

CREST NICHOLSON SUB-CONTRACTOR TERMS AND CONDITIONS

MARCH 2026

1. DEFINITIONS AND INTERPRETATION:

In respect of each Purchase Order unless the context otherwise requires, the following definitions shall apply:

"Agreement" means the agreement made between Crest Nicholson and the Sub-Contractor pursuant to the Contract Documents;

"All Risks Insurance" means all risks insurance that provides cover for any physical loss or damage to works, to site materials or that occurs as part of the Contract Works. It also provides cover for the cost of the removal and disposal of debris, and of any shoring and propping of the Contract Works that result from any physical loss or damage.

"BFLO Information" has the meaning given to it in the Building Safety Laws.

"Bribery Act" means the Bribery Act 2010 as amended, superseded or replaced from time.

"Build Completion Certificate" means a cover note or certificate issued by the NHBC confirming that a Plot is build-complete for the purposes of a NHBC New Home Warranty and/or meets the requirements of UK Finance (previously the Council of Mortgage Lenders).

"Building Regulations Principal Contractor" means the principal contractor for the purposes of and as defined in the Building Regulations 2010 whose identity shall be determined in accordance with clause 18.11 (or such other party appointed by Crest Nicholson from time to time and notified to the Sub-Contractor).

"Building Regulations Principal Designer" means the principal designer for the purposes of and as defined in the Building Regulations 2010 whose identity shall be determined in accordance with clause 18.11 (or such other party appointed by Crest Nicholson from time to time and notified to the Sub-Contractor).

"Building Safety Laws" means:

- (a) The Building Safety Act 2022;
- (b) The Building Regulations 2010;
- (c) The Building Act 1984;
- (d) The Buildings (Higher-Risk Buildings Procedures) Regulations 2023;
- (e) The Building Safety Act 2022 (Consequential Amendments etc) Regulations 2023;
- (f) The Building Regulations etc (Amendment) (England) Regulations 2023;
- (g) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023;

(h) The Building (Approved Inspectors etc. and Review of Decisions) (England) Regulations 2023; and

(i) any other secondary or subsidiary legislation enacted pursuant to or otherwise stemming from the Building Safety Act 2022.

"CDM Principal Contractor" means the principal contractor for the purposes of and as defined in the CDM Regulations whose identity shall be determined in accordance with clause 15.5 (or such other party appointed by Crest Nicholson from time to time and notified to the Sub-Contractor).

"CDM Principal Designer" means the principal designer for the purposes of and as defined in the CDM Regulations whose identity shall be determined in accordance with clause 15.5 or such other party appointed by Crest Nicholson from time to time and notified to the Sub-Contractor.

"CDM Regulations" means the Construction (Design and Management) Regulations 2015 as amended, superseded or replaced from time to time.

"Change Control Log" the change control log to be maintained pursuant to and which satisfies the requirements of the Building Safety Laws.

"Change Control Plan" has the meaning given to it in the Building Safety Laws.

"Confidential Information" means secret or confidential commercial, financial, marketing, technical or other information or know-how; trade secrets and other information in any form or medium; whether disclosed orally or in writing before or after the date of this Agreement, together with any reproductions of such information in any form or medium or any part(s) of this information. The term "confidential" means that the information, either in its entirety or in the precise configuration or assembly of its components, is not publicly available.

"Contract Documents" means in order of precedence:

- (a) the relevant Purchase Order;
- (b) the Terms and Conditions;
- (c) Pre-Order Minutes
- (d) The Drawings
- (e) the Tender Correspondence;
- (f) the Tender;
- (g) The Tender Submission;

and any schedule or document attached, referred to, or listed in those documents (in the same order of precedence as set out above).

"Contract Sum" means the contract sum set out in the Purchase Order as adjusted in accordance with the Terms and Conditions.

"Contract Works" means the works described in the Purchase Order (including but not limited to in the Contract Works Particulars).

"Contract Works Particulars" means the items of work and arrangements that are specific to the Contract Works and are set out in the Purchase Order (and any documents or information referred to therein).

"Controlled Change" has the meaning given to it in the Building Safety Laws.

"Copyright Material" means any and all plans, designs, drawings, specifications, models, photographs, calculations, minutes and other documents, materials and computer software or similar prepared, or to be prepared by, the Sub-Contractor or on its behalf in relation to the Contract Works.

"Customer" means any customer or prospective customer of Crest Nicholson who has or will be purchasing a Property or who is or has been contacted by Crest Nicholson in connection with a possible purchase by them of a Property or is tenant or occupier of a Property.

"Data Protection Laws" means any applicable laws and regulations in any relevant jurisdiction relating to the use or processing of personal data including:

- (a) EU Regulation 2016/679 as it forms part of the law of England and Wales by virtue of section 3 of the European Union (Withdrawal) Act 2018 (the **"UK GDPR"**);
- (b) the Data Protection Act 2018 ("DPA"); and
- (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and the terms "Data Subject", "Personal Data", "processing", "processor" and "controller" shall have the meanings set out in the DPA.

"Date of Practical Completion" means either (i) the date that Practical Completion is achieved pursuant to clause 26.1 or (ii) the date that Crest Nicholson confirms the Contract Works are complete in accordance with clause 26.2.

"Defect" means any defect, shrinkage or other fault in the Contract Works due to any failure of the Sub-Contractor to comply with its obligations under this Agreement which shall include a workmanship failure by the Sub-Contractor, or deviation by the Sub-Contractor from the Standard Specification.

"Defects Liability Period" means for each Plot, any time during the first two years of the NHBC New Home Warranty Period, for all other works, the period from the Date of Practical Completion until the later of (i) the date falling two 2 years after the Date of Practical Completion or (ii) the date that the Contract Works are at an adoptable standard to the extent that the Contract Works are to be adopted by a relevant authority.

"Development" means the development known by the name set out in the Purchase Order and of which the Contract Works form part.

"Drawings" means the drawings listed on the drawings list or otherwise referred to or included in the Contract Documents.

"Environmental Laws" means all and any applicable laws or regulations in force in any relevant jurisdiction relating to, or concerning, the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants. It also means all and any of the above that regulate, control or prohibit the generation, use, handling, emission, transportation, storage, treatment, spillage or disposal of any emissions or substances (including waste and hazardous waste) or any noise, vibration, odour, light or radioactivity.

"Finish Date" means the date for the completion of the Contract Works as agreed between Crest Nicholson and the Sub-Contractor in the Agreement and adjusted from time to time by the Programme.

"Fixed Price Period" means:

- (a) the period set out in the Purchase Order or any further period agreed in accordance with clause 4.1; or
- (b) where there is no fixed price period set out in the Purchase Order, the period for the duration of the carrying out and completion of the Contract Works.

"Fork Lift Truck" means a powered industrial truck used to lift and move materials short distances and includes telescopes.

"Golden Thread Information" has the meaning given to it in the Building Safety Laws.

"Health and Safety Laws" means all and any applicable laws in force in any relevant jurisdiction relating to human health and safety or the condition of the workplace.

"Information Commissioner" means any governmental or regulatory body or authority with responsibility for monitoring or enforcing compliance with the Data Protection Laws.

"Joint Names Policy" means a policy of insurance which includes Crest Nicholson, the Sub-Contractor and any other third party notified in writing to the Sub-Contractor from time to time as composite or joint names insured and under which the insurers have no right of recourse against any person named as an insured thereunder.

"Limitation Period" means the period of 12 years after the later of (i) the Date of Practical Completion and (ii) the date of issue of the Build Completion Certificate for the last Plot within the Contract Works save in respect of any breach or alleged breach of:

- (a) Section 38 of the Building Act 1984; or
- (b) a duty imposed by Section 1 or Section 2A of the Defective Premises Act 1972,

in relation to the Contract Works where the limitation period shall be the period of 15 years after the later of (i) the Date of Practical Completion and (ii) the date of issue of the Build Completion Certificate for the last Plot within the Contract Works or such longer period specified by the relevant

statute (as amended, superseded or replaced from time to time).

"Exempt Trades" means companies which provide hired plant only which is not incorporated into the Contract Works, scaffolding, security/CCTV companies, companies providing agency labour, garage door installers, companies providing finishing activities (such as flooring, mastic sealants, fencing, shower screen etc.), cleaning companies, demolition contractors, statutory undertakers/service authorities, general soft landscapers/planting companies.

"Insolvent" in relation to a party means:

- (a) it suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 ("IA 1986") as if the words "it is proved to the satisfaction of the court" did not appear in Sections 123(1)(e) or 123(2) of the IA 1986;
- (b) save where the rescheduling is done for reasons other than ones of solvency, it commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise, plan or arrangement with any of its creditors (other than for the sole purpose of a scheme for a solvent amalgamation or reconstruction);
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with its winding up;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed over its business, trade and/or assets;
- (e) a person becomes entitled to appoint a receiver over all or any of its assets or a receiver is appointed over all or any of its assets;
- (f) the passing of a resolution for voluntary winding-up without a declaration of solvency under Section 89 of the IA 1986;
- (g) it applies to court for, or obtains, a moratorium under Part A1 of the IA 1986; or
- (h) it otherwise becomes insolvent or suffers any similar process or event, whether in the UK or otherwise.

"NHBC" means the National House-Building Council or such other provider of new homes warranty cover as Crest Nicholson may use from time to time.

"NHBC New Home Warranty" means a new home warranty provided by the NHBC.

"NHBC New Home Warranty Period" means the period of insurance cover provided under the NHBC New Home Warranty typically being 10 years following legal completion of a Plot to a private purchaser or 10/12 years following legal

completion of a Plot to a PRS Provider or Registered Provider.

"NHBC Technical Standards" means the technical requirements, performance standards and guidance issued by the NHBC for the design and construction of new homes registered with the NHBC.

"Non-Negligent Insurance" means insurance which covers any expense, liability, loss, claim or proceedings which Crest Nicholson may incur or sustain by reason of injury or damage to any property caused by collapse, subsidence, heave, vibration, weakening or removal of support or lowering of ground water arising out of or in the course of or by reason of the carrying out of the Contract Works.

"Plot" means an individual residential unit including any garden, path or drive that is within its boundaries.

"Portal" means a portal used by Crest Nicholson to appoint and manage sub-contractors and notified by Crest Nicholson to the Sub-Contractor from time to time.

"Practical Completion" means a state in which the Contract Works are complete in all respects and free from defects.

"Pre-Order Minutes" means the pre-order minutes set out in the Purchase Order if any.

"Prescribed Requirement Regulations (Awaab's Law)" means The Hazards in Social Housing (Prescribed Requirements) (England) Regulations 2025.

"Property" means any Plot and/or commercial property constructed by Crest Nicholson at the Site.

"Programme" means the latest programme for the Development issued by Crest Nicholson to the Sub-Contractor as Crest Nicholson may update from time to time.

"Project Agreements" means any contract(s) and/or agreements which Crest Nicholson has entered into or may enter into in relation to the Development.

"PRS Provider" means a provider of private rental sector housing.

"Purchase Order" means the purchase order which refers to these Terms and Conditions.

"Registered Provider" means a person listed on the statutory register of social housing providers.

"Related Works" means works which are undertaken by others on behalf of Crest Nicholson in respect of the Development which are not the Contract Works.

"Relevant Requirements" has the meaning given to it in The Building Regulations etc (Amendment) (England) Regulations 2023.

"Safety Occurrence" has the meaning given to it in the Building Safety Laws.

"Schedule" means a schedule to the Terms and Conditions.

"**Site**" means the site of the Contract Works which for the purposes of Crest Nicholson's accounting system, COINS, has been allocated the numerical reference described in the Purchase Order.

"**Site Report**" means any reports on or relating to the Site prepared by third parties and commissioned by the Sub-Contractor including without limitation site surveys, geological reports and contamination reports.

"**Statutory Agreement**" means each and every agreement made pursuant to Sections 38 and/or 278 of the Highways Act 1980 and/or Section 104 of the Water Industry Act 1991 and/or Section 106 of the Town & Country Planning Act 1990 and/or any other agreement entered into or to be entered into by Crest Nicholson affecting the Site or the carrying out of the Contract Works details of which have been provided or which shall be provided to the Sub-Contractor

"**Statutory Requirements**" means any and all requirements pursuant to applicable laws, statute, statutory instrument, regulation, rule or order, including any regulation, British standard, byelaw or approved code of practice of any local authority or statutory undertaker, which affects the Contract Works, the Site, the performance of any obligations under this Agreement including, without limitation, the Building Safety Laws.

"**Standard Specification**" means the standards set by Crest Nicholson for workmanship and materials, to which Sub-Contractors are required to adhere including but not limited to any standards or specifications issued by Crest Nicholson with the Tender as updated from time to time. This includes any processes, guidance, standards and other documents issued by Crest Nicholson, in particular Crest Nicholson manuals relating to build and quality, the NHBC Technical Standards and the requirements of any statutory undertakers as are applicable from time to time.

"**Privacy Notice**" means Crest Nicholson's privacy notice as amended, superseded or replaced from time to time, which can be found on Crest Nicholson's website at: <https://corporate.crestnicholson.com/supply-chain/>.

"**Tender**" means the tender documents issued by Crest Nicholson to the Sub-Contractor for the Contract Works as set out in the Purchase Order.

"**Tender Correspondence**" means the written tender correspondence between Crest Nicholson and the Sub-Contractor which follows the Tender Submission as set out in the Purchase Order.

"**Tender Submission**" means the tender submission issued by the Sub-Contractor to Crest Nicholson in response to the Tender (excluding any pricing information) as set out in the Purchase Order.

"**Terms and Conditions**" means these terms and conditions including any Schedule thereto.

"**Third Part(y)(ies)**" means any person or persons acquiring an interest in any elements of the Contract Works.

References in this Agreement to:

- (a) 'Crest Nicholson' and 'the Sub-Contractor' will extend to their respective successors and assigns;
- (b) references to any gender include all other genders;
- (c) reference to words and numbers imparting the singular will include the plural and vice versa;
- (d) appendices, clauses or schedules are to appendices, clauses or schedules in this Agreement;
- (e) including will be constructed to be without limitation;
- (f) any Statutory Requirement will be to the Statutory Requirement as amended, re-enacted or substituted (with or without modification) from time to time;
- (g) headings are inserted for convenience only and will not affect the construction of this Agreement;
- (h) references to "person" includes individuals, bodies corporate, unincorporated associations, professions, businesses and partnerships, government or state (whether or not having a separate legal personality);
- (i) "**applicable laws**" includes all or any statute, common law, rule, regulation, treaty, directive, direction, decision of the Court, byelaw, code of practice, circular, guidance note, statutory guidance, order, notice, demand or official guideline or permit of any governmental, statutory or regulatory authority, agency or body; and
- (j) "**working day**" means any day of the year other than:
 - (i) any Saturday or Sunday;
 - (ii) any date between 25 December and the day after the New Year bank holiday in England in the following year (both days inclusive);
 - (iii) Good Friday and any other statutory bank holiday in England.

OPERATIVE CLAUSES:

2. COMMENCEMENT OF THE CONTRACT WORKS

- 2.1 The Sub-Contractor agrees to commence, carry out and complete the Contract Works regularly and diligently in the sequence, and on the dates instructed by Crest Nicholson, in accordance with best practice and all manufacturer's instructions and following all reasonable instructions and directions given by Crest Nicholson in connection with the Contract Works.
- 2.2 The Sub-Contractor will regularly and diligently consult with and report to Crest Nicholson, and will take instructions on all issues relating to the performance of their duties and obligations under Contract Document. The Sub-Contractor will warn Crest Nicholson if it becomes aware (or ought to become aware exercising the standard of care of a prudent contractor experienced in carrying out works similar to the Contract Works) of any inadequacies or deficiencies in the nature, scope or design of the Contract Works.
- 2.3 The Sub-Contractor will not do or omit to do anything that might delay or disrupt the regular progress or completion of the Development. Crest Nicholson will be entitled to rely on the Sub-Contractor's skill and judgement in carrying out and completing the Contract Works, and may rely on any certificate, approval, advice, recommendation, statement or comment made by the Sub-Contractor or on its behalf in connection with the Contract Works or Development (whether before or after the date of the Purchase Order).

3. SUSPENSION OF THE CONTRACT WORKS BY CREST NICHOLSON

- 3.1 Crest Nicholson may suspend the Contract Works on giving the Sub-Contractor no less than five (5) working days' written notice. The Sub-Contractor will recommence the Contract Works within five (5) working days after receiving notice to do so from Crest Nicholson unless a longer time period is agreed between the parties.

4. CONTRACT SUM

- 4.1 The Contract Sum is the price payable to the Sub-Contractor for the Contract Works. The Contract Sum shall be a fixed lump sum for the Fixed Price Period which shall only be varied in accordance with the Terms and Conditions provided that it shall not be varied by reason of any increase or decrease in the cost of labour, materials or plant. At the end of the Fixed Price Period, the parties shall negotiate in good faith to agree the revised Contract Sum for any further

Fixed Price Period, taking into account the prevailing market conditions which may result in an increase or decrease from the Contract Sum.

- 4.2 The Sub-Contractor shall satisfy itself generally regarding all matters affecting the execution of the Contract Works and allow for all such matters in the Contract Sum.

5. SITE DATA

- 5.1 Crest Nicholson shall provide the overall dwelling and site parameters and appropriate datum lines and features to enable the Sub-Contractor to carry out and complete the Contract Works. The Sub-Contractor shall be responsible for setting out and taking site dimensions where necessary for the proper execution of the Contract Works.

6. PRE-EXISTING CONDITIONS ON SITE

- 6.1 Without prejudice to clauses 4.2 and clause 6.2, the Sub-Contractor shall be deemed to have satisfied itself before commencement of the Contract Works or any part or task thereof that all pre-existing conditions (including surfaces) to which its work is to be applied are in a satisfactory condition to receive its work. Should the Sub-Contractor consider any pre-existing condition to be unsatisfactory, it shall notify Crest Nicholson, in writing, as soon as the circumstances giving rise to the dissatisfaction are apparent or ought reasonably to have become apparent and, in any event, before the Sub-Contractor's work to such conditions, surfaces etc, is commenced. In the absence of such notification in accordance with this clause, the Sub-Contractor shall be responsible without any adjustment to the Finish Date and/or the Contract Sum for the rectification of any Defects and of all damages incurred by Crest Nicholson which result from any unsatisfactory pre-existing condition to which the Sub-Contractor's work is to be applied.

- 6.2 Where the Contract Works require existing utility services to be exposed or disturbed or where such services are liable to be disturbed, the location of such services must be fully established by the Sub-Contractor and identified prior to the Contract Works commencing and there shall be no adjustment to the Finish Date and/or the Contract Sum for the Sub-Contractor's failure to so establish or identify or for any consequential measures necessary.

7. SUB-CONTRACTOR'S EMPLOYEES

- 7.1 The Sub-Contractor will appoint a competent supervisor who will operate as the Sub-Contractor's representative for the purpose of receiving instructions and directions from Crest Nicholson.
- 7.2 The Sub-Contractor will, at all times, employ a sufficient number of competent personnel with the necessary skills to carry out and complete the Contract Works and will comply with the Home Builder Federation's Guidance for Contractor Supervision.
- 7.3 Crest Nicholson will have the right to require the Sub-Contractor to remove from the Site any of the Sub-Contractor's personnel (but not unreasonably or vexatiously) and the Sub-Contractor will not allow that person to visit the Site again unless Crest Nicholson has agreed.
- 7.4 The Sub-Contractor warrants and declares that the Agreement does not constitute a contract of employment. Nothing within the Agreement will construe or will be deemed to construe that the Sub-Contractor's employees, workers, sub-contractors or agents are an employee or partner of Crest Nicholson. Crest Nicholson shall have no employer's liability for any damage or injury suffered by any of the Sub-Contractor's employees, workers, sub-contractors or agents or their property in connection with the Contract Works.
- 7.5 The Sub-Contractor warrants to Crest Nicholson that all of its employees (and the employees of its agents, sub-contractors and suppliers) have the legal right to work in the United Kingdom and that the Sub-Contractor shall comply (and procure that its agents, sub-contractors and suppliers shall comply) with all Statutory Requirements relating thereto.

8. GOODS, WORKMANSHIP, MATERIALS, TESTING AND INSPECTION

- 8.1 The Sub-Contractor warrants that all materials, goods, workmanship manufacture and fabrication forming the Contract Works shall:
- 8.1.1 meet the requirements and standards described in the Contract Documents including the Standard Specification;
- 8.1.2 be suitable in all respects for the purposes of the Contract Works; and
- 8.1.3 be new and of sound and satisfactory quality.

- 8.2 Without prejudice to clause 8.1, the Sub-Contractor shall carry out and complete the Contract Works in a proper and workmanlike manner and in accordance with:
- 8.2.1 The Purchase Order;
- 8.2.2 The Drawings;
- 8.2.3 The Standard Specification;
- 8.2.4 Good building practice current at the relevant time;
- 8.2.5 The Statutory Requirements;
- 8.2.6 Any consents, permits, licences and approvals from any statutory or other authority;
- 8.2.7 The procedures, requirements and technical and other applicable standards of the relevant building regulations authority;
- 8.2.8 The requirements of the New Homes Quality Code;
- 8.2.9 Where applicable, the requirements of the Highway Authority; and
- 8.2.10 The requirements of any other body or bodies having jurisdiction over the Contract Works and will ensure that the Contract Works are satisfactory in all respects for the purposes intended.
- 8.3 The Sub-Contractor shall not substitute any materials or goods described in the Contract Documents without the prior written consent of Crest Nicholson and any such consent by Crest Nicholson shall not relieve the Sub-Contractor of its other obligations under the Agreement.
- 8.4 The Sub-Contractor shall not use or specify for use in the Contract Works:
- 8.4.1 any materials generally known at the time of use to be deleterious to the health or safety of any person or to the integrity, structure and performance of buildings in the particular circumstances in which they are specified for use, and/or which by their nature or application contravene any British Standards or Code of Practice or any relevant European Union equivalent current at the date of use; or
- 8.4.2 materials or substances identified or referred to, at the time of use, in the edition of the guide published by the British Council for Offices and entitled "Good practice in the selection of construction materials" current at the date of use otherwise than in

accordance with the points of caution and good practice notes set out in such guide.

- 8.5 If the Sub-Contractor becomes aware that any substance has been used in the Contract Works other than in accordance with clause 8.4, it shall inform Crest Nicholson immediately.
- 8.6 The Sub-Contractor shall upon request (and at the Sub-Contractor's cost) submit to Crest Nicholson for Crest Nicholson's approval proper representative samples of all materials proposed to be used in relation to the Contract Works prior to their use. The Sub-Contractor warrants that the materials used in relation to the Contract Works shall not be inferior in quality or a different specification to that of the approved samples. The Sub-Contractor must obtain prior written approval from Crest Nicholson before using alternative materials to the approved samples.
- 8.7 Crest Nicholson may issue instructions regarding the removal of any work, materials or goods from the Site that do not meet the requirements set out in the Contract Documents including the Standard Specification.
- 8.8 Crest Nicholson reserves the right to substitute materials and forms of construction for any reason whatsoever. Such substitution of materials and/or forms of construction will be treated as variations under Clause 29 and measured and valued accordingly.
- 8.9 The Sub-Contractor shall in relation to any timber products (whether permanent or temporary) comply with Crest Nicholson's Sustainable Timber Policy (which is available at <https://corporate.crestnicholson.com/supply-chain/>) and provide Crest Nicholson with all required certification documents to prove their legality and provenance. The Sub-Contractor shall, when required by Crest Nicholson, participate in Crest Nicholson's annual timber audit, even if the Sub-Contractor does not hold a Chain of Custody certificate for Forestry Stewardship Council and/ or Programme for the Endorsement of Forest Certification. Any breach by the Sub-Contractor, its employees, agents, representatives, or sub-contractors (whether with or without the Sub-Contractor's knowledge) of this clause 8.9 shall be deemed to be a material breach of the Agreement for the purpose of clause 39.

9. PLANT AND MATERIALS

- 9.1 Unless otherwise agreed in the Contract Documents the Sub-Contractor shall, at its own expense, provide all necessary plant, tools, equipment and materials

required to carry out the Contract Works. The Sub-Contractor will also (unless agreed otherwise) provide and erect all necessary workshops, sheds and other buildings for the Contract Works at its own cost at locations on Site chosen by Crest Nicholson.

- 9.2 The Sub-Contractor's (including its employees' or agents') plant, tools, equipment, buildings and other property shall be at the sole risk of the Sub-Contractor.
- 9.3 Title in all materials and goods intended to form part of the Contract Works will pass to Crest Nicholson upon incorporation into the Contract Works, or payment by Crest Nicholson, if earlier.
- 9.4 All materials for the Contract Works will be supplied, stored and fixed at the sole risk of the Sub-Contractor. The Sub-Contractor remains responsible for all materials supplied, stored and fixed pursuant to this Clause 9.4 until Practical Completion. Any loss, theft or damage of materials will be the Sub-Contractor's sole liability.
- 9.5 Where Crest Nicholson provides the Sub-Contractor with hired-in plant of any description (including any Fork Lift Trucks), the Sub-Contractor warrants that such plant shall only be used for the purposes of the Contract Works and for its correct and proper purpose.
- 9.6 Without prejudice to clause 9.5, where Crest Nicholson provides the Sub-Contractor with the use of one or more Fork Lift Trucks, the Sub-Contractor warrants that they shall not be used for raising, lowering, and lifting materials into their final position nor to assist in erecting or dismantling any temporary works or lifting equipment (e.g. cranes, hoists, mast climbers etc.). The Sub-Contractor shall ensure that any Fork Lift Truck provided in accordance with clause 9.5 and or clause 9.6 shall only be used with a Crest Nicholson driver.
- 9.7 The Sub-Contractor shall be responsible for any excessive waste or damage caused to materials or plant supplied by Crest Nicholson and any costs incurred by Crest Nicholson as a result will be recoverable from the Sub-Contractor as a debt or may be deducted from any monies due to the Sub-Contractor.

10. DEEMED KNOWLEDGE OF PROJECT AGREEMENTS AND STATUTORY AGREEMENTS

- 10.1 The Sub-Contractor agrees that it has read and familiarised itself and will read and familiarise itself with the Project Agreements and Statutory Agreements to the extent that copies or extracts of these have been or shall be provided to

the Sub-Contractor. Where Crest Nicholson has obligations under such Project Agreements and/or Statutory Agreements the Sub-Contractor shall, in the discharge of its duties and obligations hereunder, perform such duties and obligations so as to facilitate Crest Nicholson's compliance with such provisions and so as not, by any action inaction or omission of the Sub-Contractor, to cause or contribute towards a breach of the duties and obligations of Crest Nicholson under such Project Agreements and/or Statutory Agreements. The Contractor shall be liable for and shall indemnify Crest Nicholson against each and every liability which Crest Nicholson may incur to any person whatsoever and against all damage, loss, expense, cost, claim or proceedings under any statute or at common law made against or incurred by Crest Nicholson arising out of or in connection with any breach or non-observance by the Sub-Contractor of any of the obligations as stated in this clause 10.1.

11. ACCESS TO THE SITE AND INSPECTION OF THE CONTRACT WORKS

Sub-Contractor's Access to the Site

- 11.1 Crest Nicholson shall give the Sub-Contractor access to the Site, or such part or parts of it as may be reasonably necessary from time to time, to enable the Sub-Contractor to proceed with the Contract Works in accordance with the Agreement. The Sub-Contractor shall not have exclusive possession of the Site and the Sub-Contractor shall work with other parties who are engaged in the Related Works.
- 11.2 Before commencing works on the Site, the Sub-Contractor shall take all reasonable precautions to ensure that any existing structures on or adjacent to the Site are safe and secure.
- 11.3 Neither the Sub-Contractor or any sub-contractor to whom part of the Contract Works are sub-let under clause 38 or otherwise shall allow or bring on to Site or otherwise procure or assist any third party bringing onto the Site any person who is not an employee of the Sub-Contractor or (where applicable) of any sub-contractor to whom any portion of the Contract Works has been sub-let.

Access for Crest Nicholson

- 11.4 Crest Nicholson (and persons authorised by Crest Nicholson including the NHBC) shall at all times have access to the Site. Additionally, for purposes of testing, inspecting or examining elements of the Contract Works and on reasonable notice to the Sub-Contractor, the Sub-Contractor shall allow Crest Nicholson

access (or where necessary take all reasonable steps to allow access) to workshops or other work places relevant for such testing, inspecting or examining.

- 11.5 The Sub-Contractor shall give written notice to Crest Nicholson whenever any part of the Contract Works is ready and before it is covered up or put out of sight. Crest Nicholson shall be entitled to carry out an examination, inspection, testing or measurement without unreasonable delay. If the Sub-Contractor fails to give such written notice it shall, if and when required by Crest Nicholson, uncover the work and make good without any adjustment to the Contract Sum and/or the Finish Date. Whether as a result of any inspection under this clause or otherwise, in the event that there has been non-compliance with the terms of the Agreement, Crest Nicholson shall be entitled to request that other parts of the Contract Works are opened up by the Sub-Contractor without any adjustment to the Contract Sum and/or the Finish Date to determine whether there has been any further similar non-compliance.

- 11.6 The Sub-Contractor will allow all inspections (including, without limitation the inspection prior to issue of a building control completion certificate) of the Contract Works required by, and will comply with all requirements, notices and directions imposed by, the Building Safety Regulator and/or the relevant local authority (as applicable) pursuant to its role as building control authority for the Development. In addition, the Sub-Contractor shall promptly liaise and co-operate with Crest Nicholson in relation to its dealings with the Building Safety Regulator and/or the relevant local authority (as applicable). For the avoidance of doubt, nothing in this clause shall entitle the Sub-Contractor to adjustment of the Contract Sum or Finish Date.

12. RELATED WORKS

- 12.1 The Sub-Contractor acknowledges that Related Works will be undertaken by others on behalf of Crest Nicholson and the Sub-Contractor shall permit execution of the same and the Sub-Contractor shall see that the performance of the Contract Works is properly coordinated with the Related Works. In complying with this clause the Sub-Contractor shall at all times and, where relevant, in accordance with the requirements and instructions of Crest Nicholson:
- 12.1.1 consult and co-operate with all responsible parties authorised for the Related Works;
- 12.1.2 attend co-ordination meetings to plan, review, and determine co-ordinated activities for the management of

interfaces between the Contract Works and the Related Works;

Nicholson's part of the sufficiency or suitability of the fitness and condition of any scaffolding or hoisting facilities.

12.1.3 comply with the instructions of Crest Nicholson as to the co-ordination of the Contract Works and Related Works;

12.1.4 take all reasonable precautions to protect the Contract Works from damage from the Related Works and vice versa; and

12.1.5 avoid acting in such a way that would delay or damage the Related Works.

12.2 The Sub-Contractor shall not be entitled to any adjustment to the Contract Sum and/or the Finish Date on account of any steps taken to comply with the requirements of clause 12.1.

13. PROTECTION OF CONTRACT WORKS

13.1 The Sub-Contractor shall, at its own expense, provide and erect (and, where applicable, remove after Practical Completion) all protection necessary for the safe execution of the Contract Works (and to prevent damage to the Contract Works from frost, rain and other hazards) and will repair and make good any damage to the Site and the Contract Works. In doing so the Sub-Contractor shall procure that it and its personnel and agents shall comply with any protection requirements specified by Crest Nicholson from time to time including but not limited to the Crest Nicholson Temporary Site Protection Policy.

13.2 If the Sub-Contractor fails to carry out its obligations under Clause 13.1 Crest Nicholson may execute any works required or may employ and pay other persons to do so. All costs and/or expenses incurred will be recoverable from the Sub-Contractor as a debt or may be deducted from any monies due to the Sub-Contractor.

14. USE OF SCAFFOLDING OR HOISTING FACILITIES

14.1 At their own risk, the Sub-Contractor, its personnel and agents shall be entitled to use any scaffolding or hoisting facilities belonging to, or provided by, Crest Nicholson for the purposes of the Contract Works (but not further or otherwise), provided that:

14.1.1 the Sub-Contractor will first satisfy itself as to the fitness and condition of the scaffolding or hoisting facilities and its suitability for the purpose for which it is required; and

14.1.2 the Sub-Contractor accepts that the rights granted by this clause will not be deemed to imply any warranty on Crest

14.2 The Sub-Contractor shall ensure that:

14.2.1 Any lifting operations are planned and carried out correctly and in accordance with the Lifting Operations and Lifting Equipment Regulations 1998 and any other Statutory Requirements;

14.2.2 In any lifting operation, the load is properly secured on the appropriate carriage;

14.2.3 Its risk assessment and method statement clearly details the use of lifting equipment;

14.2.4 No persons other than the Sub-Contractor's own workforce are involved or assist in the Sub-Contractor's lifting operations; and

14.2.5 The operator of any plant used for the Sub-Contractor's lifting operations is, at all times, appropriately qualified to operate the plant.

15. HEALTH AND SAFETY

15.1 The Sub-Contractor shall ensure that it and its sub-contractors are competent and resourced in health and safety issues. The Sub-Contractor shall comply with and shall procure compliance by its sub-contractors with all respective duties and obligations under the Statutory Requirements including but not limited to the Health & Safety at Work Act 1974, the CDM Regulations, Health and Safety Laws and any codes of practice made pursuant thereto and any guidelines, recommendations and health and safety procedures published by such bodies to include but not limited to the Health & Safety Executive from time to time.

15.2 The Sub-Contractor warrants that it and its employees, personnel, agents and sub-contractors are competent to perform its/their duties under and pursuant to the Statutory Requirements including but not limited to the CDM Regulations in respect of the Contract Works and that the Sub-Contractor has and its sub-contractors have allocated, or will allocate, the resources necessary to perform those duties. The Sub-Contractor undertakes to inform Crest Nicholson immediately in writing if it ceases to be in a position to comply with these warranties and in any event to provide such additional information in relation to such competence and resources as may be requested from time to time by Crest Nicholson.

15.3 Without prejudice to the warranty granted in clause 15.2, the Sub-Contractor shall:

- 15.3.1 provide and continue to provide promptly at Crest Nicholson's request any information required by Crest Nicholson to satisfy itself of the competency of the Sub-Contractor; and
- 15.3.2 provide Crest Nicholson with the following information (as appropriate) before commencement of the Contract Works:
- 15.3.2.1 Copies of its job or activity-specific risk assessments and method statements which shall include information relating to the use of hazardous substances;
- 15.3.2.2 Copies of its work equipment test and inspection certificates; and
- 15.3.2.3 Evidence of competence for all personnel it intends to carry out the Contract Works.
- 15.4 Without prejudice to the generality of the Sub-Contractor's other obligations under the Agreement, the Sub-Contractor shall comply with its obligations under the CDM Regulations and shall (without limiting those obligations):
- 15.4.1 allow sufficient time and resources for the performance of those obligations so as to enable any duty holders to comply with their obligations under the CDM Regulations;
- 15.4.2 plan, manage and monitor all work carried out by themselves and their workers and sub-contractors, taking into account the risks to anyone who might be affected by it (including members of the public) and the measures needed to protect them;
- 15.4.3 provide all relevant information to and cooperate with the CDM Principal Designer and, where the Sub-Contractor is not CDM Principal Contractor, the CDM Principal Contractor so as to enable them to perform their duties under the CDM Regulations;
- 15.4.4 promptly notify the CDM Principal Designer and, where the Sub-Contractor is not CDM Principal Contractor, the CDM Principal Contractor and Crest Nicholson of any change in circumstances relating to the Development of which the Sub-Contractor becomes aware and which may affect the performance by the duty holders of their duties under the CDM Regulations;
- 15.4.5 comply with the Construction Phase Plan under clause 15.7; and
- 15.4.6 promptly notify the CDM Principal Designer and, where the Sub-Contractor is not CDM Principal Contractor, the CDM Principal Contractor and Crest Nicholson of any change or proposed change to any design for the Development for which the Sub-Contractor is responsible.
- 15.5 The CDM Principal Contractor is Crest Nicholson unless (i) the Contract Works are groundworks and (ii) the Sub-Contractor is the only contractor on the Site in which case the CDM Principal Contractor shall be the Sub-Contractor unless otherwise stated in the Purchase Order. The CDM Principal Designer is Crest Nicholson unless otherwise stated in the Purchase Order.
- 15.6 Without prejudice to the Sub-Contractor's obligations under clause 15.4, where the Sub-Contractor is the CDM Principal Contractor it shall comply with the duties of a principal contractor under the CDM Regulations.
- 15.7 Where the Sub-Contractor is not the CDM Principal Contractor, it shall contribute in a timely manner to and comply with the Construction Phase Plan and provide all such information and particulars as are necessary to complete a health and safety file in respect of the Development prior to Practical Completion. Goods and materials procured by the Sub-Contractor shall be so far as possible without risk to the health or safety of any person.
- Co-operation**
- 15.8 The Sub-Contractor shall co-operate and co-ordinate its activities with Crest Nicholson and with all other contractors employed on the Development so as to enable each to comply fully with the Statutory Requirements.
- Exclusion from the Site**
- 15.9 Should the Sub-Contractor fail to comply with the provisions of this clause 15, in any or all respects, then the Sub-Contractor may be prohibited from accessing the Site until such time as it can demonstrate, to the satisfaction of Crest Nicholson, its ability to comply at all times with the provisions of this clause 15.
- Protection of public**
- 15.10 Where the Contract Works extend onto any area where any third party may have

access (whether as a right or otherwise) both pedestrian and vehicle traffic shall be suitably protected from the Contract Works. Particular regard shall be given to guidance to include but not limited to the Health & Safety Executive Document HS (G) 151 "Protecting the Public" and such other guidance as may from time to time be published. In addition, there shall be compliance with the requirements of all relevant codes of practice to include but not limited to the Department of Transport Code of Practice "Safety at Streets Works and Road Works" as amended from time to time and with current related legislation and safe working practices. The Sub-Contractor shall ensure that all necessary licences, approvals etc. for such works are obtained prior to any works commencing and shall notify and co-ordinate the same with Crest Nicholson.

- 15.11 Prior to the commencement of the Contract Works, the Sub-Contractor shall advise Crest Nicholson of any of its employees, personnel, agents or sub-contractors working on site who have a disability and shall ensure that the Sub-Contractor's own health and safety policy and site-specific risk assessments include for the welfare of such individuals.

16. PROVISION OF INFORMATION RELATING TO BUILDING SAFETY

- 16.1 To ensure capture of essential digital information which, where the Development involves a higher risk building will become part of the "Golden Thread" under the Building Safety Laws, the Sub-Contractor shall comply with Crest Nicholson's document control procedures and naming convention as provided by Crest Nicholson and as this is updated from time to time in so far as Crest Nicholson has provided details to the Sub-Contractor.
- 16.2 The Sub-Contractor shall provide Crest Nicholson with such information as Crest Nicholson may reasonably require from time to time to enable Crest Nicholson to comply with its obligations under the Building Safety Laws.
- 16.3 The Sub-Contractor shall digitally complete Crest Nicholson's quality assurance forms and the Sub-Contractor acknowledges that in respect of higher risk buildings once such forms are completed such forms shall form part of the Golden Thread. The Sub-Contractor shall liaise with Crest Nicholson regarding such quality assurance forms and shall provide the same to Crest Nicholson within such timeframe as Crest Nicholson may require.

17. HIGHER RISK BUILDINGS

- 17.1 Where the Development involves a higher risk building (as defined in the Building Safety Laws) this clause 17 shall apply and the Sub-Contractor shall comply with its obligations under this clause 17.

17.2 Change Control

- 17.2.1 The Sub-Contractor shall comply with Crest Nicholson's Change Control Plan as notified by Crest Nicholson to the Sub-Contractor from time to time.

- 17.2.2 If the Sub-Contractor wishes to propose any change to the Contract Works it shall notify Crest Nicholson and request Crest Nicholson's approval to produce a proposal, such proposal to be at the Sub-Contractor's sole cost. The Sub-Contractor shall give Crest Nicholson as much notice as reasonably possible of its intention to request any change to the Contract Works.

- 17.2.3 The Sub-Contractor shall provide such information and such reasonable assistance as Crest Nicholson may require for the purposes of Crest Nicholson maintaining the Change Control Log for the purposes of the Building Safety Laws.

- 17.2.4 Notwithstanding the remainder of this clause 17.2, the Sub-Contractor shall not make any Major Change or Notifiable Change (as the same are defined in the Building Safety Laws) without the prior written approval of Crest Nicholson, which shall be at Crest Nicholson's sole discretion.

- 17.2.5 The Sub-Contractor shall provide Crest Nicholson with such assistance as Crest Nicholson may reasonably require in relation to an application to the Building Safety Regulator for approval of the change and shall respond to any requests for information as part of such process within such reasonable time as Crest Nicholson may request.

17.3 Golden Thread Information

- 17.3.1 The Sub-Contractor shall provide Crest Nicholson with any information relating to the Golden Thread Information and / or the BFLO Information and / or any other information which Crest Nicholson may reasonably require in relation to the Contract Works from time to time.

- 17.3.2 In the event that the Sub-Contractor fails to provide the information requested in clause 17.3.1 within such

time frame as may be reasonably requested by Crest Nicholson, Crest Nicholson shall be entitled to withhold payment of any amounts due under the Agreement until such time as the Sub-Contractor provides the requested information.

17.4 Building Control Completion Certificate

17.4.1 The Sub-Contractor shall provide Crest Nicholson with such information and assistance relating to the Contract Works that Crest Nicholson may require for the purposes of submitting an application for a completion certificate in accordance with the Building Safety Laws.

17.4.2 The Sub-Contractor shall respond to any request for information from Crest Nicholson either as part of the completion certificate application or any request for further information from the Building Safety Regulator within such reasonable time period as Crest Nicholson may request.

17.5 Safety Occurrences

17.5.1 The Sub-Contractor shall comply with Crest Nicholson's mandatory occurrence reporting system in relation to the reporting of Safety Occurrences (as defined in the Building Safety Laws) during the Contract Works

17.5.2 The Sub-Contractor shall notify Crest Nicholson as soon as it becomes aware of any Safety Occurrence during the carrying out of the Contract Works and shall provide such information as Crest Nicholson may require to enable Crest Nicholson to comply with its obligations under the Building Safety Laws.

17.6 Construction Control Plan

17.6.1 The Sub-Contractor shall provide such information required for and assistance with the Construction Control Plan as Crest Nicholson may require from time to time.

17.7 Provision of Information

17.7.1 Notwithstanding the generality of clause 16.2, the Sub-Contractor shall provide Crest Nicholson with such information that Crest Nicholson may reasonably require from time to time to enable Crest Nicholson to prepare the supporting statements and documents required by the Building Safety Laws including, without limitation, the building regulations compliance statement and the fire and emergency file.

17.8 Sub-Contractor competence

17.8.1 Notwithstanding clause 18.2, the Sub-Contractor shall provide such additional information as Crest Nicholson may require to assess the competence of the Sub-Contractor to carry out work in relation to a higher-risk building and in particular prior to starting on Site the Sub-Contractor shall confirm to Crest Nicholson whether a serious sanction has occurred, in relation to them, within the 5 years ending on the date of the Purchase Order.

17.9 Supply chain competence

17.9.1 The Sub-Contractor shall verify the competence of its subcontractors in accordance with Crest Nicholson's requirements and shall provide Crest Nicholson with written confirmation of the steps it has taken to verify the competence of each sub-contractor or sub-consultant appointed in relation to the Contract Works as soon as reasonably practicable following such appointment (and in any event prior to completion).

17.9.2 The Sub-Contractor shall provide Crest Nicholson with confirmation that it has complied with regulation 11E(2)(b) of the Building Regulations in appointing any sub-contractor or sub-consultant.

18. BUILDING REGULATIONS

18.1 The Sub-Contractor shall comply with the duties of a contractor and, if Sub-Contractor has a responsibility to design all or part of the Contract Works, designer pursuant to the Building Regulations 2010.

18.2 The Sub-Contractor shall provide Crest Nicholson with such information as Crest Nicholson may require to satisfy Crest Nicholson that the Sub-Contractor has the competency to carry out:

18.2.1 the building work in accordance with all Relevant Requirements; and

18.2.2 if the Sub-Contractor has a responsibility to design all or part of the Contract Works, such design so that the building work to which the design relates, if built, would be in accordance with all Relevant Requirements; and

18.2.3 where a variation is instructed, the competency to carry out such variation and if at any time the Sub-Contractor ceases to have such competence it must immediately notify Crest Nicholson.

- 18.3 The Sub-Contractor shall ensure the Contract Works are planned, managed and monitored so as to be in compliance with all Relevant Requirements.
- 18.4 If the Sub-Contractor has a responsibility to design all or part of the Contract Works, the Sub-Contractor shall ensure that such design is planned, managed and monitored so that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all Relevant Requirements.
- 18.5 The Sub-Contractor shall co-operate with Crest Nicholson, the Building Regulations Principal Designer, the Building Regulations Principal Contractor and all other designers and contractors on the Development to the extent necessary to ensure that the Contract Works are in compliance with all Relevant Requirements.
- 18.6 If the Sub-Contractor has a responsibility to design all or part of the Contract Works, the Sub-Contractor shall co-operate with Crest Nicholson, the Building Regulations Principal Designer, the Building Regulations Principal Contractor and all other designers and contractors on the Development to the extent necessary to ensure that the design of the Contract Works is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all Relevant Requirements.
- 18.7 If the Sub-Contractor has a responsibility to design all or part of the Contract Works, the Sub-Contractor shall take all reasonable steps to ensure that such design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all Relevant Requirements.
- 18.8 The Sub-Contractor shall take all reasonable steps to provide sufficient information about the construction and maintenance and, if the Sub-Contractor has a responsibility to design all or part of the Contract Works, design of the building to assist Crest Nicholson, other designers and contractors to comply with all Relevant Requirements.
- 18.9 If the Sub-Contractor has a responsibility to design all or part of the Contract Works, in carrying out such design the Sub-Contractor must consider other design work which directly relates to the Contract Works and report any concerns as to compliance with all Relevant Requirements to the Building Regulations Principal Designer.

- 18.10 The Sub-Contractor shall provide Crest Nicholson with such reasonable assistance as Crest Nicholson may require for the purposes of Crest Nicholson submitting an application for building control approval or a building control completion certificate.
- 18.11 The Building Regulations Principal Contractor and Building Regulations Principal Designer is Crest Nicholson unless otherwise stated in the Purchase Order.

19. ENVIRONMENTAL PROTECTION

- 19.1 The Sub-Contractor shall comply with and ensure that its employees, personnel, sub-contractors and agents comply with all relevant Environmental Laws.
- 19.2 The Sub-Contractor shall provide to Crest Nicholson copies of all relevant licences and permits required under relevant Environmental Laws and ensure that all such licences and permits are obtained and maintained in full force and effect.
- 19.3 The Sub-Contractor will provide all information and data reasonably required by Crest Nicholson for its environmental and waste data reporting requirements.
- 19.4 In carrying out the Contract Works, the Sub-Contractor shall ensure that no substance or article shall remain in or under the Site, neighbours' premises and the general environment including streams and waterways which causes or may cause pollution or harm to the environment or human health. If any such pollution or harm does occur, the Sub-Contractor shall inform Crest Nicholson immediately and provide Crest Nicholson with all relevant information including proposals for cleaning up.

20. INSURANCE

- 20.1 Save where the Contract Works are limited solely to the Exempt Trades and the Sub-Contractor obtains an exemption in writing from Crest Nicholson, the Sub-Contractor shall, throughout the Contract Works and until the Date of Practical Completion, effect and maintain a Joint Names Policy of All Risks Insurance that is for cover of no less than the full reinstatement value of the Contract Works. This will include unfixed materials intended for the Contract Works, plus a percentage of at least 12.5% to cover professional fees.
- 20.2 Subject to clause 20.3, throughout the Contract Works and until the end of the Defects Liability Period, the Sub-Contractor shall effect and maintain all insurance policies for sums and with

reputable companies that will, in all respects, cover adequately the Sub-Contractor's liabilities under the Agreement, and under common law, or any statute or regulation, relating to injury or death of any person (including the Sub-Contractor's employees) or loss or damage to any property (real or personal) arising from, or in connection with, the execution, completion, or maintenance of the Contract Works. All sub-contractors shall comply with this clause 20.2 including all Exempt Trades.

- 20.3 The insurance to be effected and maintained by the Sub-Contractor pursuant to clause 20.2 to cover its liability for personal injury or death and in respect of injury or damage to property (real or personal) shall be no less than the sum stated in the Purchase Order. If no sum is stated in the Purchase Order, then the sum for Public Liability Insurance will be no less than £5,000,000 for each and every claim arising out of one cause and £5,000,000 for each and every claim arising out of one cause for Employer's Liability Insurance.
- 20.4 Where stated in the Purchase Order and where the Sub-Contractor is a groundworker only, the Sub-Contractor shall effect and, until the Date of Practical Completion, maintain a Joint Names Policy for Non-Negligent Insurance for the amount stated in the Purchase Order or £5,000,000 whichever is the greater.
- 20.5 The Sub-Contractor shall place the insurances referred to in clause 20 with such insurers and upon such terms and conditions as shall have been approved by Crest Nicholson and shall not be subject to any material excess or unusual exclusions. The Sub-Contractor will pay promptly all premiums in respect of all insurances required to be taken out by it and will upon renewal of such insurances and whenever requested to so by Crest Nicholson produce to Crest Nicholson documentary evidence that each such insurance is being properly maintained and Crest Nicholson shall be entitled to withhold payment of any amounts due under the Agreement until such time as the Sub-Contractor provides the requested information. If the Sub-Contractor fails to comply with the provisions of this clause 20, Crest Nicholson may (without prejudice to any other rights and remedies) itself effect all necessary insurance and any expenses it incurs will be paid by the Sub-Contractor to Crest Nicholson, or be otherwise recoverable from the Sub-Contractor as either a debt or a deductible from any moneys due to the Sub-Contractor by Crest Nicholson.

21. DESIGN

- 21.1 This clause 21 only applies where the Sub-Contractor has a responsibility to

design all or part of the Contract Works and/or select materials for use or incorporation into the Contract Works.

21.1.1 Professional Indemnity Insurance:

The Sub-Contractor undertakes and warrants that it currently maintains in force Professional Indemnity Insurance without any exclusions material to the activities being undertaken under the Contract Works. The Sub-Contractor undertakes and warrants that such Professional Indemnity Insurance will be taken out with reputable insurers carrying on business in the United Kingdom and will be sufficient to cover any liabilities of the Sub-Contractor that may arise out of the services provided to Crest Nicholson pursuant to the Agreement up to a limit of no less than the amount stated in the Purchase Order or, if no amount is stated in the Purchase Order, five million pounds (£5,000,000) for each and every claim. Provided that the insurance continues to be available in the United Kingdom market upon reasonable terms and at commercially reasonable premium rates, the Sub-Contractor shall maintain the insurance for the Limitation Period. On request from Crest Nicholson, the Sub-Contractor will produce documentary evidence that such insurance is being maintained in accordance with this Clause 21.1.1.

21.1.2 In relation to the insurance referred to in clause 21.1.1, if:

21.1.2.1 such insurance ceases to be available upon reasonable terms and at commercially reasonable premium rates;

21.1.2.2 for any reason the Sub-Contractor fails to (or believes that it will fail to) renew or maintain such insurance, or fails to renew such insurance at the level or on terms required by clause 21.1.1; and/or

21.1.2.3 such insurance becomes or is likely to become void or unenforceable for any reason, the Sub-Contractor shall immediately give notice to Crest Nicholson so that Crest Nicholson and the Sub-Contractor can discuss the best means of protecting Crest Nicholson's position and the Sub-Contractor shall take such action as is reasonably required by Crest Nicholson, including (but not limited

to) taking out such insurance with such limit of indemnity as is available in the market at commercially reasonable rates and terms.

21.1.3 **Design Responsibility:** Where the Sub-Contractor is responsible for any of the design of any part of the Contract Works and/or for the selection of materials for use or incorporation into the Contract Works, in respect of such design and/or selection it has exercised and shall continue to exercise the reasonable skill, care and diligence to be expected of a prudent, experienced, properly qualified and competent designer experienced in the design of work and/or the selection of materials for work of a similar size, scale and complexity to the Contract Works.

22. COLLATERAL WARRANTIES

22.1 Unless notified by Crest Nicholson in writing to the contrary, the Sub-Contractor shall, within 5 working days of Crest Nicholson's request to do so, execute as a deed and deliver to Crest Nicholson collateral warranties in favour of any Third Party. Such warranties shall be in the form attached at <https://corporate.crestnicholson.com/supply-chain/>: Schedule 2 (*Sub-Contractor Collateral Warranty*) together with such amendments as Crest Nicholson shall reasonably require. Crest Nicholson may, notwithstanding any other provisions of the Agreement, withhold any payment due and/or payable to the Sub-Contractor until such time as the warranties have been satisfactorily executed and delivered to Crest Nicholson in accordance with this clause 22.1.

22.2 Unless notified by Crest Nicholson in writing to the contrary, the Sub-Contractor shall before any of its sub-contractors commence works on the Site, or within 15 working days of Crest Nicholson's request to do so, procure that each of its sub-contractors (i) execute as a deed and deliver to Crest Nicholson a collateral warranty in the form attached at <https://corporate.crestnicholson.com/supply-chain/>: Schedule 3 (*Sub-Contractor sub-contractor Collateral Warranty*) (subject only to such reasonable amendments as Crest Nicholson may approve) in favour Crest Nicholson and/or any Third Party and (ii) deliver to Crest Nicholson a true copy of each sub-contract (save for particulars of the contract sum) and a cover note evidencing each sub-contractor's insurances.

22.3 Unless notified by Crest Nicholson in writing to the contrary, the Sub-Contractor shall before any of its

consultants commence services in respect of the Site, or within 15 working days of Crest Nicholson's request to do so, procure that each of its consultants (i) execute as a deed and deliver to Crest Nicholson a collateral warranty in the form attached at <https://corporate.crestnicholson.com/supply-chain/>: Schedule 4 (*Sub-Contractor consultant Collateral Warranty*) (subject only to such reasonable amendments as Crest Nicholson may approve) in favour Crest Nicholson and/or any Third Party and (ii) deliver to Crest Nicholson a true copy of each consultant appointment (save for particulars of the fee) and a cover note evidencing each consultant's insurances.

22.4 Crest Nicholson may, notwithstanding any other provisions of the Agreement, withhold up to £10,000 per sub-contractor and consultant appointed by the Sub-Contractor from any sums due to the Sub-Contractor if the Sub-Contractor is in breach of clause 22.2 or clause 22.3.

23. RELIANCE LETTERS

23.1 Unless notified by Crest Nicholson in writing to the contrary, the Sub-Contractor shall within 15 working days of the date of each Site Report deliver to Crest Nicholson a duly executed reliance letter in favour of Crest Nicholson and/or any Third Party for each Site Report such reliance letters to be in the form attached at <https://corporate.crestnicholson.com/supply-chain/>: Schedule 5 (*Letter of Reliance*) (subject only to such reasonable amendments as Crest Nicholson may approve).

23.2 Crest Nicholson may, notwithstanding any other provisions of the Agreement, withhold up to £10,000 per Site Report from any sums due to the Sub-Contractor if the Sub-Contractor is in breach of clause 23.1

24. DELAY

24.1 The Sub-Contractor is to notify Crest Nicholson in writing within 24 hours of the happening thereof of any event likely to cause delay to the Contract Works beyond the Finish Date giving details of such event and particulars of its expected effect including an estimate of the expected delay in the completion to the Contract Works beyond the Finish Date.

24.2 Subject to Crest Nicholson receiving particulars from the Sub-Contractor in accordance with clause 24.1, if any of the material circumstances which are stated to be a cause of delay is (i) a delay, impediment or default of Crest Nicholson or (ii) for variations under and subject to the provisions of clause 29 or (iii) suspension under clause 3.1 and

completion of the Contract Works is thereby likely to be delayed beyond the Finish Date, Crest Nicholson shall grant the Sub-Contractor an extension of time as may be fair and reasonable in the circumstances provided always, that the Sub-Contractor constantly uses its best endeavours to prevent and/or mitigate the effects of any delay or disruption to the carrying out and completion of the Contract Works.

25. FAILURE TO COMPLETE

25.1 Notwithstanding clause 24.2 and notwithstanding the Sub-Contractor's compliance with clause 24, the Sub-Contractor shall not be entitled to any extension of time for the completion of the Contract Works or any part of the Contract Works on account of any circumstances arising by reason of any error, omission, negligence, breach or default of the Sub-Contractor (or of any sub-contractor, consultant or supplier of the Sub-Contractor), or any of their respective employees or agents.

25.2 Where requested by Crest Nicholson, the Sub-Contractor is to accelerate or decelerate as the case may be, the carrying out and completion of the Contract Works at no cost to Crest Nicholson notwithstanding the Programme.

25.3 If the Sub-Contractor fails to achieve Practical Completion by the Finish Date, or as instructed in writing between the parties, or any extended period agreed by Crest Nicholson, the Sub-Contractor will pay or allow to Crest Nicholson any loss or damage caused by the Sub-Contractor's failure which will include, but not be limited to, liability for any damages or consequential losses for which Crest Nicholson itself may be liable.

25.4 In the event of the Sub-Contractor:

25.4.1 failing to proceed diligently with the Contract Works;

25.4.2 failing to carry out the Contract Works in accordance with the Programme; and/or

25.4.3 not completing the Contract Works by the Finish Date

due to it failing to employ sufficient personnel or sufficiently skilled personnel, Crest Nicholson may employ and pay other persons or sub-contractors as may be necessary to complete the Contract Works. All costs and expenses in connection with such employment by Crest Nicholson will be recoverable from the Sub-Contractor as a debt or may be deducted by Crest Nicholson from any moneys due to the Sub-Contractor. Where reasonably practical, Crest Nicholson will give the Sub-Contractor seven (7)

days' notice prior to employing and paying other persons or sub-contractors to complete the Contract Works.

26. PRACTICAL COMPLETION

26.1 Crest Nicholson will issue a written statement or other indication in writing (which could take the form of the Sub-Contractor's own form or sign-off sheet) to the Sub-Contractor on the date when, in their opinion, the Contract Works have achieved Practical Completion. Where no written statement or indication in writing is issued, Practical Completion shall occur on the later of the date that Crest Nicholson takes over the Contract Works and the date that the Sub-Contractor complies with the pre-conditions of Practical Completion set out in clause 26.3 and any other provision of this Agreement.

26.2 Where, in the opinion of Crest Nicholson, some of the Contract Works have not reached Practical Completion, Crest Nicholson may still confirm the Contract Works are complete, but will provide the Sub-Contractor with a schedule that will include any defects, shrinkages or other faults in the Contract Works.

26.3 Notwithstanding any other term of the Agreement, it is a pre-condition to achieving Practical Completion that:

26.3.1 Crest Nicholson has received from the Sub-Contractor any and all complete as-built drawings, guarantees, test documentation, operation and maintenance manuals and commissioning records; and

26.3.1.1 any information required to be provided under the Building Safety Laws including any amendments thereof and subordinate legislation and regulations in respect of the design, construction of and completion and occupation of the Contract Works, all such information to be provided digitally in an accessible format acceptable to Crest Nicholson, with the origin/author of all information and documents to be recorded; and

26.3.1.2 any such other information or documents as may be required by Crest Nicholson and as are required under the Agreement; and

26.3.2 Crest Nicholson has received from the Sub-Contractor:

26.3.2.1 a list of suppliers and sub-contractors for all materials and components;

26.3.2.2 product information for all materials and components;

26.3.2.3 manufacturers' brochures, guarantees and warranties;

26.3.2.4 operating instructions for all moving items and mechanical and electrical installations;

26.3.2.5 maintenance recommendations for all components;

26.3.2.6 list of all designers and consultants;

26.3.2.7 all approvals, permissions and consents from any statutory or other authority;

26.3.2.8 all notices, contracts and agreements and other documents relating to, or affecting the ownership, maintenance or operation of the Development;

26.3.2.9 all information to enable the health and safety file to be complete;

26.3.2.10 all information which would be required by the occupier of the Property, including any information or documentation that the NHBC or other building control approved inspector may require in order to issue the building control completion certificate and NHBC New Homes Warranty; and

26.3.3 Crest Nicholson has received from the Sub-Contractor all information reasonably required by Crest Nicholson to comply with the CDM Regulations and all Statutory Requirements.

27. DEFECTS

27.1 When requested by Crest Nicholson at any time during the Defects Liability Period, the Sub-Contractor will return to Site to remedy any Defects (including without limitation any Defects set out in the schedule referred to in clause 26.2). Any such remedial works will be at the sole expense of the Sub-Contractor and shall be remedied in accordance with any Priority Classification issued by Crest Nicholson in accordance with clause 27.2 and within the timescales set out. Crest Nicholson shall be entitled to charge a reasonable fee to cover its administration costs associated with arranging for the Sub-Contractor to attend to Defects and the fee shall be recoverable as a debt from the Sub-Contractor.

27.2 When requesting the remedy of Defects under clause 27.1, Crest Nicholson may nominate the priority classification ("**Priority Classification**") of any particular Defect. The Priority Classifications are set out in Schedule 1 (*Customer Service Standards*) or such other classification with an alternative time-frame for remedying and completing the Defect as Crest Nicholson shall specify.

27.3 If a Defect, which is covered under the insurance provided by NHBC arises outside of the periods set out in clause 27.1 but within the NHBC New Home Warranty Period for any Plot, then, where required by Crest Nicholson, the Sub-Contractor shall be responsible for making good such Defect in the Plot in accordance with the terms of clause 27.2.

27.4 Crest Nicholson may, at its sole discretion, employ and pay a third party to remedy any Defects instead of requesting the Sub-Contractor to remedy them. In this case, Crest Nicholson will deduct the cost incurred in employing a third party from any monies due to the Sub-Contractor under this Agreement and/or be entitled to recover the cost from the Sub-Contractor as a debt. Subject to the following and clause 28.4, Crest Nicholson will give the Sub-Contractor five (5) days' notice to remedy the Defect(s) before proceeding to use a third party, except in the case of emergencies. Where Crest Nicholson and/or the Customer consider any Defects require immediate attention and it is not reasonably practicable to wait for the Sub-Contractor to attend, no notice shall be given and Crest Nicholson may, at its sole discretion, employ and pay a third party to remedy any Defects or allow the Customer to do so and reimburse the Customer and in these cases, Crest Nicholson will deduct the cost incurred in employing a third party from any monies due to the Sub-Contractor under this Agreement and/or be entitled to recover

the cost from the Sub-Contractor as a debt.

27.5 Crest Nicholson may use a third party (for example an out of hours customer service provider) to procure the remedying of any Defects, in which case, the Sub-Contractor will return to Site when requested to do so by the third party as if it were Crest Nicholson.

27.6 In the event that a defect or fault notified by Crest Nicholson is not attributable to the Sub-Contractor, and the Sub-Contractor considers the required remedial work to be a chargeable service, the Sub-Contractor must provide a written quotation to Crest Nicholson for that remedial work. No remedial work shall be carried out by the Sub-Contractor unless a variation order is issued by Crest Nicholson.

28. CUSTOMER SERVICE AND AFTER SALES CARE

28.1 For each Development, the Sub-Contractor agrees to work closely with Crest Nicholson to ensure that Crest Nicholson achieves the customer service objectives set out in clause 27 and clause 28 during the carrying out and completion of the Contract Works which shall include the Defects Liability Period and, for each Plot, the NHBC New Home Warranty Period.

28.2 The Sub-Contractor warrants that when remedying any Defects, it shall comply with and ensure that all its staff, sub-contractors and operatives are aware of and comply with the requirements including the timescales of the Consumer Code for House Builders, the New Homes Quality Code (both in respect of private homes), the Prescribed Requirement Regulations (Awaab's Law) (in respect of social housing) and Schedule 1.

28.3 The Sub-Contractor shall supply Crest Nicholson with the contact details for the individual at the Sub-Contractor's office that will manage all defects, including name, job title, telephone (fixed line and mobile) and e-mail address, as well as contact details for the individual dealing with any out of hours and emergency issues. The Sub-Contractor must immediately advise Crest Nicholson if any of these contact details change.

28.4 If the Sub-Contractor fails to attend to remedy Defects or repeatedly fails to adhere to the requirements and timescales set out in Schedule 1, the notice periods to remedy the Defect(s) in clause 27.4 shall not apply and Crest Nicholson shall be entitled to employ a third party to remedy any Defects without any notice to the Sub-Contractor and Crest Nicholson shall deduct the cost

incurred in employing a third party from any monies due to the Sub-Contractor under the Agreement and/or be entitled to recover the cost from the Sub-Contractor as a debt.

28.5 If the Sub-Contractor fails to attend to remedy Defects where a specific time and date has been agreed with the Customer(s), Crest Nicholson will charge a £50 non-attendance fee or 15% of the repair cost (whichever is greater) to cover its administration costs incurred due to non-attendance which shall be recoverable from the Sub-Contractor as a debt, or may be deducted by Crest Nicholson from any moneys due to the Sub-Contractor.

29. VARIATIONS

29.1 Crest Nicholson is free to authorise additional or new instructions in writing as it deems necessary. If the Sub-Contractor considers that any instruction from Crest Nicholson constitutes a variation that would increase the Contract Sum or affect the Finish Date the Sub-Contractor must notify Crest Nicholson in writing of the cost implications and amount of time by which the Finish Date will be delayed or advanced as a result before carrying out the instruction. In the event that the Sub-Contractor fails to notify Crest Nicholson of such cost effects or impact, the instruction will be deemed to have a nil value and no effect on the Finish Date.

29.2 Subject to clause 29.3 and clause 29.5, all variations authorised by Crest Nicholson will be measured and valued by agreement or, in the absence of agreement, on the basis of the Sub-Contractor's rates and prices for the execution of any similar work. In the event of no similar work, rates or prices then the variation will be valued on a fair and reasonable basis and such value will be added to or deducted from the Contract Sum as the case may be.

29.3 Subject to clause 29.5, Crest Nicholson may request the Sub-Contractor provides an estimate for any variation. In this case, the Sub-Contractor will provide the estimate ("**Estimate**") within ten (10) working days. Within five (5) working days of receiving the Estimate from the Sub-Contractor, Crest Nicholson may notify the Sub-Contractor in writing as to whether or not Crest Nicholson wishes the Sub-Contractor to proceed with the variation set out in the Estimate.

29.4 Whenever the Contract Works and the Contract Sum have been ascertained by reference to a given number of Plots and/or Plot types, Crest Nicholson will be at liberty to serve notice on the Sub-Contractor that the number of Plots and/or Plot types will be increased or decreased and thereupon the Contract

Works, the amount of the Contract Sum and the Finish Date will be likewise increased or decreased or adjusted as from the date of such notice. Crest Nicholson shall not be liable to the Sub-Contractor for any costs, losses, damages or expenses arising from a decrease in the Contract Sum or the omission of Plots from the Contract Works. Where Plots are omitted from the Contract Works by Crest Nicholson, Crest Nicholson shall have the right to award the omitted work to an alternative sub-contractor.

29.5 Notwithstanding any other provision of the Agreement:

29.5.1 The Sub-Contractor is not authorised to and shall not undertake a variation unless the variation has been instructed by Crest Nicholson using a variation order; and

29.5.2 Crest Nicholson shall have no liability in relation to a variation (including to make payment) unless the variation order has been instructed by Crest Nicholson. Crest Nicholson shall have no liability to the Sub-Contractor whether in respect of any adjustment to the Contract Sum and/or adjustment to the Finish Date in respect of any work which may constitute a variation if the variation order has not been instruction by Crest Nicholson.

30. AMBIGUITIES AND DISCREPANCIES

30.1 The Sub-Contractor shall be deemed to have scrutinised the documents forming the Agreement and shall be responsible for their accuracy and, without prejudice to the foregoing if the Sub-Contractor shall find any ambiguity, conflict, discrepancy or contradiction in any of the documents forming the Agreement in respect of any matter, including but not restricted to design, it shall immediately notify Crest Nicholson in writing who shall, upon receipt of such notice, issue any instruction or clarification remedying such ambiguity, conflict or discrepancy or contradiction. The Sub-Contractor shall comply with that instruction or clarification without any adjustment to the Contract Sum or to the Finish Date save where the ambiguity, conflict, discrepancy or contradiction relates to design for which the Sub-Contractor is not responsible for in accordance with the Agreement in which case clause 29 shall apply.

31. PAYMENT

31.1 Payment to the Sub-Contractor will be made in instalments following completion of the stages or on the specified date(s) specified in clause 31.1.1. Any sums paid to the Sub-Contractor for the Contract Works before the date of the

Purchase Order will be deemed to have been paid on account of the Contract Sum. The Sub-Contractor will make applications for stage or interim payments (as applicable) and payments shall be assessed and paid by Crest Nicholson as follows:

31.1.1 Once a stage identified in the Contract Documents has been completed and signed off by Crest Nicholson and on the date specified in this clause, the Sub-Contractor shall make an application for payment on or before the 28th of the month or if the 28th day of a particular month is not a working day then the last working day before the 28th day (such date being the "**Application Date**"). If an application for payment is received by Crest Nicholson after the Application Date, such application will be deemed to have been received by Crest Nicholson in the following month.

31.1.2 It is a pre-condition to Crest Nicholson's liability to pay any part of the Contract Sum that the Sub-Contractor submits a valid application for each payment instalment that sets out:

31.1.2.1 the amount the Sub-Contractor considers will become due on the Payment Due Date and the basis on which that amount has been calculated

31.1.2.2 details of the Site;

31.1.2.3 the Purchase Order number;

31.1.2.4 the full name and address of the Sub-Contractor;

31.1.2.5 any new address where applicable;

31.1.2.6 the Sub-Contractor's VAT registration number;

31.1.2.7 the value of the work carried out and/or materials and goods incorporated into the Contract Works by the Sub-Contractor since commencement of the Contract Works or the last application as appropriate;

31.1.2.8 the amount of Retention to be released (if any); and

- 31.1.2.9 any other amounts claimed under the Agreement.
- 31.1.3 Where self-billing applies in accordance with clause 33:
- 31.1.3.1 the Sub-Contractor and Crest Nicholson have agreed that all VAT invoices shall be raised by Crest Nicholson and not the Sub-Contractor and payments shall be assessed and paid by Crest Nicholson in accordance with the pre-agreed stage payments of the Contract Sum which form part of the Contract Documents;
- 31.1.3.2 the Sub-Contractor and Crest Nicholson have agreed that any VAT invoice issued by Crest Nicholson to the Sub-Contractor is also intended to be the relevant Payment Notice given pursuant to clause 31.1.5.
- 31.1.4 The due date for payment will be fourteen (14) days after the Application Date (the "**Due Date for Payment**").
- 31.1.5 No later than five (5) calendar days after the Due Date for Payment, Crest Nicholson will give a notice (a "**Payment Notice**") that will identify the sum that it considers to be, or have been, due at the Due Date for Payment and the basis on which that sum has been calculated. Subject to clause 31.1.6 and any Pay Less Notice given in accordance with clause 31.1.8, the sum paid to the Sub-Contractor will be the sum set out in the Payment Notice.
- 31.1.6 If Crest Nicholson fails to give the Payment Notice referred to in clause 31.1.5 then (subject to any Pay Less Notice given in accordance with clause 31.1.8), the sum to be paid to the Sub-Contractor will be the sum set out in the application for payment given by the Sub-Contractor in accordance with clause 31.1.1 (or deemed to have been given by the Sub-Contractor pursuant to clause 31.1.3).
- 31.1.7 The final date for payment will be twenty (20) calendar days after the Due Date for Payment (the "**Final Date for Payment**").
- 31.1.8 If Crest Nicholson intends to pay less than the sum stated as due to the Sub-Contractor in the Payment Notice (or the Sub-Contractor's application for payment where no valid Payment Notice is issued), then it will give the Sub-Contractor a notice to that effect (a "**Pay Less Notice**") no later than two (2) clear working days before the Final Date for Payment, in accordance with clause 31.1.9.
- 31.1.9 A Pay Less Notice will set out the sum that Crest Nicholson considers to be due to the Sub-Contractor on the date that the notice is given and the basis on which that sum has been calculated.
- 31.2 Unless an alternative system is specifically agreed in the Purchase Order, then the following retention provisions shall apply:
- 31.2.1 A five per cent (5%) retention (or such other per cent retention as set out in the Purchase Order) from each interim or stage payment will be made (the "**Retention**"), which will be taken into account when calculating the sums due to the Sub-Contractor in accordance with clause 31.1.
- 31.2.2 On Practical Completion, the Sub-Contractor shall provide all further documentation and information required under the Agreement, following which, the Sub-Contractor may apply for release of the Retention in accordance with clause 31.2.3.
- 31.2.3 Once all Defects (that appear or become apparent in the Contract Works, and are notified to the Sub-Contractor during the Defects Liability Period) have been remedied and completed to the satisfaction of Crest Nicholson, then the Sub-Contractor may apply for the release of the balance of Retention, subject, always, to having complied with clause 31.2.2 and the provisions of clause 31.2.4. **Error! Reference source not found.**
- 31.2.4 The Sub-Contractor shall use the application process under Clause 31.1 for the release of the Retention or any part of it including where clause 31.1.3 applies. Crest Nicholson will not be under any fiduciary obligation with regard to the Retention, or any part of it, and will not be under any obligation to set aside in a separate account any amount representing the Retention.
- 31.3 As soon as practicable after Practical Completion:
- 31.3.1 The Sub-Contractor shall prepare a draft final account statement for approval by Crest Nicholson and signature by both parties. The Sub-Contractor shall also supply Crest Nicholson with any supporting documents or evidence that Crest

- Nicholson deems to be reasonably required.
- 31.3.2 If the Sub-Contractor does not submit the draft final account statement within two (2) months of Practical Completion, or where the Contract Works have been determined under Clause 39, Crest Nicholson may, on or after the expiry of that period, give the Sub-Contractor notice that unless the statement is submitted within two (2) weeks from the date of the notice Crest Nicholson may, itself, issue a draft final account statement in lieu of that from the Sub-Contractor.
- 31.3.3 Unless the Sub-Contractor submits its draft final account statement prior to Crest Nicholson issuing the notice as outlined in 31.3.2, Crest Nicholson may, at any time after the two (2) week notice period, issue a final account statement to the Sub-Contractor insofar as Crest Nicholson is reasonably able to do so.
- 31.3.4 The due date for payment of the final account sum will be one (1) calendar month from the date of receipt by Crest Nicholson of the Sub-Contractor's draft final account statement pursuant to clause 31.3.1 or, if clause 31.3.3 applies, one (1) calendar month from the date of Crest Nicholson submitting the draft final account statement to the Sub-Contractor. The final date for payment of the final account sum will be twenty eight (28) calendar days from the due date. No later than five (5) days after the due date, and notwithstanding any dispute regarding the relevant statement, the party from which the final payment is due ("Payer") will give a Payment Notice to the other in accordance with clause 31.1.5. Subject to any Pay Less Notice served in accordance with Clause 31.3.5, the payment to be made on, or before the final date for payment, will be the sum stated in the Payment Notice.
- 31.3.5 If the Payer intends to pay less than the sum stated in the Payment Notice, or in the absence of such notice, less than the amount stated in the relevant final account statement, the Payer will give the other party a Pay Less Notice (in accordance with Clause 31.1.9) no later than two (2) clear working days before the final date for payment.
- 31.4 No payment made by Crest Nicholson will relieve the Sub-Contractor from any liability arising from, or in connection with, the Agreement. Crest Nicholson may, in any subsequent payment, modify the basis upon which that payment is made relative to previous payments. Crest Nicholson has the right to recover any overpayments made to the Sub-Contractor at any time.
- 31.5 If either party fails to pay a sum due to the other party by the final date for payment and fails to give a Pay Less Notice under Clause 31.1.9 or clause 31.3.5, simple interest will be added to the unpaid sum from the final date for payment until the actual date of payment. This will be calculated on a daily basis at the annual rate of two per cent (2%) above the Bank of England Base Rate.
- 31.6 Right to Suspend Work
- 31.6.1 If payment has not been made by the final date for payment and no Pay Less Notice has been given, the Sub-Contractor may suspend performance of its obligations under the Agreement, provided that:
- 31.6.1.1 the Sub-Contractor has given written notice to Crest Nicholson 15 working days prior to the date when performance is to be suspended;
- 31.6.1.2 such notice specifies the ground or grounds for suspension; and
- 31.6.1.3 the right to suspend ends as soon as payment is made.
- 31.6.2 If the Sub-Contractor validly suspends performance pursuant to clause 31.6.1.1, an extension of time for completion of the Contract Works will be granted for the period of suspension. If the suspension is invalid, the Sub-Contractor will be liable for any costs or damages arising from the invalid suspension, (including damages under Crest Nicholson's contract with Third Parties if applicable) incurred by Crest Nicholson.
- 32. CONTRA CHARGES**
- 32.1 Crest Nicholson shall be entitled to deduct from, withhold or set off against any monies due to the Sub-Contractor under the Agreement (including any retention moneys):
- 32.1.1 any amounts which the Sub-Contractor is liable to pay to Crest Nicholson under the Agreement, any other purchase order or any other agreement between the Sub-Contractor and Crest Nicholson (whether entered into before or after the date of the Agreement);
- 32.1.2 any amounts which Crest Nicholson has paid to a third party for carrying out remedial work due to defective design, workmanship or materials carried out

or supplied by or on behalf of the Sub-Contractor; and/or

- 32.1.3 any amounts in respect of any breach by the Sub-Contractor of its obligations under the Contract Documents, the Agreement, any other purchase order or any other agreement between the Sub-Contractor and Crest Nicholson.

33. SELF-BILLING ARRANGEMENT

- 33.1 Where Crest Nicholson has agreed with the Sub-Contractor to operate a self-billing arrangement (in accordance with the Commissioners for His Majesty's Revenue and Customs approved practice for self-billing):
- 33.1.1 Prior to commencement of the Contract Works, the Sub-Contractor shall execute a self-billing agreement with Crest Nicholson in the standard HMRC form;
- 33.1.2 as a condition precedent to the Sub-Contractor's entitlement to payment the Sub-Contractor must notify Crest Nicholson prior to commencement of the Contract Works of its VAT registration number and current business address for VAT purposes;
- 33.1.3 the Sub-Contractor warrants to Crest Nicholson that the Sub-Contractor shall not issue VAT invoices in respect of any transactions covered by self-billing;
- 33.1.4 on or before each 12th month anniversary date of the Purchase Order (insofar as Practical Completion has not by this date been achieved) or 1 November each year (whichever is earlier) the Sub-Contractor is to confirm that it agrees to the continuation of the self-billing arrangement with Crest Nicholson for a further period of 12 months by executing a further self-billing agreement; and
- 33.1.5 The Sub-Contractor's confirmation as to the extension of the self-billing arrangement (or otherwise) as set out in clause 33.1.4 above is a condition precedent to the Sub-Contractor's entitlement to payment.

34. VALUE ADDED TAX

- 34.1 The Sub-Contractor will be entitled to claim from Crest Nicholson as an addition to the Contract Sum the amount of Value Added Tax properly chargeable on the goods and services supplied by the Sub-Contractor.
- 34.2 The Sub-Contractor will reasonably cooperate with Crest Nicholson, and do all

that Crest Nicholson may reasonably request, regarding the provision of documents and information relating to the payment of Value Added Tax in order to comply with the provisions of the Value Added Tax Regulations 1995 (as amended, superseded or replaced from time to time).

- 34.3 If required by any Statutory Requirement, Crest Nicholson shall be entitled to pay amounts in respect of VAT that would otherwise be paid to the Sub-Contractor directly to HMRC and, upon such payment, Crest Nicholson shall for all purposes be deemed to have fulfilled its obligations in respect of payment of Value Added Tax under the Agreement.
- 34.4 Upon request Crest Nicholson will confirm whether it is an end user for the purposes of Article 8(1)(b) of the Value Added Tax (Section 55A) (Specified Services and Excepted Supplies) Order 2019 (the "Order").

35. CONSTRUCTION INDUSTRY SCHEME

- 35.1 In this clause 35 (but not otherwise):
- 35.1.1 "FA 2004" means the Finance Act 2004;
- 35.1.2 "Regulations" means the Income Tax (Construction Industry Scheme) Regulations 2005 (SI 2005/2045);
- 35.1.3 "contractor" means a person who is a contractor for the purposes of Chapter 3 Part 3 FA 2004.
- 35.2 The parties shall at all times comply with Chapter 3 Part 3 FA 2004 and the Regulations.
- 35.3 The Sub-Contractor shall, at least fifteen (15) working days before the due date of the first payment to which this clause relates, provide to Crest Nicholson the Sub-Contractor's unique taxpayer reference ("UTR") and company registration number in order that Crest Nicholson, as a contractor, can verify with HM Revenue & Customs whether the Sub-Contractor is registered for gross payment, for payment under deduction or is not registered under Chapter 3 Part 3 of FA2004 in accordance with paragraph 6 of the Regulations.
- 35.4 When Crest Nicholson is required to make a payment to the Sub-Contractor under the Agreement, Crest Nicholson shall, once it has carried out the verification referred to in clause 35.3 above, make the payment to the Sub-Contractor subject to the following:
- 35.4.1 if the Sub-Contractor is registered for gross payment under section 63(2) FA

2004, Crest Nicholson shall make the payment to the Sub-Contractor without any deduction; and

- 35.4.2 If the Sub-Contractor is not registered under section 63(2) FA 2004 for gross payment, Crest Nicholson shall make the payment to the Sub-Contractor, subject to the deduction of the relevant percentage in accordance with section 61 FA 2004 and the Regulations.
- 35.5 If the Sub-Contractor has failed to provide its UTR and company registration number to Crest Nicholson at least fifteen (15) working days before the due date of a payment to which this clause relates, and if Regulation 6(4) of the Regulations does not apply, Crest Nicholson shall make the payment to the Sub-Contractor subject to the deduction of the relevant percentage in accordance with section 61 (3)(b) FA 2004.
- 35.6 For the avoidance of doubt, if Crest Nicholson is required by law to make a deduction or withholding from any payment under the Agreement, Crest Nicholson shall have no obligation to make any increased payment to the Sub-Contractor on account of the deduction or withholding.
- 35.7 Where clause 35.4.2 or clause 35.5 applies, then before the due date for payment:
- 35.7.1 the Sub-Contractor shall give to Crest Nicholson a statement showing the direct cost of materials to the Sub-Contractor and to any other persons to be included in the payment; and
- 35.7.2 Crest Nicholson shall make the deduction provided by section 61 FA 2004 from the part of the payment which is not in respect of the direct cost of materials as stated by the Sub-Contractor pursuant to clause 35.7.1.
- 35.8 Where Crest Nicholson relies on a statement supplied by the Sub-Contractor pursuant to clause 35.7.1, the Sub-Contractor shall indemnify Crest Nicholson against any loss and/or expense whether arising directly and/or indirectly caused to Crest Nicholson by an incorrect statement of the amount of the direct cost of materials.
- 35.9 Where the Sub-Contractor fails to comply with clause 35.7.1, or where Crest Nicholson has reasonable grounds to believe that any statement provided in compliance with clause 35.7.1 is incorrect it shall make a fair statement of the direct cost of materials and shall be entitled to make a deduction on the full amount of any payment made to the Sub-Contractor.

35.10 The Sub-Contractor will immediately inform Crest Nicholson in writing of any changes to their tax payment status.

36. INDEMNITIES

- 36.1 The Sub-Contractor will indemnify and hold harmless Crest Nicholson from, and against, all damages, losses, costs, expenses, interest and claims (whether for actual or consequential loss) that Crest Nicholson may accrue, suffer or incur, which arise out of:
- 36.1.1 any act or omission of the Sub-Contractor, its sub-contractors, personnel or agents that exposes Crest Nicholson or its personnel or agents to any liability or alleged liability;
- 36.1.2 any breach of contract, negligence, non-performance, or breach of duty on the part of the Sub-Contractor, its sub-contractors, personnel or agents caused by, arising out of, or in connection with the execution of or failure to execute the Contract Works;
- 36.1.3 personal injury to, or the death of, any person arising out of, or in the course of, or caused by the carrying out of the Contract Works, except to the extent that the same is due to Crest Nicholson's negligence;
- 36.1.4 any loss, injury or damage to property (real or personal) arising out of, or in connection with, the carrying out of the Contract Works, and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Sub-Contractor or anyone for whom it is responsible; and
- 36.1.5 any nuisance, obstruction, trespass or interference with the rights of any third party (including rights of way, light, air or water) that are an avoidable consequence of the carrying out of the Contract Works.

37. ASSIGNMENT

- 37.1 The Sub-Contractor shall not assign or transfer any right or obligation under the Agreement to any person without the prior written consent of Crest Nicholson.
- 37.2 Crest Nicholson shall be entitled to assign its entire rights and obligations under the Agreement at any time.

38. SUB-LETTING

- 38.1 The Sub-Contractor shall not sub-contract, delegate or allow any other person to perform any of its obligations under the Agreement without the prior written consent of Crest Nicholson. No

such consent given by Crest Nicholson shall relieve the Sub-Contractor from its responsibility for the proper performance of those obligations.

38.2 If the Sub-Contractor is in breach of clause 38.1:

38.2.1 Crest Nicholson may terminate the Sub-Contractor's engagement under the Agreement in which case clause 39.2 shall apply; and

38.2.2 The Sub-Contractor shall put in place such documents (including subcontracts and collateral warranties in favour of Crest Nicholson and Third Parties and measures (including to address any health and safety risks) as Crest Nicholson may require in its absolute discretion.

38.3 The Sub-Contractor shall ensure that any sub-contractor or sub-consultant it appoints in relation to the Contract Works shall be competent to perform their role in accordance with the Building Safety Laws.

38.4 The Sub-Contractor shall take all reasonable steps to ensure that its sub-contractors and/or sub-consultants comply with their duties under the Building Safety Laws.

38.5 Where the Development involves a higher risk building (as defined in the Building Safety Laws) the Sub-Contractor shall provide Crest Nicholson with written confirmation of the steps it has taken to verify the competence of each sub-contractor or sub-consultant as soon as reasonably practicable following such appointment.

38.6 Crest Nicholson may from time to time provide the Sub-Contractor with details of its preferred suppliers and manufacturers which suppliers and manufacturers the Sub-Contractor may, subject to and without prejudice to clauses 38.1 to 38.5, consider using in relation to the Contract Works.

39. DETERMINATION OF CONTRACT WORKS

39.1 Crest Nicholson may terminate the Sub-Contractor's engagement under the Agreement at any time and for any reason or without cause by giving to the Sub-Contractor no less than seven (7) days' prior written notice. Unless otherwise notified by Crest Nicholson, on the expiry of such a notice period the Sub-Contractor's engagement under the Agreement shall terminate automatically.

39.2 If the Sub-Contractor commits any breach or default, Crest Nicholson may, by written notice to the Sub-Contractor, terminate the Sub-Contractor's

engagement under the Agreement and may expel the Sub-Contractor from the Site and may take over the materials and plant provided by, or on behalf of, the Sub-Contractor that are on the Site, or are being used in connection with the Contract Works.

39.3 The provisions of clause 39.2 will apply, but shall not be limited to, whenever the Sub-Contractor:

39.3.1 abandons the Contract Works;

39.3.2 fails to commence and/or proceed with the Contract Works in accordance with clause 2;

39.3.3 other than in circumstances permitted under the Agreement, suspends the carrying out of the Contract Works before they are completed;

39.3.4 fails (after previous written warning from Crest Nicholson) to proceed with the Contract Works with such speed and in such sequence as (in Crest Nicholson's opinion) will be necessary to avoid impeding other trades or causing delay to completion;

39.3.5 fails to complete the Contract Works or any section of them within the required time;

39.3.6 at any time fails to carry out the Contract Works to Crest Nicholson's satisfaction;

39.3.7 refuses or neglects to remove or replace defective work or improper materials after written directions from Crest Nicholson to do so;

39.3.8 is Insolvent; or

39.3.9 commits any other material breach of a term or terms of the Agreement.

39.4 In the event of the Contract Works being destroyed by any occurrence against which Crest Nicholson has insured, Crest Nicholson will have the right to terminate the Sub-Contractor's engagement under the Agreement. In the event of such termination, the Sub-Contractor will be paid the value of the Contract Works carried out to the date of the occurrence and for materials supplied to the Site that are the property of Crest Nicholson, but no further or other payment will be made to the Sub-Contractor, nor will the Sub-Contractor be entitled to any damages or compensation or loss of profits whatsoever and clause 40.1 shall apply.

39.5 If at the end of the Fixed Price Period the parties cannot agree a revised Contract Sum in accordance with clause 4.1 Crest Nicholson may terminate the Sub-

Contractor's engagement under the Agreement by giving to the Sub-Contractor no less than seven (7) days' prior written notice. Unless otherwise notified by Crest Nicholson, on the expiry of such a notice period the Sub-Contractor's engagement under the Agreement shall terminate automatically.

Contractor has performed up to the date of such termination; and

40. CONSEQUENCES OF DETERMINATION

40.1 Upon any termination of the Sub-Contractor's engagement, the Sub-Contractor shall:

40.1.1 provide Crest Nicholson with two (2) copies of (and Crest Nicholson may retain) all such drawings, documents, details or descriptions the Sub-Contractor has prepared, or previously provided, as well as any drawings and information relating to the Contract Works completed before the determination of the Sub-Contractor's appointment;

40.1.2 If requested by Crest Nicholson, assign to Crest Nicholson within 14 days of the date of termination, without payment, the benefit of any agreement for the supply of materials or goods and/or for the execution of any work for the purposes of the Contract Works;

40.1.3 deliver up any plant, tools, equipment, materials and other work, for which the Sub-Contractor has received payment;

40.1.4 subject to clause 40.1.2, remove all plant, tools, equipment, materials and other goods from the Site, except as necessary for safety;

40.1.5 immediately take steps to cease the provision of the Contract Works in an orderly manner and with all speed and economy; and

40.1.6 where the termination was under clause 39.2 or for a reason set out in clause 39.3, allow or pay Crest Nicholson the amount of any loss or damage caused to Crest Nicholson by reasons of the termination.

40.2 Save where clause 40.4 applies, upon termination of the Sub-Contractor's engagement under the Agreement, Crest Nicholson will pay to the Sub-Contractor:

40.2.1 any instalments of the Contract Sum and other sums that have become due to the Sub-Contractor prior to the date of such termination and that remain unpaid;

40.2.2 a fair and reasonable proportion of the next following instalment of the Contract Sum commensurate with the Contract Works that the Sub-

40.2.3 a fair and reasonable sum towards the cost of demobilisation from Site and removal of all plant and equipment;

40.3 provided that the Sub-Contractor shall not be entitled to payment of any other costs, expenses, damages or losses arising from such termination including but not limited to any loss of profit, expectation, overheads or otherwise. Crest Nicholson shall not be liable to the Sub-Contractor for any other losses, costs, damages, claims or expenses accrued, suffered or incurred by the Sub-Contractor arising from, or in connection with, such termination including any loss of profit, loss of contract or loss of opportunity.

40.4 Where termination was under clause 39.2 or for a reason set out in clause 39.3, then clause 40.2 shall not apply and clause 40.4 and clause 40.5 shall apply. Crest Nicholson shall not be bound to make any further payment to the Sub-Contractor including but not limited to:

40.4.1 any sum that has already become due in respect of which Crest Nicholson has given or gives a Pay Less Notice under clause 31; or

40.4.2 any sum in respect of which since the last date on which Crest Nicholson could have issued such a Pay Less Notice the Sub-Contractor is subject to any of the procedures set out in clause 39.3.8.

40.5 The full and final cost of completion of the Contract Works by Crest Nicholson or by others shall be ascertained and Crest Nicholson shall calculate the amount of any and all damage, loss and/or expense suffered or incurred by Crest Nicholson in connection with the termination and/or as a result of completing the Contract Works itself or by others. If the amount of any such damage, loss and/or expense when added to the monies paid to the Sub-Contractor before the date of termination exceeds in total the amount due to the Sub-Contractor calculated in accordance with clause 31 up to the date of termination, the difference shall be a debt payable to Crest Nicholson by the Sub-Contractor (which shall be payable within 28 days of notification of such sum from Crest Nicholson to the Sub-Contractor) but otherwise shall be an amount payable to the Sub-Contractor by Crest Nicholson.

40.6 If the employment of the Sub-Contractor is terminated for any reason or without cause pursuant to clause 39.1, then Crest Nicholson may employ and pay other persons to carry out and complete

the Contract Works and to make good any Defects.

breached any obligations under this Clause 43.

- 40.7 Termination of the Sub-Contractor's engagement under the Agreement shall be without prejudice to any accrued rights and obligations of the parties as at the date of termination.

41. NO WAIVER

- 41.1 No waiver, forbearance, release, inspection, approval, comment, review, consent or omission to inspect, approve, comment, review or consent by Crest Nicholson or its employees, servants, sub-contractors or agents will, in any way, derogate or reduce the Sub-Contractor's duties and obligations in connection with the Contract Works.

42. APPROVALS AND INSPECTIONS

- 42.1 The obligations and liabilities of the Sub-Contractor under the Agreement shall not be released, diminished or in any other way affected by:

42.1.1 any enquiry, inspection, acknowledgement, admission, advice, comment, approval or consent made or given by or on behalf of Crest Nicholson;

42.1.2 any failure to make an enquiry or perform an inspection of the Contract Works by or on behalf of Crest Nicholson;

42.1.3 Crest Nicholson or its representative including the value of any design, work, materials or goods in any certificate or statement or any interim, stage or final payment or any confirmation that Practical Completion has been achieved; or

42.1.4 the appointment by Crest Nicholson of, or failure by Crest Nicholson to appoint, any clerk of works to inspect or otherwise report in respect of the Contract Works, or by any act or omission of any clerk of works.

43. ALL LAWS AND REGULATIONS

- 43.1 At all times, the Sub-Contractor, its personnel and agents will observe, perform and comply with all Acts of Parliament and other statutory provisions, regulations, byelaws, rules and approved codes of practice so far as they are applicable to the Contract Works.

- 43.2 The Sub-Contractor will notify Crest Nicholson immediately if it becomes aware, or has reason to believe that it or any of its personnel and agents, has

44. SUPPLY CHAIN CODE OF CONDUCT

- 44.1 At all times, the Sub-Contractor, its employees, agents, representatives, and sub-contractors shall maintain high ethical standards and adhere to, and act in accordance with, Crest Nicholson's supply chain guidelines, policies and code of conduct (as amended and updated from time to time) the latest versions of which are available from the following pages of Crest Nicholson's website:

<https://corporate.crestnicholson.com/supply-chain/>.

- 44.2 Any breach by the Sub-Contractor, its employees, agents, representatives, or sub-contractors (whether with or without the Sub-Contractor's knowledge) of clause 44.1 will be deemed to be a material breach of the Agreement for the purpose of Clause 39.

- 44.3 The Sub-Contractor permits Crest Nicholson or its representatives to access any relevant premises, personnel or records of the Sub-Contractor on reasonable notice to audit and otherwise verify compliance with this clause 44

45. ANTI-BRIBERY

- 45.1 Additional capitalised terms in this clause will have the meanings given to them in the Bribery Act, unless otherwise defined in the Terms and Conditions.

- 45.2 The Sub-Contractor warrants that it has not at any time prior to the date of the Purchase Order:

45.2.1 committed a Bribery Offence; or

45.2.2 been formally notified that it is subject to an investigation or prosecution that relates to an alleged Bribery Offence.

- 45.3 The Sub-Contractor undertakes that neither it nor its Associated Persons will:

45.3.1 engage in any activity, practice or conduct that could constitute a Bribery Offence; or

45.3.2 do or permit anything to be done that would cause Crest Nicholson or any of Crest Nicholson's employees, sub-contractors or agents to contravene any section of the Bribery Act or otherwise incur any liability relating to the Bribery Act.

- 45.4 The Sub-Contractor undertakes that it and any Associated Persons will:

45.4.1 comply with all obligations arising out of the Bribery Act; and

a supply chain which has a connection with the Agreement.

45.4.2 comply with Crest Nicholson's Anti-Bribery and Corruption Policy as amended, superseded and replaced from time to time. A copy of the latest version will be available from Crest Nicholson's website at: <https://corporate.crestnicholson.com/supply-chain/>.

45.5 The Sub-Contractor will notify Crest Nicholson immediately if it becomes aware, or has reason to believe that it has, or any of its Associated Persons have, breached any of the obligations under this Clause 45.

45.6 Any breach by the Sub-Contractor, its employees, agents, representatives, or sub-contractors (whether with or without the Sub-Contractor's knowledge) of this clause 45 shall be deemed to be a material breach of the Agreement for the purpose of Clause 39.

46. MODERN SLAVERY

46.1 In performing its obligations under the Agreement, the Sub-Contractor will, and will ensure that any of its employees will, comply with all applicable laws, statutes, and regulations in force relating to the Modern Slavery Act 2015. The Sub-Contractor represents, warrants and undertakes that it conducts its business in a manner that is consistent with the principles of the Modern Slavery Act 2015.

46.2 The Sub-Contractor will take reasonable steps to ensure that there is no modern slavery and human trafficking in any part of its own business or supply chain.

46.3 The Sub-Contractor warrants that it has not at any time prior to the date of this Agreement:

46.3.1 been convicted of any offence involving slavery; or

46.3.2 been notified that it is subject to an investigation or prosecution regarding any offence or alleged offence of, or in connection with, slavery.

46.4 At Crest Nicholson's request, the Sub-Contractor shall provide a statement of any such steps it has taken, and such other information as Crest Nicholson may reasonably require in order to enable Crest Nicholson to prepare a slavery and human trafficking statement in accordance with Section 54, Modern Slavery Act 2015. The Sub-Contractor shall notify Crest Nicholson immediately if it becomes aware of any actual or suspected slavery or human trafficking in

47. EQUALITY

47.1 The Sub-Contractor shall:

47.1.1 Take all reasonable steps to prevent any act of Third Party Harassment (within the meaning of the Equality Act 2010) from occurring;

47.1.2 Indemnify Crest Nicholson against all costs, claims, liabilities, expenses (including legal expenses on an indemnity basis) incurred in connection with or as a result of any claim or demand by any employee or by any third party in connection with any employment contract (whether in contract, tort, under statute or otherwise) in respect of any claim for any act of Third Party Harassment for which Crest Nicholson may be held liable under the Act as a result of any acts or omissions on the part of the Sub-Contractor or any person engaged by it, including its agents.

47.2 Any breach by the Sub-Contractor, its employees, agents, representatives, or sub-contractors (whether with or without the Sub-Contractor's knowledge) of this clause 47 shall be deemed to be a material breach of the Agreement for the purpose of Clause 39.

48. DATA PROTECTION

48.1 Additional capitalised terms in this clause will have the meaning given to them in the Data Protection Laws, unless otherwise defined in the Terms and Conditions.

48.2 Crest Nicholson will process data relating to the Sub-Contractor and its employees in accordance with the Privacy Notice.

48.3 The Sub-Contractor may be provided with Personal Data in the course, or for the purposes, of carrying out the Contract Works. Such Personal Data may relate to employees, suppliers, contractors and employees of suppliers or contractors of Crest Nicholson or any third party or any Customers ("**Data Subject**"). Unless specifically agreed otherwise, Crest Nicholson shall be the controller of any Personal Data and the Sub-Contractor shall be the processor.

48.4 The Sub-Contractor shall only use or process any Personal Data for the express purposes for which the same shall be provided which shall be:

48.4.1 if provided in connection with the carrying out of the Contract Works to a Property (including the remedying of

- any Defects) then only for purposes of contacting any Customer within which the Contract Works and/or any remedial works are to be carried out; and/or;
- 48.4.2 if for an express specific purpose then solely for or in relation to use for that express specific purpose; and/or;
- 48.4.3 if such Personal Data relates to employees of Crest Nicholson or any third party then solely for the declared purpose required by Crest Nicholson and such Personal Data shall be processed only in accordance with the express instructions of Crest Nicholson or the third party; and
- 48.4.4 any Personal Data shall be processed, used, distributed and stored in any event strictly in accordance with Data Protection Laws and any data protection principles published by the Information Commissioner's Office or any restatement or update or amendment thereto published from time to time and only for the period and purpose required by the terms of this Agreement.
- 48.5 The Sub-Contractor shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the Data Protection Laws and shall make such information available to any Information Commissioner on request.
- 48.6 To the extent the Sub-Contractor receives from, or processes any Personal Data on behalf of, Crest Nicholson, the Sub-Contractor shall:
- 48.6.1 process such Personal Data only in accordance with Crest Nicholson's written instructions from time to time (including those set out in this Agreement);
- 48.6.2 not process such Personal Data for any purpose other than those set out in this Agreement or otherwise expressly authorised by the Customer;
- 48.6.3 take reasonable steps to ensure the reliability of all its personnel who have access to such Personal Data, and ensure that any such personnel are committed to binding obligations of confidentiality when processing such Personal Data;
- 48.6.4 implement and maintain technical and organisational measures and procedures to ensure an appropriate level of security for such Personal Data, including protecting such Personal Data against the risks of accidental, unlawful or unauthorised destruction, loss, alteration, disclosure, dissemination or access;
- 48.6.5 not transfer, access or process such Personal Data outside the UK or the European Economic Area without the prior written consent of Crest Nicholson (and, if Crest Nicholson so consents, take such steps as are required by Crest Nicholson to ensure that the relevant transfer, access or processing complies with the Data Protection Laws);
- 48.6.6 inform Crest Nicholson within 24 hours if any such Personal Data is (while within the Sub-Contractor's or its subcontractors' or affiliates' possession or control) subject to a personal data breach (as defined in Article 4 of UK GDPR) or is lost or destroyed or becomes damaged, corrupted or unusable, and shall provide full and complete details of such loss or such unauthorised release or breach together with the steps to be taken in order to recover or otherwise minimise the effect of such breach or loss or unauthorised disclosure and the full and precise extent of the Personal Data the subject of such breach, loss or unauthorised disclosure and shall ensure that the designated contact for Crest Nicholson receives updated information in respect of the same at all times and shall also report any such breach, loss or unauthorised disclosure to the Information Commissioner's Office, as well as report to Crest Nicholson and shall otherwise fulfil each of its obligations in accordance with the data principles under the Data Protection Laws.
- 48.6.7 only appoint a third party (including any subcontractors and affiliates) to process such Personal Data with the prior written consent of Crest Nicholson, and notwithstanding any such appointment the Sub-Contractor shall be liable for the acts and omissions of any such third party as if they were the acts and omissions of the Sub-Contractor;
- 48.6.8 not disclose any Personal Data to any Data Subject or to a third party other than at the written request of Crest Nicholson or as expressly provided for in this Agreement;
- 48.6.9 as Crest Nicholson so directs, return or irretrievably delete all Personal Data on termination or expiry of this Agreement, and not make any further use of such Personal Data (except to the extent applicable law requires continued storage of the Personal Data by the Sub-Contractor and the Sub-Contractor has notified Crest Nicholson accordingly, in which case the provisions of this clause 48.6 shall

- continue to apply to such Personal Data);
- 48.6.10 provide to Crest Nicholson and any Information Commissioner all information and assistance necessary or desirable to demonstrate or ensure compliance with the obligations in this clause 48.6 and/or the Data Protection Laws;
- 48.6.11 permit Crest Nicholson or its representatives to access any relevant premises, personnel or records of the Sub-Contractor on reasonable notice to audit and otherwise verify compliance with this clause 48.6;
- 48.6.12 take such steps as are reasonably required to assist Crest Nicholson in ensuring compliance with its obligations under Articles 30 to 36 (inclusive) of UK GDPR;
- 48.6.13 notify Crest Nicholson within two (2) working days if it receives a request from a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data; and
- 48.6.14 provide Crest Nicholson with its full co-operation and assistance in relation to any request made by a Data Subject to exercise its rights under the Data Protection Laws in relation to that person's Personal Data.
- 48.7 If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with the Data Protection Laws, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.
- 48.8 Crest Nicholson shall as controller be responsible for ensuring there are appropriate legal grounds under Data Protection Laws for any processing of Personal Data undertaken by the Contractor.
- 48.9 Crest Nicholson confirms that save where specifically notified to the Sub-Contractor no special category Personal Data (as defined in the Data Protection Laws) is to be provided to the Sub-Contractor in connection with any contract and in the event of the Sub-Contractor receiving any special category Personal Data or Personal Data which it considers to be sensitive then the Sub-Contractor shall promptly notify Crest Nicholson of the same and shall, following such notification, take all immediate steps to delete the same from any of its records and confirm such deletion to Crest Nicholson.
- 48.10 The Sub-Contractor shall in connection with the use or processing of any Personal Data adhere to the provisions of the Privacy Notice.
- 48.11 In the event of any conflict between any obligation imposed by law, any obligation imposed by the Privacy Notice and any instructed purpose for use of any Personal Data then that order shall be the order of precedence in relation to and for the purposes of compliance by the Sub-Contractor under and with the terms of this Agreement.
- 48.12 Any breach of this clause by the Sub-Contractor shall entitle Crest Nicholson to recover damages on an indemnity basis from the Sub-Contractor for any cost, expense, loss, or fine incurred by Crest Nicholson which is attributable to the failure of the Sub-Contractor to meet its obligations under this Agreement.
- 48.13 The Sub-Contractor undertakes to perform its obligations under this Agreement in a manner that does not cause Crest Nicholson to breach Data Protection Laws.
- 48.14 The Sub-Contractor will indemnify Crest Nicholson, and keep Crest Nicholson indemnified, against all losses, damages, costs, expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by Crest Nicholson arising from any breach of the Sub-Contractor obligations under this Clause 48.
- 49. CONFIDENTIALITY**
- 49.1 Each party will keep secret and confidential all Confidential Information disclosed or obtained as a result of the relationship of the parties under this Agreement and will neither use nor disclose the Confidential Information, except for the purposes of the proper performance of this Agreement or with the prior written consent of the other party.
- 49.2 Each party will immediately return to the other party (or if the other party so requests, destroy) all of the other party's Confidential Information in its possession up to the termination date and will certify that it has done so. The other party will make no further use of the Confidential Information.
- 49.3 A party may disclose Confidential Information to the extent required:
- 49.3.1 By any order of any court or competent jurisdiction or any competent judicial,

governmental, regulatory or supervisory body;

49.3.2 By the rules of any listing authority, stock exchange or any regulatory or supervisory body with which the relevant party is bound to comply; or

49.3.3 By applicable laws or regulations,

49.3.4 Provided that the party disclosing the Confidential Information will, to the extent permitted by applicable law and regulation, inform the party whose Confidential Information is to be shared as soon as reasonably practicable of the full circumstances and the information required to be disclosure, consult with that party as to possible steps to avoid or limit disclosure, take such of those steps as the other party may reasonably require and, where the disclosure is to be by way of a public announcement, make reasonable efforts to agree the wording of the announcement with the other party in advance.

50. INTELLECTUAL PROPERTY RIGHTS

50.1 All materials, including any drawings and specifications supplied by Crest Nicholson and any copies made by, or for, the Sub-Contractor, shall be the property of Crest Nicholson and

50.1.1 may only be used for the purposes of the Contract Works;

50.1.2 Shall be treated as strictly confidential by the Sub-Contractor in accordance with clause 49; and

50.1.3 Shall be returned by the Sub-Contractor immediately to Crest Nicholson on its request at the Sub-Contractor's sole risk and cost.

50.2 The Sub-Contractor hereby grants (and to the extent it does not own, it will procure the copyright owner grants) to Crest Nicholson an irrevocable, non-exclusive and royalty-free licence to use and reproduce the Copyright Material for all purposes relating to the Contract Works, Site or Development or any part thereof, including but not limited to the construction, completion, reconstruction, modification, repair, reinstatement, refurbishment, extension redevelopment, maintenance, use, letting, promotion, marketing and advertisement of the Contract Works, Site or Development or any part of thereof. All amendments and additions to the Copyright Material that are now, or at any time in the future, prepared, designed, drawn, or created will be included. Such licence will include the right to grant sub-licences and be transferable to third parties without the Sub-Contractor's consent being required.

50.3 The Sub-Contractor warrants to Crest Nicholson that the Copyright Material is its own work and that its use in connection with the Contract Works, Site or Development will not infringe the rights of any third party. The Sub-Contractor hereby irrevocably waives any rights it may have under Chapter IV of Part 1 of the Copyright Designs and Patents Act 1988 and foreign corresponding rights in respect of the Copyright Material.

50.4 The Sub-Contractor agrees (and will promptly undertake at Crest Nicholson's request) to do all such acts or deeds, and execute all such documents, as may be required by Crest Nicholson to put into practice the provisions and intentions of this Clause 50. This will be at the Sub-Contractor's own cost.

50.5 The Sub-Contractor will not be liable for any use by Crest Nicholson of the Copyright Material for any purposes other than that for which the same was created in accordance with this Agreement.

50.6 The Sub-Contractor agrees on request at any time to give Crest Nicholson or any persons authorised by Crest Nicholson access to Copyright Material, to provide copies thereof and/or to provide Crest Nicholson with up to three sets or copies of the Copyright Material on Practical Completion or on termination of the engagement of the Sub-Contractor if earlier. The provision of further copies of the Copyright Material shall be subject to the reasonable copying costs of the Sub-Contractor.

50.7 The licence granted pursuant to clause 50.2 above shall survive termination of Sub-Contractor's engagement under the Agreement.

51. RECORDS AND AUDIT

51.1 The Sub-Contractor shall, for the Limitation Period, maintain accurate, up-to-date and complete records in a form suitable for inspection relating to the performance of its obligations under the Agreement.

51.2 The Sub-Contractor shall provide to Crest Nicholson within 14 days of a request, such other information, records, monthly management accounts or documents (redacted for any sensitive commercial information) in its possession or control that Crest Nicholson may reasonably request for the purpose of auditing any information supplied to Crest Nicholson under the Agreement, or verifying the Sub-Contractor's compliance with its obligations under the Agreement.

52. NOTICES

- 52.1 All notices (which shall include statements, comments, instructions, consents, applications, orders, approvals or other written communications) to be given or served hereunder shall, subject to clause 52.2, be:
- 52.1.1 in writing;
 - 52.1.2 signed by or on behalf of the party giving the notice;
 - 52.1.3 sent to the recipient's last known principal business address or (where a body corporate) its registered or principal office;
 - 52.1.4 sent by hand, by pre-paid first class post or other next working day delivery service (with proof of postage) or by email;
 - 52.1.5 deemed to have been received:
 - 52.1.5.1 if sent by hand at the time the notice is left at the address;
 - 52.1.5.2 if sent by post/delivery service at 9am on the second working day after posting;
 - 52.1.5.3 if sent by email, at the time of transmission
 - 52.1.6 And if deemed receipt under this clause would be later than 5pm on a working day, it shall be deferred until the next working day.
- 52.2 Clause 52.1.5.3 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution. Any notice of legal action or proceedings served by the Sub-Contractor will be copied to: Crest Nicholson PLC, 500 Dashwood Land Road, Bourne Business Park, Addlestone, Surrey, KT15 2HJ, marked for the attention of the Company Secretary.

53. DISPUTES - ESCALATION

- 53.1 Subject to clause 54.1, neither party shall commence formal dispute resolution proceedings until the earlier of:
- 53.1.1 the parties' designated representatives (as referred to in clause 53.2) jointly concluding that resolution of the dispute through continued negotiation of the matter does not appear likely; and

- 53.1.2 20 (twenty) working days after a party's written request under clause 53.2 was submitted to the other party and that other party has failed to appoint a designated representative.

- 53.2 Prior to the initiation of any formal dispute resolution proceedings, the parties shall first attempt to resolve their dispute informally, as follows:

- 53.2.1 upon the written request of either party to the other, each party shall appoint a designated representative for the purpose of endeavouring to resolve such dispute;

- 53.2.2 the designated representatives shall meet as often as either party reasonably deems necessary in order to gather and provide to the other all information with respect to the matter in issue which the party believes to be appropriate in connection with its resolution. The designated representatives shall discuss the problem and negotiate with each other in good faith in an effort to resolve the dispute informally;

- 53.2.3 during the course of negotiations, all reasonable requests made by either party to the other for non-privileged information, reasonably related to the Agreement, shall be honoured in order that each of the parties may be fully advised of the other's position; and

- 53.2.4 the method of endeavouring to resolve the dispute shall be left to the discretion of the designated representatives.

54. DISPUTES - ADJUDICATION

- 54.1 If any dispute or difference arises under, or in connection with, the Agreement, either party may at any time refer it to adjudication and Part 1 of the Schedule to the Scheme for Construction Contracts (England and Wales) Regulations 1998 (as may be modified, amended or re-enacted from time to time) (the "**Scheme**") will apply, subject to the nominating body for the appointment of an adjudicator being the Technology and Construction Bar Association (TECBA) for the purposes of the Scheme.

55. DISPUTES – MEDIATION

- 55.1 Subject to clauses 53.1 and 54.1, if any dispute arises out of the Agreement, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution's (CEDR) Model Mediation Procedure.

56. ENTIRE AGREEMENT AND EXCLUSION OF TERMS

- 56.1 The Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.
- 56.2 Each party acknowledges that, in entering into the Agreement, it has not relied on and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in the Agreement.
- 56.3 Nothing in this clause shall limit or exclude any liability for fraud.
- 56.4 Unless any amendment is specifically drafted as a variation to the Terms and Conditions in the Purchase Order, any terms or conditions that may be endorsed or annexed to, contained in, or embodied in the Tender Submission or other offer document will not form part of the relevant Agreement nor otherwise apply to the Contract Works.

57. PARTIAL INVALIDITY

- 57.1 If, at any time, any provision of the Agreement is or becomes illegal, invalid or unenforceable under any law of any relevant jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

58. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 58.1 Notwithstanding any other provision of the Agreement, nothing in the Agreement apart from Clause 58.2 confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.
- 58.2 Any third party that is referred to in Clause 27.5 will be entitled to enforce the terms of Clause 26 and clause 27 on the Sub-Contractor.

59. LIAISON AND COOPERATION

- 59.1 In the event that any inspection is made of the Contract Works for the purpose of determining whether they comply with the Building Regulations, the requirements of the NHBC and/or any other statutory or qualitative requirements, the Sub-Contractor will provide all reasonable co-operation and will not be entitled to any addition to the Contract Sum or any extension to the Finish Date by reason of such co-operation.

60. GOVERNING LAW AND JURISDICTION

- 60.1 The Agreement, the Contract Works and any non-contractual obligations arising out of them shall be governed and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English courts.

61. LIMITATION

- 61.1 The Agreement (which shall include the Purchase Order and the Terms and Conditions) howsoever signed by either party shall take and have effect as a deed. Neither Crest Nicholson nor the Sub-Contractor will rely upon a defence in any proceedings commenced under or in connection with the Agreement pursuant to Section 5 of the Limitation Act 1980 otherwise to the effect that the Agreement is subject to a limitation period of anything less than the Limitation Period.
- 61.2 No action or proceedings shall be commenced against the Sub-Contractor under the Agreement following expiry of the Limitation Period.
- 61.3 Nothing in this clause 61 limits either party's right to commence any action or proceeding against the other party or to claim a contribution in accordance with the Civil Liability (Contribution) Act 1978.

62. PORTAL

- 62.1 The Sub-Contract shall comply with Crest Nicholson's requirements in respect of any Portal.

SCHEDULE 1: CUSTOMER SERVICE STANDARDS

1. Priority Classifications

Classification	Description	Contact with Customer	Response Time
Priority 1: Emergency Repairs	An immediate and significant risk of harm to the health and safety of an occupier (taking into account any reported vulnerabilities) (" Emergency Hazard "), or, to the structural safety of the Property	Immediately	Attendance within 6 hours to make safe and make good within 24 hours
Priority 2: Urgent Repairs	A significant risk of harm to the health and safety of an occupier (taking into account any reported vulnerabilities) (" Significant Hazard "), or, to the structural safety of the Property but not "immediate" therefore not a Priority 1 Emergency Repair but still requiring an urgent response	Within 24 hours	Make good within 3 working days
Priority 3: Non-Urgent Repairs	Less urgent repairs that are not Priority 1 Emergency Repairs or Priority 2 Urgent Repairs or Priority 4 Routine Repairs	Within 24 hours	Make good within 14 working days
Priority 4: Routine Repairs	Non-urgent decorative repairs and snags	Within 24 hours	As advised by Crest Nicholson's customer services and no shorter than the timescale for Priority 3 Defects

- 1.1. The Sub-Contractor shall comply with Crest Nicholson's repairs priorities/response times as set out above and on times and dates agreed with the Customer unless materials with lead-in times have to be ordered or the Customer agrees to a longer time frame.
- 1.2. The timescale shall commence from receipt by the Sub-Contractor of the Work Instruction.
- 1.3. The Sub-Contractor agrees that Crest Nicholson's customer services shall at its absolute discretion, apply the relevant priority to the reported Defect.

2. Priority 1: Emergency Repairs

Priority 1 Defects may include but are not limited to the following if the definition of an Emergency Hazard is satisfied (save where responsibility of Statutory Undertaker):

- 2.1. Excessive cold or heat including complete failure of heating and/or hot water (including broken boilers);
- 2.2. Defects causing an inability to attend to personal hygiene or food safety;
- 2.3. Faulty fire systems including ill-fitting doors, windows, carbon monoxide/dioxide detectors, mechanical ventilators and smoke detectors;
- 2.4. Significant structural defects or disrepair including structural collapse;
- 2.5. Complete failure of electrics or partial failure including electrical hazards (exposed wiring or electrical fittings in contact with water);
- 2.6. Gas leaks or explosion risk or total loss of gas;
- 2.7. Mains water, gas or electric supplies cannot be turned off at the relevant stop cock or switch;
- 2.8. Water leaks that cannot be contained e.g. burst heating pipe, tank or cistern and including leaks from roofs or total loss of water supply;
- 2.9. Blocked drains and blockages to toilet where there is only one toilet in the Property;
- 2.10. Hazardous materials leaking in or around the property (e.g. faulty boiler, blocked flues or sewage leaks from cracked or broken soil vent pipe);
- 2.11. Re-fixing loose fixtures or safety features or uneven surfaces (e.g. stairs, steps) causing risk of a slip or fall;

- 2.12. Risks to personal or property security on ground floor only, including windows, doors etc, external doors, locks where the property is insecure;
- 2.13. Communal door or door entry system of property not secure or unable to access;
- 2.14. An emergency hazard can also include serious damp and mould that is having a material impact on an occupant's health, for example their ability to breathe.

Due to the nature of Emergency Repairs and Crest Nicholson's obligations under contract and/or regulations, particularly where notice is received from the Customer out of hours, the Sub-Contractor is put on notice that these repairs shall be allocated to a third party and the cost recovered from the Sub-Contractor pursuant to clause 27.4 unless the Sub-Contractor has specifically notified Crest Nicholson that it has emergency 24-hour cover in place.

3. Priority 2: Urgent Repairs

Priority 2 Defects may include but are not limited to the following if the definition of a Significant Hazard is satisfied (save where responsibility of Statutory Undertaker):

- 3.1. Failure of toilets and drains (or blockages) where there is at least one toilet in working order;
- 3.2. Damp and mould growth;
- 3.3. Leaking roof and gutters;
- 3.4. Electrical faults;
- 3.5. Faulty heating system;
- 3.6. Re-fixing loose fixtures or safety features or uneven surfaces (e.g. stairs, steps) causing risk of a slip or fall;
- 3.7. Partial loss of water supply;
- 3.8. Partial loss of electrical supply.

Due to the nature of Urgent Repairs and Crest Nicholson's obligations under contract and/or regulations, the Sub-Contractor is put on notice that these repairs shall be allocated to a third party and the cost recovered from the Sub-Contractor pursuant to clause 27.4 unless the Sub-Contractor has specifically notified Crest Nicholson that it shall rectify the Defect within the required timescale upon receipt of the Work Instruction.

4. Priority 3: Non-Urgent Repairs

Priority 3 Defects may include but are not limited to the following:

- 4.1. Minor problems with toilets, baths, sinks, doors or windows sticking, plaster repairs, brickwork, etc;
- 4.2. Easing of windows;
- 4.3. Faulty fitted kitchen units;
- 4.4. Faulty internal doors/ironmongery;
- 4.5. Flooring surfaces but where no risk of slips and fall;
- 4.6. Fencing;
- 4.7. Paths and driveways;
- 4.8. Repairs to unadopted paths and communal areas where there is no danger to residents;
- 4.9. Plastering and tiling repairs;
- 4.10. Extractor fan in bathroom or kitchen not working.

Due to Crest Nicholson's obligations under contract and/or regulations, the Sub-Contractor is put on notice that these repairs shall be allocated to a third party and the cost recovered from the Sub-Contractor pursuant to clause 27.4 unless the Sub-Contractor has specifically notified Crest Nicholson that it shall rectify the Defect within the required timescale upon receipt of the Work Instruction.

5. Priority 4 – Routine Repairs

Priority 4 Defects are defects which require non-urgent decorative repairs and snags to be completed within a timescale advised by Crest Nicholson's customer services which shall be no shorter than the timescale for Priority 3 Defects. Rectification required to be decided by Crest Nicholson's Customer Services upon allocation of the Work Instruction.

Due to Crest Nicholson's obligations under contract and/or regulations, the Sub-Contractor is put on notice that these repairs shall be allocated to a third party and the cost recovered from the Sub-Contractor pursuant to clause 27.4 unless the Sub-Contractor has specifically notified Crest Nicholson that it shall rectify the Defect within the required timescale upon receipt of the Work Instruction.

6. Office Hours and Out of Hours

- 6.1. Crest Nicholson's office hours are 8.30am to 5.00pm, and anything outside of this will be classed as out of hours.
- 6.2. All work carried out by or on behalf of the Sub-Contractor should normally be undertaken during normal working hours.
- 6.3. The Sub-Contractor may receive out of hours calls from Crest Nicholson or alternatively, Crest Nicholson's external provider or a Housing Association/Registered Provider or other bulk sale customer. The Sub-Contractor is expected to attend to all repairs passed to the Sub-Contractor through these third parties.
- 6.4. The Sub-Contractor shall immediately inform Crest Nicholson's customer services immediately if out-of-hours contact information changes at any time.

7. Notification of Defects and Work Instruction

- 7.1. All Defects are screened by Crest Nicholson's customer services, who will notify the Sub-Contractor in writing as and when they occur during the Defects Liability Period.
- 7.2. In cases of an Emergency Repair, a verbal instruction may be given and confirmed in a Works Instruction at a later time or date.
- 7.3. Crest Nicholson's customer services will provide the Sub-Contractor with:
 - 7.3.1. a description of the incident;
 - 7.3.2. the plot number and address;
 - 7.3.3. contact details of the Customer for access to the Property ("**Work Instruction**").

8. Arranging Access with the Customer

- 8.1. The Sub-Contractor shall make direct arrangements with the Customer for access to the Property and the Sub-Contractor, its agent or sub-contractors shall not attend the Property without having an appointment arranged with the Customer.
- 8.2. All appointments with the Customer shall give an approximate arrival time within a 2-hour window, e.g. *'no earlier than 11am or after 1pm'*.
- 8.3. The Sub-Contractor will be charged a £50 non-refundable fee or 15% of the cost of the repair (whichever is greater) for Sub-Contractor non-attendance, as outlined in clause 28.5.

9. Communication with Crest Nicholson's Customer Services

- 9.1. The Sub-Contractor shall keep the Crest Nicholson's customer services fully informed as soon as possible on progress on the Work Instruction using the system and update method agreed with Crest Nicholson prior to visiting the Property. Such updates to include but not be limited to:
 - 9.1.1. if the Customer cannot be contacted;
 - 9.1.2. any issues arising which prevent access;
 - 9.1.3. confirmation that the appointment is made;
 - 9.1.4. the date and time of the appointment and the 2-hour arrival window communicated to the Customer;

- 9.1.5. whenever an agreed time or activity needs to be amended
 - 9.1.6. the Sub-Contractor's date and time of attendance at the appointment;
 - 9.1.7. if the Customer or Sub-Contractor do not attend at the agreed time and date;
 - 9.1.8. where non-attendance is due to the Sub-Contractor, reasons for non-attendance and confirmation that the Customer has been notified;
 - 9.1.9. if the Sub-Contractor discovers upon attendance at the Property that the Work Instruction is not a genuine Defect;
 - 9.1.10. any issues encountered during the appointment which may lead to a Customer complaint;
 - 9.1.11. any material delays;
 - 9.1.12. the expected delivery date for parts and when a re-visit will occur to complete the work;
 - 9.1.13. any longer time for completion agreed with the Customer;
 - 9.1.14. If the Defect is not rectified, that the Customer has been updated with next steps and details of the next steps communicated to the Customer; and
 - 9.1.15. Within 24 hours, the date and time that the Defect was rectified.
- 9.2. The Sub-Contractor shall complete, sign and return to Crest Nicholson's customer services any documentation required to confirm that the Defect has been rectified.
- 9.3. The Sub-Contractor shall send Crest Nicholson a routine update of all open issues on a weekly basis using the system and update method agreed with Crest Nicholson.

10. Customer Sign-Off

Completed work must be confirmed and signed by the Customer. If the Customer is unavailable, then this confirmation and signature must be made by a representative of Crest Nicholson.

11. Working in Occupied Properties

- 11.1. The Sub-Contractor is responsible for ensuring that work in occupied properties is carried out with a minimum inconvenience to the Customer.
- 11.2. The Sub-Contractor shall and shall procure that its agents, employees, representatives and sub-contractors shall:
 - 11.2.1. attend the Property in a respectful, courteous and presentable manner;
 - 11.2.2. arrive promptly at the pre-arranged time and presenting their identity card;
 - 11.2.3. contact Crest Nicholson's customer services immediately if there is any doubt or ambiguity about the nature or the extent of the work to be undertaken. The Sub-Contractor must not leave the Property until receiving clarification of the work required from Crest Nicholson's customer services;
 - 11.2.4. explain the work being carried out to the Customer;
 - 11.2.5. carry out the work in a profession manner with due skill and care;
 - 11.2.6. provide necessary protection for the work area (see further below);
 - 11.2.7. use a digital camera for recording the issue(s);
 - 11.2.8. supply all necessary materials to complete the works;
 - 11.2.9. if materials need to be ordered, notify the Customer of the expected delivery date and when a re-visit will occur to complete the work;
 - 11.2.10. clear up as necessary at the end of each day, and clear up fully after works are completed;

- 11.3. The Sub-Contractor shall not and shall procure that its agents, employees, representatives and sub-contractors shall not:
- 11.3.1. Enter the property except with the consent of the Customer and only when there is a 18+ year old adult-Customer in attendance;
 - 11.3.2. attend a Property under the influence of drugs and/or alcohol;
 - 11.3.3. use the facilities at the Property except in an emergency and with the permission of the Customer;
 - 11.3.4. make or receive calls except with the Customer's permission and for the purposes of the rectification of the Customer's defect;
 - 11.3.5. smoke or vape anywhere on the Property, even outdoors;
 - 11.3.6. wear outdoor footwear in the property (clean slippers or overshoe protectors may be worn);
 - 11.3.7. use radio, music device, headphones etc. except with the consent of the Customer;
 - 11.3.8. criticise work carried out by others;
 - 11.3.9. reveal confidential information or disclose Customer Personal Data;
 - 11.3.10. leave waste and un-used materials in the Property, or anywhere else on the Site/Development.
- 11.4. If Crest Nicholson is required to hire cleaners to clean a Property after works are completed, the cost of the cleaners will be recoverable from the Sub-Contractor as a debt or may be deducted from any moneys due to the Sub-Contractor.

12. Protection of Properties During Works

- 12.1. Properties must be fully protected while all works are undertaken. This protection must include, but not be limited to:
- 12.1.1. Dust sheets on the floor from the exterior door to the place(s) of work in the Property;
 - 12.1.2. Safe removal of items from the areas of work;
 - 12.1.3. Protective clean dust sheets placed over all items that are not removed;
 - 12.1.4. Plastic placed under dust sheets to cover electrical goods and soft furnishings.
- 12.2. If any damage is caused by the Sub-Contractor while works are being undertaken, the Sub-Contractor shall notify Crest Nicholson' customer services immediately and Crest Nicholson reserves the right to employ others to repair the damage in accordance with clause 27.4.
- 12.3. Crest Nicholson will charge the Sub-Contractor the cost of hiring a cleaner when a Property is left untidy after remedial works by the Sub-Contractor are completed.

13. Photographic Evidence

- 13.1. With the Customer's permission, photographic evidence of the Defect, the rectification (or if it is not rectified, a photograph of the issue) must be taken at the appointment together with a photograph of the Sub-Contractor leaving the Customer's home clean and tidy.
- 13.2. If the Customer does not agree to photographs being taken, the Sub-Contractor shall report this to Crest Nicholson's customer services as soon as possible.
- 13.3. Subject to the above, claims for any work carried out that are not part of the Defect must be supported by photographic evidence.

14. Allocation of Defects to Third Parties and Contra Charges

Classification	Allocation of Defects to Third Parties	Notice to Sub-Contractor	Contra Charge Third Party Cost to Sub-Contractor?
Priority 1: Emergency Repairs	Where any Defects require immediate attention and it is not reasonably practicable to wait for the Sub-Contractor to attend (clause 27.4). OR Where the Sub-Contractor does not attend in the timescale to attend or there is unreliability due to repeated non-compliance or non-attendance (clause 28.4).	No	Yes
Priority 2: Urgent Repairs	Where any Defects require immediate attention and it is not reasonably practicable to wait for the Sub-Contractor to attend (clause 27.4). OR Where the Sub-Contractor does not attend in the timescale to attend or there is unreliability due to repeated non-compliance or non-attendance (clause 28.4).	No	Yes
Priority 3: Non-Urgent Repairs	Where the Sub-Contractor does not attend in the timescale to attend or there is unreliability due to repeated non-compliance or non-attendance (clause 28.4).	No	Yes
Priority 4: Routine Repairs	Where the Sub-Contractor does not attend in the timescale to attend or there is unreliability due to repeated non-compliance or non-attendance (clause 28.4).	No	Yes

15. Administration Fees

Classification	Crest Nicholson's Administration Fee for Arranging Attendance	Crest Nicholson's Administration Fee for Sub-Contractor's Non-Attendance	Contra Charge Administration Fee to Sub-Contractor?
All Priorities (including 1-4)	A reasonable non-refundable fee (clause 27.1)	Minimum £50 or 15% of the repair cost (whichever is greater) non-refundable fee (clause 28.5)	Yes

16. Health & Safety

Sub-Contractors will comply with current Health & Safety legislation, ensuring appropriate risk assessments are in place, i.e. Lone Working, Working in Occupied Properties, etc. Where requested, the Sub-Contractor will provide for Crest Nicholson's risk assessment and method statements for exceptional risks identified.

17. Quality Control

The Sub-Contractor shall have a system for checking that rectification of Defects is carried out in accordance with this Agreement and the Sub-Contractor shall take all necessary steps to improve sub-standard performance without delay. The Sub-Contractor shall comply with all quality control policies and processes notified to the Sub-Contractor by Crest Nicholson from time to time.

18. Material and Spare Parts

- 18.1. The Sub-Contractor shall supply all replacement materials, unless previously agreed in writing that they shall be supplied by Crest Nicholson. The replacement materials shall be provided by the Sub-Contractor to meet the timescales set out in this Schedule.
- 18.2. The Sub-Contractor shall be liable for Crest Nicholson's costs where Crest Nicholson sources replacement materials directly or from alternative sources.

SCHEDULE 2: SUB-CONTRACTOR COLLATERAL WARRANTY

Please refer to: <https://corporate.crestnicholson.com/supply-chain/>

SCHEDULE 3: SUB-CONTRACTOR SUB-CONTRACTOR COLLATERAL WARRANTY

Please refer to: <https://corporate.crestnicholson.com/supply-chain/>

SCHEDULE 4: SUB-CONTRACTOR CONSULTANT COLLATERAL WARRANTY

Please refer to: <https://corporate.crestnicholson.com/supply-chain/>

SCHEDULE 5: LETTER OF RELIANCE

Please refer to: <https://corporate.crestnicholson.com/supply-chain/>