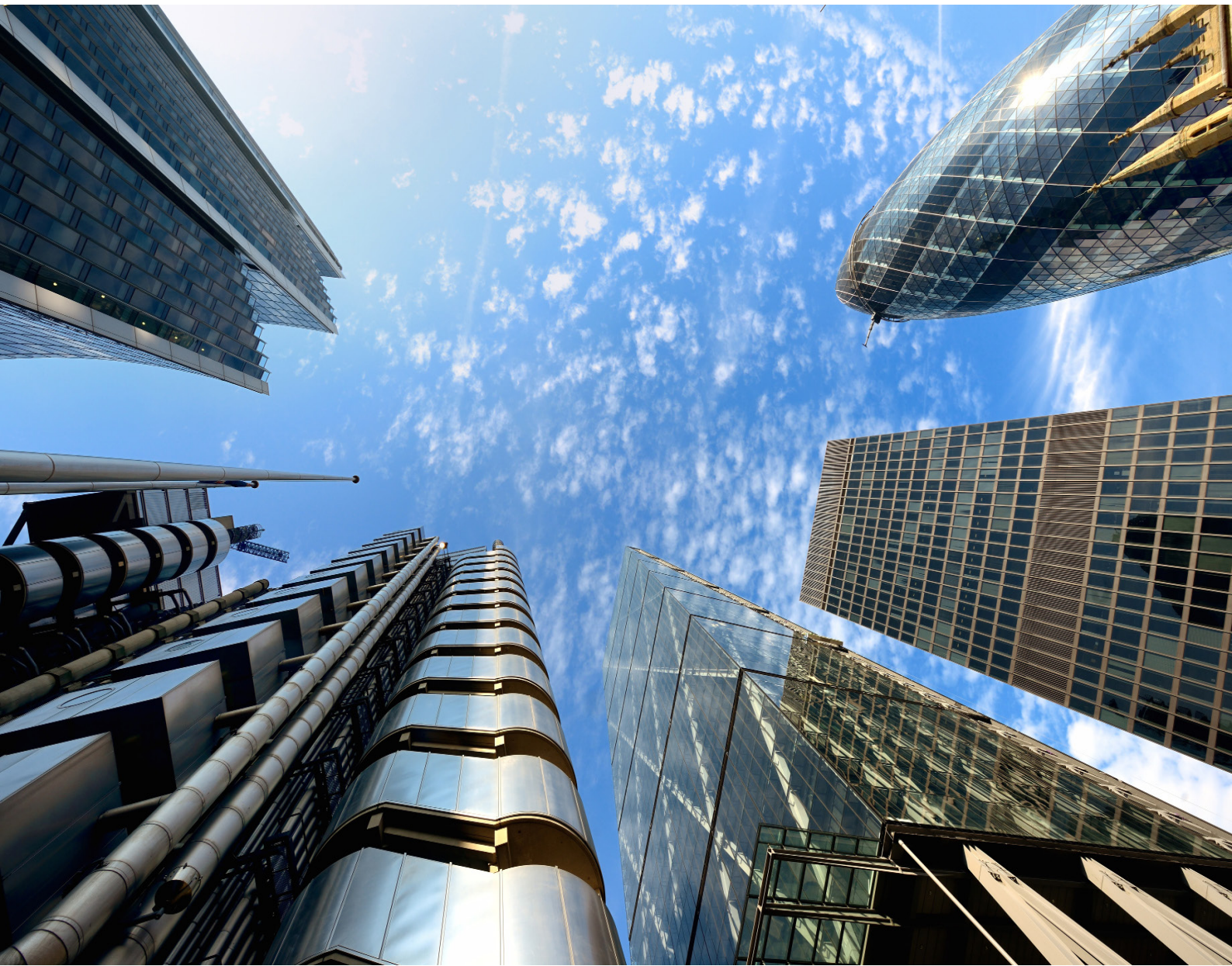




England and Wales

RICS Standard Form of Consultant's Appointment

2018 edition



Draft

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This RICS Standard Form of Consultant's Appointment is suitable for use on construction-related projects of any size or value. Please look carefully at the marginal notes within the Appointment, which assist its completion.

This Appointment is suitable for projects in England and Wales only.

Draft

Notes

Insert date following execution by all parties.

Where the Client is a company or limited liability partnership, insert full name, company number and address of registered office of the Client.

Where the Client is a partnership or an individual, insert full name of the Client and address of the principal place of business/address. Where the Client is an individual, delete the wording in square brackets.

Where the Consultant is a company or a limited liability partnership, insert full name, company number and address of registered office of the Consultant.

Where the Consultant is a partnership or an individual, insert full name of the Consultant and address of principal place of business/address. Where the Consultant is an individual, delete the wording in square brackets.

THIS AGREEMENT is made on the _____ day of _____ 20_____

BETWEEN:

(1) The **Client** _____
(company registration number _____)
whose registered office is at _____

or

(1) The **Client** _____
[being all the partners of that firm and] whose principal place of business/address is at

and

(2) The **Consultant** _____
(company registration number _____)
whose registered office is at _____

or

(2) The **Consultant** _____
[being all the partners of that firm and] whose principal place of business/address is at

CONDITIONS:

1 Definitions and interpretation

1.1 In this Appointment, the following expressions have the following meanings:

Additional Services	Any services relating to the Project that are not identified as Basic Services in the services listed in Schedule 1.
Additional Services Fee	The Fee payable by the Client to the Consultant for Additional Services determined in accordance with Clause 10.
Adjudicator	The person named as such in the Appendix or, if no person is named or the person named is not available, such other person as may be appointed as the Adjudicator from time to time in accordance with Clause 16.4.
Appendix	The Appendix to this Appointment.
Base Rate	The rate set from time to time by the Bank of England's Monetary Policy Committee or any successor to it.
Basic Services	The services identified by reference in Schedule 1.
BIM	Building information modelling.
BIM Protocol	The document identified in the Appendix (where applicable).
Building Contract	The contract or contracts between the Client and the Contractor for the construction of the Project, a copy of which (or a copy of relevant extracts) the Client provides to the Consultant.
CDM Regulations	<i>Construction (Design and Management) Regulations 2015.</i>
Client's Brief	The brief set out in Schedule 3 identifying the Client's requirements in relation to the Project as such requirements may, in accordance with the Client's instructions, be amended from time to time with the Consultant's agreement (which agreement is not to be unreasonably withheld or delayed).
Client Contracts	The particulars of all contracts between the Client and third parties, which the Client notifies to the Consultant, relating to the financing or re-financing of the Project, the disposal and/or letting of any interest in the Project, the provision of any enabling works for the Project, or the giving of consent or permission for the carrying out of the Project.
Client Group Company	Any subsidiary of the Client or any holding company of the Client or any other subsidiaries of any such holding company (other than the Client) (within the meaning of Section 1159 of the <i>Companies Act 2006</i>).
Collateral Warranties	Collateral Warranties in the relevant forms annexed to this Appointment and signed by the parties by way of identification or in substantially the relevant forms as agreed between the parties.
Contractor	The contractor or contractors that the Client appoints under the Building Contract.
Documents	All drawings, plans, details, specifications, bills of quantities, schedules, reports, records, calculations and all other documents including computer software and revisions of the same prepared by or on behalf of the Consultant for the purposes of the Project together, where applicable, with any other design document or information to be provided by the Consultant under the BIM Protocol.
Fee	The amount payable in accordance with this Appointment by the Client to the Consultant for the Basic Services and includes any adjustment of the Fee under this Appointment.
Funder	A person providing finance or re-finance to the Client in connection with the acquisition of the Site and/or the carrying out of the Project.
Insolvent	When a party: <ul style="list-style-type: none"> a) enters into an arrangement, compromise or composition in satisfaction of its debts (excluding a scheme or arrangement as a solvent company for the purposes of amalgamation or reconstruction); b) without a declaration of solvency, passes a resolution or makes a determination that it be wound up; c) has a winding-up order or bankruptcy order made against it; d) has appointed to it (whether by that party, by a creditor or by the court) an administrator or administrative receiver; e) is the subject of any analogous arrangement, event or proceedings in any jurisdiction; or f) in the case of a partnership, when each partner is the subject of an individual arrangement or another event or proceedings referred to in this definition.

Lead Consultant	The member of the Professional Team designated as such by the Client and identified in the Appendix.
Pay Less Notice	The notice referred to in Clause 9.9.
Practical Completion	The practical completion of the Project in accordance with the Building Contract.
Professional Team	The Consultant, the professionals listed in the Appendix and any other professionals engaged by the Client in relation to the Project and which the Client notifies to the Consultant.
Programme	The programme agreed by the Professional Team and approved by the Client identifying key completion and other dates and time periods for the completion of key activities and the issue of Documents and information in relation to the Project and which may from time to time be adjusted by agreement between the Client and the Professional Team.
Project	The design and/or construction of the works described in the Appendix at the Site and (where appropriate) means the completed Project or any part of it.
Purchaser	A person first acquiring from the Client or Client Group Company a freehold interest in the Project or any part of it, and includes for this purpose a purchaser for capital consideration of a leasehold interest in the Project or any part of it.
Relevant Period	a) where this Appointment is signed under hand, 6 years from Practical Completion; and b) where this Appointment is executed as a deed, 12 years from Practical Completion.
Relevant Requirements	All applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the <i>Bribery Act 2010</i> .
Requisite Standard	The standard of reasonable skill and care to be expected of an appropriately qualified professional consultant of the discipline specified in the Appendix holding itself out as having the competence and resources to perform the Services, and who is experienced in providing services in connection with works of a similar size, scope, nature, complexity and value as the Project.
Services	The Basic Services and, where applicable, the Additional Services.
Site	The site described in the Appendix.
Statutory Requirements	The requirements of any statute or subordinate legislation relevant to the Project.
Tenant	A person first having or acquiring from the Client or a Client Group Company a leasehold interest in the Project or any part of it (other than a Purchaser).
Third Party Rights	Rights that may be conferred on third parties in accordance with the <i>Contracts (Rights of Third Parties) Act 1999</i> as agreed between the parties and annexed to this Appointment and signed by the parties by way of identification.
VAT	Value added tax imposed by the <i>Value Added Tax Act 1994</i> or any similar tax from time to time in addition to it or replacing it.

1.2 In this Appointment, unless the context otherwise requires:

- a) references to 'Clause' and 'Schedule' are to clauses of and schedules to this Appointment;
- b) headings are for ease of reference only and do not affect the interpretation of this Appointment;
- c) words importing the singular include the plural and vice versa;
- d) words denoting any gender include all genders;
- e) any reference to a person includes a reference to a company, body corporate (wherever incorporated), partnership, firm, joint venture, unincorporated body of persons, individual or any state or any agency of a state whether or not a separate legal entity;
- f) any reference to 'parties' is construed as a reference to the Client and Consultant together and 'party' means either one of them, and such references include each party's permitted assigns and transferees;
- g) any reference to 'including' is construed as being illustrative and does not limit the sense of the words preceding that term;
- h) any reference to a statute or statutory provision is construed as a reference to that statute or provision as amended, consolidated, supplemented or re-enacted (with or without modifications) from time to time (whether before or after the date of this Appointment) and any subordinate legislation made under or deriving validity from that statute or provision; and
- i) where any Clause requires an act to be done within a specified period after or from a specified date, the period begins immediately after that date. Where the period includes Christmas Day, Good Friday or a day which, under the *Banking and Financial Dealings Act 1971*, is a bank holiday in England and Wales, that day is excluded.

2 Appointment

The Client engages the Consultant to perform the Services and the Consultant accepts such engagement upon and subject to the terms of this Appointment. The engagement takes effect from the date when the Consultant first commences performance of the Services, irrespective of the date of this Appointment.

3 Consultant's obligations

Requisite Standard

3.1 The Consultant exercises in the performance of the Services the Requisite Standard.

Performance of the Services

3.2 The Consultant performs the Services upon and subject to the terms of this Appointment.

3.3 The Consultant complies with the Client's Brief exercising the Requisite Standard.

3.4 If the Consultant is designated as Lead Consultant in the Appendix, the Consultant coordinates the activities of the Professional Team and gives instructions to the Professional Team as necessary. As Lead Consultant, the Consultant schedules the activities so that they are in conformity with the Programme and informs the Client of any failure by any member of the Professional Team to comply with the Programme.

3.5 If the Consultant is not designated as Lead Consultant in the Appendix, the Consultant cooperates with the Lead Consultant. The Consultant complies with the instructions of the Lead Consultant in relation to the coordination of the activities of the Professional Team unless this causes the Consultant to be in breach of this Appointment or the Consultant is prevented from doing so by circumstances outside its reasonable control.

3.6 The Consultant performs the Services exercising the Requisite Standard so that no breach by the Consultant of this Appointment causes or contributes to any breach by the Client of any term of the Building Contract and/or any Client Contract that has been notified to the Consultant by the Client, unless the Consultant is prevented from doing so by circumstances outside its reasonable control. Provided that:

- a) the Consultant is not required to comply with this Clause to the extent that any term of the Building Contract and/or any Client Contract notified to the Consultant after the date of this Appointment exposes the Consultant to any liability in excess of that which is reasonably foreseeable by the Consultant at the date of this Appointment; and
- b) (subject to Clause 3.6(a)) where any term of the Building Contract and/or any Client Contract notified to the Consultant after the date of this Appointment requires the Consultant to perform Additional Services to comply with this Clause, the Consultant is entitled to an Additional Services Fee in accordance with this Appointment.

3.7 The Consultant performs the Services exercising the Requisite Standard and provides the Documents so as to comply with the Programme, unless the Consultant is prevented from doing so by circumstances outside its reasonable control.

3.8 The Consultant notifies the Client if it becomes aware that the performance of the Services is delayed or likely to be delayed and/or, if the Consultant is the Lead Consultant, that the Project is delayed or likely to be delayed, stating in each case the cause of the delay (if it knows the cause) and giving an estimate of the effect on the Programme.

Instructions and approvals

3.9 The Consultant complies, so far as reasonably practicable, with all lawful instructions given to it by the Client provided that, where it is required to exercise discretion in assessing matters between the Client and the Contractor, it does so fairly and impartially.

3.10 No consents of, or approvals or comments from, the Client exclude or limit the liability of the Consultant under this Appointment except to the extent that such consents, approvals or comments are agreed between the parties in writing to have such an effect.

Building information modelling (BIM)

- 3.11 Where the Appendix states this Clause applies, the Consultant complies with the BIM Protocol exercising the Requisite Standard.

4 Health and safety, Statutory Requirements, design responsibility and prohibited materials

Health and safety

- 4.1 The Consultant complies at all times with the CDM Regulations to the extent that they apply to the Services or the Project.
- 4.2 Where the Appendix states that the Consultant is a 'designer' for the purposes of the CDM Regulations, the Consultant acknowledges that, in relation to the Services, it is a 'designer' as defined in the CDM Regulations and it complies with its obligations and duties as a 'designer' as provided in the CDM Regulations.

Statutory Requirements

- 4.3 The Consultant complies with the Statutory Requirements when performing the Services.

Design responsibility

- 4.4 The Consultant is only responsible for the design of the Project or any part of it and/or for specifying or approving materials for the Project or any part of it, if and to the extent that the Consultant is designated as having such responsibility in the Appendix.

Prohibited materials

- 4.5 Where the Appendix states that this Clause is applicable, the Consultant exercising the Requisite Standard:
- does not specify for use in connection with the Project any materials that, by their nature or application, contravene any British Standard or EU equivalent current at the time of specification or which are otherwise generally known within the construction and engineering industry at the time of specification to be harmful to health and safety or to the durability of works in the particular circumstances in which they are specified for use; and
 - insofar as is reasonably practicable and having regard to the nature and extent of the Services, sees that such materials are not used in the construction of those parts of the Project to which the Services relate.

5 Limitations of liability

- 5.1 Except for liability for death and/or personal injury, the maximum aggregate liability of the Consultant to the Client under or in connection with this Appointment and all other documents relating to the Services (whether in contract, tort (including negligence), for breach of statutory duty or otherwise) is limited to the amount specified in the Appendix.
- 5.2 Where the Appendix states that this Clause is applicable, and without prejudice to any other exclusion or limitation of liability available to the Consultant, the Consultant's liability for loss or damage suffered by the Client in the event of any breach of this Appointment is limited to the proportion of such loss or damage that it would be just and equitable to require the Consultant to pay having regard to the extent of the Consultant's responsibility for the same and on the assumptions that:
- the persons identified in the Appendix have provided contractual undertakings to the Client on terms no less onerous than those set out in this Appointment in respect of the carrying out of their obligations in connection with the Project;
 - there are no exclusions or limitations of liability nor joint insurance or co-insurance provisions between the Client and any person referred to in Clause 5.2(a); and
 - all the persons referred to in Clause 5.2(a) have paid to the Client such sums as it is just and equitable for them to pay having regard to the extent of their responsibility for such loss or damage.

Provided always that the Consultant does not assert that it has no or a reduced liability to the Client under this Appointment solely by reason of the fact that the Contractor accepts responsibility for the design of the Project, to the extent such design is undertaken by the Consultant.

- 5.3 No action or proceedings for any breach of this Appointment may be commenced against the Consultant after the expiry of the Relevant Period.

6 Collateral Warranties and Third Party Rights

Choice of Collateral Warranties or Third Party Rights

- 6.1
- a) Where the Appendix states that the Consultant is not required to provide Collateral Warranties or to confer Third Party Rights, Clauses 6.2 and 6.3 do not apply.
 - b) Where the Appendix states that the Consultant is required to provide Collateral Warranties in favour of third parties, Clause 6.2 applies.
 - c) Where the Appendix states that the Consultant is required to confer Third Party Rights on third parties, Clause 6.3 applies.

Collateral Warranties

- 6.2 Within 14 days of the receipt by the Consultant of each written request from the Client, the Consultant executes a Collateral Warranty in favour of the person named in such request, provided such person is identified in the Appendix either by name or class as being a person entitled to receive a Collateral Warranty.

Third Party Rights

- 6.3 On each date on which the Client issues a notice to the Consultant identifying by name a person who is identified in the Appendix either by name or class as being a person entitled to receive the benefit of Third Party Rights, the relevant Third Party Rights vest in the person named in such notice.

Contracts (Rights of Third Parties) Act 1999

- 6.4 Except to the extent that rights are granted under Clauses 6.2 and/or 6.3, nothing in this Appointment confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.
- 6.5 The rights of the parties:
- a) to terminate the Consultant's engagement under this Appointment (whether under Clause 15 or otherwise) or to agree to rescind this Appointment;
 - b) to agree to amend or otherwise vary or to waive any of the terms of this Appointment; or
 - c) to agree to settle any dispute or other matter arising out of or in connection with this Appointment,

in each case on such terms as they shall in their absolute discretion think fit, are not subject to the consent of any person in whom the benefit of Third Party Rights is vested.

7 Consultant's personnel

The Consultant nominates the key personnel set out in the Appendix as the persons primarily responsible within its organisation for the carrying out of the Services for so long as they remain in the employment of or (if applicable) partners of the Consultant. The Consultant ensures (unless it is prevented from doing so by circumstances outside its reasonable control) that such persons devote such time and attention to the Services as is necessary for them properly to fulfil their duties. Such persons are not changed other than by written agreement between the parties (such agreement not to be unreasonably withheld or delayed).

8 Client's obligations

- 8.1 The Client provides the Consultant with any relevant and necessary information which is in its possession or control by the date specified in the Programme or (if no date is specified) in such reasonable time so as not to delay or disrupt the performance by the Consultant of the Services.
- 8.2 The Client gives any decisions, approvals, consents or instructions required within a reasonable time, having regard to the Programme.
- 8.3 The Client gives, and procures (so far as reasonably practicable) that the other members of the Professional Team give, such assistance to the Consultant as is reasonably required by the Consultant for the performance of the Services.
- 8.4 The Client does not warrant the accuracy of any information provided by it to the Consultant save for the following:
 - a) the Client's Brief; and
 - b) any specialist reports and surveys provided by the Client upon which it is reasonable for the Consultant to rely in performing the Services.
- 8.5 The Consultant notifies the Client upon becoming aware that any of the information referred to in Clause 8.4 is incomplete or contains any inaccuracies or discrepancies.
- 8.6 The Client appoints the person named in the Appendix to act on its behalf in connection with this Appointment subject to the limits of authority (if any) set out in the Appendix. Such person may delegate to any other person the authority to perform any of its functions under this Appointment and may at any time revoke or amend such authority by, in each case, giving prior notice in writing to the Consultant. The Client may replace the person named in the Appendix at any time by giving prior notice in writing to the Consultant.
- 8.7 The Client appoints the Professional Team and the Contractor in sufficient time and on terms that allow the Project to be successfully delivered and so as to secure compliance with all relevant Statutory Requirements (including the CDM Regulations).
- 8.8 Where the Services require the Consultant to issue or give certificates or statements under the Building Contract and/or any Client Contract, the Client procures, so far as reasonably practicable, that the Professional Team provides the Consultant with such information or confirmation as is necessary for it (acting reasonably) to issue such certificates or statements.

9 Payment

- 9.1 The remuneration payable to the Consultant for performance of the Services is calculated and paid in accordance with Schedule 2.
- 9.2 The Client pays the Consultant the Fee set out in Part A of Schedule 2 as full remuneration for the Basic Services, subject to any adjustment to the Fee in accordance with Clause 9.11.
- 9.3 The Fee is payable by instalments on the dates or on completion of the activities set out in Part B of Schedule 2. If not set out in Part B of Schedule 2, the Fee is payable in instalments at intervals of not less than one month, the first instalment being one month from the date the Consultant first commences performance of the Basic Services.
- 9.4 The Client pays the Consultant the Additional Services Fee (if any) determined in accordance with Clause 10. Unless otherwise agreed, the Additional Services Fee is payable following performance of the relevant Additional Service.

Disbursements and expenses

- 9.5 Unless otherwise provided in the Appendix, the Client reimburses disbursements and expenses incurred by the Consultant in the proper performance of the Services in accordance with Part C of Schedule 2, such disbursements and expenses being included in the next VAT invoice after they are incurred.

Payment

- 9.6 The Consultant submits to the Client VAT invoices in respect of the Fee, the Additional Services Fee and disbursements and expenses on the dates or on completion of the activities set out in Part B of Schedule 2. All invoices are accompanied by such supporting documents, records and receipts as are reasonably necessary for checking each invoice. The invoices and supporting documents, records and receipts (if any) specify the sum that the Consultant considers to be due to it on the payment due date in accordance with Clause 9 and the basis on which that sum is calculated. The payment due date is the date the Client receives the relevant invoice (the '**due date**'). The Client pays the Consultant the total amount of VAT properly chargeable on the supply of the Services.
- 9.7 The Client gives notice to the Consultant of the sum the Client considers to be or have been due at the due date in respect of the payment and the basis on which that sum is calculated. Such notice is given not later than 5 days after the due date.

Payment dates

- 9.8 The Client, subject to any Pay Less Notice, pays the Consultant the sum referred to in the Client's payment notice under Clause 9.7 (or, if the Client has not given notice under Clause 9.7, the sum stated in the invoice referred to in Clause 9.6) (the '**notified sum**') on or before the final date for payment of the invoice. The final date for payment is 28 days after the due date or, if a different period is stated in the Appendix, within such period.
- 9.9 If the Client intends to pay less than the notified sum, it gives the Consultant notice of that intention not later than 7 days before the final date for payment by specifying in the notice the amount the Client considers to be due to the Consultant at the date the notice is given and the basis on which that sum is calculated (the '**Pay Less Notice**'). Where a Pay Less Notice is given, the payment to be made on or before the final date for payment is not less than the amount stated as due in the Pay Less Notice.
- 9.10 If the Client fails to pay the notified sum (or, where a Pay Less Notice is given, the amount specified in that Notice) by the final date for payment, the Client pays to the Consultant simple interest on the unpaid amount for the period from the final date for payment until the date of actual payment, calculated on a daily basis at the rate of 4% above the Base Rate. It is acknowledged that this provision constitutes a substantial remedy for the purposes of Section 9(1) of the *Late Payment of Commercial Debts (Interest) Act 1998*.

Adjustments to the Fee

- 9.11 The Fee is adjusted if the performance of the Basic Services is materially delayed and/or disrupted as a result of a change in the scope, size, complexity or duration of the Project or for any other cause outside the Consultant's reasonable control.
- 9.12 If the Consultant intends to make a claim for an adjustment of the Fee under Clause 9.11, it gives the Client:
- notice of such intention as soon as reasonably practicable after it becomes aware of any material delay and/or disruption to the Services; and
 - a written estimate of the proposed adjustment to the Fee and of the likely effect on the performance by the Consultant of the Services and on the Programme.

Wherever practicable, the parties agree the adjustment to the Fee and the timing of its payment. If the adjustment to the Fee is not agreed, such adjustment is based on the time-charges set out in Part D of Schedule 2. Unless otherwise provided in the Appendix, such time-charges are inclusive of all disbursements and expenses, other than the disbursements and expenses referred to in Part C of Schedule 2.

- 9.13 The Consultant is not entitled to an adjustment to the Fee to the extent that the delay and/or disruption to the Basic Services is due to any negligence of, or breach of this Appointment by, the Consultant.
- 9.14 In relation to the requirements for the giving of notices under this Clause 9, it is immaterial that the amount then considered to be due may be zero.

10 Additional Services

- 10.1 If at any time it is apparent to the Consultant that Additional Services are likely to be required, it notifies the Client of this as soon as reasonably practicable after identifying the requirement and submits a proposal for Additional Services to the Client.
- 10.2 The Consultant performs such Additional Services as it is instructed in writing to perform by the Client, provided they are reasonably capable of being performed by the Consultant. The Consultant may, in the case of an emergency, perform Additional Services without such an instruction, but not otherwise.
- 10.3 If the Consultant is instructed by the Client to perform Additional Services, it gives the Client, within a reasonable time of the Client's request, a written estimate of:
- the cost of providing such Additional Services, taking into account any reduction in work or savings which might result; and
 - the effect (if any) of such Additional Services on the Programme.
- 10.4 Wherever practicable, the parties agree the Additional Services Fee and the timing of its payment before Additional Services are performed. If the Client instructs the Consultant under Clause 10.2 to perform Additional Services notwithstanding that an Additional Services Fee is not agreed, or if the Consultant performs Additional Services in the case of an emergency, the Additional Services Fee is based on the time-charges set out in Part D of Schedule 2.
- 10.5 The Additional Services Fee is adjusted if the performance of the Additional Services is materially delayed and/or disrupted as a result of a change in the scope, size, complexity or duration of the Project or for any other cause outside the Consultant's reasonable control.
- 10.6 If the Consultant intends to make a claim for an adjustment of the Additional Services Fee under Clause 10.5, it gives the Client:
- notice of such intention as soon as reasonably practicable after it becomes aware of any material delay and/or disruption to the Additional Services; and
 - a written estimate of the proposed adjustment to the Additional Services Fee and of the likely effect on the performance by the Consultant of the Services and on the Programme.
- Wherever practicable, the parties agree the adjustment to the Additional Services Fee and the timing of its payment. If the adjustment to the Additional Services Fee is not agreed, such adjustment is based on the time-charges set out in Part D of Schedule 2. Unless otherwise provided in the Appendix, such time-charges are inclusive of all disbursements and expenses other than the disbursements and expenses referred to in Part C of Schedule 2.
- 10.7 The Consultant is not entitled to an adjustment to the Additional Services Fee to the extent that the delay and/or disruption to the Additional Services is due to any negligence of, or breach of this Appointment by, the Consultant.

11 Consultant's authority

- 11.1 Subject to Clause 11.2, but notwithstanding any other provision of this Appointment, the Consultant has no authority to do any of the following on the Client's behalf without the Client's prior written consent:
- vary the agreed design or specification of work or materials or their quality or quantity from that described in the Building Contract;
 - subject to any greater limit of expenditure stated in the Appendix, issue any instruction or notice under the Building Contract or any Client Contract that either delays completion of the Project or increases the cost of the Project (per item or in the aggregate); or
 - terminate the Building Contract or any Client Contract or the appointment of any other member of the Professional Team, agree any amendment of their contract terms or waive compliance by the Contractor or any party to any Client Contract or any other member of the Professional Team with their respective obligations.
- 11.2 In the event of an emergency, the Consultant has authority to issue any instruction reasonably required to prevent danger to persons on or adjacent to the Site or material damage to the Project. The Consultant promptly notifies the Client of any such instruction and of its cost implications and effect on the Programme.

12 Insurance

- 12.1 Without prejudice to its obligations, the Consultant effects and maintains professional indemnity insurance as specified in the Appendix for the Relevant Period subject to such insurance being available in the insurance market on commercially reasonable terms and rates. Such insurance is to be with a well-established insurance office or underwriter of repute.
- 12.2 If the specified insurance is not available on commercially reasonable terms and rates or is not maintained in accordance with this Appointment, the Consultant notifies the Client immediately and the parties discuss the best way to protect their respective positions, having regard to the provisions of this Appointment and the status of the Project at the time.
- 12.3 The Consultant produces written evidence that the specified insurance is being maintained whenever reasonably requested to do so by the Client.

13 Copyright, confidentiality and anti-bribery

Copyright

- 13.1 Copyright in all Documents remains the property of the Consultant.
- 13.2 The Consultant grants to the Client a royalty-free, irrevocable (but subject to the right to suspend set out in this Clause), non-exclusive licence to use and reproduce the Documents and the designs contained in them for any purpose relating to the Project including the construction, completion, maintenance, operation, letting, sale, promotion, advertisement, reinstatement, mortgaging, refurbishment and repair of the whole or any part of the Project. Provided that the Consultant may suspend such licence if and for so long as the Client is in breach of any of its payment obligations under this Appointment by giving 7 days' notice of its intention to do so. Such licence:
 - a) enables the Client to use and reproduce the Documents for any extension of the Project, but such use does not include a licence to reproduce any designs contained in them for any such extension;
 - b) continues notwithstanding termination of the Consultant's engagement under this Appointment;
 - c) confers the right to grant sub-licences; and
 - d) is transferable to third parties.
- 13.3 The Consultant is not liable for any use of the Documents for any purpose other than that for which they were originally prepared.
- 13.4 The Consultant warrants to the Client that, to the best of its knowledge, the Documents do not infringe the intellectual property rights of any third party.
- 13.5 Where the Appendix states that the Consultant waives its rights under Chapter IV of the *Copyright, Design and Patents Act* 1988, the Consultant waives any moral rights it may have or be deemed to possess under Chapter IV of that Act in respect of the Documents and the Project.

Confidentiality

- 13.6 The Consultant does not:
 - a) release or disclose to any third party, other than the Client, Client Group Companies, other members of the Professional Team, the Contractor, subcontractors, parties to Client Contracts, and persons entitled to receive Collateral Warranties or the benefit of Third Party Rights, any information relating to the Project;
 - b) take or authorise the taking of any photographs of the Project; or
 - c) publish or authorise the publication of any articles, photographs or other illustrations of the Project.

- 13.7 Notwithstanding Clause 13.6, disclosure is permitted if:
- the Consultant obtains the prior written consent of the Client;
 - the information or documents are already in the public domain (other than through any fault of the Consultant);
 - such disclosure is required by law; or
 - the disclosure is to the Consultant's professional advisers (including legal and insurance advisers).

Anti-bribery

- 13.8 The Consultant shall:
- comply with all Relevant Requirements;
 - not engage in any activity, practice or conduct that 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;
 - have and maintain throughout the term of this Appointment its own policies and procedures, including but not limited to adequate procedures under the *Bribery Act 2010*, to ensure compliance with the Relevant Requirements and Clause 13.8(b), and enforce them where appropriate; and
 - promptly report to the Client 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 Appointment.
- 13.9 Breach of Clause 13.8 shall be deemed a material breach under Clause 15.3.
- 13.10 For the purpose of Clause 13.8, the meaning of adequate procedures shall be determined in accordance with section 7(2) of the *Bribery Act 2010* (and any guidance issued under section 9 of the *Bribery Act 2010*).

14 Assignment, transfer of rights and obligations, and subcontracting

- 14.1 The Consultant does not assign or transfer any of its rights or obligations under this Appointment to any person without the prior written consent of the Client (whose consent is not to be unreasonably withheld or delayed).
- 14.2 The Client is entitled to assign the benefit of this Appointment to any third party specified in the Appendix.
- 14.3 The Client is entitled to transfer all of its rights and obligations under this Appointment to any Funder and/or to any Client Group Company provided that, where such rights and obligations are transferred to a Client Group Company, such Client Group Company establishes to the Consultant's reasonable satisfaction that it is as able as the Client to perform and discharge the Client's obligations under this Appointment and, if it is reasonable in all the circumstances for the Consultant to request it to do so, the Client guarantees the obligations of the Client Group Company under this Appointment.
- 14.4 The Consultant does not contend that any assignee or transferee is precluded from recovering any loss it has incurred due to any breach of this Appointment because the assignee or transferee is not a named promisee under this Appointment.

Subcontracting

- 14.5 The Consultant does not subcontract or delegate the Services or any of them to any person without the prior written consent of the Client (whose consent is not to be unreasonably withheld or delayed).
- 14.6 Any subcontracting or delegation of the Services or any of them by the Consultant does not exclude or limit the Consultant's obligations and liabilities under this Appointment and the Consultant remains wholly responsible for the acts, omissions and defaults of its subconsultants and delegates as if they are its own acts, omissions and defaults.

15 Termination and suspension

Procedure and grounds for termination

- 15.1 The Client may terminate the Consultant's engagement under this Appointment at any time by giving 28 days' prior notice in writing of such termination to the Consultant.
- 15.2 If the Project is cancelled by the Client or cannot proceed for reasons outside the reasonable control of the Client, either party may immediately terminate the Consultant's engagement under this Appointment by giving written notice to the other.
- 15.3 If a party is in material breach of its obligations under this Appointment and fails to remedy such breach within 14 days after the other party gives it written notice to do so, the party that gave such notice may immediately thereafter terminate the Consultant's engagement under this Appointment by giving written notice to that effect to the party in breach.
- 15.4 If a party becomes Insolvent, the other party may immediately terminate the Consultant's engagement under this Appointment by giving written notice to that effect to the Insolvent party.

Procedure and grounds for suspension

- 15.5 The Client may at any time suspend the Consultant's performance of all or part of the Services by giving at least 7 days' notice in writing to the Consultant. Subject to Clause 15.8, the Consultant resumes performance of the Services that have been suspended as soon as reasonably practicable after it receives written notice to do so from the Client.
- 15.6 If the Client fails to pay the notified sum (or, where a Pay Less Notice is given, the amount specified in that Notice) by the final date for payment under Clause 9.8, the Consultant may suspend performance of any or all of the Services and its obligations under this Appointment by giving not less than 7 days' notice in writing to the Client of its intention to suspend such performance and the ground or grounds for doing so. The Consultant resumes performance of any or all of the Services when the reason for the suspension is removed or resolved.
- 15.7 In the event of a suspension of the performance of any or all of the Services and in addition to any other sums due under this Appointment, the Client pays the Consultant any adjustment to the Fee or the Additional Services Fee due under Clauses 9.11 and/or 10.5 and a reasonable amount in respect of all costs, disbursements and expenses reasonably incurred by the Consultant in suspending and/or resuming performance of any or all of the Services.
- 15.8 If the Client suspends performance of all of the Services pursuant to Clause 15.5 and does not instruct the Consultant to resume performance within the period specified in the Appendix, either party may terminate the Consultant's engagement under this Appointment by giving written notice to the other.

Effect of termination or suspension

- 15.9 Upon any termination of the Consultant's engagement under this Appointment or suspension of the Consultant's performance of any or all of the Services, the Client pays the Consultant in accordance with Clause 9 (without prejudice to any rights the Client has under Clause 15.11 in respect of any breach by the Consultant of its obligations under this Appointment):
 - a) that part of the Fee, the Additional Services Fee (if any) and any other sums which have accrued due up to the date of termination or suspension (as the case may be) and a fair and reasonable proportion of the next instalment of the Fee and the Additional Services Fee (if any) commensurate with the Services performed, less any amounts previously paid to the Consultant; and
 - b) (save where such termination or suspension is due to the Consultant being in breach) all reasonable costs, disbursements and expenses reasonably incurred by the Consultant (including any costs incurred in suspending and/or resuming performance of any or all of the Services) as a direct result of such termination or suspension.

- 15.10 Upon any termination of the Consultant's engagement under this Appointment, the Consultant:
- a) discontinues performance of the Services as safely, efficiently and speedily as possible with the minimum disruption to the Project; and
 - b) provided it can lawfully do so, and only following receipt of a written request to do so, hands over to the Client copies of any Documents and other information relating to the Project in its possession or prepared by it (but not its own internal notes and memoranda or any Document which is subject to a confidentiality restriction in favour of a third party), subject to the terms of the licence under Clause 13.2 and to payment of the Consultant's reasonable copying charges and amounts due under Clause 15.9.
- 15.11 Termination of the Consultant's engagement under this Appointment does not affect the rights or remedies of either party in relation to any breach of this Appointment by the other prior to termination.
- 15.12 Termination of the Consultant's engagement under this Appointment does not prevent the Appointment binding the parties so far as is necessary to give effect to their rights and obligations upon termination or the continuing operation of Clause 13.

16 Dispute resolution

Negotiation and mediation

- 16.1 The parties use reasonable endeavours to resolve any issue or dispute between them without delay by way of negotiation or, if they so choose, by mediation. If mediation is chosen, the parties endeavour to agree the identity of the mediator and either party may propose a list of up to 3 mediators to the other party. In default of agreement within 14 days of submission of such proposal, a mediator may be nominated by the President or Vice-President of RICS on the application of either party.
- 16.2 Any mediation is carried out in accordance with the edition of the Model Mediation Procedure published by the Centre for Effective Dispute Resolution that is current at the date of this Appointment.

Adjudication

- 16.3 Regardless of any negotiation or mediation, either party may at any time refer any dispute under this Appointment to adjudication under the *Scheme for Construction Contracts (England and Wales) Regulations 1998*, Part I (as amended).
- 16.4 The Adjudicator's decision is binding until the dispute or difference is finally determined by arbitration or litigation as provided in Clause 16.7 or by agreement. If the Adjudicator is not named or if the person named is not available, the parties agree the identity of the Adjudicator. If the parties fail to agree the identity of the Adjudicator within 2 days after one party notifies the other that it wishes to do so, the Adjudicator is appointed by the body stated in the Appendix.
- 16.5 Any dispute or difference in connection with the enforcement of a decision of the Adjudicator is referred to the Courts of England and Wales.
- 16.6 The provisions for arbitration in Clauses 16.8 to 16.10 (inclusive), if applicable, do not apply to any dispute or difference in connection with the enforcement of any decision of the Adjudicator.

Arbitration or litigation

- 16.7 If, in the Appendix, the parties choose arbitration as the method of dispute resolution, Clauses 16.8 to 16.10 (inclusive) apply. Otherwise, Clause 16.11 applies.

Arbitration

- 16.8 Subject to the provisions of Clauses 16.1 and 16.2 and the parties' right to refer any dispute to adjudication at any time, any dispute between the parties under or in connection with this Appointment is referred to arbitration in accordance with the provisions of the *Arbitration Act 1996*.
- 16.9 The arbitrator is the person agreed by the parties. If the parties fail to agree on a person to act as arbitrator within 14 days after one party serves notice of arbitration on the other, the arbitrator is to be appointed by the body stated in the Appendix.
- 16.10 Any arbitration is carried out in accordance with the edition of the Construction Industry Model Arbitration Rules that is current at the date of this Appointment.

Litigation

16.11 If litigation is the method of dispute resolution, subject to Clause 16.3, the parties submit to the exclusive jurisdiction of the Courts of England and Wales.

17 Notices

- 17.1 Any notice under this Appointment is deemed to be given if it is in writing and delivered by hand or sent by pre-paid, recorded or special delivery post to the Client or the Consultant (as the case may be) at such person's address set out in the Appendix or other address notified in accordance with this Clause.
- 17.2 Any notice sent by hand is deemed received upon actual receipt by the party to whom it is addressed.
- 17.3 Any notice sent by a postal method as described in Clause 17.1 is deemed received 48 hours after it was posted.
- 17.4 The parties may give notices by any non-postal method set out in the Appendix in accordance with any procedures stated or identified in the Appendix or otherwise agreed in writing between the parties.

18 Entire agreement

- 18.1 This Appointment supersedes any previous agreements or arrangements between the parties in respect of the Project.
- 18.2 This Appointment may only be amended or varied with the written consent of the parties, provided that this is without prejudice to the right of the Client to issue instructions varying the scope of the Services.

19 Governing law

This Appointment is governed by and construed in accordance with English law.

20 Completion of the Appendix

Where the Appendix requires a choice between one or more options, **if no option is ticked, the option in bold in the Appendix is deemed to be the option agreed by the parties.**

Notes

See the RICS Standard Form of Consultant's Appointment explanatory notes for further information on completing the Services.

Tick as appropriate to indicate which type(s) of Services are to be performed by the Consultant. Those Services that have been ticked should be attached to this Appointment.

Within Schedule 1, a tick should be placed in the box next to those particular services that are to be Basic Services.

Where 'other' is ticked, please specify if appropriate.

Schedule 1

Services

The Basic Services to be performed by the Consultant are those indicated in the attached schedule(s), as identified below:

- RICS HEALTH AND SAFETY CONSULTANT SERVICES
- RICS PRINCIPAL DESIGNER SERVICES
- RICS EMPLOYER'S AGENT SERVICES
- RICS PROJECT MANAGER SERVICES
- RICS CONTRACT ADMINISTRATION SERVICES
- RICS QUANTITY SURVEYOR SERVICES
- RICS BUILDING SURVEYOR SERVICES
 - CONSTRUCTION
 - BUILDING AND MEASURED SURVEYS
- OTHER

Notes

Choose and insert details of the appropriate fee structure – percentage or lump sum or other – and delete as appropriate.

Insert details of other fee structure.

Schedule 2

Fees and payment

Part A - Fee

Percentage

- 1 Save as otherwise provided in this Appointment, the Consultant’s remuneration for the provision of the Basic Services is an amount equal to _____ per cent (_____%) of the Building Cost (as defined below). This remuneration is exclusive of VAT.

- 2 ‘**Building Cost**’ means the final total (or, until this is determined, the most recent professionally prepared estimate approved by the Client or, where no such estimate is approved, a fair and reasonable estimate) of all amounts payable to the Contractor under the Building Contract excluding:
 - VAT payable on such amount;
 - any costs incurred by reason of any negligence of, or breach of this Appointment by, the Consultant;
 - the actual or estimated design fees or design costs of any consultants engaged by or novated to the Contractor for the purposes of the Project; and
 - any payments to the Contractor or its subcontractors in the nature of damages or in respect of loss, damage and/or expense arising by virtue of delay and/or disruption to the Project.

For the purposes of calculating the Fee, any liquidated damages or other damages for delay recovered or recoverable by the Client are not to be deducted from the building cost.

OR

Lump sum

Save as otherwise provided in this Appointment, the Consultant’s remuneration for the provision of the Basic Services is the fixed lump sum of _____

 pounds (£ _____). This sum is exclusive of VAT.

OR

Notes

Choose and insert details of the appropriate instalment schedule and delete as appropriate

Schedule 2 continued

Part B - Fee instalments

Instalment date/milestone date for completion of activity/key date	Proportion of Fee for the Basic Services (amount or percentage)

Schedule 2 *continued*

Part C - Reimbursable Expenses (Clauses 9.5, 9.11 and 10.6)

Save as otherwise provided in this Appointment, the Client reimburses the Consultant the following disbursements and expenses against VAT invoices accompanied by such documents, records and receipts as are necessary to verify the amount incurred:

- a) the cost of producing or reproducing typed or printed tender and other documents, drawings, maps, photographic and other records and presentation materials;
- b) travel, hotel and subsistence expenses (including mileage for car travel);
- c) courier expenses;
- d) fees and advertising costs in connection with applications for local government consents, including planning consents and Building Regulations consents;
- e) statutory fees (including planning and Building Regulations fees);
- f) specialist materials (including materials for marketing brochures and lease plans) for marketing and selling the Site; and
- g) such other disbursements and expenses that the Client expressly authorises in writing.

Notes

Insert details of hourly/daily rates.

Schedule 2 *continued*
Part D - Rates for Additional Services (Clause 10.4)

Name	Role/position	Hourly rate (£)*	Daily rate (£)*

*All rates are exclusive of VAT.

Notes

See RICS Standard Form of Consultant's Appointment explanatory notes for further information on signature under hand.

Signature by or on behalf of the Client

Use where the Client is a limited company, partnership, limited partnership or limited liability partnership. The signatory should print his/her name in the space in square brackets, sign where indicated and state his/her position, e.g. director, partner, etc. by deleting the inappropriate wording in brackets.

Use where the Client is an individual.

Signature by or on behalf of the Consultant

Use where the Consultant is a limited company, partnership, limited partnership or limited liability partnership. The signatory should print his/her name in the space in square brackets, sign where indicated and state his/her position, e.g. director, partner, etc. by deleting the inappropriate wording in brackets.

Use where the Consultant is an individual.

WHERE THE APPOINTMENT IS TO BE SIGNED UNDER HAND AND NOT AS A DEED:

Signed by or on behalf of the parties.

SIGNED by [_____] _____
(Director/Secretary/Partner/Member)
for and on behalf of the **CLIENT**

SIGNED by the **CLIENT** _____

SIGNED by [_____] _____
(Director/Secretary/Partner/Member)
for and on behalf of the **CONSULTANT**

SIGNED by the **CONSULTANT** _____

Notes

See RICS Standard Form of Consultant's Appointment explanatory notes for further information on execution as a deed.

Companies using a seal

If the Client is a company and wishes to use a common seal, it should execute the Appointment using this form of attestation.

The affixing of the common seal should be attested by either two directors or one director and the company secretary.

For these purposes, and for the purposes of the attestation blocks set out below, it is assumed that the directors and company secretaries are individuals and not themselves companies. Legal advice should be taken if that is not the case.

Companies not using a seal

Instead of affixing its common seal, a company may execute the Appointment as a deed through signature by:

- a) two directors or one director and the company secretary; or
- b) one director in the presence of a witness, who should then sign where indicated and set out his/her name, address and occupation in the spaces provided.

WHERE THE APPOINTMENT IS TO BE EXECUTED AS A DEED:

In witness whereof this document has been duly executed as a deed and intended to be and is delivered on the date first written above.

EXECUTION BY THE CLIENT

THE COMMON SEAL of the **CLIENT** was affixed to **THIS DEED** in the presence of:

Signature of Director _____
 Print name of Director _____

Signature of Director/Secretary _____
 Print name of Director/Secretary _____

SIGNED AS A DEED

by the **CLIENT** acting by:

Signature of Director _____
 Print name of Director _____

Signature of Director/Secretary _____
 Print name of Director/Secretary _____

SIGNED AS A DEED

by the **CLIENT** acting by:

Signature of Director _____
 Print name of Director _____

in the presence of:

Witness signature _____
 Name _____
 Address _____

 Occupation _____



Notes

Limited Liability Partnerships

If the Client is a Limited Liability Partnership it should execute the Appointment through signature by two members.

Individuals/partnerships

If the Client is an individual, he/she should execute the Appointment using this form of attestation.

If the Client is an unlimited partnership, each of the partners in the firm (if individuals) should execute the Appointment using this form of attestation and the attestation block should be replicated as many times as there are partners. A different form of attestation should be used where one or more of the partners is authorised to sign on behalf of the partnership as a whole or if one of the partners is not an individual. Legal advice should be taken in that case.

For both individuals and unlimited partnerships, the individual/each partner should print his/her name in the space in square brackets and sign where indicated in the presence of a witness, who should then sign where indicated and set out his/her name, address and occupation in the spaces provided.

SIGNED AS A DEED

by the **CLIENT** acting by:

Signature of Member _____

Print name of Member _____

Signature of Member _____

Print name of Member _____

SIGNED AS A DEED

by [_____]
in the presence of:

Name _____

Address _____

Occupation _____

Draft

Notes

Companies using a seal

If the Consultant is a company and wishes to use a common seal, it should execute the Appointment using this form of attestation.

The affixing of the common seal should be attested by either two directors or one director and the company secretary.

For these purposes, and for the purposes of the attestation blocks set out below, it is assumed that the directors and company secretaries are individuals and not themselves companies. Legal advice should be taken if that is not the case.

Companies not using a seal

Instead of affixing its common seal, a company may execute the Appointment as a deed through signature by:

(a) two directors or one director and the company secretary; or

(b) one director in the presence of a witness, who should then sign where indicated and set out his/her name, address and occupation in the spaces provided.

EXECUTION BY THE CONSULTANT

THE COMMON SEAL of the CONSULTANT

was affixed to **THIS DEED** in the presence of:

Signature of Director _____
 Print name of Director _____

Signature of Director/Secretary _____
 Print name of Director/Secretary _____

SIGNED AS A DEED

by the **CONSULTANT** acting by:

Signature of Director _____
 Print name of Director _____

Signature of Director/Secretary _____
 Print name of Director/Secretary _____

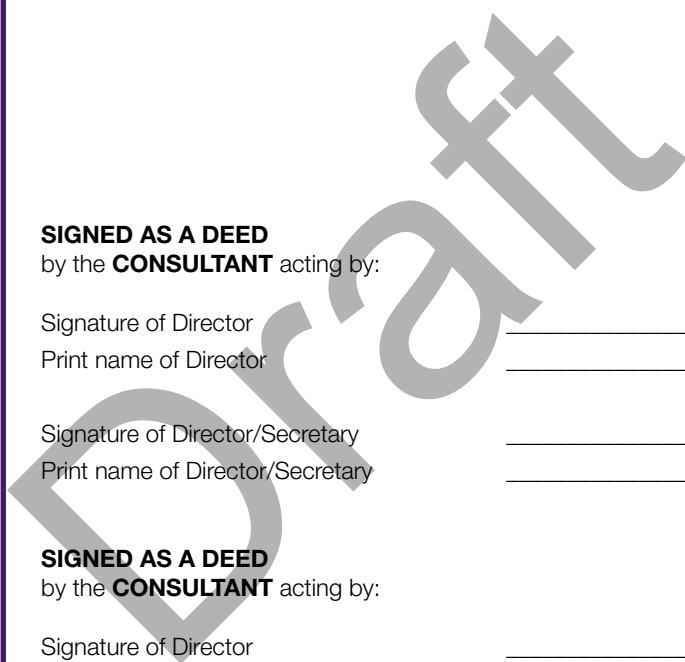
SIGNED AS A DEED

by the **CONSULTANT** acting by:

Signature of Director _____
 Print name of Director _____

In the presence of:
 Witness signature _____
 Name _____
 Address _____

Occupation _____



Notes

Limited Liability Partnerships

If the Consultant is a **Limited Liability Partnership** it should execute the Appointment through signature by two members.

Individuals/partnerships

If the Consultant is an individual, he/she should execute the Appointment using this form of attestation.

If the Consultant is an unlimited partnership, each of the partners in the firm (if individuals) should execute the Appointment using this form of attestation and the attestation block should be replicated as many times as there are partners. A different form of attestation should be used where one or more of the partners is authorised to sign on behalf of the partnership as a whole or if one of the partners is not an individual. Legal advice should be taken in that case.

For both individuals and unlimited partnerships, the individual/each partner should print his/her name in the space in square brackets and sign where indicated in the presence of a witness, who should then sign where indicated and set out his/her name, address and occupation in the spaces provided.

SIGNED AS A DEED

by the **CONSULTANT** acting by:

Signature of Member _____
 Print name of Member _____

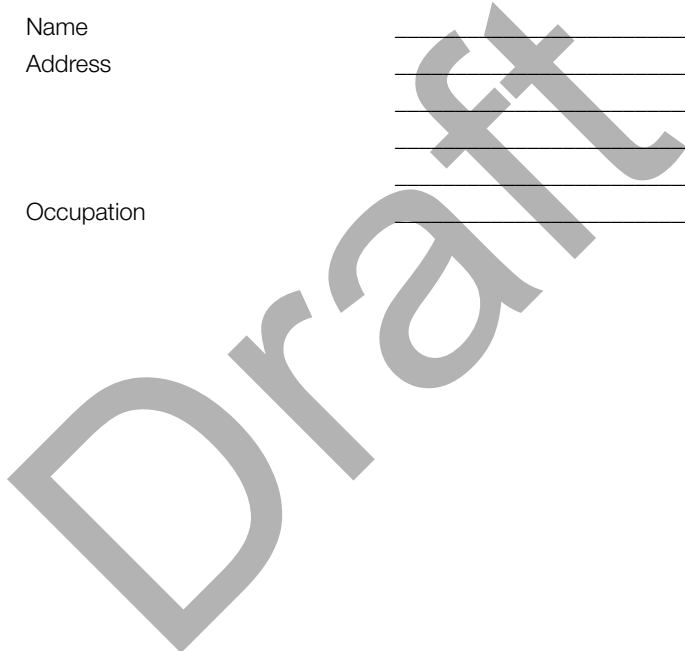
Signature of Member _____
 Print name of Member _____

SIGNED AS A DEED

by [_____]
 in the presence of:

Name _____
 Address _____

Occupation _____



Notes

Insert name, any business name and address of Adjudicator.

Insert full names of the Professional Team.

Insert brief description of Project.

Insert location of Site.

Insert discipline of Consultant for the purposes of determining the Requisite Standard.

Tick as appropriate.

Insert name and address of Lead Consultant where not the Consultant.

Appendix

This Appendix must be completed in full.

Default options are set out in bold (see Clause 20 of the Appointment).

Tick the option that is required.

Failure to tick the required option means the default option in bold applies.

1.1 Definitions

The Adjudicator: _____

of

The Professional Team:

The Project:

The Site:

The discipline of the Consultant:

3.4/3.5 Lead Consultant

Please tick ✓

The Consultant is not the Lead Consultant

The Lead Consultant: _____

of

The Consultant is the Lead Consultant

Notes

Tick as appropriate.

Tick as appropriate.

Tick as appropriate.

Insert the extent of the works to be designed by the Consultant.

Tick as appropriate.

Insert the materials to be specified or approved by the Consultant.

Tick as appropriate.

Tick as appropriate.

Insert amount (in words and figures).

3.11 Building information modelling (BIM)

Please tick ✓

Clause 3.11 is not applicable

 Clause 3.11 is applicable
4.2 CDM Regulations
The Consultant is not a 'designer' for the purposes of the CDM Regulations

 The Consultant is a 'designer' for the purposes of the CDM Regulations
4.4 Design responsibility
The Consultant is not responsible for the design of the Project

 The Consultant is responsible for the design of the Project to the extent set out below

The works to be designed by the Consultant under this Appointment are:

The Consultant is not responsible for specifying and/or approving materials

 The Consultant is responsible for specifying and/or approving materials to the extent set out below

The Consultant is responsible for specifying or approving the following materials:

4.5 Prohibited materials
Clause 4.5 is not applicable

 Clause 4.5 is applicable
5.1 Maximum aggregate liability
The maximum aggregate liability of the Consultant is limited to the amount of the Consultant's professional indemnity insurance specified in Clause 12.1 of this Appendix

 The maximum aggregate liability of the Consultant is

_____ pounds (£ _____)

 The Consultant's liability under this Appointment is unlimited

Notes

Tick as appropriate.

Tick as appropriate.

If different to the default option, insert the persons to be identified pursuant to Clause 5.2(a).

Tick as appropriate.

The forms of Collateral Warranties and/or Third Party Rights must be consistent with the terms of the Appointment.

Tick as appropriate.

Choose an option and delete/insert details as appropriate, including the agreed maximum number of Purchasers and Tenants to whom Collateral Warranties are to be provided or in whom Third Party Rights are to be vested.

Insert names of the Consultant's key personnel.

5.2 Net contribution

Please tick ✓

Clause 5.2 is applicable

Clause 5.2 is not applicable

The persons referred to in Clause 5.2(a) are:

The building Contractor, any subcontractors and the other members of the Professional Team

Others, as specified below:

6.1 Collateral Warranties or Third Party Rights

The Consultant is not required to provide Collateral Warranties or to confer Third Party Rights (Clause 6.1(a))

The Consultant is obliged to provide Collateral Warranties (Clause 6.1(b))

The Consultant is obliged to confer Third Party Rights (Clause 6.1(c))

6.2/6.3 Persons to whom Collateral Warranties are to be provided or in whom Third Party Rights are to be vested

As may be required under Clause 6.1(b) or (c), the Consultant provides Collateral Warranties to, or vests Third Party Rights in, the following:

- any Purchaser
- any Purchaser up to a maximum number of _____
- any Tenant
- any Tenant up to a maximum number of _____
- any Funder

7 Consultant's personnel

The key personnel referred to in Clause 7:

Notes

Insert name and address of Client's authorised representative.

Tick as appropriate.

Tick as appropriate.

Insert amount (in words and figures).

Tick as appropriate.

Insert amount in words and figures.

Delete as appropriate or insert any other description of cover.

Specify risks where aggregate or no insurance is available.

Specify/delete as appropriate.

8.6 Client's obligations

The person referred to in Clause 8.6: _____

of _____

Limits of authority (if any): _____

9.5/9.12/10.6 Reimbursement of disbursements and expenses

Please tick ✓

The Client reimburses disbursements and expenses in accordance with Part C of Schedule 2

The Client does not reimburse disbursements and expenses in accordance with Part C of Schedule 2

9.8 Payment dates

The final date for payment is 28 days after the due date in accordance with Clause 9.6

The final date for payment is _____ days after the due date in accordance with Clause 9.6

11.1 Consultant's authority

The amount(s) referred to in Clause 11.1(b): _____

12.1 Professional indemnity insurance

Such amount as is maintained by the Consultant on the date of this Appointment

_____ pounds

(£ _____)

for each claim or series of claims arising from the same originating cause/in the aggregate/

save for the following risks _____

where the level of professional indemnity insurance is

_____ pounds

(£ _____) in the aggregate.

Notes

Tick as appropriate.

Tick as appropriate.

Tick as appropriate.

Insert length of period.

Tick as appropriate.

Insert alternative Adjudicator nominating body.

Tick as appropriate.

13.5 Waiver of rights under Chapter IV of the Copyright, Design and Patents Act 1988

Please tick ✓

The Consultant does not waive its rights under Chapter IV of the *Copyright, Design and Patents Act 1988*

The Consultant waives its rights under Chapter IV of the *Copyright, Design and Patents Act 1988*

14.2 Assignment

The benefit of this Appointment may be assigned without the consent of the Consultant by the Client by way of an absolute legal assignment to another person (A1) acquiring the Client's interest or the Client Group Company's interest in the Project and by A1, by way of an absolute legal assignment, to another person (A2) acquiring A1's interest in the Project. No further or other assignment of this Appointment is permitted and, in particular, A2 is not entitled to assign this Appointment

The benefit of this Appointment may be assigned by the Client by way of an absolute legal assignment on an unlimited number of occasions to another person acquiring the Client's interest or the Client Group Company's interest in the Project

The benefit of this Appointment may not be assigned by the Client without the prior written consent of the Consultant (such consent not to be unreasonably withheld or delayed)

The benefit of this Appointment may not be assigned by the Client to any person

15.8 Termination following suspension

Period of suspension is 6 months

Period of suspension is _____ months

16.4 Nominating body for Adjudicator

President or Vice-President of RICS

President or Vice-President of the Royal Institute of British Architects

President or Vice-President of the Chartered Institute of Arbitrators

President or Vice-President of the Technology and Construction Solicitors' Association

Other:

16.7 Arbitration or litigation

Litigation is the method of dispute resolution

Arbitration is the method of dispute resolution

Notes

Tick as appropriate.

Insert alternative arbitrator nominating body.

Tick as appropriate.

Insert alternative address for Consultant.

Tick as appropriate.

Insert alternative address for Client.

Complete at parties' discretion.

16.9 Nominating body for arbitrator

Please tick ✓

President or Vice-President of RICS

President or Vice-President of the Royal Institute of British Architects

President or Vice-President of the Chartered Institute of Arbitrators

Other:

17.1 Addresses of Consultant and Client

Consultant:

The address set out at the head of this Appointment

Alternative:

Client:

The address set out at the head of this Appointment

Alternative:

17.4 Non-postal methods of giving notice

Non-postal methods of giving notice:



Confidence through professional standards

RICS promotes and enforces the highest professional qualifications and standards in the valuation, development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to markets and effecting positive change in the built and natural environments.

Americas

Latin America

ricsamericalatina@rics.org

North America

ricsamericas@rics.org

Asia Pacific

ASEAN

ricsasean@rics.org

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