

## Work Order – Terms and Conditions

### 1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

#### 1.1 Definitions:

**Affiliate:** in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.

**Compliance List:** List of required certification and documents requested by the Customer including certificates of competence, evidence of requisite knowledge, qualifications and experience.

**Confidential Information:** commercially sensitive information or information which is notified to the Supplier in writing by the Company as being confidential (whether oral or in documentary electronic format or any other format) and the personal information of Service Users, reasonably capable of being used to identify individual Service Users provided or supplied to the Supplier and or their staff, agent or surveyor under or in connection with the Contract other than:

(a) any information which is already in the public domain otherwise than as a result of a breach of Contract.

(b) any information that the Supplier (in their reasonable discretion) is required to divulge to any potential purchaser, investor, lender, creditor, employee, contractor or agent except in relation to personal information that may be used to identify individual Service Users, or

(c) any information obtained from a third party who is free to divulge such information.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 15.8.

**Contract:** the contract between the Customer and the Supplier for the supply of Goods or Services or Goods and Services in accordance with these Conditions. control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be interpreted accordingly.

**Customer:** Mack Residential Limited registered in England and Wales with company number 00543523.

**Customer Materials:** has the meaning set out in clause 5.4(i).

**Data Protection Legislation:** the UK Data Protection legislation and any other European Union Legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Delivery Date:** the date specified in the Order.

**Delivery Location:** the address for delivery of Goods as set out in the Order.

**Goods:** the goods (or any part of them) set out in the Order.

**Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.

**Mandatory Policies:** the Customer's business policies provided to or notified to the Supplier by the Customer, and as amended from time to time by notification to the Supplier, including its Supplier Code of Conduct.

**Order:** the Customer's order for the supply of Goods and/or Services, as set out in the Customer's Works Order. Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**Service Specification:** the description or specification for Services set out in the Works Order. Service Users: tenants or other occupants of properties supplied, procured or serviced by the Customer. Supplier: the person or firm from whom the Customer purchases the Goods or Services or Goods and Services.

**Staff:** means staff, delegates, sub-contractors, new personnel onboarded during the contract who may come into contact with Service Users.

**Termination Date:** the date on which the Works Order has been completed or earlier if the Contract is ended in accordance with clause 12 (Termination) or clause 15 (Force Majeure) of these Conditions.

**Works Order:** any request for work given by the Company to the Supplier including order, specification, emails and other written communications.

#### 1.2 Interpretation:

(a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

(b) A reference to a party includes its personal representatives where the party is an individual, successors and permitted assigns.

(c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

(d) Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

(e) A reference to writing or written excludes fax but not email.

(f) Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

(g) The Schedule forms part of the Contract and shall have effect as if set out in full in the body of this the Contract. Any reference to the Contract includes the Schedule.

## **2. Basis of contract**

2.1 The Order constitutes an offer by the Customer to purchase Goods or Services or Goods and Services from the Supplier in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence (Commencement Date).

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

## **3. Supply of Goods**

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Goods Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and
- (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.3 The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.4 If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

## **4. Delivery of Goods**

4.1 The Supplier shall ensure that:

- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (c) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

- (a) on the Delivery Date;
- (b) at the Delivery Location; and
- (c) during Business Hours or as instructed by the Customer.

4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.4 If the Supplier:

- (a) delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or
- (b) delivers more than 105% of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods, and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 6.1.

4.6 Title and risk in the Goods shall pass to the Customer on completion of delivery.

## **5. Supply of Services**

5.1 The Supplier shall from the Commencement Date and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.

5.3 In the event the Supplier delegates or sub-contracts any of the Services, any reference to any actions or Services undertaken by the Supplier shall include those undertaken by a subcontractor or delegate providing the Services or part of the

Services. No such subcontracting or delegation by the Supplier shall in any way exclude or relieve the Supplier from its obligations under this Contract and the Supplier is responsible to the Customer for the acts, omissions, defaults or breaches of contract of such sub-contractors or delegates as if they were acts, omissions, defaults or breaches of contract of the Supplier.

5.4 In providing the Services, the Supplier shall:

- (a) co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises or location the Services are to be carried out;
- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (Customer Materials) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- (j) not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;
- (k) only delegate performance of the Services to such suitably qualified and experienced personnel as they may from time to time deem appropriate. The delegation will be subject to the Customer's consent (not to be reasonably withheld), and provision of satisfactory items identified in the Compliance List for the delegate. The Supplier must not permit the delegate to commence providing any of the Services until all documents have been provided and checks

completed as detailed in the Compliance List for that delegate and the Customer has given written approval of that delegate.

(l) Keep the Customer informed of progress of the Services in which they are engaged and produce written reports on the same from time to time when so requested by the Customer. While the Supplier's method of working is entirely their own and they are not subject to the control of the Customer, they shall nevertheless comply with this and any other reasonable requests of the Customer or its clients.

(m) Notify the Customer in writing within 3 working days of the occurrence of a change of control of the Supplier.

(n) Notify the Customer if at any time any circumstances change so that the information given to the Customer in response to the Compliance List is no longer correct in respect of the Contract.

(o) The Supplier, its Affiliates and delegates must treat all Service Users in a polite, courteous and respectful manner, recognising their rights as individuals and respecting the confidential nature of personal data in their possession.

(p) The Supplier shall ensure that it has carried out due diligence on any subcontractors it engages and has obtained the documents and information from them in respect of the Compliance List. The Supplier is responsible for ensuring all checks have been completed in respect of the sub-contractor and the outcome of those checks is satisfactory.

(q) The Supplier must share the documents and information requested from the subcontractor with the Customer at the Customer's request.

## **6. Customer remedies**

6.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, the Customer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make;

(c) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods or services from a third party;

(d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered; and

(e) to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

(c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

(d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

(e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and

(f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

6.3 If the Supplier has supplied Services that do not comply with the requirements of clause 5.4(d) then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:

(a) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;

(c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);

(d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;

(e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and

(f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 5.4(d).

6.4 These Conditions shall extend to any substituted or remedial services or repaired or replacement goods supplied by the Supplier.

6.5 The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

## **7. Customer's obligations**

7.1 The Customer shall:

(a) provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and

(b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

### **Charges and payment**

7.2 The price for the Goods:

(a) shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and

(b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.

7.3 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise

agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

7.4 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.

7.5 In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, unless specifically agreed otherwise, the Supplier shall invoice the Customer within 14 days of completion of the Services being completed. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant purchase order number, VAT Registration number (where applicable), company number and / or trading name if applicable and their bank account details

7.6 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

7.7 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods or Services or both, as applicable, at the same time as payment is due for the supply of the Goods or Services.

7.8 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from 3 days after the dispute is resolved until payment.

7.9 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

## **8. Indemnity**

8.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or



consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:

(a) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables, to the extent that the defects in the Goods or Deliverables are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

(b) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

8.2 This clause 8 shall survive termination of the Contract.

## **9. Insurance**

9.1 During the term of the Contract the Supplier shall maintain in force, with a reputable insurance company, adequate contractors' insurance which must include professional indemnity insurance, employer's liability insurance where applicable, car/van insurance for all vehicles used in connection with the Contract, cover in respect of all and any contractors they use to carry out the Services, product liability insurance where applicable and public liability insurance (minimum £10 million) to cover the liabilities that may arise under or in connection with the Contract, and shall produce to the Customer within 14 days of request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

9.2 Not take or fail to take any reasonable action, or permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under such insurance policy.

9.3 Apply or procure that any subcontractor applies if applicable, any proceeds of any insurance referred to in clause 10 in the case of third party legal liability or employer's liability insurance, in satisfaction of the claim in respect of which the proceeds are payable.

## **10. Compliance with relevant laws and policies**

10.1 The Customer takes a zero-tolerance approach to sexual harassment and bullying and follows its Anti-Bullying and Harassment Policy and Sexual Harassment Policy in relation to this. The Supplier shall ensure its staff are aware of and comply with these policies.

10.2 In performing its obligations under the Contract, the Supplier shall:

(a) comply with all applicable laws, statutes, regulations and codes from time to time in force; and  
(b) comply with the Mandatory Policies.

(c) Adhere to, comply with and supply all relevant documents, including updated checklists and assessments as referred to and contained in the Compliance List as amended from time to time.

## **11. Data protection**

11.1 The Supplier shall comply with all Data Protection Legislation.

## **12. Termination**

12.1 Without affecting any other right or remedy available to it, the Customer may terminate the Contract:

(a) with immediate effect by giving written notice to the Supplier if: (i) there is a change of control of the Supplier; or (ii) the Supplier commits a breach of clause 10.

(b) for convenience by giving the Supplier not less than 1 months' written notice;

(c) The Supplier is charged with or convicted of any criminal offence other than a minor driving offence under the Road Traffic Act;

(d) The Supplier does any act manifestly prejudicial to the interests of the Customer or which in the opinion of the Customer may be the Customer or its client(s) into disrepute;

(e) The Customer shall have no liability to the Supplier for any expense, losses, damages and / or costs that the Supplier incurs in respect of termination of the Contract for of the reasons specified in clause 12.1 a ii), 12.1 c) or d).

12.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 7 days after being notified in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their own affairs or becomes a patient under any mental health legislation.

## **13. Consequences of termination**

13.1 On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and

return all Customer Materials, keys and any other items which may be in their possession, custody or control and which are the property of the Customer or which otherwise relate in any way to the business or affairs of the Customer and no copies of the same or any part shall be retained by the Supplier. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

13.2 If required by the Customer, the Supplier shall make a declaration that the whole of the provisions of clause 13.1 and clause 14.4 have been complied with.

13.3 Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

13.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

#### **14. Confidentiality**

14.1 The Supplier undertakes to the Customer that it and its staff, agents, subcontractors and delegates:

a) shall not use any Confidential Information for its own purposes or to obtain a commercial trading or other advantage but shall only use Confidential Information for the sole purpose of carrying out the Services or supplying the Goods to the Customer;

b) shall implement procedures sufficient to ensure that staff not engaged in the provision of Services to the Customer shall not obtain, have access to or disclose any Confidential Information;

c) shall promptly notify the Customer if any Confidential Information is required to be disclosed by any law, regulation, Governmental or other authority and co-operate with the authority and or the Customer regarding the manner of such disclosure or any action which the authority or the Customer may elect to take to challenge legally the validity of such requirement; and

(d) shall promptly notify the Customer of any breach of this clause 14 upon becoming aware of such breach and shall assist the Customer regarding any action which they may choose and for the avoidance of doubt that it shall not speak / write to the press or other media about any matter arising from the performance of the obligations without the prior consent of the Customer and shall not advertise the fact that the Customer may be providing accommodation to the Service Users other than with the written consent of the Customer.

14.2 The Supplier shall not at any time after the Termination Date use or procure the use of the name of the Customer in connection with their own or any other name in any way calculated to suggest that they continue to be connected with the business of

the Customer or in any way hold themselves out as having such connection;

14.4 On termination of the Contract the Supplier shall cause all Confidential Information in whatever medium the same is recorded or held by it to be returned, deleted or destroyed according to the written instructions of the Customer (unless under a separate obligation to maintain records required by law.)

(a) The Supplier shall ensure that any personal information concerning any Service Users or any other matter concerning the use of premises by the Customer for accommodation of Service Users disclosed to it in the course of any dealing with the property subject to the Works Order is treated as confidential and should only be disclosed to a third party with the consent of the Customer (unless the Service Users are considered at risk or it is a requirement of law or regulation to disclose such matters). In the event of any doubt arising from this clause the Supplier shall seek the views of the Customer whose decision on the matter shall be final and binding.

In particular the Supplier:

(a) shall have in place appropriate policies and procedures to recognise and maintain the Service Users need for confidentiality;

(b) shall ensure that details of the Service Users or their dependents are not released to the press (including in house and trade) or any other commercial organisation and that any information concerning Service Users or their dependents shall not be passed to nor allowed to fall into the hands of any agency (with the exception of any law enforcement agency), company or individual not specified by the Customer or without the written consent of the Customer; and

(c) shall not make a press release or other public document containing Confidential Information to be issued and shall not make any public statement concerning Confidential Information without the prior written approval of the Customer as to its content and the manner and extent of its publication.

15.5 the Supplier acknowledges that personal information held on any electronic data base or other files, is subject to the provisions of the Data Protection Legislation (to the extent in force from time to time.) The Supplier shall ensure that it complies at all times with the provisions and obligations contained in the Data Protection Legislation as applicable.

#### **15. Force majeure**

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The party affected by the force majeure event shall promptly notify the other party in writing of the start of the Force Majeure event and shall use all reasonable endeavours to limit the effect of the Force Majeure event on the performance of its obligations. On such notification,

the non-affected party may at its option terminate the Contract with immediate notice.

#### **16. Assignment and other dealings.**

(a) The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.

#### **17. Subcontracting.**

17.1 The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer.

17.2 If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

#### **18. Staff and Delegates**

18.1 The Supplier agrees that before Staff are engaged in delivering the Services they shall first undergo a Disclosure and Barring Service (DBS) or equivalent check at the basic level (or such other check as may be required by the Customer from time to time). DBS (or equivalents) checks shall be at the Supplier's cost and must be repeated a minimum of every 3 years.

18.2 The Supplier consents to the disclosure of the DBS check outcomes to the Customer. The Customer will handle all DBS information in accordance with Data Protection Legislation and will use the information solely for the purpose of assessing that person's suitability to provide the Services.

18.3 The Supplier shall not permit any Staff who the Disclosure and Barring Service discloses has a relevant conviction and / or that it would be inappropriate to be engaged; to provide any of the Services.

18.4 The Supplier must inform the Customer immediately they become aware of any reason a member of Staff should no longer be engaged in providing any of the Services and take action to ensure they are no longer engaged in providing any of the Services. This includes but is not limited to a person being investigated for or charged with a criminal offence.

18.5 The Supplier must ensure that all Staff receive safeguarding training with an accredited company and on request provide a signed declaration confirming all Staff have been db's checked, received training and have the right to work in the location they are providing the Services. The declaration must also include details of the name of the accredited training provider and the date training was undertaken.

#### **19. Notices.**

19.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its

registered office (if a company) or its principal place of business (in any other case); and  
(b) copied by email to the following addresses (or an address substituted in writing by the party to be served):

**Supplier:** email address used for communication regarding the Works Order.

**Customer:** [notices@mackresidential.com](mailto:notices@mackresidential.com)

19.2 Any notice shall be deemed to have been received:

(a) if delivered by hand, at the time the notice is left at the proper address;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

(c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

19.3 This clause 19 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

#### **20. Severance.**

20.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.

20.2 If any provision of the Contract is deemed deleted under this clause 20 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

#### **21. Waiver.**

(a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

(b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

#### **22. No partnership or agency.**

22.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

22.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

#### **24. Third party rights.**

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

**25. Variation.**

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

**26. No dealings.**

26.1 During the term of the Contract and for a period of 12 months after, the Supplier agrees that neither they nor their Affiliates shall directly or indirectly solicit, induce, or attempt to solicit or induce any client or customer of the Customer to terminate or alter their business relationship with the Customer in favour of the Supplier or any other business entity.

26.2 This clause 26 is intended to protect the legitimate interests of the Customer and shall be enforceable to the fullest extent permitted by law.

**27. Governing law.**

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England.

**28. Jurisdiction.**

Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.