

1.04 FOUNDATIONS AND GROUND BEAMSGenerally

Foundations shall satisfy the requirements of the Building Control Officer. Provide any loading or design calculations as required.

Carry out such investigations including trial holes, levelling and soil analysis as may be necessary to ensure the correct design of foundations and suitability of construction taking into account water tables, contour of land, trees etc. Anti heave precautions to be included as appropriate.

Foundations to be in accordance with the structural engineer's specification and taking into consideration the Pre-tender Design including all foundations, reinforcement, steelwork and everything necessary for the substructure construction.

1.05 STRUCTURAL FRAME

The Contractor is to design the structural frame taking due account of the Pre-tender Design, performance specification, drawings etc. and undertaken to the satisfaction of the Employer's Agent and Building Control.

The Contractor is to provide details of any amendments to the Pre-tender Design within the Contractors Proposals.

1.06 STRUCTURAL STEEL PREPARATION AND FIRE PROTECTION (WHERE APPLICABLE)

The Contractor is to take due account of the Pre-tender Design and performance specification when designing the structural steel and associated fire protection.

If specialist fire resisting intumescent paints similar to Quelfire, Rockwool or similar sprayed paint are to be installed, they shall be installed by a specialist installer who will be required to provide a Certificate of Compliance prior to practical completion.

Fire protection is to include all penetrations etc.

All fire protection to be undertaken in accordance with current legislation and Building Regulations.

1.07 ARCHITECTURAL REQUIREMENTS

The Pre-tender Design for the architectural elements of the project fully details the Employers Requirements in this regard. The Contractor is reminded that Planning Approval has been awarded based on the details contained in the Pre-tender Design and any changes to that design may require amendment to the Planning Approval.

Likewise, the internal spaces provided by the Pre-tender Design fully satisfy the Employers Requirements and any changes to those internal spaces may constitute a variance from the Employers Requirements particularly with regard to acoustic properties of the designed elements.

The Contractor's design will comply with all current Building Regulations and any Building Regulations promulgated at the Base Date.

The design as contained within the architectural drawings and specification cannot therefore be changed by the Contractor without the express and written permission of the Employers Agent.

The Contractor will erect sample panels of brickwork for review by the Employer's Agent and Employer prior to commencement of any external brickwork. Once approved, the sample panels must be retained for the entire duration of the external façade construction and be available for

comparison with the constructed works.

1.08 MECHANICAL, ELECTRICAL AND PUBLIC HEALTH SERVICES INSTALLATIONS

1.08.1 Generally

The Employers Requirements are set out in the Pre-tender Design and in particular on the Mechanical and Electrical Specifications and on the Mechanical and Electrical drawings contained in Appendix 3. The Contractor is to make due allowance for the Works as specified in the Pre-tender Design documentation.

In the event of any conflict between the Mechanical and Electrical specification and the Main Contract Preliminaries, the Preliminaries shall prevail.

1.08.2 Statutory Supplies

The Contractor will include the Provision Sum of £50,000.00 for all incoming statutory Services.

1.09 LIFT INSTALLATIONS

The Contractor is to supply and install 1 No 8 passenger lift per unit, 3 no in total as per the Architects Drawings in appendix 3

1.10 DRAINAGE

1.10.1 Generally

The Pre-tender Design for drainage is included at Appendix 3 annexed to this Employers Requirement document.

An adequate system of foul and surface water drainage shall be provided connected to the local main sewerage system, with adequate access points to allow for cleaning, rodding and maintenance.

All drainage will be constructed to Adoptable Standards.

1.10.2 Drainage

Due allowance should be made for the required new drainage installation complete as set out in the Pre-tender Design drawings

1.10.3 Existing Drainage

Due allowance shall be made for any works which are necessary in connection with any form of existing drainage affected by the works or affecting the site and/or works. The Contractor has been issued with a below ground utility searches in appendix 11. The Contractor will allow for all costs, fees, charges and expenses in respect to existing services as detailed on these drawings.

1.10.4 C.C.T.V. Survey

A C.C.T.V. survey is to be undertaken in respect of any existing drainage on the site which is to form part of the new system or to which new drainage is to be connected. The survey will be undertaken prior to any works being started on site. Due allowance must be made for undertaking all necessary remedial/replacement works.

Following the initial C.C.T.V survey provide a written report setting down the existing condition of the drainage.

Prior to practical completion provide full CCTV survey of all drainage installed under this project

1.10.5 Manhole Lifting keys

Provide a set of manhole lifting keys at practical completion suitable for all types of manhole cover installed on the project.

1.11 **HARD AND SOFT LANDSCAPING**

Hard and Soft Landscaping to be provided as detailed in the Approved Planning Drawings appendix 2 and appendix 4

1.11.1 External lighting

External lighting is to be provided to the external areas of the project as detailed in the specification at appendix 4

1.12 **CROSSOVER WORKS**

1.12.1 Generally

The Employers Requirements are set out on the Civil Engineer drawings which are included at Appendix 3. The Contractor is to include for all works shown thereon and is to include for all Local Authority charges Bonds and the like associated with the Crossover works.

1.12.2 Street signage and furniture

The Contractor shall include for all necessary block and street signs, furniture and directional signs as required by the Local Authority and as are necessary in connection with the development.

1.13 **POSTAL NUMBERING/DEVELOPMENT NAME**

The Contractor to agree the postal address and numbering with the local and postal authorities and the property is to be clearly numbered with its approved postal address.

1.14 **RADON GAS**

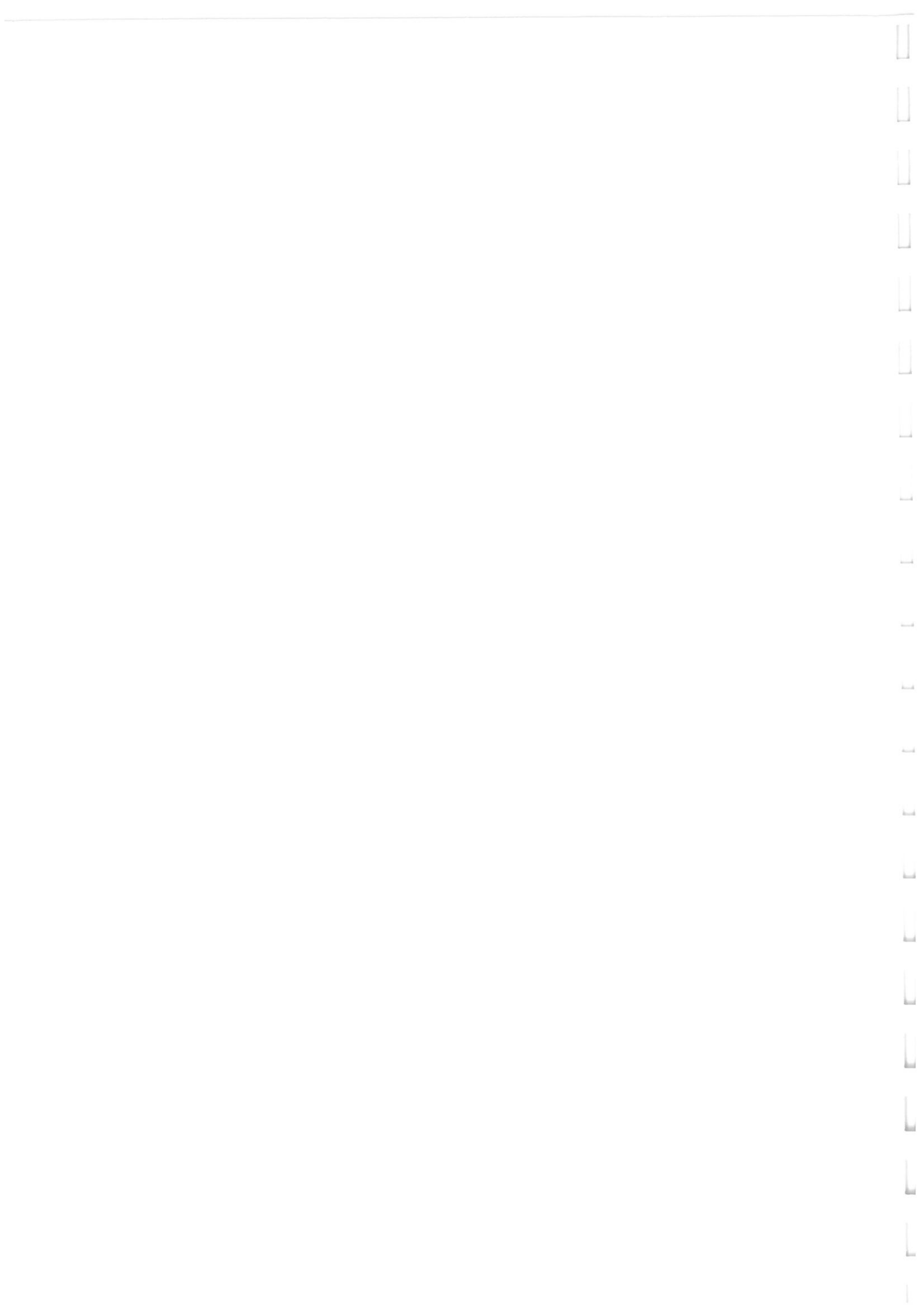
The Contractor will be responsible for ensuring compliance with requirements for the prevention of Radon Gas and to check any register and undertake all barrier work if found necessary.

The Contractor to provide written statement that the above has been undertaken.

INDEX OF APPENDICES

- Appendix 1 - Modifications to Contract Terms
- Appendix 2 - Planning Approval, Planning Approved Documents List and Building Regs Approval
- Appendix 3 - Contract Drawings
- Appendix 4 - Preliminary Specification
- Appendix 5 - Geotechnical Report
- Appendix 6 - Topographical Survey
- Appendix 7 - Collateral Warranties
- Appendix 8 - Not Used
- Appendix 9 - Pre-Construction Information and Construction Site Set Up Drawing
- Appendix 10 - Below Ground Surveys
- Appendix 11 - Utilities Searches

CONTRACT SUM ANALYSIS



CONTRACT SUM ANALYSIS

The design and specification of the works are still under discussion at the date of Contract. The Parties have therefore agreed that the Contract Sum Analysis will consist of a series of Provisional Sums which will be firmed up and fixed prices agreed as the design progresses and final product selections are made.

As design and product selection is finalised, the Contractor will obtain competitive quotations for the works and submit these to the EA and Employer for consideration and agreement. The agreed figures will be substituted for the Provisional Sums below.

The following allowances are all Defined Provisional Sums

SUBSTRUCTURES				177,811.21
FRAME				159,396.50
UPPER FLOORS				95,159.00
STAIRS				39,989.00
ROOF				145,696.59
EXTERNAL WALLS				174,219.78
WINDOWS AND EXTERNAL DOORS				153,934.85
INTERNAL WALLS				61,669.23
INTERNAL DOORS				27,888.64
WALL FINISHES				65,886.98
FLOOR FINISHES				128,014.38
CEILING FINISHES				39,850.44
SANITARY APPLIANCES				11,315.01
FITTINGS				5,000.00
MECHANICAL SERVICES				141,557.09
ELECTRICAL SERVICES				178,916.60
LIFT INSTALLATION				78,196.00
DESIGN DEVELOPMENT				20,000.00
DRAINAGE				
	Foul		21,212.23	
	Surface Water		23,426.87	44,639.10
SITE WORKS				
	Site Works		148,865.79	
	Incoming Services		50,000.00	198,865.79
				1,948,006.19

The following allowances are all Fixed Sums and not subject to adjustment except where stated as a percentage, in which case the adjustment will be limited to the recalculation of the sum against the actual expended provisional items, utilising the stated percentage.

OVERHEADS, ETC. (8.75%)				170,450.54
PRELIMINARIES				274,310.00
FEES, ETC.				
	Planning Application		by Employer	
	Architect		52,500.00	

Structural Engineer	33,620.00		
Building Regulations	3,950.00		
Warranty	by Employer		
Network Rail fees	by Employer		
Acoustic Consultant	3,500.00		
BREEAM Assessment and Scheme Enhancements	10,000.00		
SBEM Calculations and Energy Certificates	1,600.00		
Design and Build Coordinator	5,000.00		
Geotechnical Investigations	4,000.00		
Energy Performance Certificates	500.00		
Landscape Design	280.00		
Planning Conditions	500.00		
Topographical Survey	2,400.00		
Below Ground Radar Survey	2,000.00		
Principal Designer	2,800.00		
Thermal Consultant	2,500.00		
Vibration Survey Report	1,500.00		
Temporary Works Coordinator	1,500.00	128,150.00	572,910.54
		<u>128,150.00</u>	
			<u>572,910.54</u>
			<u>2,520,916.73</u>
	Notional tender Sum		
	(carried to Form of Tender)		

CONTRACTOR'S PROPOSALS

The Contractors Proposals are to comply with the Employers Requirements subject only to the attached clarifications schedule.

- Clarifications and Qualifications Schedule



3.00 CLARIFICATIONS AND QUALIFICATIONS

3.01 PLANNING CONSENT

We are in possession of Chichester District Council Planning Approval notice, dated 12th July 2005, and have allowed for the discharge of conditions 1 to 30 within our tendered sum. Informatives 31, 32 & 33 have also been taken into account.

Condition 13 refers to a soils investigation and the possibility of contamination and remediation.

We have not made any allowance for the removal of contaminated material, asbestos in the ground, Japanese Knotweed, etc. or any ground remediation works.

3.02 FOUNDATIONS

We have allowed for piled foundations with a reinforced concrete suspended ground floor construction supported on ground beams, in accordance with engineer's design by SWP.

3.03 DRAINAGE

We have based on drainage scheme on the SWP proposals , which allows for the surface water to drain through permeable paved areas, and the foul drain to be connected into the existing foul sewer.

We have not allowed for any upgrades to the existing drainage and have assumed the existing sewers have adequate capacity to serve the project.

3.04 EXTERNAL SERVICES GENERALLY

We have received no information from the Statutory Authorities regarding the incoming services. We have included a provisional sum of £50,000 for incoming service supplies including associated builder's work.

We have not included for any contribution charges to the electricity provider for the Hunston substation.

We have not made any allowance for service diversions, lowering or upgrades, etc.

3.05 CONTRACT CONDITIONS

Advance payments will be required for incoming services and lift installation.

3.06 EXCLUSIONS

We have not included for any the following:

- i) Blinds
- ii) Warranty
- iii) Clause 6.5.1 insurance cover
- iv) Abnormal ground conditions other than Piling
- v) Security system
- Not Used
- vii) Brise Soleil
- viii) Blind Boxes
- ix) External signage (but not excluding Health and Safety and any Building regulatory signage)
- xi) Network Rail fees
- xii) Party wall surveyor or awards
- xiii) Section agreements or Commuted Sums

3.07 TERRORISM INSURANCE COVER

We have not made any allowance for terrorism insurance cover.

3.08 RESTRICTIVE COVENANTS, ETC

We are not aware of any restrictive covenants, easements, wayleaves, etc. and have not made any allowance for complying with any that may exist.

Appendices Index:

1 - 11

- 1 Modifications to Contract Terms
- 2 Planning Approval, Planning Approved Documents List and Building Regulations Plans Approval
- 3 Contract Drawings and Specifications
- 4 Preliminary Specification
- 5 Geotechnical Report
- 6 Topographical Survey
- 7 Collateral Warranty
- 8 Not Used
- 9 Pre-Construction Information and Construction Site Set Up Drawing
- 10 Below Ground Surveys
- 11 Utilities Searches



MODIFICATIONS TO CONTRACT TERMS

Modifications to Contract terms are detailed within the following document - 005562 Southern Gate - Contract Amendments RevC – appended hereto.



Block B, Southern Gate, Chichester, West Sussex PO19 8SG
Amendments to the JCT 2016 Design and Build Contract (DB 2016) – Rev
E

Clause 7.4 of **Part 2 of the Contract Particulars** to be completed as follows:

"1. The Contractor shall whenever required to do so by the Employer promptly execute and deliver a deed or deeds of warranty in favour of any Mortgagee and/or Purchaser and/or Tenant in the terms of the draft Contractor's warranties contained in Annex 4.

In **clause 1.1** in the definition of "**Agreement**" add "as amended" after "the Articles" and insert "and the Schedules" at the end of the definition.

In **clause 1.1** add a new definition: "**Designing Sub-contractor**. Any sub-contractor whose works contain a design element".

In **clause 1.1** add a new definition: "**Designing Sub-consultant**. Any sub-consultant whose works contain a design element".

In **clause 1.1** add a new definition: "**Planning Permission**: The Planning documentation contained at Appendix 2 to the Contract".

In **clause 1.1** add a new definition: "**Property**: The land and buildings at Block B, Southern Gate, Chichester, West Sussex, PO19 8SG"

In **clause 1.1** amend the definition of "**Statutory Requirements**" as follows:

After the words "which affects the Works" in the second line, insert "or the use of the Works as office accommodation".

In **clause 1.1** add a new definition:

"Practical Completion: Practical Completion shall mean that: (a) the Works are properly and fully complete with no patent defects in the Works; (b) there are no snagging items outstanding save for de minimis items outstanding meaning that de minimis items are capable of being rectified within 1 week of

Practical Completion and such rectification of the de minimis items can be carried out while the Works are occupied without causing inconvenience or disturbance to the and without affecting the health and safety of the building users in any way and (c) all plant, machinery and other mechanical and electrical apparatus (including lifts, air-conditioning and plumbing) installed into Works shall have been tested and commissioned properly and in accordance with the Employers Requirements and have passed all commissioning tests and all appropriate test certificates have been issued".

In **clause 1.1** add a new definition:

"Mortgagee: Mortgagee means a person having or acquiring a mortgage or charge over the Works or any part of it".

In **clause 1.1** replace the 'Purchaser' definition with the following:

"Purchaser: Purchaser means a person having or acquiring a freehold interest in the Works or any part of it, or a purchaser for a capital consideration of a leasehold interest. A purchaser shall not include a residential purchaser".

In **clause 1.1** replace the 'Tenant' definition with the following:

"Tenant: means a person having or acquiring a leasehold interest in the Works or any part of it, other than a Purchaser".

Delete **clause 1.8.1.1**.

In **clause 2.1.1** the clause should read as follows:

"The Contractor should carry out and complete the Works in a proper and workmanlike manner with reasonable skill and care and in accordance with good building practice and in compliance with the Contract Documents, the Construction Phase Plan, Statutory Requirements, and the Planning Permission and for that purpose".

At the end of the clause, the following should be added:

", Planning Permission."

Delete **clause 2.1.2** in its entirety and add "NOT USED".

Clause 2.1.3 at the beginning, insert:

"Where necessary to comply with these obligations under this Contract or to carry out and complete the Works, the Contractor shall as soon as reasonably practical make all applications for any necessary permissions, licences, approvals, energy performance certificates and display energy display certificates for the purposes of the Development Control Requirements or required pursuant to any other Statutory Requirements and the Planning Permission."

At the end of the paragraph insert:

", and Planning Permission."

In **clause 2.2.1** the first line should read:

"All materials and goods for the Works shall, so far as procurable be new, appropriate for their use, of good quality and suitable materials and be of the kinds and standards"

Add at the end of **clause 2.2.2**:

"Subject to the foregoing, all workmanship shall be of a satisfactory quality."

Insert **clause 2.2.6** as follows:

"The Contractor shall warrant that all materials used in the Works shall be in accordance with the guidelines for good practice set out in the publication entitled 'Good Practice in the Selection of Construction Materials' (Ove Arup & Partners) current at the date of such use in the Works and shall comply with relevant British Standard specifications and codes of practice and good building practice current at the date of such use in the Works and that the Contractor shall procure that no materials are specified or used which are generally known within the construction industry at the time of use in the Works to be deleterious or harmful to health or to the durability of the Works and/or the Property in the particular circumstances in which it is proposed to be used."

Delete Clause 2.11 and add new Clause 2.11

"Subject to clause 2.15, the Contractor shall be responsible for the contents of the Employer's Requirements and for verifying the adequacy of any design contained within them."

Delete Clause 2.12.1 and add new Clause 2.12.1

"Subject to clause 2.11 if an inadequacy is found in any design in the Employer's Requirements, prior to Practical Completion then, if or to the extent that the inadequacy is not dealt with in the Contractor's Proposals, the Employer's Requirements shall be corrected, altered or modified accordingly."

Delete Clause 2.12.2 and add new Clause 2.12.2

"Subject to clause 2.1 any correction, alteration or modification under clause 2.12.1 shall not be treated as a Change."

In **clause 2.14.2** after the words "*{subject to compliance with Statutory Requirements}*" before the closed brackets, the following words should be inserted:

", and Planning Permission."

In **clause 2.15.1** after the words "*Statutory Requirements*" in the first line the following words should be inserted "*, and Planning Permission."*

In **clause 2.15.2.2** before the words "*Contractor's Proposals*" in the first line, insert the words "*Employer's Requirements or*". In the third line after the words "*Development Control Requirements*" insert the words "*and Planning Permission*".

Delete **clause 2.15.2.3** in its entirety.

Delete **clause 2.17.1** and insert new Clause 2.17.1:

"In respect of the design of the Works (including without limitation all design work carried out on or before the date of this Contract by or on behalf of the Employer forming part of the Employer's Requirements and any further design

which the Contractor is to carry out), the Contractor warrants and undertakes to the Employer that:

.1 he has exercised and will continue to exercise in the design of the Works all the reasonable skill, care and diligence to be expected of a professionally qualified and competent design and build contractor experienced in carrying out works of a size, scope, nature, type and complexity similar to the Works;

.2 the Works will, when completed, comply with any performance specification or requirement included or referred to in the Employer's Requirements;

.3 the Works comprise or will comprise only materials and goods which are new and of satisfactory quality and which are fit for their intended purpose; and

.4 the Works will, when completed, comply with the Development Control Requirement, the Statutory Requirements and the Planning Permission".

Delete **clause 2.17.2** and insert new Clause 2.17.2:

"The Contractor acknowledges that the Employer is relying exclusively on him in relation to the design of the Works."

Delete **clause 2.17.3** and insert new Clause 2.17.3:

"Any reference to the design which the Contractor has prepared or shall prepare or issue for the Works includes a reference to any design which the Contractor has caused or shall cause to be prepared or issued by others, whether before or after the date of this Contract."

Delete **clause 2.22** and insert new Clause 2.22:

"No value will be included in any interim payment in respect of materials or goods held off site".

Delete **clause 2.26.2.1**.

Delete **clause 2.26.2.3** and substitute:

"for the opening up for inspection or testing of any work, materials or goods (including making good) under clause 3.12, unless the inspection or test shows that the work, materials or goods are not in accordance with this Contract; or under clause 3.13, if it is agreed by the Parties or determined by an Adjudicator appointed pursuant to clause 3.13.3 that an extension of time should be awarded in respect of such instruction given under clause 3.13;"

In **clause 2.26.5**, in line 1, after "under clause 4.11" insert "or clause 8.10.3".

Delete **clause 2.26.14** and substitute:

"any other occurrence or circumstances amounting to force majeure."

Add as **clause 2.26A**:

"Notwithstanding any other provision, the Contractor shall not become entitled to any extension of time for the completion of the Works or any part of the Works on account of any circumstance arising by reason of any error, omission, negligence or default of the Contractor or of any sub-contractor or supplier, or of any of his or their employees or agents."

Insert a **new clause 2.27A** as follows:

"Throughout this Contract replace the words "practical completion" with the words "Practical Completion"."

Insert a **new clause 2.27A.1** as follows:

"The Contractor shall give the Employer at least 28 days' notice of an inspection of the Works prior to Practical Completion. The Contractor, Employer's Agent and any of the Funder's and/or Tenant's representatives or professional advisors may attend the meeting. The Employer may provide the Contractor, as a result of such inspection, a list of outstanding or defective works to be completed prior to Practical Completion.

The process set out in this clause shall be repeated as many times as is

necessary until Practical Completion is achieved."

In **clause 2.35.1**, the number "14" shall be deleted and the number "28" inserted in its place.

In **clause 2.35.2**, the number "14" shall be deleted and the number "28" inserted in its place.

In **clause 2.35.2**, delete the words "Within a reasonable time after" and insert the words "Within the 'Rectification Times' hereinafter specified from"

Insert a new **clause 2.35A** as follows:

"The 'Rectification Times' are, in the case of the schedule referred to in Clause 2.35.1 or instructions, 24 hours in respect of an emergency and as soon as is practicable and in any event no longer than 28 days in respect of all other matters specified in such schedule, and, in the case of any instruction under Clause 2.35.2, the following times:

- a) *Water ingress or damp from internal services; 8 working hours.*
- b) *Electrical and heating faults; 8 working hours.*
- c) *Blocked drains; 8 working hours.*
- d) *Ill-fitting doors/windows where security affected; 8 working hours.*
- e) *Gas and serious electrical faults; the Employer will arrange for the relevant authority or service provider to make good the fault on behalf of and at the expense of the Contractor.*
- f) *Defective floor coverings or pavings; 7 days unless these represent a possible danger in which case 8 hours.*
- g) *Shrinkage cracks and the like; to be rectified at the end of the Rectification Period*
- h) *Any defect, or other fault not covered by (a) to (g) above; as soon as reasonably practicable and in any event not longer than 5 working days.*

In the event the 'Rectification Times' are not adhered to, the Employer reserves the right to appoint another party to respond, and reserves the right to seek recovery of such costs incurred either by way of a deduction from the Contract Sum or as a debt ."

Insert new **clause 2.35.A.1** as follows:

"The Employer's Agent and/or Employer shall make one inspection of the Works prior to practical completion of the Works to compile a list of work that is outstanding or defective, one re-inspection of the listed items prior to the issue of the Practical Completion Statement, one inspection of the Works prior to the end of the relevant Rectification Period or within 28 days thereof to compile a list of work that is outstanding or defective and one re-inspection of the listed items prior to the issue of the Notice of Completion of Making Good. For the avoidance of any doubt, the Employer shall not be liable to the Contractor if any such inspection or list fails to identify all work that is outstanding or defective and the Contractor shall remain liable under this Contract in respect of such matters.

In **clause 2.38.2**, at the start insert after "the Employer" the words ", the Purchaser and the Tenant".

In **clause 2.38.2**, delete the final sentence, and replace with the following:

"Such licence shall enable the Employer to copy and use the Contractor's Design Documents for the extension of the Works and shall include a licence to reproduce the designs contained in them for any extension of the Works."

Add a **new sub-clause 2.38.5**:

"The licence granted under clause 2.38.2 carries the right to grant sub-licences and shall be transferable to third parties and shall subsist notwithstanding any earlier expiry or termination (for any reason) of this Contract."

Add a **new sub-clause 2.38.6**:

"The Contractor warrants that he has the authority to grant the licence referred to in clause 2.38.2 and indemnifies the Employer against any claim against the Employer arising out of or related to a breach of this warranty, provided the Employer shall at all times take reasonable action to mitigate its damages arising out of or related to a breach of this warranty"

Insert new **clause 2.40.1** as follows:

The Contractor has had an opportunity to inspect the physical conditions (including the sub-surface conditions and other conditions of or affecting the Site and shall have fully acquainted himself with the same and shall have obtained all necessary information as to risks, contingencies and all other circumstances which may influence or affect the design and execution of the Works and the Contractor accepts all design responsibility under this Contract on this basis including but not limited to the adequacy and suitability of the design and construction of any foundations and sub-structures. The Contractor may rely upon any survey, report or other document prepared by or on behalf of the Employer regarding such matter stated in this clause 2.40.1 but such reliance shall not affect the application of this clause and the Employer makes no representation or warranty as to the accuracy or completeness of any such survey, report or document or for any representation or statement contained therein, whether made negligently or otherwise.

In **clause 3.1** in the first line after the words "any person authorised by him" insert the words "including representatives of the tenant and the funder".

In **clause 3.1** in the first line after the words "at all reasonable times" insert the words "and at least twice a week,"

In **clause 3.4** insert a new clause 3.4A before 3.4.1 as follows:

".A any sub-contract which contains an element of design shall include a term which does not allow the parties to vary the terms of the sub-contract, nor waive, release, vary or otherwise compromise any rights under the sub-contract in such a way that would prejudice the beneficiary's rights under any collateral warranty given by the sub-contractor."

Insert **new clause 3.4.4** as follows:

"The Contractor shall supply a certified copy of all completed sub-contracts for sub-contracts which contain an element of design, with copies of their professional indemnity insurance certificated as soon as reasonably practicable following the execution of each sub-contract."

Insert **new clause 3.4.5** as follows:

3.4.5.1. *Each of the Designing Sub-Contractors and Designing Sub-Consultants shall be appointed by deed, and within 28 days after the appointment of a Designing Sub-Contractor the Contractor shall supply a complete Contractor certified copy of the sub-contract to the Employer.*

3.4.5.2 *The Contractor shall ensure that each Designing Sub-Contractor and Designing Sub-Consultant forthwith upon his appointment executes and delivers a deed of warranty in favour of the Employer in the form of the draft contained in Annex 4, mutatis mutandis, with such modifications (if any) as the Contractor or sub-contractor shall propose and the Employer shall approve, and shall include relevant provisions in the sub-contract obliging the Designing Sub-contractor or Designing Sub-Consultant to do so.*

3.4.5.3 *Whenever the Employer from time to time requires the Contractor shall ensure that each Designing Sub-Contractor or Designing Sub-Consultant executes and delivers a deed or deeds of warranty in favour of any Mortgagee and/or Purchaser and/or up to three Tenants in the form of the draft contained in Annex 4, mutatis mutandis, with such modifications (if any) as the Contractor or sub-contractor shall propose and the Employer shall approve, and shall include relevant provisions in the sub-contract obliging the Designing Sub-Contractor or Designing Sub-Consultant to do so.*

3.4.5.4 *If the Contractor breaches clause 3.4.5.1 or clause 3.4.5.2 or clause 3.4.5.3 or clause 3.4.5.6 the Employer shall be entitled to give the Contractor written notice specifying the breach. If such breach is not rectified by the Contractor within 14 days after service of such notice then the Employer shall not be liable to pay any amount in respect of the elements of the Works to which the default relates while such breach remains to be rectified."*

3.4.5.5 *The Contractor shall ensure that all Designing Sub-Contractors and Designing Sub-Consultants required by clause 3.1 provide levels of Professional Indemnity insurance in accordance with clauses 3.3 and 3.4 of the Conditions.*

Delete **clause 4.13.1.3.**

Delete **clause 4.15** and insert:

"The amount stated as due in an Application for Interim Payment shall not include the value of any Items before their delivery to or adjacent to the Works."

Delete **clause 4.16** and insert new Clause 4.16:

"The Employer shall be under no fiduciary obligation with regard to any Retention; and any right of the Employer to deduct or to set off any amount (whether arising under any express term or under any rule of law or of equity) shall be exercisable against any monies due or to become due to the Contractor, whether or not such monies consist of or include any Retention."

Delete **clause 4.17**.

In **clause 4.18**, delete the words "and Listed Items".

Insert **new clause 4.21A** as follows:

"Notwithstanding any other provision, the Contractor shall not become entitled to the addition of any amount to the Contract Sum nor to any other financial adjustment under clause 4.20 in respect of any cost, loss or expense incurred by reason of any error, omission, negligence or default of the Contractor or of any sub-contractor or supplier or of any of his or their employees or agents."

Delete **clause 6.15** and replace with:

"Clause 6.15.1 – The Contractor warrants that there is in force a policy of professional indemnity insurance covering his liabilities hereunder for negligent design and specification, with a limit of indemnity of not less than those and on the basis set out in the Contract Particulars. The Contractor agrees to maintain such insurance at all times until 12 years after the practical completion of the Works (or until 12 years after the termination of his employment hereunder, if sooner), provided such insurance is available on

commercially reasonable terms having regard (inter alia) to premiums required and policy terms obtainable.

Clause 6.15.2 – If for any period such insurance is not available on commercially reasonable terms, the Contractor shall forthwith inform the Employer, and shall obtain in respect of such period such reduced level of professional indemnity insurance as is available and as would be fair and reasonable in the circumstances for the Contractor to obtain.

Clause 6.15.3 – Whenever reasonably required to do so by the Employer, the Contractor shall provide documentary evidence that the insurance required hereunder is being maintained."

Delete **clause 7.1** and insert new Clause 7.1:

"Subject to clause 7.2, the Contractor shall not without the consent of the Employer assign this Contract or any rights thereunder."

Insert new **clause 7.6A** as follows:

"All Collateral Warranties from Designing Sub-consultants and Designing Sub-contractors are to be complete during the detailed design period and prior to the applicable works starting on site. Notwithstanding any requirements in Section 4 in these Conditions of Contract, and without any penalty to the Employer, the payment of monies due to the Contractor will be reduced by the amount due in respect of design fees until Collateral Warranties have been executed."

Insert new paragraphs beneath the first paragraph of **clause 7C** as follows:

"The Contractor is aware and acknowledges that the completed building may be let to more than one tenant. In such circumstances the Contractor has agreed to provide up to three collateral warranties in favour of tenants for the respective elements of the completed building"

Delete **clause 8.9.1.2.**

In **Schedule 1 clause 2** delete the words "14 days" and replace with the words "21 calendar days".

Note that this is to bring the provision in line with the Agreement for Lease.

In **Schedule 2 clause 2.2.1** delete the word "14 days" and replace with "10 days".

Delete **Schedule 2 clause 2.2.2**.

Add a **new sub-clause 2.3.6**:

"drawings, specification and other appropriate design documentation where these are not provided by the Employer."

In **Schedule 2 clause 2.5** delete the word "10 days" and replace with "5 Working Days".

Delete **Schedule 5 Third Party Rights**.

ADDITIONAL CONDITIONS

Add a **new clause A1** as follows:

"1. Within 21 days after the date of this Contract the Contractor shall appoint the following consultants (or such other consultants as the Employer shall approve) for the purposes of the Works:

Architects:

Civil & structural engineers:

2. The consultants shall be appointed by deed in the terms of the respective draft appointments contained in Annex 6, with such modifications (if any) as the Contractor or any consultant shall propose and the Employer shall approve.

3. Within 21 days after the appointment of each consultant the Contractor shall supply to the Employer a copy of the consultant's deed of appointment. Commercially sensitive information may be redacted.

4. The Contractor shall ensure that each consultant forthwith upon his appointment executes and delivers a deed of warranty in favour of the Employer and the Purchaser in the form of the draft deed contained in Annex 7, *mutatis mutandis*, with such modifications (if any) as the Contractor or consultant shall propose and the Employer shall approve

5. Whenever the Employer from time to time requires and up to a maximum of three times, the Contractor shall ensure that each consultant executes and delivers a deed or deeds of warranty in favour of any Mortgagee and/or Purchaser and/or Tenant in the form of the draft contained in Annex 7, *mutatis mutandis*, with such modifications (if any) as the Contractor or consultant shall propose and the Employer shall approve. If requisite the Contractor shall himself execute and deliver such deed of warranty forthwith upon the Employer's request.

6. The Contractor shall not dismiss any of the consultants or vary the terms of his appointment without the written approval of the Employer.

7. If the employment of any consultant is terminated before the completion of the services allocated to him, the Contractor shall as soon as is practicable but on 7 days' notice to the Employer appoint another consultant to complete those services (save any consultant to whom the Employer shall make reasonable objection in writing). ~~The foregoing provisions of this clause A3 shall apply to such replacement consultant, *mutatis mutandis*.~~

8. If the Contractor breaches any provision of this clause, the Employer shall be entitled to give the Contractor written notice specifying the breach. If such breach is not rectified by the Contractor within 14 days after service of such notice, then no further payment shall be due to the Contractor in respect of the design provided by the consultant hereunder while such breach remains to be rectified."

Add a **new clause A2** as follows:

"The Employer gives no warranty or representation as to the condition of the site or any adjoining property or any services in or under the site or as to the accuracy or sufficiency of any soils or survey data or other data contained in any document made available to the Contractor by the Employer, or as to

any recommendations or conclusions made or reached in any such document."

Add a **new clause A3** as follows:

"1. At or before practical completion of the Works or any Section, provide to the Employer an energy performance certificate (including a copy of the relevant notification to the Local Authority of the issue of the same) and display energy certificate and a recommendation report for the Works or Section, in conformity with regulation 17E, Building Regulations 2000.

2. Within 4 weeks after practical completion of the whole of the Works, the Contractor shall without charge provide to the Employer's Agent 3 copies of all such as-built or final issue drawings, specifications and other details and service manuals as are specified in the Contract Documents."

Add a **new clause A4** as follows:

"1. The Contractor shall be responsible for obtaining a completion certificate under Regulation 17 of the Building Regulations 2000 (or if an Approved Inspector has jurisdiction, a final certificate under the Building Act 1984) in respect of the Works or any Section.

2. The Employer shall not be required to give a statement to the effect that the Works or any Section has reached Practical Completion until the Contractor has complied with clause 1 in respect of the Works or such Section."

