TERMS AND CONDITIONS OF CONTRACT (March 2012)

1 DEFINITIONS

1.1 This Contract will be interpreted and operated in accordance with English law.

1.2 In this Contract, except insofar as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:
"the Company" means the company named on the heading of this document overleaf and includes its successors and assigns.
"the Sub-Contractor" means the person named as the Sub-Contractor or supplier overleaf.
"the Works" means the Works specified or referred to overleaf (and includes any section thereof)

2 FORMATION OF THE CONTRACT

2.1 The conditions of this Contract referred to herein are those set out in these conditions and overleaf. Unless other conditions are expressly accepted by the Company by means of a written amendment to these conditions signed by one of the Companies' directors and referring specifically to the conditions to be amended, this Contract will be on these conditions to the exclusion of any other conditions whether or not the same are endorsed upon, delivered with or referred to in any offer, quotation, tender or other document. The Sub-Contractor to whom this order is given is deemed to be aware of all the provisions, obligations, duties and the like imposed upon or to be performed by the Company in regard to the principal building contract of which the work or materials of this order form part which terms are available for inspection at the office of the Company. The Sub-Contractor contracts expressly upon an undertaking to perform in compliance with the same and to enable the Company to do so insofar as applicable to the execution of this order.

3 EXECUTION OF THE WORKS

3.1 The Sub-Contractor will execute the Works in accordance with the terms of the Contract and to the satisfaction of the Company and in accordance with all statutory obligations and appropriate building regulations as are applicable.

3.2 As the Works are of a description which it is in the course of the Sub-Contractor's business to execute, the Sub-Contractor undertakes and agrees with the Company:-

3.2.1 That when the Works include the preparation of designs or selection of materials and goods, the Sub-Contractor has exercised and will exercise all proper skill and care in such preparation and selection, including but not limited to the satisfaction of any performance specification or requirement insofar as the same is part of the description of the Works;

3.2.2 that the workmanship materials and goods used or supplied under this Contract will be of a quality and standard fit and proper for the purpose for which the Works are designed;

3.3 The Sub-Contractor will be responsible for any loss or damage howsoever caused to the Works and his materials, plant, tools, equipment or other property.

3.4 Any time stipulated by the Company for performance of this order shall be considered to be the essence of the contract. Notwithstanding the foregoing the Company shall be entitled to make such extension of time, as it shall in its absolute discretion think fit in relation to the time for the execution of this order.

4 INSURANCE

4.1 The Company will insure the Works and all materials for incorporation therein which are reasonably brought on the site of the Works against fire, lightning, explosion, aircraft or anything dropped therefrom and the Sub-Contractor shall be liable for any loss or damage falling within the excesses of such insurance.

4.2 Save for the insurance undertaken by the Company pursuant to this clause, the Sub-Contractor will insure the Works and his materials, plant, tools, equipment or other property against loss or damage however caused.

4.3 The Sub-Contractor will indemnify the Company against all costs, loss, expenses or liability in respect of death or injury to persons (other than death or personal injury resulting from the negligence of the Company) or loss or damage to property arising in connection with or in the course of or by reason of the carrying out of the Works and caused directly or indirectly by the Sub-Contractor his servants or agents. Without limiting the obligations and responsibilities of the Sub-Contractor the Sub-Contractor will insure against all such liability.

5 TITLE / GOODS AND MATERIALS

5.1 Title to all materials and good intended for incorporation in the Works shall pass to the Company upon delivery of the same to the site of the Works, whether or not payment has been made.

5.2 The Company reserves the right to inspect any goods or materials before dispatch from the Sub-Contractor's premises, but such inspection shall not relieve the Sub-Contractor of responsibility or liability for such goods or materials, nor be interpreted as in any way to imply acceptance of such goods and materials. the Company may require the Sub-Contractor to furnish progress reports relating to the manufacture of the goods being supplied by the Sub-Contractor. Furthermore, all costs relating to carriage and packing of goods shall be paid by the Sub-Contractor.

5.3 Without prejudice to any claim the Company may have for damages for breach of contract, the Company reserves the right to cancel this order without redress

5.4 In the case of goods or materials delivered by the Sub-Contractor not being of the stipulated quality, weight or measurement, the Company shall have the power to reject any such goods or materials and to purchase elsewhere, and any extra expense thus incurred shall on demand be paid by the Sub-Contractor to the Company and be a debt due.

5.5 The responsibility for and cost of, unloading, hoisting and distributing materials and goods for incorporation in the Works and any property belonging to or for use by the Sub-Contractor, which are brought on site, is the sole responsibility of the Sub-Contractor.

6 PRICE

6.1 The Works will be carried out for the sums stated overleaf.

7 PAYMENT

7.1 The Sub-Contractor shall submit a monthly statement of the agreed valuation of the work done for agreement prior to invoicing. If the Company are satisfied that the monthly statement is true and reasonable, the Company shall give written notice to the Sub-Contractor of the amount proposed to be paid as interim payment and the method of calculation thereof.

7.2 The Company shall seek to reach agreement of a sub-contractors account within 30 days of receipt of the statement.

7.3 Either party to the contract may give a written Notice of its intention to withhold money from payments due specifying each ground for withholding and the amounts attributable to each ground. The said Notice shall be given no less than 7 days before the final date for payment of the invoice.

7.4 The period for payment by the Company of any sub-contractor invoice shall be as identified on the order – the default is 30 days from date of receipt of the hard copy original invoice.

7.5 Any sub-contractor invoice not quoting in full a valid order number, or which has been submitted in advance of the works being completed shall be returned.

7.6 The Company will pay interim payments subject to a retention shown overleaf.

7.7 The Retention Fund will be released to the Sub-Contractor after the expiry of the period specified on the face of this order from the date on which the Works are completed to the satisfaction of the Company provided always that the Company shall be entitled at its discretion (without prejudice to any other rights it may have) to withhold the Retention Fund until any defects shrinkage's or other faults which the Company has instructed the Sub-Contractor to make good have been made good to the Company's satisfaction, or to deduct from the Retention Fund the cost to the Company of such making good.

7.8 Sub-Contractor Final Account submissions received by the Company in excess of 14 days after Practical Completion shall not be considered for payment and deemed out of time.

7.9 Sub-Contractor invoices received by the company in excess of 28 days after Practical Completion shall be returned and deemed out of time.

8 TAXES

8.1 The Company shall pay to the Sub-Contractor in addition to the sums referred to in Sub-clause 7 hereof, any Value Added Tax (VAT) properly chargeable by the Commissioners of Customs & Excise on any goods and services provided by the Sub-Contractor under this Contract at the appropriate rates from time to time in force unless the Company has not received from the Sub-Contractor a valid Tax Certificate in respect of Chapter IV Part XIII of the Income and Corporation Taxes Act 1988 in which case VAT shall be withheld.

8.2 The Sub-Contractor will at the request of the Company furnish such information as the Company may require to satisfy the Company as to the amount of any such VAT which may be or become chargeable and for this purpose the Sub-Contractor shall hold available to the Company and keep all necessary documents and records to enable the Company to verify the amount of VAT.

8.3 The Sub-Contractor shall fully indemnify the Company against any cost, loss or expense arising from the Sub-Contractor's failure to comply with the fiscal legislation or any amendment or re-enactment thereof or with any related procedures established from time to time by the Inland Revenue.

9 VARIATIONS

9.1 The Company may issue written instructions requiring the Sub-Contractor to alter, amend, omit, add to, substitute or otherwise vary the Works (hereinafter called "variations") but no such variation will vitiate the Contract. Variations will only be valued and remunerated if accompanied by an instruction to proceed in writing prior to commencement of the variation works from a Bridgford Interiors Ltd's appointed representative. All variations must be priced and agreed prior to commencement failure to do so will negate the validity and/or value of the claim.

9.2 Unless otherwise agreed in writing, the amount to be paid or allowed for variations will be settled by the Company in accordance with the rates upon which the prices stated or referred to overleaf have been based or if no such rates are attached hereto in the form of a schedule of rates a reasonable and fair price.

9.3 Payment for works in excess of the order value will not be considered unless a there is a corresponding written instruction from the Company.

9.4 Unless otherwise agreed in writing prior to commencement the Company in respect to additional works instructed under the contract shall enforce a maximum 10% uplift for OHP on the works involved and hourly rates shall be capped at £25 per hour.

9.5 The Company shall not pay any costs in respect of non-productive overtime or for out of hours working without written agreement prior to commencement.

10 PERFORMANCE

10.1 The Sub-Contractor will commence carry out and complete the Works within such reasonable time limits as the Company may stipulate from time to time and time shall be of the essence of this Contract. Such site hours will be worked as the Company may from time to time direct.

10.2 If the Sub-Contractor fails to complete the Works in accordance with his obligations or if in the opinion of the Company reasonable progress in the performance of the Works is not being maintained the Sub-Contractor will pay or allow to the Company any loss or damage suffered or incurred by the Company and caused by such failure including (but without prejudice to the generality of the foregoing) any damages which may be payable under any contract relating to the Development, additional labour charges whether by way of overtime or otherwise, hire or rent of plant or equipment and payments to suppliers specialists or other Contractor s, overheads and loss of profits Company, any additional costs and expenses incurred by the Company including but not limited to all sums expended by the Company in securing alternative labour to carry out the Works (including any sums expended by reason of any increase in the price) and any loss suffered by the Company as a result of delays in the carrying out of the Works

11 DEFECTS

11.1 All defects, shrinkage's or other faults in the Works will be made good by the Sub-Contractor (immediately upon receipt of instructions from the Company to do so). If as a result of any defects, shrinkage's or other faults in the Works or any damage occasioned by the Sub-Contractor to any part of the Development, the Company or any other Contractor carries out any additional work, the Sub-Contractor will pay or allow to the Company the costs of execution of such work but such payment or allowance will be without prejudice to the liability of the Sub-Contractor in respect of any damages (whether consequential or otherwise) arising out of a failure by the Sub-Contractor to comply with his obligations.

11.2 The Sub-Contractor will indemnify the Company against any loss or damage caused by any defect shrinkage's or other faults in any goods supplied or work done by the Sub-Contractor or arising out of or caused by the execution of this Contract.

12 HEALTH AND SAFETY

12.1 The Sub-Contractor shall observe and comply in all respects with any statutory or other legal requirement relating to health and safety for the time being in force and in particular but without limitation the provisions of the Health & Safety at Work etc. Act 1974 and the Regulations and Codes of Practice issued thereunder from time to time and any statutory modification or re-enactment thereof.

12.2 The sub-contractors shall be required to demonstrate competency by means of appropriate certification on site. Failure to do so will result in the operatives being refused access. Any resultant claim for delay by the sub-contractor will not be considered and any delay caused to the main contractor shall be chargeable.

12.3 Any fees levied against the Company by Statutory bodies such as Fees For Intervention as a direct result of sub-contractor performance shall be reclaimable from the sub-contractor by the Company.

13 CLEARANCE AND DEBRIS

13.01 During the performance of the Works, the Sub-Contractor will maintain the site, all adjacent and neighboring property and all access roads used by the Sub-Contractor from time to time in carrying out the Works in a condition satisfactory to the Company and will remove therefrom all debris, waste, surplus material and plant for which he is responsible. On completion or termination the Sub-Contractor will leave all such areas in satisfactory condition as aforesaid failing which the Company will do so and the cost of doing so will be paid or allowed by the Sub-Contractor to the Company.

13.02 The Company shall be entitled to claim a levy equal to the sum of 1% of the Sub-contractors contract sum in respect of their use of waste management facilities provided for the purpose of the project if this facility is deemed to have been misused.

14 SET OFF

The Company will be entitled to deduct from or set off against any debts or other sums whatsoever owed by the Company to the Sub-Contractor (including any retention money) any debts or other sums whatsoever owed by the Sub-Contractor to the Company (whether or not the debts or other sums are due and payable at the time of set off or whether the debts or other sums are contingent or certain, or liquidated or unliquidated at the time of the set off) and such deduction or set off shall be allowable across any other contracts between the Company and the Sub-Contractor (or any Associated Company of the Sub-Contractor) and shall continue to operate despite any receivership or fixed or floating charge. Without prejudice to the foregoing, the Sub-Contractor will not dispose in any way (whether by assignment, charge, declaration of trust or in any other manner without limitation) of all or any part of its interest in any debts or other sums whatsoever owed to the Sub-Contractor by the Company without the prior written approval of the Company and any purported disposal without such consent shall be void. The Sub-Contractor shall permit all assignments by the Company (or any Associated Company) or debts owed to the Company or to such Associated Company by the Sub-Contractor without notice.

15 TERMINATION

15.1 This Contract and the employment of the Sub-Contractor hereunder will terminate immediately upon the service of written notice of termination by the Company on the Sub-Contractor for any of the following reasons:-

15.1.1 that the Sub-Contractor has failed to perform or observe any of his obligations under the Contract within seven days of service by the Company of written notice requiring such performance or observance;

15.1.2 that the Sub-Contractor has had a bankruptcy order made against him or has made an arrangement or composition with his creditors or otherwise taken the benefit of any act for the time being in force for the relief of insolvent debtors or (being a body corporate) has had convened a meeting of creditors (whether formal or informal) or has entered into liquidation (whether voluntary or compulsory) or has a receiver, manager, administrator or administrative receiver appointed of its undertaking or any part thereof or a resolution has been passed or a petition presented to any court for the winding up of the Sub-Contractor or for the granting of an administration order or any proceedings have been commenced relating to the insolvency of the Sub-Contractor or the Sub-Contractor has suffered or allowed any execution whether legal or equitable to be levied on his/its property or obtained against him/it or is unable to pay the debts within the meaning of section 123 of the Insolvency Act 1986.

15.1.3 If the Company considers that the Sub-Contractor is or will be unable to complete the Works or is not fulfilling its obligations under the Contract to the satisfaction of the Company.

15.2 If the employment of the Sub-Contractor is terminated then:-

15.2.1 the Company will have the right to complete the Works and/or to employ another Contractor to complete the Works;

15.2.2 the Sub-Contractor will pay or allow to the Company any loss or damage suffered or incurred by the Company as a result of such termination;

15.2.3 the Sub-Contractor's only rights to payment shall be in accordance with clause 7 hereof provided that the Company shall not be obliged to make any payment to the Sub-Contractor until the Works have been completed, the Company may use any materials of the Sub-Contractor which are on the site in order to complete the Works and will reimburse the Sub-Contractor the lower of the cost of such materials paid by the Sub-Contractor or the market value of the materials.

15.3 All damages, costs, expenses, liabilities and losses incurred by the Company or to which the Company becomes entitled as a result of termination of this Contract or of any breach of this Contract whether or not resulting in a termination of the Contract shall be ascertained by and be a debt due to the Company and the Company shall be entitled to recover from the Sub-Contractor, and the Sub-Contractor shall pay to the Company on demand all costs, claims, expenses, damages, liabilities and losses suffered or incurred by any Associated Company of the Company arising directly or indirectly out of any breach by the Sub-Contractor of any of the terms and conditions of this Contract or the termination of the employment of the Sub-Contractor under clause 15.1.

16 GENERAL

16.1 The Sub-Contractor shall not assign, sub-let or sub-contract the Works without the prior written permission of the Company.

16.2 The termination of this Contract shall not affect the rights, obligations and liabilities of either party accrued prior to termination.

16.3 Any notice required to be served hereunder will be deemed served if delivered by hand or if sent by ordinary post addressed to the party on whom it is intended served at his last known address, or in the case of a body corporate, its registered office or main office or last known address and will be deemed to have been served, in the case of delivery by hand, on the day of service and, in the case of delivery by post, on the day on which it would normally have arrived in the due course of post.

16.4 The copyright in and title to all documents produced by the Sub-Contractor in connection with this Contract shall vest in the Company and the Company may use such documents for any purpose whatsoever.

16.5 For the purposes of this Contract any act, direction or requirement of any Associated Company of the Company in connection with the Works shall be considered in relation to the Contract as an act, direction or requirement of the Company.

16.6 Failure by the Company to enforce any of the terms of this Contract will not be construed as a waiver of its rights hereunder.

16.7 Project information shall be issued electronically by the Company. It is the responsibility of any sub-contractor to accept this format. Where information is required to be issued hard copy by post or courier a charge shall be levied by the Company.

17 ADJUDICATION AND DISPUTES

17.1 To the extent that the Works are construction operations within the meaning of that phrase in the Housing Grants Construction and Regeneration Act 1996 Part II, the provisions and scheme of the principal building Contract referred to in Section 2 hereof concerning adjudication shall apply to these conditions as if the same were set out herein in full and incorporated herein.

17.2 The adjudicators decision shall be final and binding until the dispute is finally determined by legal proceedings or arbitration or by agreement.

17.3 Any dispute or difference under or arising out of or in connection with this contract shall be subject to the exclusive jurisdiction of the English Courts for determination.