

## HARGREAVES GROUP TERMS AND CONDITIONS FOR THE APPOINTMENT OF A CONSULTANT

### 1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Contract:

**Applicable Documents** means the documentation incorporated into the Contract by reference in the Purchase Order or the Works Order (as applicable) and which are to be complied with by the Consultant in the performance of the Services in accordance with Condition 4.1;

**Business Day** means a day other than a Saturday, Sunday or public holiday in England when the banks in London are open for business;

**Company Property** means all plant, machinery, equipment, materials, documents, books, manuals, records, correspondence, papers, information (on whatever media and wherever located) of the Company or any member of the Hargreaves Group and provided by the Company and/or any member of the Hargreaves Group to the Consultant for use by the Consultant in the performance of the Services;

**Commencement Date** means the start date of the Engagement Period;

**Company** means the relevant member of the Hargreaves Group as named on the Purchase Order or in the Works Order (as applicable);

**Conditions** means these terms and conditions for the appointment of a consultant;

**Confidential Information** means any and all information provided by the Company to the Consultant or which may come to its knowledge or into its possession that is either: (a) marked as being confidential; and/or (b) any and all information or data disclosed (whether in writing, orally or in any other form, and whether directly or indirectly) by the Company to the Consultant, that is of a type that may reasonably be considered confidential, including without limitation, the terms and conditions of the Contract, the Works, the Applicable Documents, any specifications, drawings, samples or other documents provided by the Company in respect of the Works, or any other dealings, transactions or affairs of the Company or the existence of the relationship between the Consultant and the Company;

**Consultant** means the individual or corporate body identified in the Purchase Order or in the Works Order (as applicable); except where otherwise expressly stated in this Contract, references to "the Consultant" shall apply to the Consultant whether it is a natural person or corporate body;

**Contract** means the contract between the Company and the Consultant comprising (i) the Purchase Order or the Works Order (including any Special Terms) (as applicable); (ii) these Conditions, together with any documents referred to herein, (iii) the Applicable Documents; and (iv) the Supplier Questionnaire (where the Supplier Questionnaire has been completed by the Consultant);

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**Correct Invoice** means a detailed invoice to be submitted by the Consultant to the Company pursuant to Condition 5.3 setting out: (i) the Purchase Order reference number; (ii) full particulars of the Services carried out by the Consultant; (iii) any discounts given; (iv) payments in respect of labour (including where applicable lodging and travelling allowances, necessary to recruit and maintain an adequate labour force) and time sheets recording all time spent in the provision of the Services by the Consultant (and each of the Consultant's employees, agents, representatives or subcontractors (v) any other information required by the Company and set out in the Purchase Order or in the Works Order (as applicable) or as may be requested by the Company from time to time; **Engagement Period** means the period for the engagement of the Consultant as set out in the Purchase Order, any Applicable Documents referred to in the Purchase order or as specified in the Works Order (as applicable);

**Fees** means the fees payable by the Company to the Consultant in consideration of the performance of the Services, in the amount and as calculated in accordance with the Purchase Order or as set out in the Works Order;

**Hargreaves Group** means the Company and its subsidiaries from time to time and the ultimate holding company (if any) of the Company and every other subsidiary of the same ultimate holding company (if any) from time to time (and "holding company" and "subsidiary" shall have the meanings given to them in section 1159 of the Companies Act 2006);

**Insurance Requirements** means the minimum levels of insurance cover to be obtained and maintained in effect by the Consultant, as set out in any Applicable Documents referred to in the Purchase Order or (if applicable) as more particularly set out in the Works Order;

**Insolvency Event** occurs when:

- (a) a resolution is passed or an order is made for the winding up of the other party (otherwise than for the purpose of solvent amalgamation or reconstruction); or
- (b) the other party becomes subject to an administration order; or
- (c) the receiver or administrator is appointed over the whole or part of the other party's business or any step is taken for the appointment of any such receiver or administrator; or
- (d) an encumbrancer takes possession of any of the other party's property or equipment; or
- (e) if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986; or
- (f) if a proposal is made for any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors; or
- (g) the other party is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
- (h) the other party, being an individual or partnership, is declared or adjudicated bankrupt or enters into any arrangement or composition with its creditors; or
- (i) anything analogous to the events set out in sub clauses (a) to (h) occurs in any jurisdiction;

**Intellectual Property Rights** means patents, utility models, rights to Inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or

equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**Inventions** means any invention, idea, discovery, development, improvement or innovation made by the Consultant in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium;

**Loss** means any and all loss, damage, penalties, costs and expenses (including legal or professional expenses and disbursements) arising from any and all liabilities, obligations, awards, actions, claims, demands and/or proceedings whatsoever and howsoever caused or arising and whether or not such losses were reasonably foreseeable at the time the Contract was made;

**Purchase Order** means the Company's order form for the Services;

**Services** means the consultancy services to be provided by the Consultant to the Company in accordance with the terms of the Contract, as set out in any Applicable Documents referred to in the Purchase Order or (if applicable) as more particularly set out in the Works Order;

**Special Terms** means any special terms of agreement set out in the Works Order;

**Supervising Officer** means the person with day to day responsibility for the management of the appointment of the Consultant under the Contract and for liaising with the Consultant on all matters arising out of or in connection with the Contract as appointed by the Company pursuant to the Supervising Officer;

**Supplier Questionnaire** means the questionnaire prepared by a member of the Hargreaves Group and completed by suppliers of goods and/or services to members of the Hargreaves Group in order for such suppliers to be an approved supplier of goods and/or services to members of the Hargreaves Group and the terms contained, and documents referred to, therein;

**Variation Request** means any written request made by the Supervising Officer to the Consultant to change the Services, including without limitation, the scope, nature, quality or duration of the Services, in accordance with Condition 6;

**Works** means all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, Inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant in connection with the provision of the Services; and

**Works Order** means the Company's order for the Services attached to the front of this Contract.

In these Conditions:

1.2.1 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof;

1.2.2 the singular includes the plural and vice versa;

1.2.3 the headings are for ease of reference only and shall not affect the interpretation or construction of these Conditions; and

1.2.4 any list of examples following the word including shall be interpreted without limitation to the generality of the preceding words.

1.3 These Conditions are the only Conditions upon which the Company is prepared to deal with the Consultant. No terms or conditions endorsed upon, delivered with or contained in the Consultant's tender, quotation or any other documents submitted by the Consultant to the Company shall form part of the Contract and the Consultant waives any right which it otherwise might have to rely on such terms and conditions.

1.4 If there is any conflict between the provisions of, or documents forming, the Contract, the following order of prevalence shall apply (unless expressly stated otherwise in the Purchase Order or the Works Order (as applicable)):

1.4.1 firstly, these Conditions;

1.4.2 secondly, the Supplier Questionnaire (where the Supplier Questionnaire has been completed by the Contractor);

1.4.3 thirdly, the Applicable Documents;

1.4.4 fourthly, the Purchase Order or (if applicable) the Works Order (including any Special Terms); and

1.4.5 finally, (if applicable) any other documents referred to in the Works Order.

### 2 TERM OF ENGAGEMENT

2.1 The Company hereby appoints the Consultant to provide the Services on the terms and conditions of this Contract.

2.2 The appointment of the Consultant shall commence on the Commencement Date and shall continue in full force and effect (unless this Contract is terminated earlier in accordance with its terms) until the date of expiry of the Engagement Period.

### 3 SUPERVISING OFFICER

3.1 The Company shall appoint a person to be the Supervising Officer for the purposes of the Contract and, subject to Condition 3.2, to carry out the functions of the Supervising Officer under the Contract. The Company shall notify the Consultant in writing of the appointment of the Supervising Officer (or of the appointment of any other person to succeed him).

3.2 The Company may from time to time delegate to any employee, agent, representative or sub-contractor of the Company any of his powers and/or functions under the Contract and shall notify the Consultant as to what powers and/or functions have been so delegated. For the purposes of the Contract, where the Supervising Officer has delegated its powers and/or functions to an employee, agent, representative or sub-contractor of the Company, any references in these Conditions to the Supervising Officer exercising any rights and/or discharging responsibilities under the Contract which have been delegated, shall be deemed to be references to the relevant employee, agent, representative or sub-contractor of the Company exercising such rights and/or discharging such responsibilities.

3.3 The Consultant shall comply with any and all reasonable and lawful instructions given by the Supervising Officer in respect of the performance of the Services and co-operate in good faith with the Supervising Officer in all matters under or in connection with the Contract.

#### **4 DUTIES AND OBLIGATIONS**

4.1 The Consultant shall:

4.1.1 provide the Services with all due care, skill and ability and use its best endeavours to promote the interests of the Company and members of the Hargreaves Group;

4.1.2 without prejudice to Condition 4.1.1, perform the Services to the satisfaction of the Supervising Officer;

4.1.3 observe and comply with all health and safety rules and regulations and any other security requirements that apply at any of the Company's premises (or the premises of any member of the Hargreaves Group) where Services are to be performed (including without limitation the conditions set out in the document Health & Safety Provision to apply to all Contracts on the Company's premises/Company Directive 7/64) and all the other instructions given by the Supervising Officer in connection with the safe performance of the Services and the Consultant shall report any unsafe working conditions or practices in respect of which it becomes aware;

4.1.4 promptly give to the Company all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services or the business of the Company or any member of the Hargreaves Group; and

4.1.5 ensure that it is available at all times on reasonable notice to provide such assistance or information as the Company may require from time to time.

4.2 The Consultant warrants and represents that:

4.2.1 the Services and the Works will comply with all statutory requirements, applicable laws, rules and regulations and voluntary codes of conduct applicable to the performance of the Services and the execution of the Works; and

4.2.2 the Services and the Works will comply in every respect with all Applicable Documents and any other applicable specifications, drawings, samples or descriptions provided by, and/or on behalf of, the Company to the Consultant.

4.3 Unless it has been specifically authorised to do so by the Company in writing, the Consultant shall not:

4.3.1 have any authority to incur any expenditure in the name of or for the account of the Company; and

4.3.2 hold itself out as having authority to bind the Company.

4.4 The Consultant shall comply with the Company's policies on use of information technology and communication systems, anti-harassment and bullying, no smoking, dress code, substance misuse, travel, and information security, as may be notified by the Company to the Consultant from time to time.

4.5 The Consultant shall:

4.5.1 comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including, but not limited to, the Bribery Act 2010 (the **Relevant Requirements**);

4.5.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

4.5.3 comply with the Company's anti-bribery and anti-corruption policies, as may be implemented by the Company (or any member of the Hargreaves Group) and/or any relevant industry body from time to time and as notified in advance in writing by the Company to the Consultant, and in each case as the Company or the relevant industry body may update them from time to time (the **Relevant Policies**);

4.5.4 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including, but not limited to, adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Condition 4.5.2, and will enforce them where appropriate;

4.5.5 promptly report to the Company any request or demand for any undue financial or other advantage of any kind received by the Consultant in connection with the performance of this Contract;

4.5.6 where the Consultant is a corporate entity, immediately notify the Company if a foreign public official becomes an officer or employee of the Consultant or acquires a direct or indirect interest in the Consultant (and the Consultant warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract); and

4.5.7 ensure that all persons associated with the Consultant or other persons who are performing services or providing goods in connection with this Contract comply with this Condition 4.5.

4.6 For the purpose of Condition 4.5, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and 6(6) of that Act and section 8 of that Act respectively.

#### **5 FEES**

5.1 In consideration of the provision of the Services, the Company shall pay to the Consultant the Fees in accordance with the provisions of this Condition 5.

5.2 Unless otherwise expressly set out in the Purchase Order or the Works Order (as applicable), the Fees shall be:

5.2.1 exclusive of Value Added Tax (VAT) (which shall be payable by the Company subject to receipt of a valid VAT invoice in respect of the same);

5.2.2 inclusive of all duties, imports, taxes, levies other than VAT; and

5.2.3 inclusive of all expenses incurred by the Consultant in the course of the Engagement;

5.2.4 inclusive of all costs of materials, parts, machinery and labour costs used in the provision of the Services, including where applicable lodging and travelling allowances, necessary to recruit and maintain an adequate labour force.

5.3 The Consultant shall submit invoices in respect of the Services in accordance with the dates and for such amounts as are set out in the Purchase Order or in the "Invoicing" section of the Works Order (as applicable) (and where no such dates or amounts are set, the Consultant shall invoice the Company upon completion of the Services) and the Company shall pay such invoices within thirty (30) days of the date of the last day of the month in which a Correct Invoice is received by the Company in respect of the same.

5.4 The Company shall be entitled to withhold, or deduct by way of, or otherwise, set off any monies owing at any time to the Consultant against any monies due to the Company from the Consultant or for the Consultant's breach of any contract and whether such liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

5.5 If there is any invoice which is in dispute (whether in whole or part), the Company shall be entitled to withhold payment of the relevant invoice in full and the parties shall enter into good faith discussions to resolve such dispute. For the avoidance of doubt, the Company shall not be under any obligation to make payment of any invoice or part thereof until such dispute is resolved.

5.6 If the Company fails to make payment to the Consultant of any sums owed under the Contract, the Consultant may charge interest to the Company on such sums at a rate of 4% (four per cent) per annum above the base lending rate from time to time of the Bank of England until such payment has been made. Interest shall not be payable on any unpaid sums under Conditions 5.4 and 5.5 above.

5.7 Payment of the Fees shall not constitute acceptance by the Company of the Services or any of the Works.

#### **6 CHANGE CONTROL**

6.1 The Supervising Officer may request changes to the scope of the Services to be provided by the Consultant by issuing a Variation Request to the Consultant.

6.2 As soon as is reasonably practicable after receipt of a Variation Request, and in any event within five (5) Business Days, the Consultant shall provide an estimate of time and costs involved in implementing such a Variation Request and an initial assessment of the impact of the change on the Services.

6.3 The Consultant shall use its best endeavours to make the requested change(s) to the Services to accommodate any changes to the needs and requirements of the Company as set out in the Variation Request.

6.4 Once any Variation Request is agreed in writing and signed by both parties, such Variation Request shall form part of the Contract.

6.5 The Company shall not entertain any claim whatsoever from the Consultant for payments other than those provided in the Contract.

#### **7 CONFIDENTIAL INFORMATION AND COMPANY PROPERTY**

7.1 The Consultant acknowledges that in the course of the provision of the Services it will have access to Confidential Information. The Consultant has therefore agreed to comply with the restrictions set out in this Condition 7.

7.2 The Consultant shall keep, and shall procure that its employees, agents, representatives and subcontractors shall keep, in strict confidence, all Confidential Information received from the Company or which otherwise comes into its possession. The Consultant shall restrict disclosure of such Confidential Information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging its obligations under the Contract.

7.3 The obligations of the Consultant set out in this Condition 7 do not apply to any information which is:

7.3.1 already known to the Consultant prior to the commencement of the Services (but, for the avoidance of doubt, this exception shall not apply to Confidential Information which becomes known to the Consultant during the course of any previous discussions, negotiations or relationship with the Company);

7.3.2 published or otherwise comes into the public domain otherwise than as a consequence of a breach of these terms and conditions by the Consultant or a breach of confidence by a third party;

7.3.3 received from a third party lawfully entitled to supply the same; or

7.3.4 developed by the Consultant at any time independently of the Confidential Information disclosed to it by the Company.

7.4 The Consultant shall not shall make, or permit any person to make, any public announcement concerning this Contract or that the Consultant supplies services to the Company without the prior written consent of the Company, except as required by law or any governmental or regulatory authority, or by any court or other authority of competent jurisdiction.

7.5 The Company's Property shall be used by the Supplier solely for the purpose of enabling it to comply with the Contract and it shall remain the exclusive property of the Company. The Consultant shall maintain an accurate and up to date inventory of all of the Company's Property within its possession, custody or control at all times and copies of such inventory shall be provided to the Company upon request at any time. The Consultant shall return to the Company all of the Company's Property upon request or upon termination or expiry of the Contract (whichever is the earlier).

7.6 The Consultant shall hold the Company Property in safe custody, at its own risk from the time of their delivery to the Consultant (or such other person as is notified to the Company by the Consultant) and the Consultant shall insure such items against loss or damage accordingly (which, without limitation to the above, shall include insuring against any loss or damage incurred at the premises or due to a third party (including any authorised sub-contractor)) and shall ensure that the Company's Property is preserved in the same state and condition as they were in at the time of delivery. If any of part of the Company's Property is lost, stolen or damaged whilst in the possession, custody or control of the Consultant, the Consultant shall hold the proceeds of insurance maintained pursuant to this Condition 7.6 on behalf of the Company as trustee for the Company.

## 8 INTELLECTUAL PROPERTY

- 8.1 The Consultant hereby assigns to the Company all existing and future Intellectual Property Rights in the Works and Inventions and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this Contract, the Consultant holds legal title in these Intellectual Property Rights in the Works and Inventions on trust for the Company.
- 8.2 The Consultant undertakes to the Company:
- 8.2.1 to notify to the Company in writing full details of all Inventions promptly on their creation;
- 8.2.2 to keep confidential the details of all Inventions;
- 8.2.3 whenever requested to do so by the Company and in any event on the termination of the Contract, promptly to deliver to the Company all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Works and the process of their creation which are in its possession, custody or power;
- 8.2.4 not to register nor attempt to register any of the Intellectual Property Rights in the Works, nor any of the Inventions, unless requested to do so by the Company; and
- 8.2.5 to do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Works and the Inventions has passed, or will pass, to the Company.
- 8.3 The Consultant warrants to the Company that:
- 8.3.1 it has not given and will not give permission to any third party to use any of the Works or the Inventions, nor any of the Intellectual Property Rights therein;
- 8.3.2 it is unaware of any use by any third party of any of the Works or Intellectual Property Rights therein; and
- 8.3.3 the use of the Works or the Intellectual Property Rights therein by the Company will not infringe the rights of any third party.
- 8.4 The Consultant waives any moral rights in the Works to which it is now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the right of integrity and the right against false attribution, and agrees not to institute, support, maintain or permit any action or claim to the effect that any treatment, exploitation or use of such Works or other materials infringes the Consultant's moral rights.
- 8.5 The Consultant acknowledges that no further fees or compensation other than those provided for in the Contract are due or may become due to the Consultant in respect of the performance of his obligations under this Condition 8.
- 8.6 The Consultant undertakes to execute all documents, make all applications, give all assistance and do all acts and things, at the expense of the Company and at any time either during or after the term of the Contract, as may, in the opinion of the Company, be necessary or desirable to vest the Intellectual Property Rights in, and register or obtain patents or registered designs in, the name of the Company and to defend the Company against claims that works embodying Intellectual Property Rights or Inventions infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Works.
- 8.7 The Consultant irrevocably appoints the Company to be its attorney in its name and on its behalf to execute documents, use the Consultant's name and do all things which are necessary or desirable for the Company to obtain for itself or its nominee the full benefit of this Condition 8. A certificate in writing, signed by any director or the secretary of the Company, that any instrument or act falls within the authority conferred by this Contract shall be conclusive evidence that such is the case so far as any third party is concerned.
- ## 9 INSURANCE AND LIABILITY
- 9.1 The Consultant shall obtain and maintain in force during the continuance of the Contract adequate and suitable insurance with a reputable insurance company to cover all of its liabilities under the Contract (including without limitation and where stated in the Applicable Documents or in the Works Order (as applicable), the Insurance Requirements set out in the Applicable Documents or in the Works Order (as applicable) and all such other product liability, professional indemnity insurance, public liability insurance and employer's liability insurance cover as the Company may require the Consultant to obtain from time to time in respect of its liabilities under the Contract.
- 9.2 The Consultant shall ensure that the Company's interest in the insurance policies effected pursuant to Condition 9.1 is noted on the relevant policies and the Consultant shall, if required by the Company, produce satisfactory evidence to the Company that such insurance policies have been effected. For the avoidance of doubt, the Consultant shall be liable under all provisions of the Contract whether or not it complies with Conditions 9.1 and 9.2.
- 9.3 If the Consultant fails to insure, or fails to pay the insurance premium under any policy, as required under this Contract, the Company shall be entitled to take out such insurance as it considers necessary to cover the relevant risk and recover the cost of such insurance from the Consultant on demand.
- 9.4 The Consultant shall indemnify, keep indemnified and hold harmless the Company (and each member of the Hargreaves Group) in full, and on demand, from and against any and all Loss which may be incurred by the Company (and/or any member of the Hargreaves Group) as a result of or in connection with:
- 9.4.1 any infringement or alleged infringement of the Intellectual Property Rights of any other person arising out of or in connection with the Works or the Inventions or the use of any design, drawings, equipment, materials or other items provided by, or on behalf of, the Consultant in connection with the performance of the Services (except to the extent that the claim arises from compliance with any specifications, drawings, samples or descriptions provided by the Company or on behalf of the Company);
- 9.4.2 the death of, or injury to, any person or out of or in connection with the damage to any property, including without limitation property of the Company, to the extent that such death, injury or damage is caused by breach of the terms and conditions of the Contract, any negligent performance, delay and or failure to perform any of its obligations under the Contract by the Consultant, its employees, agents or sub-contractors; and

- 9.4.3 any claim made against the Company and/or any member of Hargreaves Group by a third party as a result of or in connection with any breach of the terms and conditions of the Contract and/or any negligent performance, delay and/or failure to perform any of its obligations under the Contract by the Consultant, its employees, agents or sub-contractors.
- 9.5 Without prejudice to Condition 9.1, the Consultant shall maintain the following insurance policies with insurers approved by the Company:
- 9.5.1 public liability insurance for not less than ten million pounds (£10,000,000) in respect of any one incident or matter; and
- 9.5.2 professional indemnity insurance for not less than two million pounds (£2,000,000) in respect of any one incident or matter.
- 9.6 The Consultant shall if required by the Company from time to time produce satisfactory evidence that the policy or policies of insurance have been effected and maintained in force. The Consultant shall ensure that such insurance policy or policies are taken out with reputable insurers acceptable to the Company and that the level of cover and other terms of insurance are acceptable to and agreed by the Company. The approval by the Company of the insurance of the Consultant shall not in any way limit or relieve the Consultant of his liabilities under the Contract.

## 10 THE COMPANY'S REMEDIES

- 10.1 Without prejudice to any other rights or remedies to which the Company may be entitled, if the Services fail to comply with the provisions of Conditions 4.1 and 4.2, or the Consultant has failed, refused and/or neglected to follow the reasonable and lawful directions of the Supervising Officer, then the Company shall be entitled to any one or more of the following remedies at its sole discretion:
- 10.1.1 to require the Consultant to re-perform the defective Services without additional charge to the Company;
- 10.1.2 to assess the cost of remedying the defective Services (the **Assessed Cost**) and deduct from any sums due to the Consultant, the Assessed Cost;
- 10.1.3 to carry out itself, or engage a third party to carry out, the defective Services (in whole or in part) and all additional expenditure incurred by the Company in having such defective Services carried out by a third party shall be recoverable by the Company from the Consultant, and the Company shall be entitled to exercise the rights granted to it under Condition 5.4 in respect of any sums payable by the Consultant to the Company under Conditions 10.1.2 and 10.1.3.

## 11 TERMINATION

- 11.1 Without prejudice to Condition 11.2, the Company shall have the right at any time by giving notice in writing to the Consultant to immediately terminate the Contract if:
- 11.1.1 the Consultant commits a material breach of any term of this Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 7 days after being notified in writing to do so;
- 11.1.2 the Consultant commits any repeated breach or non-observance of any of the provisions of this Contract or refuses or neglects to comply with any reasonable and lawful directions of the Company (including, without limitation, the Supervising Officer);
- 11.1.3 the Consultant is, in the reasonable opinion of the Company, negligent or incompetent in the performance of the Services;
- 11.1.4 the Consultant is subject to an Insolvency Event;
- 11.1.5 the Company, acting reasonably, has serious doubts as to the Consultant's solvency;
- 11.1.6 the Consultant commits any offence under the Bribery Act 2010;
- 11.1.7 the Consultant (being a natural person) is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed); or
- 11.1.8 the Consultant (being a natural person) is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of thirty (30) days in any fifty two (52) weeks consecutive period.
- 11.2 The Company shall be entitled to terminate the Contract any time upon giving no less than fourteen (14) days written notice to the Consultant.
- 11.3 The rights of the Company under Condition 11.1 are without prejudice to any other rights that it might have at law to terminate the Contract. Any delay by the Company in exercising its rights to terminate shall not constitute a waiver thereof.

## 12 CONSEQUENCES OF TERMINATION

- 12.1 Upon termination or expiry of the Contract for whatever reason the Consultant shall:
- 12.1.1 at the Company's option, immediately destroy or deliver up to the Company (or any member of the Hargreaves Group) all of the Company Property and Confidential Information in its possession or under its control;
- 12.1.2 deliver up to the Company all records, reports, documents, papers and other materials whatsoever originated by or on behalf of the Consultant during the performance of the Services and all items in which copyright subsists and copies thereof in his possession, custody or control at that time and shall do all such acts and things and shall execute all such documents as the Company may require to transfer and assign to the Company the property and Intellectual Property Rights in such items and the Consultant shall not thereafter utilise or exploit the same in any way whatsoever; and
- 12.1.3 if requested by the Company, provide a signed statement that it has complied fully with its obligations under this Condition 12.1.
- 12.2 The termination or expiry of the Contract for whatever reason shall not affect the accrued rights of the parties arising in any way out of the Contract as at the date of termination or expiry and all provisions which are expressed or implied to survive the termination of the Contract shall remain in full force and effect.

## 13 STATUS

- 13.1 The relationship of the Consultant to the Company will be that of independent contractor and nothing in this Contract shall render it an employee, worker, agent or partner of the Company and the Consultant shall not hold himself out as such.
- 13.2 This Contract constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for and shall indemnify, keep indemnified and hold harmless the Company (and each member of the Hargreaves Group) in full, and on demand, from and against:

- 13.2.1 any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services, where such recovery is not prohibited by law. The Consultant shall further indemnify, keep indemnified and hold harmless the Company in full and on demand from and against all reasonable costs and expenses, and any penalty, fine or interest incurred or payable by the Company in connection with or in consequence of any such liability, deduction, contribution, assessment or claim; and
- 13.2.2 any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Consultant (as applicable) against the Company arising out of or in connection with the provision of the Services.
- 13.3 The Company may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Consultant.
- 13.4 The Consultant warrants that it is not nor will it prior to the cessation of this Contract, become a managed service company, within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.

#### **14 GENERAL**

- 14.1 This Contract set out the entire agreement between the parties in relation to the subject matter hereof and supersedes any previous agreement relating to the subject matter of the Contract, whether written or oral. Each party acknowledges and agrees that in entering into the Contract it places no reliance on any representation or warranty in relation to the subject matter of this Contract, nor shall it have any remedy in relation to the subject matter of the same save as expressly set out in the Contract. The only remedy available to either party for breach of such warranties or representations shall be for breach of contract under the terms of this Contract. Nothing in this Condition or in this Contract shall operate so as to exclude or restrict any remedy or liability for fraud or fraudulent misrepresentation.
- 14.2 The Consultant shall maintain accurate, up to date and comprehensive records in respect of the Works and the performance of its obligations under the Contract and shall provide the Company with access to all such records upon receipt of notice in writing from the Company to do the same.
- 14.3 Any notice to be given under the Contract shall be in writing and may be made or delivered by one party hereto to the other at the registered office of the party or to such other address as such party may have notified to the other party giving such notice for the purposes of this Condition and shall be deemed to have been made or delivered:
- 14.3.1 in the case of notice given by facsimile, when a transmission report showing receipt of the whole of the notice on the correct facsimile number is produced, provided that the notice is received in legible form; or
- 14.3.2 in the case of notice given by letter, when left at the address or, if sent by prepaid first class recorded delivery, forty eight (48) hours after posting.
- 14.4 If such notice arrives on a day which is not a Business Day, it shall be deemed to have been delivered on the next following Business Day.
- 14.5 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable (in whole or part), the other provisions of the Contract and the remainder of the affected provisions shall continue to be valid.
- 14.6 The rights and remedies provided in the Contract are cumulative and not exclusive of any rights or remedies otherwise provided by law.
- 14.7 The failure of a party to exercise or enforce any right under the Contract shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.
- 14.8 Other than members of the Hargreaves Group, a person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. The Company may perform any of its obligations or exercise any of its rights hereunder through any member of the Hargreaves Group. Notwithstanding that members of the Hargreaves Group shall be entitled to enforce rights under this Contract which have been given for their benefit, the parties to this Contract may enter into any agreement or arrangement varying or amending any of the terms of this Contract, or compromising or settling any claim under this Contract (including in respect of such rights), without reference to the interests of, or the consent of, the other members of the Hargreaves Group not party to this Contract.
- 14.9 No variation of the Contract shall be binding upon the parties unless the same is agreed in writing and signed by a duly authorised representative of both the Company and the Consultant.
- 14.10 The Contract, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in all respects in accordance with the laws of England and Wales, and the English courts shall have exclusive jurisdiction in all matters relating to the Contract (whether of a contractual or tortious nature or otherwise).

May 2016