supplier included in that sum.
- 4.12 Any deposit paid as part of the Price or otherwise is non-refundable.

5 Commencement, Duration and Performance

- 5.1 The Goods and Services supplied under the Contract shall be provided by the Supplier to the Employer from the date specified in the Contract or as otherwise agreed between the parties. The Supplier shall not be obliged to continue to provide Services or deliver any Goods to the Employer until any outstanding payments in respect of the Goods or Services have been paid by the Employer in full and in cleared funds.
- 5.2 The Goods and Services supplied under the Contract shall continue to be supplied until the Services have been completed in accordance with the Contract or, if earlier, until the Contract is suspended or terminated in accordance with these Conditions
- 5.3 Any dates quoted for delivery of the Goods and performance of the Services are approximate only and the Supplier shall not be liable for any delay in delivery of the Goods and performance of the Services however caused. Time for delivery and performance shall not be of the essence of the Contract unless previously agreed by the Supplier in Writing. The Goods may be delivered and the Services performed by the Supplier in advance of the quoted date upon giving reasonable notice to the Employer.
- 5.4 Upon delivery of Goods to Site the Employer is deemed to have comprehensively inspected the same and any purported defect or non-conformance with specification must be communicated to the Supplier no later than 5 working days from delivery. Such timeous communication shall be a condition precedent to the right to claim for any such purported defect or non-conformance.
- 5.5 Installation or fixing of any Goods to Site by the Employer or any third party shall constitute deemed agreement that the Goods conform with the specification and are free of defects.
- 5.6 The Supplier has no liability for any Goods that have been altered, repaired or in any way changed by the Employer or any third party without the Supplier's express written consent.

6 Risk and property

- 6.1 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Employer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and all other goods and services agreed to be sold by the Supplier to the Employer for which payment is then due.
- 6.2 Until such time as the property in the Goods passes to the Employer, the Employer shall hold the Goods as the Supplier's fiduciary agent and bailee, and shall keep the Goods separate from those of the Employer and third parties and properly stored, protected and insured and identified as the Supplier's property.
- 6.3 Until such time as the property in the Goods passes to the Employer the Supplier shall be entitled at any time to require the Employer to deliver up the Goods to the Supplier and, if the Employer fails to do so forthwith, to enter upon any premises of the Employer or any third party where the Goods are stored and repossess the Goods. The Employer shall give information relating to the whereabouts of the Goods as the Supplier may from time to time require.
- 6.4 The Employer shall not be entitled to sell or pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Employer does so all moneys owing by the Employer to the Supplier shall (without prejudice to any other

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right or remedy of the Supplier) forthwith become due and payable.

7 Liability

- 7.1 Nothing in this condition shall limit or exclude any liability for fraud.
- 7.2 The Supplier's total liability to the Employer for claims made by the Employer against the Supplier in contract, tort and/or common law, including negligence or breach of statutory duty, arising in connection with the performance of the Contract shall be limited to the limit of the Supplier's Professional Indemnity insurance policy. This clause does not apply to claims made against the Supplier involving death, personal injury or fraud
- 7.3 The Supplier shall be under no liability in respect of any defect in the Goods and Services arising from any drawing, design or specification supplied by the Employer;
- 7.4 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Supplier's instructions (whether oral or in Writing), misuse or alteration or repair of the Goods without the Supplier's approval;
- 7.5 Subject to Clause 12.1 the Supplier shall be under no liability under any warranty, condition or guarantee provided to the Employer if the total price for the Goods and Services has not been paid by the final date for payment;
- 7.6 Any warranty provided by the Supplier in relation to parts, materials or equipment not manufactured by the Supplier shall only entitle the Employer to the benefit of any such warranty or guarantee as is given by the manufacturer to the Supplier and which is capable of transfer to the Employer.
- 7.7 Where any valid claim in respect of any of the Goods and Services which is based on any defect in the quality or condition of the Goods or the provision of the Services or the failure to meet specification is notified to the Supplier in accordance with these conditions, the Supplier shall be entitled to replace the defective Goods (or the part in question) or provide again the Services free of charge and the Supplier's liability shall not exceed the price charged by the Supplier in respect of the defective Goods or Services
- 7.8 The Supplier shall not be liable to the Employer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Goods and Services, if the delay or failure was due to any cause beyond the Supplier's reasonable control.
- 7.9 The Supplier's liability to the Employer under this agreement shall be reduced to the extent that the Supplier proves that it would have been able to recover a contribution pursuant to the Civil Liability (Contribution) Act 1978 from one or more of the other appointed professional consultants, on the assumption that the other professional consultants have entered into an agreement with the Employer containing terms generally similar to this agreement (having regard to the differing nature of their respective functions in relation to the project).

8 Default by the Supplier

- 8.1 If, before completion of the Supplier's works, the Supplier without reasonable cause, wholly or substantially suspends the carrying out of the Services or commits a material breach of contract the Employer may serve a notice in writing specifying the default and requiring the Supplier to remedy the breach within 30 days. If the Supplier fails to remedy the breach, the Employer may by notice in writing terminate the Contract

9 Default by the Employer

- 9.1 If the Employer shall commit a material breach of the Contract, the Supplier may by notice in writing to the Employer require the breach to be remedied within 7 days. If the Employer fails to remedy the breach as required the Supplier may by notice in writing terminate the Contract. A material breach shall include, but not be exclusive to:
- 9.1.1 Repeatedly breaching any of the terms of the Contract in such a manner as to reasonably justify the opinion that the Employer's conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
- 9.1.2 The Employer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a Company) is deemed unable to pay its debts within the meaning of section 123 Insolvency Act 1986;
- 9.1.3 Commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party
- 9.1.4 A petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up or, being an individual, bankruptcy proceedings, of the Employer other than for the sole purpose of a scheme of solvent amalgamation with one or more other companies or the solvent reconstruction of the Employer
- 9.1.5 An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Employer's assets
- 9.1.6 A floating charge holder over the assets of the Employer has become entitled to appoint or has appointed an administrative receiver
- 9.1.7 A person becomes entitled to appoint a receiver over the assets of the Employer or a receiver is appointed over the assets of the Employer
- 9.1.8 A creditor or encumbrancer of the Employer attaches or takes possession of, or a distress execution sequestration or other such process is levied or enforced or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days
- 9.1.9 Any event occurs or proceedings are taken with respect to the Employer in any jurisdiction to which it is subject but has an effect equivalent or similar to any of the events mentioned in condition 9.1.3 to 9.1.9 (inclusive)
- 9.1.10 The Employer suspends or ceases or threatens to suspend or cease to carry on all or a substantial part of its business
- 9.1.11 There is a change of control of the Employer (as defined in section 574 of the Capital Allowances Act 2001)
- 9.2 On termination of the Contract:
- 9.2.1 The Employer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid sums. Where Goods and Services have been manufactured, produced or supplied by or for the Supplier since the last payment date, the Supplier may submit an invoice for the value of the Goods and Services supplied up to the date of termination, which shall be payable immediately on receipt. Where termination has occurred due to a material breach of the Contract by the Employer, the Supplier shall additionally be entitled to claim a loss of profit on the Goods and Services remaining to be performed at the date of termination.
- 9.2.2 The Employer shall immediately return all of the Supplier's equipment, pre-existing Materials and Deliverables. If the Employer fails to do so, then the Supplier may enter the site and take possession of them. Until they have been returned or repossessed the Employer shall be solely responsible for their safe-keeping
- 9.2.3 The accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

10 Supplier's Obligations

- 10.1 The Supplier shall use reasonable endeavours to provide the Goods and Services in accordance, in all material respects, with the Contract.
- 10.2 The Supplier shall use reasonable endeavours to meet any performance dates but such dates shall be estimates only and time shall not be of the essence of delivery of the Goods or performance of the Services.
- 10.3 The Supplier shall use reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirement that applies at the Employer's premises and that have been communicated to it by the Employer.

11 Employer's Obligations

- 11.1 The Employer shall:
- 11.1.1 Co-operate with the Supplier in all matters relating to the Contract;
- 11.1.2 Provide the Supplier, its agents, sub-contractors, consultants and employees, in a timely manner and at no charge to the Supplier, with access to and from the Site throughout the course of the Services. Access shall include waste disposal facilities, fencing, water, power, welfare and

storage facilities.

- 11.1.3 Provide to the Supplier, in a timely manner, such material and other information as the Supplier may require and ensure its accuracy in all material respects;
- 11.1.4 Inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Site
- 11.2 If the performance of the Supplier's obligations under the Contract is prevented, delayed or otherwise affected by any act or omission of the Employer, its agents, sub-contractors, consultants or employees and the Supplier incurs any costs, charges or losses as a result, the Employer shall reimburse the Supplier on an indemnity basis.
- 11.3 The Employer shall not, without the prior written consent of the Supplier, at any time from the date of the Contract to the expiry of 6 months after the last date of supply of the Services, solicit or entice away from the Supplier or employ (or attempt to employ) any person who is, or has been, engaged as an employee or sub-contractor of the Supplier in the provision of the Goods and/or Services.
- 11.4 Except where otherwise provided in the Tender, the Employer shall be responsible for ensuring all notices, permits, permissions, licences and fees are given or paid by any Act of Parliament or any Regulation or by-law of any local or other statutory authority in relation to the design construction and completion of the Services and by the rules and regulations of all public bodies and companies whose property rights are or may be affected in any way by the Services.
- 11.5 The Employer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Employer by the Supplier, its employees, agents, consultants or sub-contractors and any other confidential information concerning the Supplier's business or its products which the Employer may obtain.
- 11.6 The Employer shall not use any such information for any purpose other than to perform its obligations under the Contract.
- 11.7 All materials, equipment and tools, drawings, specifications and data supplied by the Supplier to the Employer (including pre-existing materials and the Supplier's equipment) shall, at all times, be and remain the exclusive property of the Supplier, but shall be held by the Employer in safe custody at its own risk and maintained and kept in good condition by the Employer until returned, and shall not be disposed of or used other than in accordance with the Supplier's written instruction or authorisation
- 12 General**
- 12.1 If the Contract between the Employer and the Supplier is defined as a "Construction Contract" for the purposes of the Housing Grants Construction and Regeneration Act 1996 ("the Construction Act") the terms implied into a Construction Contract by the Construction Act and the Scheme for Construction (England and Wales) Regulations 1998 (as amended) ("the Scheme") shall, where considered to be applicable, be incorporated into these Conditions, but subject to any amendments to those implied terms made in these Conditions, which amendments where permissible shall take precedence.
- 12.2 Variations shall be valued as agreed between the Supplier and the Employer. In default of agreement, a reasonable sum shall be payable. The value of any variation shall be included in the payments claimed by the Employer in accordance with these terms.
- 12.3 The Supplier may, from time to time, change the Services in order to comply with any applicable safety or statutory requirements
- 12.4 The Supplier shall obtain and maintain during the execution of the works such insurance policies as the Supplier deem to be appropriate for the works. The insurances shall be subject to the limitations and exceptions contained in those policies.
- 12.5 As between the Employer and the Supplier, all intellectual property rights and all other rights in the Deliverables and the pre-existing Materials shall be owned by the Supplier. Subject to payment in full made by the Employer to the Supplier, the Supplier licenses all such rights to the Employer free of charge and on a non-exclusive worldwide basis to such extent as is necessary to enable the Employer to make reasonable use of the Deliverables and the Services. If the Contract is terminated, this Licence shall also automatically terminate.
- 12.6 Neither the Employer nor the Supplier shall be entitled to assign the Contract
- 12.7 The Supplier may perform any of its obligations or exercise any of its rights hereunder by itself or through a competent subcontractor selected by the Supplier.
- 12.8 The Supplier does not accept any provision purporting to apply retentions or liquidated damages. Any such provision in any contractual documentation produced by the Employer is void and deemed inoperable.
- 12.9 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. Any notice may be served either by hand, first class letter post, or electronic mail. Notice shall be deemed served if by hand upon delivery if by first class letter post 48 hours after posting and if by electronic mail upon being so transmitted. Any notice served shall be acknowledged in writing by the receiving party within 7 days of receipt.
- 12.10 No waiver by the Supplier of any breach of the Contract by the Employer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 12.11 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 12.12 The Contract shall be governed by the laws of England & Wales, and the Employer agrees to submit to the exclusive jurisdiction of the English courts.
- 12.13 These conditions do not confer or purport to confer on any third party any benefit or the right to enforce any term of the Contract between the Employer and the Supplier.
- 13 Dispute Resolution**
- 13.1 Adjudication is available as a dispute resolution procedure in accordance with the Construction Act and the Scheme.