

Bellway Homes Limited

Sub-Contract Conditions
(Supply and install or install/fit only)

[INSERT FULL NAME OF SUB-CONTRACTOR]



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1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, unless the context otherwise requires, the words or expressions that begin with capital letters shall have the precise meanings as set out below:

- 1.1.1 **'Appendix'** means the appendix attached to or referred to in the Sub-Contract Order;
- 1.1.2 **'Associate'** means as such term is defined in s.131 of the Building Safety Act 2022;
- 1.1.3 **'Attendances'** means the facilities, plant and equipment referred to in the Sub-Contract Order to be provided by Bellway. All other facilities, plant and/or equipment required by the Sub-Contractor are to be provided by the Sub-Contractor;
- 1.1.4 **'Authorised Representative'** means a person authorised by Bellway and stated in the Sub-Contract Order or such other person as Bellway shall notify to the Sub-Contractor in writing to perform such role from time to time;
- 1.1.5 **'Bellway'** means Bellway Homes Limited (company number 670176) whose registered office is at Woolsington House, Woolsington, Newcastle upon Tyne, NE13 8BF together with its legal assignees and/or successors in title;
- 1.1.6 **'Building Regulations'** means the Building Regulations 2010 and any subsequent amendment, modification, consolidation or replacement thereto;
- 1.1.7 **'Building Regulations Principal Contractor'** shall have the same meaning as the term 'Principal Contractor' in the Building Regulations, and the identity of whom shall be specified in the Sub-Contract or otherwise confirmed by Bellway;
- 1.1.8 **'Building Regulations Principal Designer'** shall have the same meaning as the term 'Principal Designer' in the Building Regulations, and the identity of whom shall be specified in the Sub-Contract or otherwise confirmed by Bellway;
- 1.1.9 **'Building Safety Laws'** means the Defective Premises Act 1972, the Building Safety Act 2022, the Building Regulations, the Building Act 1984 and any other associated legislation, statutes, statutory instruments, regulations, rules, orders, codes of practice and any guidance issued by a government department, the Building Safety Regulator or the Health & Safety Executive;
- 1.1.10 **'Cancellation Payment'** the amount stated in the Sub-Contract Order as being the sum due to the Sub-Contractor upon termination by Bellway of the engagement of the Sub-Contractor pursuant to clause 31.2 of these Conditions or if no amount is stated then the amount shall be five hundred pounds (£500) (inclusive of VAT);
- 1.1.11 **'CDM Regulations'** means the Construction (Design & Management) Regulations 2015 and any subsequent amendment, modification, consolidation or replacement thereto;
- 1.1.12 **'CDM Principal Contractor'** shall have the same meaning as that term is defined in the CDM Regulations, and the identity of whom shall be specified in the Sub-Contract or otherwise confirmed by Bellway;
- 1.1.13 **'CDM Principal Designer'** shall have the same meaning as that term is defined in the CDM Regulations and the identity of whom shall be specified in the Sub-Contract or otherwise confirmed by Bellway;
- 1.1.14 **'Claim'** means any claim or entitlement which the Sub-Contractor has or may have against Bellway under, arising out of or in connection with the Sub-Contract (including, without limitation, an extension of time to complete the Sub-Contract Works or a Section or any additional payment in connection with a Variation or any payment whatsoever in addition to or in excess of the Sub-Contract Sum or any upwards adjustment to the Sub-Contract Sum) and howsoever arising under any circumstances whatsoever (including, without limitation, by reason of a breach of contract, breach of statutory duty or tortious act or omission on the part of Bellway);
- 1.1.15 **'Completion'** means a state when the Sub-Contract Works or a Section are complete in all respects and free from Defects to Bellway's reasonable satisfaction and (in addition) all Statutory Requirements, Requisite Consents and the Warranty Provider requirements have been complied with and all Handover Documents have been provided to Bellway;
- 1.1.16 **'Conditions'** means these terms and conditions as may be varied by the Special Conditions;
- 1.1.17 **'Confidential Information'** means all information (written or oral) or documents (however recorded or preserved) disclosed or made available by or which the Sub-Contractor obtains from or receives (directly or indirectly) from Bellway or its contractors, consultants, employees, servants, agents or advisers in connection with the Sub-Contract Works or the Site or any part of them or as a result of the discussions leading up to or

the entering into or performance of the Sub-Contractor's obligations and duties in connection with the Sub-Contract including but not limited to:

- (a) the terms (but not the existence) of the Sub-Contract;
- (b) any information that would be regarded as confidential by a reasonable business person relating to:
 - (i) the business, affairs, customers, clients, suppliers, plans, intentions, or market opportunities of Bellway or of any Group Company, and
 - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of Bellway; and
 - (iii) any information or analysis derived from the Confidential Information,

BUT not any information that:

- (c) was already lawfully known, or became lawfully known to the Sub-Contractor independently; or
- (d) is in or comes into the public domain other than due to wrongful use or disclosure by the relevant Party;

1.1.18 **'Consultants'** means any consultants engaged in respect of the Sub-Contract Works and/or the Project;

1.1.19 **'Copyright Material'** means any and all documents, material, data and information (whether in hard copy, digital or electronic format and whether in existence as at the date of the Sub-Contract or yet to be created) including but not limited to reports, drawings, models, illustrations, data, databases, schedules, programmes, bills of quantities, budgets, photographs, videos, brochures, plans, specifications, minutes or notes of meetings, designs, studies, surveys, and calculations (including all updates, amendments, additions and revisions to them and any works, designs or inventions incorporated or referred to in them) produced or prepared by the Sub-Contractor or on its behalf in connection with the Sub-Contract Works and/or the Site;

1.1.20 **'Defects'** means all and any defects, imperfections, shrinkages, failures, malfunctions and other faults in the Sub-Contract Works or any part of them which is due to materials, workmanship or design not being in accordance with the Sub-Contract;

1.1.21 **'Defects Rectification Policy'** means Bellway's policy current at the date of the Sub-Contract on how Defects are to be rectified, such policy being available on request;

1.1.22 **'Group Company'** means any subsidiary or holding company of Bellway or of another subsidiary or holding company of Bellway, as subsidiary and holding company are understood within Section 1159 Companies Act 2006, but on the basis that the holding of not less than one quarter of voting rights shall be deemed to satisfy the condition in Section 1159(1)(a) and (in addition) any Associate of Bellway;

1.1.23 **'Handover Documents'** means the list of documents and/or information to be provided by the Sub-Contractor prior to or on Completion as listed or referred to in the Sub-Contract Documents;

1.1.24 **'Higher Risk Building'** means a building which qualifies as a 'higher-risk building' for the purposes of section 65 of the Building Safety Act 2022 and Regulation 8 of the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023;

1.1.25 **'Insolvent'** means in relation to the Sub-Contractor when any corporate action, legal proceedings or other procedure or step is taken in relation to:

- (a) a moratorium of any indebtedness, winding-up, dissolution, administration (or the service at court of any notice of intention to appoint an administrator) or reorganisation (by way of voluntary arrangement, compromise, scheme of arrangement with any of its creditors or otherwise) of the Sub-Contractor other than for the sole purpose of a solvent liquidation or reorganisation; or
- (b) a moratorium pursuant to Part A1 of the Insolvency Act 1986 comes into force; or
- (c) the composition, compromise (including pursuant to Part 26A of the Companies Act 2006), assignment or arrangement with any creditor in satisfaction of the Sub-Contractor's debts or an order is made sanctioning such a compromise or arrangement (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
- (d) the appointment of a liquidator, provisional liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of the Sub-Contractor or over any of its assets or a person becomes entitled to appoint an administrative receiver or a receiver over all or any of its assets (or had service at court of any notice of intention to appoint any such officer) or a person becomes entitled to appoint an administrative receiver or receiver over all or any of its assets; or

- (e) without a declaration of solvency, the Sub-Contractor passes a resolution or makes a determination to be wound up or a winding up order is made; or
 - (f) being an individual, it is the subject of a bankruptcy petition, application or order; or
 - (g) the enforcement of any security over any assets of the Sub-Contractor or any analogous procedure or step is taken in any jurisdiction; or
 - (h) any expropriation, attachment, sequestration, distress or execution which affects any asset or assets of the Sub-Contractor; or
 - (i) any financial indebtedness of the Sub-Contractor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described); or
 - (j) 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 (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (save that for the purposes of being deemed unable to pay its debts pursuant to section 123(2), the words "it is proved to the satisfaction of the court that" in section 123(2) shall be ignored) or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
 - (k) any event or arrangement occurs, or proceeding is taken, with respect to it in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in limbs (a) to (i) above (inclusive); or
 - (l) it suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- 1.1.26 **'Interest Rate'** means the annual rate of five per cent (5%) above the Bank of England Base Rate (from time to time);
- 1.1.27 **'Interim Valuation Date'** means the interim valuation dates specified in the Appendix or, if no such dates are specified, then the last day of each month, the first being the last day of the month after the month during which the Sub-Contractor commences the Sub-Contract Works;
- 1.1.28 **'IR35 Contractor'** means an individual who personally performs or is under an obligation personally to perform any element of the Sub-Contract Works and is engaged (either by the Sub-Contractor or via any other intermediary or intermediaries) through a limited company or partnership which meets the conditions specified in sections 61O or 61P (as applicable) of the Income Tax (Earnings and Pensions) Act 2003 ('ITEPA');
- 1.1.29 **'Key Personnel'** means the personnel of the Sub-Contractor listed or referred to in the Sub-Contract Documents;
- 1.1.30 **'Liquidated Damages'** means the sum, if any, as is stated in the Sub-Contract Order. If no sum is stated, the amount shall be such amount as is equivalent to the loss and/or expense to Bellway caused by the delay as set out in clause 18.4;
- 1.1.31 **'Local Authority'** means a body that is a 'contracting authority' as defined by the Public Contracts Regulations 2015 (as amended from time to time);
- 1.1.32 **'Material Breach'** means any breach of contract by the Sub-Contractor where Bellway has served notice on the Sub-Contractor that it has seven (7) days in which to rectify the breach and the Sub-Contractor fails to do so;
- 1.1.33 **'Mandatory Group Deals'** means any supplier or contractor named in Bellway's preferred list of sub-contractors or suppliers as may be amended or updated from time to time, a copy of which is available for inspection at Bellway's office address or on request;
- 1.1.34 **'NHBC'** means the National Housing-Building Council (company limited by guarantee under company number 320784) ;
- 1.1.35 **'Prudent Sub-Contractor'** means a competent and prudent sub-contractor of the same discipline as the Sub-Contractor, experienced in carrying out work of a similar nature, scope, size, scale, character and complexity to the Sub-Contract Works;
- 1.1.36 **'Public Holiday'** means Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday;

- 1.1.37 **'Project'** means the development by Bellway or on its behalf on or in connection with the Site and of which the Sub-Contract Works form a part as described in the Sub-Contract Documents or the Appendix;
- 1.1.38 **'Rectification Period'** means the period which starts on the date of Completion of the Sub-Contract Works and ends twenty-four (24) months thereafter;
- 1.1.39 **'Retention'** means an amount equivalent to such percentage of the gross amount otherwise due (from time to time) to the Sub-Contractor pursuant to these Conditions and as set out in the Sub-Contract Order or, if no percentage is set out, then the percentage shall be five (5) per cent;
- 1.1.40 **'Requisite Consents'** means any and all relevant permissions, consents, approvals, licences, certificates, permits, requirements, fire officer approval, building control and development control authority approvals and permits whether statutory or otherwise consents of any person or any local, public or other competent authority (including but not limited to the planning permission for the Site) and consents of all parties having an interest or right in or over the Site as may be lawfully required in order to commence, carry out, maintain and complete the Sub-Contract Works and use and enjoy the Project and which term includes but is not limited to any modification, variation and/or amendment to any relevant Requisite Consent and any restrictions or conditions attached to any such Requisite Consent;
- 1.1.41 **'Scheme'** means the Scheme for Construction Contracts (England and Wales) Regulations 1998 (SI No 649) as amended by the Scheme for Construction Contracts (England and Wales) Regulations 1998 (Amendment) (England) Regulations 2011;
- 1.1.42 **'Sections'** means any one or more parts into which the Sub-Contract Works are divided as set out and described in the Sub-Contract and reference to a Section shall mean to any one (1) Section;
- 1.1.43 **'Site'** means the location of the Project as described in the Sub-Contract Order or the Sub-Contract Documents;
- 1.1.44 **'Special Conditions'** means special conditions (if any) that may amend, modify or supplement these Conditions and which may be specified by Bellway in the Appendix and if none are specified then there shall be no amendments, modifications or supplements to these Conditions incorporated into the Sub-Contract;
- 1.1.45 **'Specification'** means the documents (including any variations, additions or omissions thereto) listed in the Appendix or referred to in the Sub-Contract Order or attached or referred to in any of the Sub-Contract Documents or otherwise brought to the Sub-Contractor's attention, which describe the nature and scope of the Sub-Contract Works;
- 1.1.46 **'Statutory Requirements'** means any and all relevant statutes, any instrument, regulation, rule, order or permission made under any statute, legislation and any regulation or bye-law of any person, any Local Authority, regulatory body or statutory undertaker or public or private utility or undertaking that has any jurisdiction with regard to the Project or the Site or with whose systems the same are or will be connected, any decision of any Local Authority, person or organisation which controls the right to develop the Site, any conditions attached to any notices served under any statutory or statutory power and any legislation, regulation or directive or any Codes of Practice, guidance notes and recommendations from the United Kingdom Government or any regulatory authority or body relating to the Project and/or the Sub-Contract Works and/or the Site and which term includes but is not limited to the Building Safety Laws and any modification, amendment, substitution, replacement, consolidation or re-enactment (whether before or after the date the Sub-Contract is entered into) to any relevant Statutory Requirements;
- 1.1.47 **'Sub-Contract'** means the contract between Bellway and the Sub-Contractor under which the Sub-Contractor has agreed to carry out and complete the Sub-Contract Works in accordance with and subject to the Sub-Contract Documents;
- 1.1.48 **'Sub-Contract Documents'** means the Sub-Contract Order; the Specification; these Conditions (as may be amended by any Special Conditions); and any documents listed in or referred or attached to in the Sub-Contract Order and/or the Appendix;
- 1.1.49 **'Sub-Contractor'** means the legal entity with whom the Sub-Contract is entered into by Bellway and to whom the Sub-Contract Order is addressed;
- 1.1.50 **'Sub-Contractor's Persons'** means the Sub-Contractor's contractors, consultants, suppliers, servants, agents, partners, workers, employees and all other persons employed or engaged on or in connection with the Sub-Contract Works;
- 1.1.51 **'Sub-Contract Period'** means the period or periods as set out in the Sub-Contract Order within which the Sub-Contract Works and/or any Sections are to be completed or if no period is agreed within such period of time as may be reasonably required by Bellway so as not to delay or disrupt the regular progress and timely completion of the Project;
- 1.1.52 **'Sub-Contract Order'** means the order form from Bellway to the Sub-Contractor relating to the Sub-Contract

Works and which includes the Appendix (if applicable);

- 1.1.53 **'Sub-Contract Sum'** means the amount indicated in the Sub-Contract Order to be paid to the Sub-Contractor for carrying out and completing the Sub-Contract Works and for the avoidance of doubt is deemed to include everything necessary to carry out the Sub-Contract Works including all travelling time, overtime payments, fare and subsistence allowances howsoever arising and there shall be no change to this sum except as permitted pursuant to these Conditions;
- 1.1.54 **'Sub-Contract Works'** means the sub-contract works to be carried out and completed by the Sub-Contractor as briefly described in the Sub-Contract Order and more particularly in the Sub-Contract Documents (including any Variations thereto and including any design of any part or parts);
- 1.1.55 **'Superior Contracts'** means all contracts or agreements as identified in the Sub-Contract Order between Bellway and any Third Party Beneficiary (whether entered into before or after the date of the Sub-Contract) in relation to the carrying out of the Project at the Site (which shall include but is not limited to any modifications or variations thereto);
- 1.1.56 **'TECBAR'** means the Technology and Construction Bar Association or any successor organisation;
- 1.1.57 **'Third Party Beneficiary'** means each or any one or more of the following class or classes of person:
- (a) a registered provider or social housing landlord;
 - (b) any person or persons who as a tenant enters or has entered into an agreement for lease or lease in relation to all or any part of the Site;
 - (c) any person or persons who enters or has entered into an agreement to provide finance to Bellway or to a purchaser or tenant of all or any part of the Site;
 - (d) a management company set up in relation to any part of the Site;
 - (e) any person who enters or has entered into an agreement to purchase a freehold or leasehold interest in any part of the Site or any person who owns a freehold or long leasehold interest in all or any part of the Site or any adjoining land;
 - (f) any Group Company;
 - (g) any joint venture partner of Bellway or any Group Company in respect of the Project or any part of it;
 - (h) any Local Authority;
 - (i) the Warranty Provider; and
 - (j) any person or persons nominated by Bellway in writing and notified to the Sub-Contractor, including but not limited to any person or persons identified in the Appendix,
- BUT excluding any purchaser, tenant or funder of one individual residential unit;
- 1.1.58 **'Trade Sub-Contract'** means any contract or agreement between Bellway and any Trade Sub-Contractor (which shall include but is not limited to any modifications or variations thereto);
- 1.1.59 **'Trade Sub-Contractor'** means any legal entity whom Bellway engages (other than the Sub-Contractor) to carry out any part of the Project or works associated with the Project on or around the Site and shall include but not be limited to a Consultant;
- 1.1.60 **'Variation'** means a variation, modification, omission, addition to or other alteration in the nature or scope of the Sub-Contract Works or any Section;
- 1.1.61 **'Valuation Period'** means, unless otherwise expressly stated in the Appendix, then each calendar month during the course of the Sub-Contract Works (starting on the first day and ending on the last day of the relevant calendar month) and with the first such period ending at the end of the calendar month after the month in which the Sub-Contractor commenced performance of the Sub-Contract Works on Site and the last period ending at the end of the calendar month during which Completion of the whole of the Sub-Contract Works occurs;
- 1.1.62 **'VAT'** means value added tax imposed by the Value Added Tax Act 1994, or any similar tax in addition to or replacing it from time to time;
- 1.1.63 **'Warranty Provider'** means the NHBC or an alternative insurer nominated by Bellway and the identity of which shall be notified by Bellway to the Sub-Contractor which shall be a body or organisation providing defects

insurance warranties or guarantees in respect of relevant parts of the Project and/or the development at the Site; and

1.1.64 **'Working Day'** means any day except for Saturday, Sunday or a Public Holiday.

1.2 Any consent or approval of Bellway required under these Conditions and/or the Sub-Contract shall be required to be obtained before the act or event to which it applies is carried out or done and shall be effective only when the consent or approval is given in writing and signed by the Authorised Representative.

1.3 In these Conditions, unless the context otherwise requires:

1.3.1 clause or paragraph headings are inserted for convenience only and shall not affect the construction or interpretation of these Conditions;

1.3.2 references to a paragraph or clause or Schedule are references to a paragraph or clause or Schedule of these Conditions and any Schedule shall have effect as if set out in full in the body of these Conditions;

1.3.3 a reference to a statute, statutory provisions, statutory instrument or other subordinate legislation is a reference to it as amended, consolidated, replaced, extended, re-enacted or substituted and in force from time to time and including corresponding legislation in any other relevant part of the United Kingdom;

1.3.4 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;

1.3.5 any words preceding or following the terms: 'including', 'include', 'includes', 'in particular', 'for example' or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding or following those terms and the use of the words 'other' or 'otherwise' shall not be construed as having a limiting effect;

1.3.6 any reference to the singular also means the plural and vice versa;

1.3.7 any reference to gender shall include any gender;

1.3.8 references to a person or persons shall, where the context so requires, include individuals, bodies corporate, trusts, trustees, unincorporated associations (whether or not having a separate legal personality), partnerships, a firm and any entity having legal capacity and all such words are to be construed interchangeably in that manner;

1.3.9 the Sub-Contract shall be binding on, and enure to the benefit of, the Parties to the Sub-Contract and their respective successors and permitted assigns, and references to a 'Party' shall be to a Party to the Sub-Contract and shall include that Party's successors and permitted assigns;

1.3.10 any obligation on a Party not to do something includes an obligation not to allow that thing to be done;

1.3.11 where one provision of the Sub-Contract imposes upon the Sub-Contractor a standard, duty or obligation which is more onerous than, or additional to, that imposed by another provision, then the relevant standards, duties or obligations shall, so far as possible, be treated as cumulative, failing which the more onerous standard, duty or obligation shall prevail;

1.3.12 any reference to an English legal term for any action, remedy, method of judicial proceedings, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English legal term in that jurisdiction;

1.3.13 the warranties and undertakings contained in these Conditions shall be without prejudice to any warranties and undertakings implied by common law or statute

1.3.14 a reference to specific standards, codes or practice, guidelines, rules and/or schemes shall be construed as including all amendments, modifications, supplements, re-drafts and/or substitutes thereto; and

1.3.15 references to the 'reverse charge applying' (or similar) mean any case where the recipient of a supply for VAT purposes, or a member of a VAT group of which the recipient of the supply is a member, is required to account to the relevant tax authority for the VAT chargeable in respect of the supply.

1.4 Where a Party comprises two or more persons:

1.4.1 any obligations on the part of that Party contained or implied in the Sub-Contract are deemed to be joint and several obligations on the part of those persons; and

1.4.2 references to that Party include references to each and any of those persons.

- 1.5 The Sub-Contractor warrants and represents to Bellway that:
- 1.5.1 the Sub-Contract constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms;
 - 1.5.2 the Sub-Contractor is not Insolvent or unable to pay its debts as they fall due and does not reasonably expect to become Insolvent or unable to pay its debts as they fall due as a result of entering into and performing its obligations under the Sub-Contract;
 - 1.5.3 the Sub-Contractor has full power and capacity to own its assets, to carry on its business as it is now being conducted and to enter into and perform its obligations under the Sub-Contract; and
 - 1.5.4 all information provided by it or on its behalf to Bellway or any Third Party Beneficiary in connection with the entry into and performance of the Sub-Contract, whether before or after the date of the Sub-Contract, is (to the best of its knowledge and belief, having made due and careful enquiries) complete, true, accurate and not misleading.
- 1.6 Where, under these Conditions, an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday, that day shall be excluded.
- 1.7 The Parties agree that for the purposes of signing the Sub-Contract, either Party, or both Parties, may sign by electronic signature, and both Parties intend the electronically issued signatures to be considered original signatures and binding for all purposes for the Sub-Contract.

2. THE CONDITIONS

- 2.1 Any quotation and/or tender received by Bellway from the Sub-Contractor in respect of the Sub-Contract Works is deemed to have been made subject to these Conditions. Notwithstanding any other provision of these Conditions or the Sub-Contract, any terms and conditions of the Sub-Contract are superseded are of no effect and do not form part of or apply to the Sub-Contract in any circumstances even if included as part of the Sub-Contract Documents unless and to the extent incorporated as Special Conditions.
- 2.2 The Sub-Contractor shall (if requested) sign a copy of these Conditions for deposit with Bellway by way of acknowledgement that these Conditions shall govern all present and future contractual relations between Bellway and the Sub-Contractor until further notice in writing is given by an authorised signatory of Bellway to the Sub-Contractor.
- 2.3 Without prejudice to and whether or not the Sub-Contractor has complied with clause 2.2, the Sub-Contractor shall be deemed to have read and accepted these Conditions in full for all present and future contract relations between Bellway and the Sub-Contractor until further notice is given by an authorised signatory of Bellway to the Sub-Contractor.
- 2.4 Notwithstanding the date Bellway and the Sub-Contractor enter into the Sub-Contract, any goods supplied or works performed (including but not limited to enabling, design, demolition, temporary or other preliminary or permanent works) by or on behalf of the Sub-Contractor prior to the date of the Sub-Contract in anticipation of Bellway entering into the Sub-Contract with the Sub-Contractor (including but not limited to any work carried out pursuant to any letters of intent) shall be treated as forming part of the Sub-Contract Works and shall be subject to the terms of the Sub-Contract and the Sub-Contractor assumes full responsibility for the same. All sums (if any) already paid as at the date of the Sub-Contract by Bellway to the Sub-Contractor in connection with the Sub-Contract Works shall be treated as payments on account of the Sub-Contract Sum.
- 2.5 Any typographical, clerical, arithmetical or other error or omission in the Sub-Contract shall be subject to correction by Bellway without liability on the part of Bellway.

3. SUB-CONTRACT DOCUMENTS

- 3.1 The Sub-Contract Documents are to be read as a whole, but nothing contained in the Sub-Contract Documents shall override or modify anything which is contained in these Conditions, except and to the extent validly incorporated as Special Conditions. Where there is any conflict, ambiguity or discrepancy within or between any of the Sub-Contract Documents, the Sub-Contractor shall notify Bellway in writing as soon as possible and Bellway shall instruct the Sub-Contractor as to which of the conflicting, ambiguous or discrepant items is to be adopted and the Sub-Contractor shall (subject always to complying with all Statutory Requirements and the Requisite Consents) comply with such instruction at no cost to Bellway and without any adjustment to the Sub-Contract Sum or the Sub-Contract Period and without any entitlement to a Claim.

4. OBLIGATIONS OF SUB-CONTRACTOR

- 4.1 The Sub-Contractor shall for the Sub-Contract Sum carry out and complete the Sub-Contract Works commencing the Sub-Contract Works upon receiving notice to do so and completing them during the Sub-Contract Period. In addition, the Sub-Contractor shall carry out the Sub-Contract Works in accordance with Bellway's directions and/or any programme issued by Bellway. The Sub-Contractor must not carry out any work outside of such working hours as may be specified by Bellway without the express prior written consent of Bellway or the Authorised Representative.

- 4.2 The Sub-Contractor shall co-operate closely and collaborate with Bellway and all Consultants and Trade Contractors, and the Sub-Contractor is responsible for the co-ordination and integration of the Sub-Contract Works including but not limited to the design, carrying out and completion of the Sub-Contract Works and any other works to be undertaken by Bellway and/or the Consultants and/or the Trade Sub-Contractors. The Sub-Contractor shall carry out the Sub-Contract Works in such order as shall be compatible with and so as not to delay or disrupt or conflict with the Project, the planned and/or actual progress of the Project and the planned and/or actual progress of works being carried out by others, including the Trade Sub-Contractors.
- 4.3 The Sub-Contractor shall not hinder, obstruct, impede or prevent the progress of works being undertaken by others and shall advise Bellway as to the suitability and compatibility of any existing work, services, buildings or the existing condition of the Site or the Project for the Sub-Contract Works in good time so as not to delay or disrupt the regular progress or the timely completion of the Project.
- 4.4 The Sub-Contractor acknowledges that the Sub-Contract Works may not be executed continuously and that the Site may be closed as a consequence of the national construction industry holidays. The Sub-Contractor is deemed to have allowed for such in the Sub-Contract Sum and its programme and for executing the Sub-Contract Works in such a manner and sequence as Bellway may require including but not limited to working either continuously or in sections or staging the Sub-Contract Works to suit progress of works by Trade Sub-Contractors and in any order and bring forward or lengthen any periods detailed within the construction programme at Bellway's discretion and at the Sub-Contractor's cost. The Sub-Contract Sum is deemed to cover multiple visits to Site as necessary.
- 4.5 All workmanship and materials relating to the Sub-Contract Works shall be new, of a high standard, free from Defects and fit for their purpose when incorporated into the Sub-Contract Works.
- 4.6 Except where expressly stated to the contrary in the Sub-Contract Documents, the Sub-Contractor accepts entire and sole responsibility and liability for the design of the Sub-Contract Works. Except where expressly stated to the contrary in the Sub-Contract Documents, the Sub-Contractor accepts entire and sole responsibility and liability for any mistake, error, inadequacy and/or inaccuracy within or between any documents describing the design of the Sub-Contract Works and for any ambiguity, conflict and/or discrepancy in the design of the Sub-Contract Works and the selection of any materials, substances, goods, products, plant, equipment and systems for use or incorporation into the Sub-Contract Works.
- 4.7 The Sub-Contractor warrants and undertakes that, in respect of the design of the Sub-Contract Works, it has exercised and shall continue to exercise the reasonable skill, care and diligence of a properly qualified, competent and specialist contractor experienced in designing and undertaking works similar in nature, scope, size, scale, character and complexity to the Sub-Contract Works.
- 4.8 The Sub-Contractor shall commence, carry out and complete the design and construction of the Sub-Contract Works:
- 4.8.1 in a good, proper and workmanlike manner and accordance with good building, engineering and industry practice to be expected of a Prudent Sub-Contractor;
 - 4.8.2 in accordance and compliance with the Specification and Sub-Contract Documents, the Requisite Consents, BSI British Standards (in their entirety) and all Statutory Requirements;
 - 4.8.3 in accordance with all relevant Codes of Practice unless otherwise stipulated in writing by Bellway and signed by the Authorised Representative;
 - 4.8.4 using good quality and suitable goods and materials and in accordance with all manufacturers' requirements and recommendations;
 - 4.8.5 regularly and diligently, promptly and efficiently, and with all reasonable speed;
 - 4.8.6 in compliance with and without infringement of any interests, rights, reservations, covenants, restrictions, stipulations or other encumbrances binding on or affecting the Site or the surrounding areas or adjacent land and obtaining all necessary rights, interests and agreements for the commencement, carrying out and completion of the Sub-Contract Works;
 - 4.8.7 in accordance with the Warranty Provider's requirements and the requirements of any relevant Local Authority, and any regulatory or statutory body;
 - 4.8.8 within the boundaries of the Site;
 - 4.8.9 to the reasonable satisfaction of Bellway; and
 - 4.8.10 if required by Bellway, in compliance with the Considerate Constructors Scheme.
- 4.9 The Sub-Contractor warrants and undertakes that the Sub-Contract Works shall fit within the boundaries of the Site.
- 4.10 The Sub-Contractor shall report all accidents involving the Sub-Contractor's employees no later than one hour after the incident. The Sub-Contractor shall issue COSHH data sheets prior to commencement of the Sub-Contract Works and

provide all necessary information to allow Bellway to prepare the Health and Safety File under the CDM Regulations. The Sub-Contractor shall comply with all Bellway's Site requirements.

- 4.11 The Sub-Contractor acknowledges that Bellway may rely on any certificate or written approval or comment the Sub-Contractor gives in respect of the Sub-Contract Works (including but not limited to all advice or recommendations made or given prior to entering into the Sub-Contract) and that when performing its obligations under any Superior Contract Bellway will rely on the Sub-Contractor's expertise, skill and judgement in carrying out and completing the Sub-Contract Works. The Sub-Contractor agrees that Bellway is deemed not to have any intrinsic expert knowledge or skill in relation to the Sub-Contract Works and the Sub-Contractor shall warn Bellway if it becomes aware or ought reasonably to be aware of any inadequacies, mistakes, errors, ambiguities, discrepancies and/or conflicts within or between the nature, scope and design of the Sub-Contract Works and/or the Project.
- 4.12 If requested to do so by the Authorised Representative, the Sub-Contractor shall provide a method statement describing how the Sub-Contractor intends to carry out and complete the Sub-Contract Works in accordance with the terms of the Sub-Contract and shall update it as and when reasonably required from time to time. Bellway does not give any warranty or guarantee that the Sub-Contractor will be able to carry out the Sub-Contract Works in accordance with the method statement.
- 4.13 The Sub-Contractor is deemed to have made due allowance for all its obligations and duties under the Sub-Contract in the Sub-Contract Sum and the Sub-Contract Period. The Sub-Contractor acknowledges that failure by the Sub-Contractor to comply with its obligations and duties pursuant to the Sub-Contract may cause delay and/or disruption to the Project and/or any part of it and /or may cause Bellway to suffer or incur costs, losses, damages and/or expense.
- 4.14 The Sub-Contractor shall notify Bellway of any actual, anticipated or suspected breach of contract, breach of duty or other default under the Sub-Contract by the Sub-Contractor and the steps taken and/or proposed to be taken to remedy such breach or default. On receipt of a request to do so, the Sub-Contractor shall provide documentary evidence of observance, performance and/or compliance with its obligations and duties under the Sub-Contract.
- 4.15 Unless otherwise expressly stated in the Sub-Contract Documents, the Sub-Contractor shall observe, perform and comply with all conditions, terms, requirements, conditions and access arrangements associated with all Requisite Consents and supply to Bellway complete copies of all applications made and complete copies of all the Requisite Consents obtained and procure that they are not revoked and continue in full force and effect for as long as is necessary to complete its obligations and duties under the Sub-Contract. Except where expressly stated otherwise in the Sub-Contract, the Sub-Contractor shall issue all notices required under all Statutory Requirements and Requisite Consents in a timely manner.
- 4.16 Unless otherwise expressly stated in the Sub-Contract Documents, the Sub-Contractor shall prepare, apply for, obtain all Requisite Consents and then maintain, comply with, satisfy and discharge any and all requirements, restrictions, conditions and reserved matters attached to any and all Requisite Consents as soon as reasonably practicable and so as not to delay or disrupt the commencement, carrying out and completion of the Sub-Contract Works or a Section and the beneficial occupation, use and safe access to and egress from the Site. The Sub-Contractor shall regularly keep Bellway informed and up to date on progress of applications to obtain and/or discharge any Requisite Consents. The Sub-Contractor shall procure that all the Requisite Consents remain in full force and fully effective for as long as is necessary in order to carry out and complete the Sub-Contract Works or a Section and its obligations and duties under the Sub-Contract.
- 4.17 The Sub-Contractor shall obtain Bellway's written approval (not to be unreasonably withheld or delayed) to the contents of any application for any Requisite Consent and, once obtained, the Sub-Contractor shall not vary the terms of any Requisite Consent without Bellway's prior written approval (such approval not to be unreasonably withheld or delayed).
- 4.18 The Sub-Contractor shall seek whenever possible to assist Bellway to save costs and to design, execute, carry out and complete the Sub-Contract Works in the most cost effective way consistent with good design practice and with safety.

5. MATERIALS

- 5.1 Except where expressly stated to the contrary in the Sub-Contract Documents, the Sub-Contractor accepts entire and sole responsibility and liability for the selection and specification of materials, substances, processes, methods of working, goods, equipment, products, systems and kits for use or incorporation into the Sub-Contract Works.
- 5.2 The Sub-Contractor shall not specify for use, use or permit to be used in the Sub-Contract Works any materials, substances, processes, methods of working, goods, equipment, products, systems or kits which at the time of use:
 - 5.2.1 by their nature or application contravene or are not in accordance with any relevant Statutory Requirement, British Standard or Code of Practice, good building practice or any applicable agrément certificate issued by the British Board of Agrément (and the Sub-Contractor shall provide copies of such certificates in respect of all materials used in the Sub-Contract Works);
 - 5.2.2 are generally accepted, or generally known or suspected, in the construction industry to be deleterious or pose a threat or are harmful to health and safety or to the structural stability, performance, physical integrity or durability of buildings and/or structures and/or finishes and/or plant and machinery in the particular circumstances in which they are specified, approved or authorised for use or used;

- 5.2.3 reduce, or possibly reduce, the normal life expectancy of the completed Sub-Contract Works or the Project or any part or component of the Sub-Contract or the Project; or
- 5.2.4 are identified as deleterious, unsatisfactory or unsuitable or do not comply with or are not in accordance with the guidelines contained in the edition of the publication 'Good Practice in the Selection of Construction Materials' published by the British Council of Offices and the BRE Digest current at the date of use.
- 5.3 If, in the course of carrying out the Sub-Contract Works, the Sub-Contractor becomes aware of any materials, substances, processes, methods of working, goods, equipment, products, systems or kits of the type referred to in clause 5.2 having been used or specified by any other contractor or consultant engaged in relation to the Project, the Sub-Contractor shall promptly notify Bellway in writing.
- 5.4 All materials, goods, equipment, products, substances and kit used by the Sub-Contractor shall be of good quality and suitable for their intended purpose. When requested to do so, the Sub-Contractor shall submit (at the Sub-Contractor's cost) samples of any goods or materials to be used in the Sub-Contract Works.
- 5.5 If required by Bellway, the Sub-Contractor shall promptly provide British Board of Agrément (BBA) certificates in respect of any materials, goods and/or products used in the Sub-Contract Works.
- 5.6 Without prejudice to the generality of the foregoing, the Sub-Contract Works shall comply with the requirements set out or referred to in the Mandatory Group Deals.
- 5.7 Unless otherwise requested by Bellway and confirmed to the Sub-Contractor in writing, the materials, substances, processes, methods of working, goods, equipment, products, systems and kits used in the Sub-Contract Works shall also comply with Bellway's Corporate Social Responsibility Policy and Environmental Guidelines current as at the date of the Sub-Contract (copies of which are available for inspection during business hours at Bellway's office or address or on request).

6. THIRD PARTY AGREEMENTS

- 6.1 The Sub-Contractor is deemed to have read the Superior Contracts and Trade Contracts (excluding financially and commercially sensitive information) and to be fully aware of the obligations, risks and liabilities assumed by Bellway and others under them and the rights, powers and remedies available. The Sub-Contractor acknowledges that a breach or default on the part of the Sub-Contractor or any Sub-Contractor's Persons under the Sub-Contract may cause or contribute to a breach by Bellway of any of its obligations under any Superior Contract and/or Trade Contract and cause loss thereunder (which losses shall be deemed within the Sub-Contractor's contemplation).
- 6.2 The Sub-Contractor acknowledges that some of the Superior Contracts and Trade Contracts may be the latest drafts of such agreements in the process of negotiation, which shall, for the purposes of this clause, be deemed to be binding agreements in the form provided and shall not be treated as a variation instruction as described in clause 6.4 unless the terms contained in such drafts vary materially after the date of the Sub-Contract and then only to the extent the drafts vary materially.
- 6.3 The Sub-Contractor shall ensure that no act, breach, default or omission on its part or on the part of any of the Sub-Contractor's Persons in relation to the performance by the Sub-Contractor of its obligations and duties under or in connection with this Sub-Contract shall constitute, cause, contribute or otherwise give rise to:
 - 6.3.1 any breach by Bellway of any of Bellway's duties and/or obligations under the Superior Contracts and/or Trade Contracts; or
 - 6.3.2 any other liability on the part of Bellway in connection with the Superior Contracts and/or Trade Contracts; or
 - 6.3.3 the diminution or loss of any other rights, entitlements or other benefits of Bellway under or in connection with the Superior Contracts and/or Trade Contracts.
- 6.4 The Sub-Contractor shall indemnify, save, defend and hold harmless Bellway from and against all costs, losses, damages and expenses accrued, suffered or incurred arising from or in connection with any breach by the Sub-Contractor of the terms of this clause 6 and shall indemnify, save, defend and hold harmless Bellway in respect of any and all claims, actions and/or proceedings commenced or continued by any Third Party Beneficiary against Bellway arising from any breach, negligence or default (whether by act or omission) by the Sub-Contractor of any of the Sub-Contractor's Persons.
- 6.5 If any further Superior Contracts and/or Trade Contracts are entered into (or Bellway provides amended drafts of the documents referred to in clause 6.2, which materially differ from the drafts referred to in clause 6.2), after the date of the Sub-Contract, then following a written request to do so by or on behalf of Bellway, the Sub-Contractor shall observe, perform and comply with its obligations under clause 6 in respect of such Superior Contracts and/or Trade Contracts and if they necessitate or result in an amendment to the Sub-Contract Works, such amendment shall be treated as if it were an instruction by Bellway under clause 21.
- 6.6 If and to the extent that there is any error, discrepancy or conflict between or within the terms of this Sub-Contract and the terms of the Superior Contracts and/or Trade Contracts, the Sub-Contractor shall inform Bellway in writing of its

proposed amendment to remove the error, discrepancy or conflict and Bellway shall decide between the discrepant items or otherwise may accept the Sub-Contractor's proposed amendment and the Sub-Contractor shall be obliged to comply with the decision or acceptance by Bellway without any increase to the Sub-Contract Sum or any extension of time to the Sub-Contract Period as a result of such error, discrepancy or conflict.

- 6.7 Except where expressly stated to the contrary in this Sub-Contract, the Sub-Contractor shall perform and assume as part of its obligations under this Sub-Contract, Bellway's obligations, risks and liabilities under the Superior Contracts as if they were expressly referred to in the Sub-Contract as obligations, risks and liability of the Sub-Contractor insofar as they comprise and relate to the manner and quality of performance of the design and construction of the Sub-Contract Works and the building works necessary to complete the Sub-Contract Works and the rectification of any defects in the Sub-Contract Works and the building works necessary to complete the Sub-Contract Works and shall be liable to Bellway for the consequences of any failure to perform such obligations. The Sub-Contractor shall also provide any assistance reasonably required by Bellway for the purposes of the performance of Bellway's other obligations, and of the exercise of Bellway's rights, under the Superior Contracts.
- 6.8 In addition, the Sub-Contractor shall take full account of any interests or rights enjoyed by any third party in or over the Site (including without limitation any easements and rights of way air or light) and any restrictions or other encumbrances affecting the Site and ensure that no infringement is caused by it in the carrying out or completion of the Sub-Contract Works or a Section. The Sub-Contractor shall carry out the Sub-Contract Works at a time and in a manner that so far as is practicable minimises the interference, disruption, disturbance and inconvenience to the buildings on or around the Site and all occupiers and residents of buildings on or around the Site.

7. SITE SUPERVISOR AND KEY PERSONNEL

- 7.1 The Sub-Contractor shall, prior to commencement of the Sub-Contract Works, appoint a suitably qualified, competent and experienced site supervisor to act as a representative of the Sub-Contractor on the Site and be in charge of the Sub-Contract Works, and notify Bellway thereof. The site supervisor must regularly and diligently check and inspect the quality and standard of the Sub-Contract Works and ensure that the Sub-Contractor complies with the requirements of the Sub-Contract. The site supervisor must also ensure that all work is fully snagged prior to Completion of the Sub-Contract Works or any part of them.
- 7.2 As and when requested to do so by Bellway, the site supervisor (and such other of the Sub-Contractor's Persons as may from time to time be necessary) shall attend site meetings in connection with the Sub-Contract Works and the Project.
- 7.3 Failure by the site supervisor or an appropriate alternative person to attend such meetings shall be considered a breach of contract by the Sub-Contractor in respect of which, without prejudice to Bellway's other rights, powers and remedies available to it, the Sub-Contractor shall pay or allow Bellway liquidated and ascertained damages for each such breach in the sum of one hundred pounds (£100).
- 7.4 In the event that in the opinion of Bellway the Sub Contractor has failed or is failing to provide adequate site supervision. Bellway shall be entitled to provide its own site supervision and the Sub Contractor shall pay or allow to Bellway the cost so accrued, suffered or incurred by Bellway.
- 7.5 The Sub-Contractor shall ensure that the Key Personnel are employed in performing the Sub-Contract Works and devote sufficient time and attention fulfilling their respective roles and, except in the event of termination of employment, illness or incapacity, the Sub-Contractor shall not remove, replace or reassign such Key Personnel without Bellway's prior written consent. The Sub-Contractor shall ensure that any replacement for any of the Key Personnel is competent, appropriately qualified and suitable for the Sub-Contract Works.
- 7.6 If at any time before Completion of the Sub-Contract Works, Bellway (acting reasonably) asks the Sub-Contractor to remove or replace any personnel of the Sub-Contractor or the Sub-Contractor's Persons performing any part of the Sub-Contract Works because in Bellway's reasonable opinion such personnel are not competent, qualified or suitable for the, then the Sub-Contractor shall promptly remove, replace or reassign such personnel with such person or persons as are acceptable to Bellway (acting reasonably).

8. SITE ACCESS AND CONDITIONS

- 8.1 Bellway will permit the Sub-Contractor such non-exclusive access to the Site as is necessary to allow the Sub-Contractor to carry out and complete the Sub-Contract Works.
- 8.2 Unless the Authorised Representative otherwise instructs in writing, the Sub-Contractor shall be responsible for the proper and accurate setting out of the Sub-Contract Works and shall satisfy itself before commencing the Sub-Contract Works or a Section and during the carrying out of the Sub-Contract Works as to the position, dimensions and suitability of any previous and/or existing work and the ground, sub-surface conditions and existing structures, buildings or utilities / services which may in any way affect the Sub-Contract Works. The Sub-Contractor shall satisfy itself that any existing and/or previous work to that of the Sub-Contract Works or any part of them has been properly executed and completed before commencing the Sub-Contract Works or a Section and shall immediately warn Bellway in writing where any such previous or existing work is sub-standard, out of position, wrongly dimensioned or the conditions of the Site are in any other way unsuitable. If no such written notice is given by the Sub-Contractor it shall have no claim whatsoever in respect of the state, condition, compatibility (with the Sub-Contract Works) or suitability of any existing and/or

previous work.

- 8.3 If Bellway or anyone on its behalf has provided the Sub-Contractor with any plans, reports, surveys, documents or information (whether before or after the date of the Sub-Contract) relating to the condition of the Site, the ground, sub-surface conditions, existing structures and services and/or the Project and/or the Sub-Contract Works then, whilst Bellway does not warrant and makes no representation as to the adequacy, accuracy, suitability, reliability or sufficiency of any such plans, reports, surveys, documents or information or any recommendations or conclusions contained in them, the Sub-Contractor shall not do or omit to do anything which might place Bellway in breach of any obligations it might have in respect of or arising out of such plans, reports, surveys, documents and/or information. The risk of the condition of the Site, the ground, sub-surface conditions, existing structures and buildings, adverse physical conditions and artificial, man-made and natural obstructions, utilities and services (whether foreseen or unforeseen) rests entirely with the Sub-Contractor. The Sub-Contractor shall not be entitled to make any Claim in connection with such risk nor shall the Sub-Contractor be released from any of the risks accepted or obligations undertaken by it under the Sub-Contract on the ground that he did not or could not reasonably have foreseen any matter which might affect or have affected the carrying out and Completion of the Sub-Contract Works or a Section.
- 8.4 Bellway may so as to assist the Sub-Contractor issue an instruction effecting a Variation to the Sub-Contract Works in the event the Sub-Contractor encounters adverse conditions or naturally occurring or artificial obstructions during the course of executing the Sub-Contract Works but the Sub-Contractor shall not by reason of such instruction be entitled to make any Claim.
- 8.5 The Sub-Contractor shall at all times prevent any public or private danger, nuisance (including but not limited to any such nuisance caused by noxious fumes, noisy working operations or the deposit of any materials or debris on the public highway), trespass, obstruction or other interference with the rights of any adjoining or neighbouring landowner, tenant, licensee or occupier or any statutory undertaker arising out of the carrying out the Sub-Contract Works where such nuisance, trespass, obstruction or other interference is an avoidable consequence of the carrying out of the Sub-Contract Works or of any obligation to rectify Defects and shall defend or, at Bellway's option, assist Bellway in defending any action or proceedings which may be instituted in relation thereto howsoever such action may arise.
- 8.6 The Sub-Contractor must not do or omit to do anything which might impede, obstruct, hinder, interrupt or block access to and from existing or temporary roads being used for access or egress to and from the Site or any part of it. The Sub-Contractor must not use the Site or any part of it for any illegal purpose.
- 8.7 The Sub-Contractor shall carry out and complete the Sub-Contract Works (including the rectification of Defects) so as not to adversely affect the beneficial use and enjoyment of the existing structures and buildings on the Site or in the vicinity of the Site or the beneficial use and enjoyment of the existing buildings and structures on any adjacent land.
- 8.8 During the carrying out of the Sub-Contract Works, the Sub-Contractor shall:
- 8.8.1 enable Bellway, the Authorised Representative and any other persons authorised by either of them to have access to the Site or any part of it at all reasonable times to view the progress and state of the Sub-Contract Works;
 - 8.8.2 keep its working areas in a clean and tidy condition;
 - 8.8.3 not leave any part of the Sub-Contract Works exposed to adverse weather, atmospheric or physical conditions for any longer than is strictly necessary or create any unacceptable levels of noise, fumes, odours or dust;
 - 8.8.4 procure that no signs, posters, placards or advertisements are displayed on the Site or any temporary structures or hoarding without Bellway's prior written consent;
 - 8.8.5 make good any loss or damage arising out of or in the course of or by reason of the carrying out of the Sub-Contract Works;
 - 8.8.6 continually snag and quality control check its work throughout the course of the Sub-Contract Works;
 - 8.8.7 not remove any earth, clay, gravel or other minerals otherwise than may be necessary to enable the Sub-Contract Works to be carried out and completed;
 - 8.8.8 observe and comply with all requirements and recommendations of the Health and Safety Executive and the relevant Local Authority.
- 8.9 At regular intervals or on request, the Sub-Contractor shall keep Bellway fully and properly informed of:
- 8.9.1 measures taken, and stages reached, by the Sub-Contractor in performing its obligations and duties in the Sub-Contract;
 - 8.9.2 the progress of the design and construction of the Sub-Contract Works; and
 - 8.9.3 material problems or delays affecting the design and construction of the Sub-Contract Works.

9. FACILITIES AND ATTENDANCES

- 9.1 Bellway shall make available to the Sub-Contractor the Attendances. The Sub-Contractor shall have non-exclusive use of such Attendances with Bellway and other Trade Contractors and the Attendances may only be used and must be treated in accordance with Bellway's directions and instructions. The Attendances will be provided at such times and at such locations as may be directed by Bellway or as set out in the Sub-Contract Order. The provision of such Attendances by Bellway shall not relieve the Sub-Contractor of any obligation or duty to test or inspect such Attendances and the Sub-Contractor must satisfy itself that such Attendances are suitable for their intended purpose. No warranty (express or implied) is given by Bellway as to the fitness, suitability or condition of such Attendances. Except as expressly set out in the Sub-Contract Order, Bellway shall not provide any other facilities, plant or equipment or other attendances to assist the Sub-Contractor to perform its obligations and duties under the Sub-Contract.
- 9.2 Any use by the Sub-Contractor of any Attendances shall be at the Sub-Contractor's own risk and the Sub-Contractor shall not be entitled to any Claim arising from any loss of continuity of any Attendances.
- 9.3 Bellway does not accept any responsibility for unloading, checking, placing in a safe position or keeping secure or the prevention of any loss damage or theft of or to the Sub-Contractor's materials, equipment or plant.
- 9.4 If the Sub-Contractor's labour is not on Site or is otherwise unavailable when such materials or plant arrive, Bellway may arrange to unload the Sub-Contractor's materials, plant and equipment upon the understanding that Bellway shall not be liable for such action in any way whatsoever. The Sub-Contractor shall pay Bellway's costs and charges for services thus rendered.
- 9.5 Subject to clause 9.1, the Sub-Contractor is to supply all necessary labour (with adequate supervision), materials, goods, equipment and plant including but not limited to all scaffolding, ladders, hoists, temporary works and tools, commissioning, testing, off-loading and distribution, items of attendance, supervision and to do all that is necessary to ensure the satisfactory performance and completion of the Sub-Contract Works or a Section in accordance with the terms of the Sub-Contract (whether express or implied) and the Sub-Contractor is deemed to have allowed for all such risks, responsibilities and liabilities in the Sub-Contract Sum and when calculating the Sub-Contract Period.
- 9.6 If Bellway has cause to believe in its reasonable opinion that any plant, goods, materials or equipment to be used or being used by the Sub-Contractor is unsafe or unfit for use, Bellway may instruct the Sub-Contractor to take all such steps as may be necessary in order to render such plant, goods, materials or equipment safe and fit for use. The Sub-Contractor shall not have any entitlement to any Claim arising from Bellway properly acting in accordance with this clause.

10. RUBBISH/HEALTH & SAFETY AT WORK

- 10.1 The Sub-Contractor shall clean down all its own work and attend upon and make good all damage to its Sub-Contract Works until Completion.
- 10.2 The Sub-Contractor shall observe, perform and comply (and ensure that the Sub-Contractor's Persons observe, perform and comply) with the requirements, recommendations and directions of Bellway's Health and Safety Policies and Site Standards Policies (copies of which are available upon request).
- 10.3 Unless expressly stated otherwise in the Sub-Contract Documents, the Sub-Contractor shall at its own cost clear and dispose of safely all waste forming part of the Sub-Contract Works or generated by the carrying out of the Sub-Contract Works in accordance with all relevant Statutory Requirements and Requisite Consents. Any mud, debris, general rubbish or other material generated by the Sub-Contractor and left on roads or access ways to and from or on the Site must be cleaned up and removed by the Sub-Contractor at its own cost on request from Bellway. If the Sub-Contractor fails to comply with its obligations and duties under this clause, Bellway shall be entitled to clean and tidy the Site and/or any roads or other working areas at the Sub-Contractor's cost.
- 10.4 If the Sub-Contract Works include off-site works or earthworks, then the Sub-Contractor shall comply at its own cost with all environmental legal requirements and requirements of any competent statutory or regulatory body relating to the disposal of all waste.

11. INDEMNITIES

- 11.1 The Sub-Contractor shall be liable for and shall indemnify, save, defend and hold harmless Bellway from and against all liabilities, claims, proceedings, interest, costs, expenses (including but not limited to legal costs and expenses), damages and losses whatsoever (including but not limited to any direct, indirect or consequential losses, loss of reputation and all interest, financing costs, penalties and legal and other reasonable professional fees, costs and expenses), whether actual, contingent or prospective and howsoever accrued, suffered or incurred by Bellway in respect of death of or injury whatsoever to any person and/or any theft, loss, injury and/or damage whatsoever to any property (whether real or personal) which may arise from or in connection with the performance of the Sub-Contractor's obligations and duties under the Sub-Contract or arising out of or in the course of or caused by the design, carrying out and/or completion of the Sub-Contract Works.
- 11.2 The Sub-Contractor shall be liable for and indemnify, save, defend and hold harmless Bellway from and against all liabilities, claims, proceedings, interest, costs, expenses (including but not limited to legal costs and expenses),

damages and losses whatsoever (including but not limited to any direct, indirect or consequential losses, loss of reputation and all interest, financing costs, penalties and legal and other reasonable professional fees, costs and expenses), whether actual, contingent or prospective and howsoever accrued, suffered or incurred by Bellway arising out of or in connection with:

- 11.2.1 any breach of contract, breach of statutory duty, negligent performance or non-performance or non-observance of any of the terms of the Sub-Contract by the Sub-Contractor or any of the Sub-Contractor's Persons; and/or
 - 11.2.2 any breach of any Statutory Requirements or any of the Requisite Consents or any failure or delay in obtaining and then maintaining and complying with any and all Requisite Consents; and/or
 - 11.2.3 the enforcement of the Sub-Contract; and/or
 - 11.2.4 any claim made against Bellway for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Copyright Material; and/or
 - 11.2.5 any act, omission or default of the Sub-Contractor or any of the Sub-Contractor's Persons which involves Bellway in any liability to any third party; and/or
 - 11.2.6 any claim made against Bellway by a third party arising out of or in connection with the carrying out of the Sub-Contract Works, to the extent that such claim arises out of any breach of contract, breach of statutory duty, negligent performance, tortious liability or failure or delay in performance of the Sub-Contract by the Sub-Contractor or any of the Sub-Contractor's Persons; and/or
 - 11.2.7 anything which might be or become an actionable danger or nuisance, obstruction, trespass or interference with the rights of any third party (including rights of way, light, air or water) that are a consequence of the carrying out of the Sub-Contract Works.
- 11.3 The indemnities given by the Sub-Contractor in these Conditions shall apply whether or not Bellway has been negligent or at fault.

12. INSURANCE

- 12.1 The Sub-Contractor shall maintain Employer's Liability insurance and all other insurances as required by law.
- 12.2 Without prejudice to its liability to indemnify Bellway under clause 11, the Sub-Contractor shall maintain the following insurances in connection with the Sub-Contract:
- 12.2.1 Public Liability (including but not limited to Product Liability) with a limit of cover of not less than the amount stated in the Sub-Contract Order or, if no limit of cover is specified, then the Sub-Contractor shall maintain cover with a limit of indemnity of ten million pounds (£10,000,000) for any one occurrence or series of occurrences arising out of one event in any one period of insurance; and
 - 12.2.2 except in circumstances where the Sub-Contract Documents state that it is not required, then Contractor's All Risks / Contract Works insurance with such cover as shall be sufficient to cover the entire replacement and reinstatement costs of the Sub-Contract Works together with any professional fees and expenses and shall be maintained in the joint names of the Sub-Contractor and Bellway.
- 12.3 In so far as the Sub-Contractor is responsible for design or specification of materials forming any part of the Sub-Contract Works (whether temporary or permanent works), the Sub-Contractor shall take out and/or maintain a policy of professional indemnity insurance with a limit of indemnity of not less than the amount stated in the Sub-Contract Order or, if no limit of indemnity is specified, then the Sub-Contractor shall maintain cover of not less than ten million pounds (£10,000,000) for any one claim (or in the case of claims for pollution or contamination with not less than such limit of indemnity in the aggregate for any and all claims notified in any one year of insurance). The Sub-Contractor agrees to maintain such insurance at all times for as long as it remains liable under or in connection with the Sub-Contract provided such insurance is available generally to contractors in the UK insurance market at commercially reasonable rates having regard (inter alia) to premiums required and policy terms available.
- 12.4 Any increased premiums resulting from the Sub-Contractor's own claims record or other acts, omissions, matters or things particular to the Sub-Contractor shall be disregarded for the purposes of ascertaining whether the insurance required by clause 12.3 is available at commercially reasonable rates.
- 12.5 Not later than five (5) Working Days' after receiving a request to do so, the Sub-Contractor agrees to provide Bellway with documentary evidence that the policies of insurance it is required to maintain under the Sub-Contract are being maintained, are in force and the premium for the current period of insurance has been paid. For the purposes of this provision, documentary evidence shall include a copy of a letter from its insurance brokers or an insurance verification certificate provided the Consultant also provides Bellway with a complete copy of each insurance policy schedule referring to the amount of the excess and/or deductible, any exclusions or limitations and any sub-limits or aggregate limits of cover applicable to each of the Consultant's insurance policies.

- 12.6 Where the Sub-Contractor is unable to effect professional indemnity insurance as required under clause 12.3 on generally commercially reasonable rates, it shall promptly notify Bellway and shall obtain in respect of such period such reduced level of insurance as is available and as it would be fair and reasonable in the circumstances for the Sub-Contractor to obtain.
- 12.7 If, at any time before Completion, any loss, injury or damage affecting any part of the Sub-Contract Works or any unfixed materials or goods which have been delivered to Site and are intended for incorporation into the Sub-Contract Works is occasioned by any of the risks insured under the insurance policy which the Sub-Contractor is obliged to maintain pursuant to clause 12.2.2, the Sub-Contractor shall immediately upon it occurring or becoming apparent give notice to Bellway of its nature, location and extent. The occurrence of any loss or damage referred to in this clause shall be disregarded in calculating any amounts payable to the Sub-Contractor under the Sub-Contract.
- 12.8 The Sub-Contractor shall authorise the insurers providing the cover referred to in clause 12.2.2 to pay to Bellway all monies from such insurance. Following receipt of the insurance funds, Bellway shall notify the Sub-Contractor that:
- 12.8.1 Bellway wishes the Sub-Contractor to restore or reinstate any part of the Sub-Contract Works and/or replace any materials or goods affected by the loss or damage. If this clause applies, the Sub-Contractor shall as soon as reasonably practicable thereafter and with all due diligence and subject to its obligations under the Sub-Contract restore or reinstate any damaged parts of the Sub-Contract Works and replace any lost or damaged materials and dispose of any resulting debris (collectively in this clause 12 **'Reinstatement Work'**) and proceed with the carrying out and completion of the Sub-Contract Works; or
- 12.8.2 Bellway does not wish the Sub-Contractor to restore or reinstate any part of the Sub-Contract Works and/or replace any materials or goods affected by the loss or damage.
- 12.9 In the event that:
- 12.9.1 clause 12.8.1 applies, the instruction issued by Bellway in relation to the Reinstatement Work shall be deemed to be a Variation provided always that the sums which the Sub-Contractor shall be entitled to in connection with such Variation shall under no circumstances be higher than the insurance funds received by Bellway pursuant to clause 12.8 and the Sub-Contractor shall be responsible for any shortfall in the insurance proceeds; or
- 12.9.2 clause 12.8.2 applies:
- (a) Bellway shall be entitled to instruct a Variation to omit the parts of the Sub-Contract Works or materials affected by the loss or damage (and such instruction shall not affect the Sub-Contractor's obligations under the Sub-Contract in respect of the remainder of the Sub-Contract Works) from the scope of the Sub-Contract Works; or
- (b) Bellway shall be entitled to terminate the Sub-Contractor's engagement by giving to the Sub-Contractor prior written notice. The Sub-Contractor's engagement under the Sub-Contract shall terminate automatically on receipt by the Sub-Contractor of such notice.
- 12.10 The Sub-Contractor undertakes to comply with the terms of its insurance policies referred to in this clause 12. The Sub-Contractor shall not do, omit to do or permit anything to be done which may make void or voidable or unenforceable or adversely impact any of such insurance policies or entitle the relevant insurer to refuse any claim (in whole or in part) in respect of any risk or amount for which the policy is expressed to provide indemnity and the Sub-Contractor shall ensure that all other things necessary are done so as to keep its policies of insurance in force.
- 12.11 The Sub-Contractor shall not (and shall procure that anyone from whom it is responsible shall not) do anything which may void or adversely impact any insurances maintained by Bellway.
- 12.12 For the avoidance of doubt, the Sub-Contractor's obligations to maintain insurance are not intended to operate to limit, vary, reduce or exclude the Sub-Contractor's liability under or in connection with the Sub-Contract in any way whatsoever.
- 13. COPYRIGHT**
- 13.1 Copyright in any Copyright Material shall remain vested in the Sub-Contractor, but the Sub-Contractor hereby grants to Bellway and Bellway's successors in title and permitted assigns, with immediate effect, an irrevocable, perpetual, non-terminable, royalty-free, non-exclusive licence to copy, use, adapt, modify and reproduce the Copyright Material for any and all purposes relating to the Project, the Site and such other purposes as may be reasonably foreseeable except that Bellway shall not be entitled to reproduce any designs contained in the Copyright Material for the purposes of an extension to the Project. This licence shall include the right to grant sub-licences in the terms of this licence and shall be transferable to third parties without the Sub-Contractor's consent. This licence shall remain in full force and effect notwithstanding the completion of the Sub-Contractor's obligations or the termination of the Sub-Contractor's engagement under the Sub-Contract or any dispute in connection with the Sub-Contract.
- 13.2 To the extent that the Sub-Contractor does not have ownership of the copyright in the Copyright Material the Sub-Contractor shall procure from the copyright owner a licence with full title guarantee to Bellway in respect of the Copyright

Material in the same terms as set out in this clause 13.

- 13.3 The Sub-Contractor shall not be liable for any use by Bellway or Bellway's appointees of any of the Copyright Material for any purpose other than that for which the Copyright Material was prepared and/or provided by the Sub-Contractor or such other purpose as may be reasonably foreseeable.
- 13.4 The Sub-Contractor must not copy, use or reproduce any of the Copyright Material (or permit any third party to copy, use or reproduce the Copyright Material) in connection with the Site or any part of it (or any adjacent site) except as expressly authorised by Bellway and provided that such Copyright Material is only used for the benefit of the Project. The Sub-Contractor shall not grant to any third party the right to copy, use or reproduce any of the Copyright Material except as expressly provided for under the Sub-Contract or under any collateral warranty or letter of reliance it is obliged to enter into or third party rights it gives pursuant to these Conditions.
- 13.5 The Sub-Contractor warrants and undertakes that it has not and shall not produce, specify or employ any Copyright Material in breach of any copyright, patent or other right of any third party and the Sub-Contractor agrees to indemnify Bellway from and against any and all claims, demands, costs, losses and expenses which Bellway suffers or incurs in connection with such breach.
- 13.6 The Sub-Contractor shall at any time and at its own cost provide to Bellway (from time to time on Bellway's request) with copies (in hard copy, CAD format, electronic format and such other editable format as Bellway may reasonably require) of the Copyright Material and any other information, correspondence and documentation the Sub-Contractor has prepared in connection with the Project and the Sub-Contractor agrees not to exercise any lien for any reason which the Sub-Contractor might otherwise be entitled to exercise over the Copyright Material.
- 13.7 The Sub-Contractor hereby waives and agrees not to assert any moral rights in the Copyright Material pursuant to the Copyright Designs and Patents Act 1988 or otherwise. The Sub-Contractor shall procure for Bellway a waiver corresponding to that in this clause from any consultant or sub-contractor employed by the Sub-Contractor who is an author (as referred to in the Copyright, Designs and Patents Act 1988) of any part of the Copyright Documents and/or of the Sub-Contract Works in respect of them.
- 13.8 Notwithstanding any other provision of these Conditions or the Sub-Contract, ownership of all of the Copyright Material shall transfer automatically and immediately to Bellway (free from any charges and encumbrances, and without the need to execute any further agreement to document such transfer) in the event the Sub-Contractor becomes Insolvent and the Sub-Contractor shall, forthwith upon request, deliver all or any Copyright Material (in any editable format as may be reasonably requested by Bellway) to Bellway (save for the ownership of any Copyright Material which was owned by the Sub-Contractor prior to the commencement of the Sub-Contract Works and which were not created by or on behalf of the Sub-Contractor in connection with the Project or the Site).

14. OWNERSHIP AND RISK

- 14.1 The ownership of and legal title to materials or goods to be used in or in connection with the Sub-Contract Works shall pass (with full title guarantee, free from all liens, charges and other encumbrances) to Bellway upon payment by Bellway for such materials or goods or, if earlier, upon delivery of the said materials or goods to the Site, whether or not payment has been made and whether fixed or unfixed. The Sub-Contractor shall have the use of such materials or goods on licence until they are fully and finally fixed. Such materials and goods remain at the Sub-Contractor's risk and responsibility until they are fully fixed and incorporated into the Project. The Sub-Contractor shall not have any right to exercise a lien over any such materials or goods. The Sub-Contractor shall adequately protect and secure all materials and goods brought on to the Site for incorporation into the Sub-Contract Works from any theft, loss, injury and/or damage.
- 14.2 Where ownership has passed to Bellway upon payment in accordance with clause 14.1, but the materials or goods have not been delivered to the Site or have been delivered to the Site but have not yet been fully incorporated into the Sub-Contract Works, the Sub-Contractor shall:
 - 14.2.1 safely and securely store the materials or goods separately from all other materials or goods held by the Sub-Contractor so that they remain readily identifiable as Bellway's property;
 - 14.2.2 not remove, deface or obscure any identifying mark or packaging on or relating to the goods or materials;
 - 14.2.3 maintain the goods and materials in good condition,
 - 14.2.4 adequately protect the goods and materials from theft, loss, injury and damage and protect them against adverse weather and other casualties;
 - 14.2.5 keep the goods and materials insured against all risks for their full replacement costs from the date of payment;
 - 14.2.6 notify Bellway immediately if the Sub-Contractor becomes Insolvent;
 - 14.2.7 give Bellway such information relating to and/or facilitate access to inspect the goods and materials as Bellway may require from time to time; and

- 14.2.8 at Bellway's request, execute a vesting deed and procure that the relevant Sub-Contractor's Persons enter into and execute a vesting deed in a form reasonably required by Bellway transferring ownership of the relevant materials or goods to Bellway.
- 14.3 All plant, equipment, materials and goods not for incorporation in the Sub-Contract Works brought on to Site by the Sub-Contractor shall be at the sole risk of the Sub-Contractor and the Sub-Contractor shall ensure that all such plant, equipment, materials and goods fully comply with and are operated, stored, used and transported in accordance with all Statutory Requirements and Requisite Consents.
- 14.4 Upon delivery of equipment, materials and goods to the Site, the Sub-Contractor must provide details of such equipment, materials and goods delivered in the format set out in the Sub-Contract Documents or if not set out in the Sub-Contract Documents, then as reasonably required by Bellway.
- 14.5 The Sub-Contractor shall do everything necessary and everything required of it by Bellway to protect and secure the Sub-Contract Works or a Section against any theft, loss, injury, damage and/or destruction from whatever cause arising prior to Completion and, if instructed to do so by Bellway, shall make good all theft, loss, injury, damage and/or destruction to the Sub-Contract Works however caused prior to Completion at the Sub-Contractor's own cost and expense. The Sub-Contractor shall ensure that, when carrying out such making good, it prevents any damage or loss to other existing work, buildings or structures on or around the Site and that provision is made for the support and protection of all existing structures and services situated in, on, under, around or adjacent to the Site in so far as they may be affected by the Sub-Contract Works.
- 14.6 The Sub-Contractor shall take all necessary steps to ensure that the carrying out of the Sub-Contract Works (or the remedying of any Defects) does not interfere with, damage or destroy (in whole or in part) any existing buildings, structures or services on, under or around the Site.
- 14.7 The Sub-Contractor shall not close up or cover up any part of the Sub-Contract Works without giving Bellway notice in writing and a reasonable opportunity to inspect, examine, test and/or measure that part of the Sub-Contract Works and to make comments to the Sub-Contractor in respect of the completion of the Sub-Contract Works. If the Sub-Contractor does not give Bellway such reasonable opportunity, then if requested by Bellway, the Sub-contractor shall uncover the relevant works and make good at its own expense and at no cost to Bellway. The Sub-Contractor must provide Bellway with photographic evidence of all work before it is closed up or covered up.
- 14.8 Bellway may issue instructions or directions requiring the Sub-Contractor to open up for inspection, investigation, examination, testing and/or measuring any work covered up or of any executed work. The Sub-Contractor shall be liable for the cost of any such opening up, inspection, testing and/or measuring (including the cost of making good) if the materials, goods or works are not in accordance with the Sub-Contract. Bellway shall not be liable for any costs associated with any opening up, inspection, testing, investigation and/or measuring if it was reasonable for Bellway to request it having regard to the quality and standard of the works performed prior to that date by the Sub-Contractor pursuant to the Sub-Contract or any other similar works performed by the Sub-Contractor, whether or not for Bellway. The Sub-Contractor shall comply with all instructions or directions to open up for inspection, investigation, examination, testing and/or measuring any work covered up or of any executed work.
- 14.9 During the carrying out of the Sub-Contract Works (and the remedying of any snagging items or Defects after Completion of the Sub-Contract Works), the Sub-Contractor shall not do (through any act or omission) or permit, allow or suffer to be done on the Site anything which would:
- 14.9.1 cause loss, injury or damage to any existing structures or buildings on the Site or on any adjoining property;
- 14.9.2 damage, weaken or render unsafe any existing structures or buildings on the Site or any part of them or any adjoining or neighbouring premises or plant or machinery;
- 14.9.3 impede, obstruct, hinder, interrupt or block access to and from the Site or any part of it or any individual dwellings or common areas within the Site or obstruct, interfere with or block any fire escape; and
- 14.9.4 infringe, interrupt or interfere with the rights, easements or privileges or the full use and enjoyment of the Site or any adjoining property by occupiers, residents, their visitors or the general public (as the case may be).

15. DRAWINGS/INFORMATION

- 15.1 Where required by Bellway, the Sub-Contractor shall, prior to Completion of the Sub-Contract Works or a Section, provide as-built drawings/plans handbooks or manuals including, if necessary or appropriate to the type of Sub-Contract Works, operating manuals or handbooks (in duplicate and in the required electronic format) in terms intelligible to laymen for use by third party customers of Bellway and shall further upon request supply copies of plans and designs and other technical information and specifications concerning the Sub-Contract Works including reasonable advice on maintenance problems but without waiver of Bellway's rights or the Sub-Contractor's obligations under the Sub-Contract.
- 15.2 Where the Sub-Contract Works or a Section involve compliance with any statutory or regulatory regime, the Sub-Contractor shall supply any relevant or necessary certificate, written statement and supporting documents no later than five (5) days prior to Completion of the Sub-Contract Works or a Section, or immediately upon a request by Bellway

(whichever is the earlier) or in compliance with any timescale required by statute.

- 15.3 The Sub-Contractor shall obtain and supply to Bellway manufacturers' guarantees in favour of or assignable to Bellway and all manuals, drawings and other information in respect of all items of plant and equipment and other proprietary products which comprise the Sub-Contract Works or a Section as may be reasonably requested by Bellway and which are necessary or desirable in connection with the operation and/or maintenance of the Sub-Contract Works or a Section.
- 15.4 Insofar as Bellway is obliged to provide the Sub-Contractor with any information relating to the Sub-Contract Works and/or the Project, the Sub-Contractor shall be responsible for making written requests to Bellway in good time for any information required by it of others and/or from Bellway so as not to delay or disrupt the regular progress or the timely completion of the Project. Failure to make such requests will preclude the Sub-Contractor from being entitled to bring a Claim to the extent that it is likely that had the Sub-Contractor requested information in accordance with this clause the circumstances giving rise to the Claim would not have occurred.
- 15.5 The Sub-Contractor shall provide Bellway with all necessary early warnings, applications, notices and any other communications in sufficient time and detail to enable Bellway to comply with any obligations it may have under any Superior Contract in relation to the provision of early warnings, applications, notices and any other communications.
- 15.6 The Sub-Contractor shall provide in good time so as not to delay or disrupt the Project all reasonable information to Bellway relating to the Sub-Contract Works that Bellway may require in order to set-out and commence any follow-on work after the Sub-Contract Works or any part of them have been completed or any other work that needs to be co-ordinated and integrated into or with the Sub-Contract Works.
- 15.7 The Sub-Contractor shall provide to Bellway immediately upon request, all necessary records to demonstrate that the Sub-Contractor has complied with all Statutory Requirements relevant to the Sub-Contract Works and any information that may be necessary in order to enable Bellway to comply with its obligations under the Superior Contracts and/or obtain Warranty Provider guarantee policies in relation to all residential housing units forming part of the Project insofar as such information relates to the carrying out and completion of the Sub-Contract Works or a Section.
- 15.8 If the Sub-Contract Works include the construction of sewers or drains or adoptable works, the Sub-Contractor must carry out and provide to Bellway a CCTV survey of all sewers and drains forming part of the Sub-Contract Works and as built drawings identifying the precise location and levels of all sewers, drains and manholes. The Sub-Contractor is deemed to have allowed for the cost of such survey and drawings in the Sub-Contract Sum.

16. COMPLETION

- 16.1 When the Sub-Contractor believes that the Sub-Contract Works or a Section have achieved Completion and has completed its own inspection and testing procedure (at no cost to Bellway), the Sub-Contractor shall issue to the Authorised Representative a notice stating that such completion, inspection and testing has been undertaken in accordance with the requirements of the Sub-Contract. On Completion, the Sub-Contractor warrants and undertakes that the Sub-Contract Works shall comply with all the requirements of the Sub-Contract, all Statutory Requirements, Requisite Consents, all relevant requirements of the Warranty Provider and the requirements and all terms of the Superior Contracts in so far as they relate to the Sub-Contract Works.
- 16.2 Without derogation from the Sub-Contractor's other express or implied duties and obligations, on Completion the Sub-Contractor warrants that the Sub-Contract Works shall comply in all respects with and satisfy:
 - 16.2.1 all the requirements of the Sub-Contract;
 - 16.2.2 all Statutory Requirements and Requisite Consents; and
 - 16.2.3 all relevant requirements of the Warranty Provider.
- 16.3 On or before Completion, the Sub-Contractor shall:
 - 16.3.1 procure that any loss, injury or damage to property (whether real or personal) arising out of or in the course of or by reason of the carrying out of the Sub-Contract Works or any part of them has been remedied and made good to the reasonable satisfaction of Bellway; and
 - 16.3.2 procure that the Site and the surrounding area used by the Sub-Contractor is left in good, tidy and clean condition, cleared of all unused or surplus building materials, plant, temporary signage, debris and equipment used in the carrying out of the Sub-Contract Works; and
 - 16.3.3 provide Bellway with all of the Handover Documents.
- 16.4 In the event the Sub-Contractor fails to comply with clause 16.1, if and in so far as Bellway has to undertake inspection or testing procedure, the cost to Bellway of such inspections and tests shall be recoverable by Bellway from the Sub-Contractor as a debt.
- 16.5 The Authorised Representative may inform the Sub-Contractor when in their reasonable opinion the Sub-Contract

Works or a Section have achieved Completion. Such opinion shall not be binding on either Party to the Sub-Contract. No notice or certificate issued by or on behalf of Bellway shall be of itself conclusive evidence that any materials, goods, plant, equipment, design or workmanship has been completed in accordance with the Sub-Contract.

- 16.6 Unless expressly agreed otherwise in writing by the Authorised Representative, the Sub-Contractor shall be responsible for (and shall make due allowance in the Sub-Contract Sum for all associated costs and expenses) maintenance of the Sub-Contract Works for the duration of the Rectification Period.

17. DEFECTS

- 17.1 Any Defects whatsoever notified to the Sub-Contractor before Completion or after Completion and during the Rectification Period shall be rectified by the Sub-Contractor to Bellway's satisfaction promptly and at the Sub-Contractor's cost and without prejudice to any other obligation or liability of the Sub-Contractor under the sub-Contract. This provision for a Rectification Period is without prejudice to Bellway's other rights and remedies and/or the Sub-Contractor's duties, liabilities and responsibilities generally.
- 17.2 Without prejudice to the terms of the Defects Rectification Policy and any other rights, powers and remedies available to Bellway, Bellway may itself rectify or remedy the Defect(s) or arrange for the Defect(s) to be rectified or remedied by others in which case the costs, losses, damages and expenses of so doing can be deducted by Bellway from the Retention and/or paid or allowed by the Sub-Contractor to Bellway as a debt.
- 17.3 Without prejudice to any other rights, powers and remedies available to Bellway, Bellway may elect not to have any or certain Defects rectified but instead, to deduct from any sums otherwise due to the Sub-Contractor (including but not limited to the Retention) and/or claim from the Sub-Contractor as a debt a sum which Bellway reasonably considers to be what would otherwise have been the cost of rectifying the relevant Defects.
- 17.4 The Sub-Contractor shall observe and comply with Bellway's Defects Rectification Policy (a copy of which is available for inspection during business hours at Bellway's offices or on request or available on Bellway's website).
- 17.5 In the event the Warranty Provider accepts a valid claim under any Warranty Provider policy applicable to the completed Sub-Contract Works and Bellway is required to carry out remedial works to the Sub-Contract Works, then the Sub-Contractor shall carry out and complete such remedial works to the extent applicable to the Sub-Contract Works. If the Warranty Provider or Bellway decide to carry out remedial works themselves and/or via alternative contractors, the Sub-Contractor shall pay on demand (without deduction or set off) all costs and expenses accrued, suffered or incurred by the Warranty Provider and Bellway in connection with doing so. The Sub-Contractor shall indemnify, save, defend and hold harmless Bellway from and against any costs, losses, damages and expenses suffered or incurred arising from any breach or default under the Warranty Provider's rules or requirements or Warranty Provider policies to the extent caused by any act, omission or default of the Sub-Contractor or Sub-Contractor's Persons. The Sub-Contractor shall pay for all investigations, tests and other work required by the Warranty Provider to the extent applicable to the Sub-Contract Works.
- 17.6 The Sub-Contractor shall indemnify, save, defend and hold harmless Bellway from and against all direct liabilities, costs, expenses, damages and losses and all other professional costs and expenses) suffered or incurred by Bellway in respect of any claims made against Bellway after the date of the Sub-Contract by the Warranty Provider and to the extent caused by the Sub-Contractor failing to comply with its obligations to carry out the Sub-Contract Works in accordance with the terms of the Sub-Contract, the Warranty Provider Rules and/or the Statutory Requirements.

18. DELAY AND EXTENSIONS OF TIME

- 18.1 If in the reasonable opinion of Bellway reasonable progress in the performance of the Sub-Contract Works or a Section is not being maintained by the Sub-Contractor, Bellway may, upon written notice to the Sub-Contractor and without prejudice to its right of termination pursuant to clause 31, engage others to supplement the Sub-Contractor's labour, in order to improve the progress of the Sub-Contract Works. The Sub-Contractor shall indemnify, save, defend and hold harmless Bellway in respect of any additional costs, consequences, claims, losses, expenses, damages, liabilities or proceedings accrued, suffered or incurred by Bellway as a consequence.
- 18.2 If Completion is delayed and such delay has been caused by:
- 18.2.1 any impediment, prevention or default (whether by act or omission) by Bellway (except to the extent that it was caused or contributed to by any default, whether by act or omission, of the Sub-Contractor, any of the Sub-Contractor's Persons or anyone for whom they are responsible); and/or
- 18.2.2 any Variation properly instructed by Bellway and performed in accordance with the Sub-Contract,

THEN, the Sub-Contractor shall be entitled to submit a Claim in respect thereof to Bellway in accordance with clause 19 and Bellway shall, within a reasonable time thereafter, grant in writing to the Sub-Contractor such extension (if any) to the Sub-Contract Period as may be fair and reasonable in all the circumstances and PROVIDED ALWAYS that: (i) the Sub-Contractor has constantly used its best endeavours to prevent any delay or further delay to the carrying out or completion of the Sub-Contract Works or a Section; and (ii) the Sub-Contractor shall not become entitled to an extension of time to the extent that the delay event or circumstance has been caused or contributed to by any error, omission, breach of contract, breach of statutory duty, nuisance, negligence or default of the Sub-Contractor or anyone

for whom it is responsible.

18.3 If the Sub-Contractor fails to achieve Completion during and by the end of the Sub-Contract Period or by a date set in the Sub-Contract Order for a Section to be completed, it shall pay or allow to Bellway Liquidated Damages or a sum equivalent to any and all costs, losses, damages and expenses accrued, suffered or incurred by Bellway and caused by such failure and such sum may be deducted from amounts otherwise due to the Sub-Contractor and/or Bellway may claim such costs, losses, damages and expenses from the Sub-Contractor as a debt. The Sub-Contractor hereby acknowledges that the Liquidated Damages are reasonably foreseeable and within the reasonable contemplation of the Parties at the time the Sub-Contract is entered into (including but not limited to liquidated damages that Bellway may be liable to pay or may otherwise incur arising out of, attributable to or in connection with the Sub-Contractor's failure to achieve Completion during and no later than the end of the Sub-Contract Period or by the date set for completion of a Section).

18.4 Where it appears (in the reasonable opinion of the Authorised Representative) that the Sub-Contractor will not achieve Completion within the Sub-Contract Period or the rate of progress of the Sub-Contract Works or a Section is at any time too slow, Bellway may instruct the Sub-Contractor to accelerate or expedite the carrying out and completion of the Sub-Contract Works or a Section by (without limitation) using additional or substitute plant, equipment and/or labour in order that the Sub-Contract Works will be completed within the Sub-Contract Period and the Sub-Contractor shall comply with such instruction.

19. SUB-CONTRACTOR CLAIMS

19.1 Notwithstanding any other provision of the Sub-Contract, any Claim must be notified by the Sub-Contractor in writing and received by Bellway not later than ten (10) Working Days after the event first occurring which gives rise to the Claim. Each Claim shall be properly documented with appropriate references to the contractual provisions on which the Sub-Contractor relies, together with copies of all relevant correspondence and documentation. Compliance with the requirements of clause 19.1 shall be a CONDITION PRECEDENT to any right on the part of the Sub-Contractor to be granted or obligation on the part of Bellway to grant any extension of time and/or to any right on the part of the Sub-Contractor to be paid or obligation on the part of Bellway to pay any additional payments pursuant to or arising out of or in connection with the Sub-Contract. If the Sub-Contractor fails to comply with these requirements, then it irrevocably waives its right, both under the Sub-Contract and at common law, in equity and/or pursuant to statute to any such entitlement to any extension of time or to additional payment.

19.2 The Sub-Contractor's rights and remedies available to it under the Sub-Contract shall be its exclusive and exhaustive rights and remedies available to the Sub-Contractor in respect of all matters under, arising out of or in connection with the Sub-Contract and/or the Sub-Contract Works, whether such rights and remedies arise in respect of or in consequence of a breach of contract or breach of statutory duty or a tortious or negligent act or omission which gives rise to a remedy at law. Except as expressly provided for in the Sub-Contract, Bellway shall not be obligated or liable to the Sub-Contractor in respect of any damages, costs, losses and/or expenses suffered or incurred by the Sub-Contractor that arise out of or in connection with the Sub-Contract and/or the Sub-Contract Works. Any other rights and remedies that the Sub-Contractor may otherwise have had at law are excluded to the fullest extent permitted by law.

19.3 Provided the Sub-Contractor submits a Claim in accordance with clause 19.1, it will be reviewed by Bellway within a reasonable time after having received the information referred to in clause 19.1 and Bellway will then notify the Sub-Contractor of its decision.

19.4 Notwithstanding any other provision in the Sub-Contract, the Sub-Contractor shall not be entitled to any Claim and irrevocably waives any entitlement to claim any additional payment and/or upwards adjustment to the Sub-Contract Sum if and to the extent that the Claim or the circumstances giving rise to the Claim are caused by or attributable to any mistake, error, act, negligence, negligent omission, default, breach of contract or breach of statutory duty by or on behalf of the Sub-Contractor or any of the Sub-Contractor's Persons or in respect of any event, matter or circumstance for which the Sub-Contractor accepts the risk or responsibility under the Sub-Contract.

20. INSTRUCTIONS

20.1 The Sub-Contractor shall comply with all decisions, instructions and directions given to it by Bellway and confirmed in writing. If the Sub-Contractor shall fail to comply within seven (7) days of receipt after such written instruction then Bellway may issue a written notice of failure to the Sub-Contractor. Failure by the Sub-Contractor to comply with that written notice within a further seven (7) days will enable Bellway to employ others to carry out the instruction whereupon all extra costs, losses, damages and expenses accrued, suffered or incurred by Bellway as a result of the employment of others to carry out the instruction shall be paid or allowed to Bellway by the Sub-Contractor as a debt.

20.2 The Sub-Contractor acknowledges and agrees that Bellway may, from time to time, during the carrying out of the Sub-Contract Works, issue programmes to the Sub-Contractor relating to the carrying out of the Sub-Contract Works and the issue of any such programme to the Sub-Contractor shall not of itself constitute grounds giving rise to a Claim and/or to a Variation pursuant to the Sub-Contract.

20.3 Bellway shall have the right to issue instructions or directions in respect of any of the following (which shall not entitle the Sub-Contractor to any extension of time to complete the Sub-Contract Works, any additional payment or any increase in the Sub-Contract Sum):

- 20.3.1 to secure proper compliance by the Sub-Contractor with any existing contractual obligations with regard to the Sub-Contract, the Sub-Contract Works or to any methods of working;
- 20.3.2 to secure methods of working which will be reasonably safe and proper during carrying out of the Sub-Contract Works in cases where the Sub-Contractor is failing to do so;
- 20.3.3 to vary the Sub-Contract Works or methods of working at the request of the Sub-Contractor so as to assist the Sub-Contractor or Bellway in overcoming the difficulties or in avoiding excessive costs during the carrying out of the Sub-Contract Works;
- 20.3.4 to vary the Sub-Contract Works or methods of working as a consequence of defective work or other negligence, default, breach of contract or breach of statutory duty by the Sub-Contractor, where insistence upon the removal and rebuilding of the original part of the Sub-Contract Works would involve unreasonable expense or delay or might prejudice the design, construction or completion of the Sub-Contract Works or a Section;
- 20.3.5 to suspend or postpone work and carry out investigations when this is the reasonable consequence of defective work or any other negligence, default, breach of contract or breach of statutory duty by the Sub-Contractor or any of the Sub-Contractor's Persons; or
- 20.3.6 to alter or vary a previous instruction or direction referred to in this clause 20.

21. VARIATIONS & DAYWORKS

- 21.1 Bellway may require a Variation without vitiating the Sub-Contract.
- 21.2 No Variation shall be carried out by the Sub-Contractor or paid for by Bellway unless it has been instructed in writing by the Authorised Representative requiring such Variation, such instruction to be in the form of a COINS generated Sub-Contract Order Variation form. The Sub-Contractor shall obtain sufficient evidence to demonstrate that the Variation was properly and validly instructed by the appropriate persons authorised by Bellway.
- 21.3 Variations shall be valued by agreement between Bellway and the Sub-Contractor or, if they fail to agree, in accordance with any applicable rates and prices in the Sub-Contract Documents or (if no applicable rates and prices exist) such rates and prices as shall be fair and reasonable in the circumstances and the Sub-Contract Sum shall be adjusted accordingly. In respect of any amount that is to be added to, deducted from or dealt with by adjustment of the Sub-Contract Sum, then, as soon as the amount is ascertained in whole or in part, the ascertained amount shall be taken into account in the next application for payment. A cap or fixed rate applicable to the Sub-Contractor's overheads and profit percentage may be specified in the Sub-Contract Documents or Appendix to apply to the valuation of a Variation and/or work for which there is a provisional sum. For the avoidance of doubt, the Sub-Contractor shall not be entitled to any additional payment in respect of any Variation which is caused or contributed to by any error, omission, breach or default of the Sub-Contractor or anyone for whom the Sub-Contractor is responsible or anything for which the Sub-Contractor has accepted the risk or responsibility under the Sub-Contract.
- 21.4 Unless first agreed in principle in advance and confirmed in writing by the Authorised Representative, no claims for overtime and/or unsociable working hours and/or acceleration or deceleration costs will be considered.
- 21.5 Any dayworks applications submitted by the Sub-Contractor for signature must be submitted on a work record sheet. The work record sheet must be signed by the Authorised Representative and such sheet is only a record of such work and shall not represent a concession of liability to pay for the work or the charges thereon. Dayworks claims shall be completely disregarded if submitted more than ten (10) Working Days from the occurrence of such work or if submitted on anything other than a works record sheet signed by anyone other than the Authorised Representative.
- 21.6 In the event a Variation results in any works being omitted from the Sub-Contract Works or a Section (including but not limited to work against which there is a provisional sum), Bellway shall deduct an appropriate sum (such sum deducted to include overheads and profit) from the Sub-Contract Sum in accordance with clause 21.3 and shall be entitled to engage another contractor to carry out and complete such omitted work without terminating the Sub-Contractor's engagement under the Sub-Contract. Bellway shall not be liable to the Sub-Contractor for any costs, losses, damages or expenses accrued, suffered or incurred by the Sub-Contractor arising from such omission. The act of giving such omitted work to a third party or instructing a third party to carry out or complete such omitted work shall not be treated or construed as a breach of contract by Bellway.
- 21.7 Notwithstanding any other provision in the Sub-Contract, the Sub-Contractor shall not be entitled to claim and irrevocably waives any entitlement to claim any additional payment and/or upwards adjustment to the Sub-Contract Sum if and to the extent that any Variation or the circumstances giving rise to a Variation are caused by or attributable to any mistake, error, act, negligence, negligent omission, default, breach of contract or breach of statutory duty by or on behalf of the Sub-Contractor or any of the Sub-Contractor's Persons or in respect of any event, matter or circumstance for which the Sub-Contractor accepts the risk or responsibility under the Sub-Contract. In such circumstances, the Variation must be carried out and completed at the Sub-Contractor's own cost and expense (and at no cost to Bellway).

22. PROVISIONAL SUMS

- 22.1 The net value annexed to the provisional items and also the full amount of the provisional lump sums inserted in any bills of quantities or other documents that form part of the Sub-Contract will be deducted from the Sub-Contract Sum and the value of the work executed under such items shall be valued as a Variation in accordance with clause 21.3 and the amounts so fixed shall be added to the Sub-Contract Sum. Any work identified as provisional shall only be carried out following receipt by the Sub-Contractor of an instruction in writing from Bellway PROVIDED ALWAYS that and notwithstanding any other provision of the Sub-Contract, unless Bellway specifically states otherwise in writing (which must be signed by the Authorised Representative), any direction issued by Bellway to the Sub-Contractor relating to provisional sum items shall not entitle the Sub-Contractor to any Claim for an extension of time in which to achieve Completion or to any additional preliminaries or any loss and/or expense.

23. PAYMENT

- 23.1 In consideration for the satisfactory carrying out and completion of the Sub-Contract Works, Bellway agrees to pay to the Sub-Contractor the Sub-Contract Sum and such other sum or sums as shall become payable pursuant to these Conditions at the times and in the manner specified in the Conditions. Unless otherwise expressly stated in the Sub-Contract Order, the Sub-Contract Sum shall be fixed for the duration of the Sub-Contract Works and shall not be increased or adjusted for any fluctuations, inflation or any other reason. The Sub-Contract Sum shall not be adjusted or altered other than in accordance with the express provisions of these Conditions.
- 23.2 The Sub-Contractor may apply in writing for an interim payment in respect of the gross valuation of those elements of the Sub-Contract Works properly carried out and completed and any other sums payable to the Sub-Contractor under these Conditions on or before the relevant Interim Valuation Date LESS the aggregate of: amounts previously paid to the Sub-Contractor; any amounts previously deducted in accordance with these Conditions; and the Retention. The gross valuation of the work properly completed shall be calculated in accordance with the rates and prices (if any) specified in the Sub-Contract or, if there are no such applicable rates and prices, then as may be fair and reasonable in the circumstances by reference to an appropriate proportion of the Sub-Contract Sum and by reference to the work properly completed. Clause 23.2 shall apply unless the Appendix expressly states that clause 23.3 applies. In the event the Appendix states that both clause 23.2 and clause 23.3 apply, then only clause 23.2 shall apply.
- 23.3 In the event that it is stated in the Appendix that this clause 23.3 applies and that the Sub-Contract Works are to be carried out and paid for in specified stages as identified in the Appendix or any other Sub-Contract Document or as notified by Bellway to the Sub-Contractor, then instead of the provisions of clause 23.2 applying, the Sub-Contractor shall apply in writing for an interim payment in respect of the cumulative value of the stages of the Sub-Contract Works completed and any other sums payable to the Sub-Contractor in accordance with these Conditions on or before the relevant Interim Valuation Date LESS the aggregate of: amounts previously paid to the Sub-Contractor; any amounts previously deducted in accordance with these Conditions; and the Retention. If the Appendix does not state whether or not clause 23.3 applies, then clause 23.2 shall apply.
- 23.4 Unless otherwise expressly stated in the Sub-Contract Order or expressly agreed and recorded in writing by the Authorised Representative, the Sub-Contractor shall not be entitled to include in any application for payment the value of any goods or materials on or off Site, unless and until such goods and materials have been fully fixed and incorporated into the Sub-Contract Works.
- 23.5 Any application for payment must be received by Bellway not later than on or before each Interim Valuation Date and not earlier than seven (7) days before each Interim Valuation Date. Only one application for payment may be made in any one Valuation Period. Any application for payment which does not comply with the terms of this clause shall be deemed to be invalid, Bellway shall not be obliged to consider it and is therefore deemed to have been an application submitted on or before the next Interim Valuation Date. In the meantime, no payment will be due in respect of any invalid application that has been submitted by the Sub-Contractor.
- 23.6 The Sub-Contractor's entitlement to submit interim applications for payment shall cease two (2) months after Completion or, if earlier, the date of termination of the Sub-Contractor's engagement under the Sub-Contract. Any application for payment received after the date referred to in this clause (except for the Final Account Application or any application for payment for the release of any part of the Retention) shall be deemed to be invalid and of no effect.
- 23.7 Each application for payment made by the Sub-Contractor must include:
- 23.7.1 the Sub-Contract order number, full name and address of the Sub-Contractor (together with VAT registration number, if applicable) and any new address, where applicable;
 - 23.7.2 cumulative details of all sums certified for payment, all sums paid by Bellway to date and the amount of any Retention;
 - 23.7.3 such supporting information as is necessary to enable Bellway to ascertain the cumulative value of the Sub-Contract Works properly carried out;
 - 23.7.4 such supporting information as is necessary to enable Bellway to obtain payment from any third party (if applicable);

- 23.7.5 sufficient documentary evidence to satisfy Bellway that the Sub-Contractor owns good title to any materials or goods (free from liens, charges and any other encumbrances) for which a request for payment is included in any application for payment and that ownership shall pass free from liens, charges and other encumbrances and unconditionally to Bellway;
 - 23.7.6 sufficient evidence (if requested by Bellway) that the Sub-Contractor has paid the Sub-Contractor's Persons in respect of any work, goods or materials the value of which has been included in the Sub-Contractor's previous applications for payment or any payments previously made to the Sub-Contractor;
 - 23.7.7 the sum that the Sub-Contractor considers to be due to it at the due date and the basis upon which that sum has been calculated including the gross value of the work carried out and incorporated by the Sub-Contractor since commencement of the Works or the last such application as appropriate;
 - 23.7.8 in respect of any materials or goods the value of which is included in any application for payment then, to the extent not fixed and fully incorporated into the Sub-Contract Works, sufficient evidence to demonstrate that the goods and materials are adequately protected from loss, injury and/or damage and are safely and securely stored;
 - 23.7.9 in respect of any amounts claimed in respect of any purported Variation, sufficient evidence to demonstrate that the Variation was properly and validly instructed by the appropriate persons authorised by Bellway;
 - 23.7.10 the amount of Retention to be released (if any); and
 - 23.7.11 such further or other information as may be specified in the Sub-Contract Documents or reasonably requested by Bellway.
- 23.8 The due date for payment of any amount due to the Sub-Contractor pursuant to this clause shall in each case be the later of: (i) sixteen (16) days after the relevant Interim Valuation Date to which each payment relates; and (ii) sixteen (16) days after the date of receipt of the Sub-Contractor's valid and properly submitted application for payment.
- 23.9 For the purposes of the Construction Industry Scheme (CIS) under the Finance Act 2004, the status of Bellway is, as at the date of the Sub-Contract, a contractor. Bellway's obligations to make payment under the Sub-Contract are subject to the provisions of the CIS.
- 23.10 Unless otherwise stated in the Sub-Contract Documents, or otherwise notified by Bellway to the Sub-Contractor, the Sub-Contract Sum is exclusive of VAT and Bellway is the 'end user' (for the purposes of Section 55A of Value Added Tax Act 1994) of any supply made under the Sub-Contract and, therefore, the reverse charge does not apply. Therefore, in relation to each payment to the Sub-Contractor for any supply made under the Sub-Contract, the Sub-Contractor shall issue to Bellway a properly addressed and valid VAT invoice in respect of such supply and Bellway shall in addition pay to the Sub-Contractor the amount of any VAT properly chargeable in respect of such supply.
- 23.11 In the event that the Sub-Contract Sum is exclusive of VAT but Bellway notifies the Sub-Contractor that it is not the 'end user' (for the purposes of Section 55A of Value Added Tax Act 1994) of any supply made under the Sub-Contract and therefore the reverse charge applies, in relation to each payment to the Sub-Contractor for any supply made under the Sub-Contract, the Sub-Contractor shall issue to Bellway an appropriate VAT invoice in respect of such supply and the Sub-Contractor shall indicate on the face of its invoice that the reverse charge applies to such supply. In such circumstances, Bellway shall not pay to the Sub-Contractor the amount of any VAT in respect of such supply and Bellway shall account for and pay such VAT to HM Revenue and Customs.

24. RETENTION

- 24.1 Prior to Completion and the provision by the Sub-Contractor of all information and documents specified in clause 15 reasonably required by Bellway, Bellway may withhold the Retention from each amount otherwise due to the Sub-Contractor. The Sub-Contractor shall be entitled to apply for the release of half of the Retention once the Sub-Contract Works have achieved Completion and the Sub-Contractor has provided Bellway with all the documents and information required by clause 15.
- 24.2 After Completion, but prior to all Defects notified during the Rectification Period having been rectified, Bellway may withhold the remaining half of the Retention from each amount otherwise due to the Sub-Contractor. The Sub-Contractor shall be entitled to apply for the release of the balance of the Retention not yet released (subject to Bellway's right of set-off, deduction or withholding) once all of the following events have occurred:
- 24.2.1 the Sub-Contract Works have achieved Completion;
 - 24.2.2 the Sub-Contractor has provided Bellway with all the documents and information required by clause 15; and
 - 24.2.3 all Defects notified during the Rectification Period have been rectified.
- 24.3 Without prejudice to clauses 24.1 and 24.2, Bellway may retain the relevant part of the Retention until the Sub-Contractor applies for it in writing in such form as Bellway reasonably requires.

- 24.4 Bellway shall not be under any fiduciary obligation with regard to the Retention and shall not be under any obligation to set it aside in a separate account. The position of the Sub-Contractor in relation to the Retention shall be of a normal unsecured creditor. Any right of set off, deduction or withholding (whether arising under any term of the Sub-Contract or under any rule of law or equity) shall be exercisable against any monies due or to become due to the Sub-Contractor whether or not such monies include or consist of any Retention.
- 24.5 If, six (6) years after the date of Completion or, if earlier, six (6) years after the date of termination of the Sub-Contractor's engagement under the Sub-Contract, the Sub-Contractor has not applied in writing for the release of the Retention or any part of it pursuant to clause 24, then the Sub-Contractor waives any and all entitlement to the Retention not yet released, and the Sub-Contract Sum shall be reduced by an amount equating to the amount of Retention not yet released.
- 24.6 No action or proceedings under or in connection with the Sub-Contract whether in contract or in tort or delict or in negligence or for breach of statutory duty or otherwise may be issued, commenced or served by the Sub-Contractor against Bellway after the expiry of six (6) years after the date of Completion or, if earlier, six (6) years after the date of termination of the Sub-Contractor's engagement under the Sub-Contract. Nothing in this clause shall affect or reduce the nature, extent or duration of the Sub-Contractor's liability to Bellway relating to Defects.

25. FINAL ACCOUNT

- 25.1 The Sub-Contractor shall submit its final account (the '**Final Account Application**') to Bellway together with all appropriate supporting documentation to justify any change or adjustment to the Sub-Contract Sum (if applicable):
- 25.1.1 in the event the Sub-Contractor's engagement has not been terminated, then within and not later than two (2) months after Completion; or,
- 25.1.2 in the event of termination of the Sub-Contractor's engagement under clause 12.9, 31.9 or 31.2 of these Conditions, then within and not later than two (2) months after the date of termination; or
- 25.1.3 in the event of termination of the Sub-Contractor's engagement under clause 31.5 of these Conditions, then within and not later than two (2) months after the completion of the Sub-Contract Works and the making good of defects in them.
- 25.2 To the extent not already provided, the Sub-Contractor must supply to Bellway all information and documents required under clause 15. The Sub-Contractor's Final Account Application shall clearly set out the Sub-Contract Sum and any adjustments in respect of and arising out of carrying out and completing the Sub-Contract Works together with the sum of all amounts previously paid by Bellway and any deductions Bellway is entitled to make pursuant to these Conditions. The Final Account Application shall specify the amount the Sub-Contractor considers to be finally due under or in connection with the Sub-Contract and the basis upon which that sum is calculated. If the paying party in respect of the final payment is Bellway, the Sub-Contractor shall, not later than the due date for payment, request Bellway to confirm in writing whether the reverse charge applies to the supply to which the final payment relates. Bellway shall provide such confirmation with, or not later than the issue of, its payment notice.
- 25.3 Bellway shall consider the information and documentation provided by the Sub-Contractor under clause 25.1 and 25.2 and, whether or not the Sub-Contractor has provided its Final Account Application to Bellway, Bellway may at any time after Completion or, if earlier, termination of the Sub-Contractor's engagement under the Sub-Contract calculate and present to the Sub-Contractor the final account (the '**Final Account**') notifying the Sub-Contractor of the sum that Bellway considers to be due and the basis upon which that sum is calculated. The difference, if any, between the adjusted Sub-Contract Sum and the sum of the amounts previously paid shall be expressed as a balance due (the '**Final Amount Due**') to the Sub-Contractor from Bellway or to Bellway from the Sub-Contractor, as the case may be.
- 25.4 Payment of the Final Amount Due shall become due on the earlier of: (i) sixteen (16) days after the date Bellway receives the Sub-Contractor's Final Account Application; or (ii) sixteen (16) days after the date Bellway issued the Final Account to the Sub-Contractor.
- 25.5 The computation and payment of the Final Amount Due in accordance with this clause 25 shall not under any circumstances be construed as evidence that the design, materials, goods or workmanship carried out by the Sub-Contractor comply with the requirements or terms of the Sub-Contract and shall in no way whatsoever affect or reduce the Sub-Contractor's obligations in that respect.
- 25.6 The Sub-Contractor hereby acknowledges that any of the following shall be conclusive evidence (except in the event of fraud) as to all sums due or to become due to the Sub-Contractor in connection with the Sub-Contract:
- 25.6.1 the signing of the Final Account by an authorised signatory of the Sub-Contractor; or
- 25.6.2 if the Sub-Contractor fails to notify Bellway in writing that it disputes (giving grounds) the Final Account or Bellway's Pay Less Notice within two (2) months after the due date for payment of the Final Amount Due, then the amount stated in the Final Account or Bellway's Pay Less Notice shall be final and binding on the Parties,

AND the Sub-Contractor shall have no further or other claim in connection with the Sub-Contract.

25.7 For the avoidance of doubt, the agreement, settlement or signing by Bellway of the Final Account shall not relieve, reduce or limit the Sub-Contractor of its obligations, duties and liabilities under the Sub-Contract.

26. FINAL DATES FOR PAYMENT

26.1 Not later than five (5) days after the due date for payment, Bellway shall give notice to the Sub-Contractor specifying the amount (if any) which Bellway considers to be or have been due to the Sub-Contractor at the due date and the basis on which that amount has been calculated.

26.2 To the extent that for whatever reason Bellway considers that the Sub-Contractor has been overpaid during the course of the Sub-Contract Works, the amount to be specified in the notice issued by Bellway under clause 26.1 may be adjusted to take into account such overpayment and, for the avoidance of doubt, the amount so specified can be a negative sum, and such amount shall be a debt due from the Sub-Contractor to Bellway.

26.3 The final date for payment of any amount due to the Sub-Contractor under clause 23 shall be fifteen (15) days after its due date. The final date for payment of the Final Amount Due shall be fifteen (15) days after the due date as provided for in clause 25.

26.4 Subject to clause 26.8 and unless Bellway has served a notice under clause 26.5, Bellway shall pay to the Sub-Contractor the sum referred to in the notice given by Bellway under clause 26.1 (or, if Bellway has not served notice under clause 26.1, the sum referred to in the relevant valid and properly submitted application for payment referred to in clauses 23 (for an interim payment) or 25 (for the Final Amount Due), whichever applies) (in this clause 26, the '**Notified Sum**') on or before the relevant final date for payment.

26.5 Not later than one (1) day before the relevant final date for payment (the '**Prescribed Period**'), Bellway may give the Sub-Contractor notice (a '**Pay Less Notice**') that it intends to pay less than the Notified Sum. Any Pay Less Notice shall specify:

26.5.1 the sum that Bellway considers to be due to the Sub-Contractor on the date the notice is given; and

26.5.2 the basis on which that sum is calculated.

26.6 If Bellway fails to pay a sum due to the Sub-Contractor by the final date for payment and fails to give a Pay Less Notice under clause 26.5, simple interest at the Interest Rate shall be added to the unpaid sum from the final date for payment until the actual date of payment. The Parties acknowledge that the liability of Bellway to pay interest under this clause 26.6 is a substantial remedy for the purposes of section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998.

26.7 Bellway may deduct from any payment due from time to time under the Sub-Contract the amount (whether present or future, liquidated or unliquidated) of any bona fide claims, set-off or counterclaim by Bellway against the Sub-Contractor under the Sub-Contract or any other contract or agreement Bellway has entered into with the Sub-Contractor (whether before or after the date of the Sub-Contract) after giving the Sub-Contractor a notice stating its intention to do so. This is in addition to and not in substitution for any other rights of counterclaim, legal and equitable set off or abatement available to Bellway.

26.8 Notwithstanding any other provision of the Sub-Contract, if the Sub-Contractor becomes Insolvent after the Prescribed Period, Bellway shall not be required under any circumstances to pay the Sub-Contractor the Notified Sum.

26.9 For the avoidance of doubt, Bellway shall be entitled to recover from the Sub-Contractor any overpayments made at any time. All interim payments made to the Sub-Contractor shall be payments on account only of sums due under the Sub-Contract. Bellway shall be entitled to reconsider and, if necessary, adjust the amounts stated as due in previous payment notices or Pay Less Notices or in any payment notices or Pay Less Notices given in respect of later applications for payment made by the Sub-Contractor.

27. HIGHER RISK BUILDINGS

27.1 The provisions of this clause shall apply only in the event that the Project involves one or more Higher Risk Buildings and, for the purposes of this clause, the following terms shall have the following meanings:

27.1.1 '**Accountable Person**' means as that term is defined in the Building Safety Act 2022;

27.1.2 '**Building Safety Regulator**' means the regulatory body established by the government of the United Kingdom from time to time pursuant to the Building Safety Act 2022 who carries out regulatory functions under the Building Safety Act 2022 and other associated legislation;

27.1.3 '**Golden Thread Facility**' means the electronic facility to be created and maintained for the purpose of holding the Golden Thread Information in accordance with the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023;

27.1.4 '**Golden Thread Information**' means as that term is defined in regulation 31 of The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023; and

27.1.5 **'Principal Accountable Person'** means as that term is defined in the Building Safety Act 2022;

27.2 As part of the Sub-Contract Works (and at its own cost), the Sub-Contractor shall (and shall procure that each of the Sub-Contractor's Persons shall) at all times:

27.2.1 provide Bellway or anyone nominated by Bellway with such reasonable assistance as may be required in submitting any application to the Building Safety Regulator in respect of any approvals required for the Project and in obtaining such approvals and/or responding to any queries or questions from the Building Safety Regulator;

27.2.2 observe, perform and comply with any and all lawful instructions, decisions and directions given by the Building Safety Regulator and/or any regulatory body;

27.2.3 utilise any information exchange facility prescribed by Bellway (or anyone nominated by Bellway) or the Building Safety Regulator for the exchange of relevant information and/or documents (including the Golden Thread Facility) which is required to satisfy any matters or obligations owed under the Statutory Requirements. The Sub-Contractor acknowledges and agrees that information and/or documents relating to the Sub-Contract Works may be provided to and retained by the Building Safety Regulator and made available on a public register;

27.2.4 assist Bellway or anyone nominated by Bellway in creating and maintaining on behalf of Bellway all documents, materials, data and information required by the Building Safety Regulator and/or Accountable Person and/or the Principal Accountable Person as may be required in accordance with the Statutory Requirements (including the Golden Thread Information) and provide Bellway with copies promptly on request;

27.2.5 liaise, co-operate and collaborate with the Building Safety Regulator in relation to any matter connected with the Sub-Contract Works and/or the Project;

27.2.6 establish and maintain a mandatory occurrence reporting system that satisfies the requirements of the Building Safety Laws, comply with and ensure the Sub-Contractor's Persons comply with such system, ensure that such system is made available to Bellway and all third parties specified by Bellway from time to time and provide written reports to Bellway as reasonably required;

27.2.7 participate and facilitate safety inspections as reasonably required by Bellway and/or the Building Safety Regulator;

27.2.8 create and maintain a change control log that complies with the Building Safety Laws and shall not commence the work to which the notifiable change or major change relates until it is permitted to do so under the Building Safety Laws and the Sub-Contractor shall provide Bellway with all reasonable assistance, documentation and information in relation to any application to the Building Safety Regulator for a major change or any submission in relation to any notifiable change;

27.2.9 provide Bellway with all reasonable assistance, documentation and information in relation to any appeal by Bellway against a decision of the Building Safety Regulator;

27.2.10 provide Bellway or anyone nominated by Bellway with reasonable assistance in compliance with Bellway's obligations under The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023 and shall not, through any act or omission, do (and shall procure that none of the Sub-Contractor's Persons do) anything which may put Bellway in breach of or delay or prevent compliance with such obligations; and

27.2.11 promptly and without charge provide (and ensure that each of the Sub-Contractor's Persons shall provide) to the Accountable Person and/or the Principal Accountable Person on request copies of any information and/or documents that the Sub-Contractor and/or the Sub-Contractor's Persons are required to provide to the Accountable Person and/or the Principal Accountable Person by the Building Safety Laws. In the event that Bellway is obliged to provide any information and/or documents to the Accountable Person and/or the Principal Accountable Person by the Building Safety Laws but such information and/or documents are in the Sub-Contractor's possession (or in the possession of any of the Sub-Contractor's Persons), then the Sub-Contractor shall promptly provide such information and/or documents to Bellway.

27.3 If any part of the Sub-Contract Works are covered up in contravention of a notice from the Building Safety Regulator requiring specified work to remain uncovered for a specified time, the Sub-Contractor will promptly comply with all instructions of Bellway and/or the Building Safety Regulator, including any compliance or stop notices. Compliance with the provisions of this clause shall not entitle to Sub-Contractor to any increase of the Sub-Contract Sum nor any extension of the Sub-Contract Period. The Sub-Contractor shall indemnify, save, defend and hold harmless Bellway in respect of any costs, consequences, claims, losses, expenses, damages, liabilities or proceedings accrued, suffered or incurred by Bellway as a consequence of the Sub-Contract Works being covered up in contravention of a notice from the Building Safety Regulator.

28. ASSIGNMENT/SUB-LETTING

28.1 The Sub-Contractor shall not:

- 28.1.1 assign the Sub-Contract or any part of it or any of its rights, benefits or obligations under it without the prior written consent of the Authorised Representative and, for the avoidance of doubt, no factoring of any debt to a third party will be permitted under any circumstances; and/or
- 28.1.2 sub-let the Sub-Contract Works or any part of them or its rights or obligations under the Sub-Contract without the prior written consent of the Authorised Representative, such consent not to be unreasonably withheld or delayed.
- 28.2 Notwithstanding whether or not Bellway permits the Sub-Contractor to sub-let any part or all of the Sub-Contract Works, the Sub-Contractor will remain responsible and liable for all the design, works, obligations and duties it sub-lets to a third party as if the Sub-Contractor had performed such design, works, obligations and duties itself. Any sub-letting of part or all of the Sub-Contract Works, whether or not Bellway has given its consent, shall not in any way relieve the Sub-Contractor from or reduce any of its obligations, duties and liabilities arising from or in connection with the Sub-Contract.
- 28.3 Bellway may assign the benefit of or any of its rights under the Sub-Contract to any person by way of absolute legal assignment on not more than two (2) occasions, provided that any assignment (whether by legal assignment, equitable assignment, charge or otherwise and including re-assignments) to and from any Group Company or any third party providing finance in connection with the Project or the Site or any part of it will not count towards the number of assignments permitted without consent under this clause 28.3. No further or other assignment is permitted without the Sub-Contractor's prior written consent, such consent not to be unreasonably withheld or delayed.
- 28.4 The Sub-Contractor shall not be entitled to contend that any person to whom the benefit of the Sub-Contract is assigned in accordance with this clause is precluded from recovering under the Sub-Contract any loss or damage incurred by such assignee resulting from any breach of the Sub-Contract (whenever happening), by reason of the fact that such person is an assignee and not a named Party under the Sub-Contract or by reason of the fact that Bellway or any intermediate assignee or party escaped any loss or damage by reason of the disposal of any interest in the Site or the Project or any part of them or that Bellway or any intermediate beneficiary has not suffered the same, any or as much loss or damage as such assignee or has suffered or incurred a different loss or damage to such assignee.
- 28.5 All consultants, suppliers and sub-contractors engaged by the Sub-Contractor in connection with the design of or selection of materials for use in the Sub-Contract Works or any part of them shall be appointed by deed and on such terms as Bellway previously approves in writing. The Sub-Contractor shall supply a certified copy of such executed and dated appointment or contract (redacted of commercially sensitive information) to Bellway no later than fourteen (14) days after the appointment of each consultant, supplier and sub-contractor.
- 28.6 The Sub-Contractor shall:
- 28.6.1 observe, perform and comply with all of its obligations and duties under each contract between the Sub-Contractor and each Sub-Contractor's Person;
- 28.6.2 appoint each sub-consultant or sub-contractor only on terms which impose on and secure from such person terms equivalent to those imposed on the Sub-Contractor under clauses 38 (Bribery Act compliance), 39 (Modern Slavery Act compliance), 40 (Data Protection) and 43 (Anti-Fraud);
- 28.6.3 take all steps necessary to procure the due and timely performance by the Sub-Contractor's Persons and compliance by each Sub-Contractor's Person of its respective obligations and duties;
- 28.6.4 diligently enforce the obligations and duties of each Sub-Contractor's Person under each of their respective contracts;
- 28.6.5 not waive, discharge, compromise, settle, release or prevent itself from enforcing such obligations and liabilities under or in connection with each contract between the Sub-Contractor and each Sub-Contractor's Person without Bellway's prior written consent;
- 28.6.6 not terminate or treat as terminated, rescinded or repudiated the engagement of any Sub-Contractor's Person, nor do or omit to do anything which would entitle any Sub-Contractor's Person to terminate or treat as terminated, rescinded or repudiated its engagement with the Sub-Contractor,
- 28.6.7 not vary, supplement or amend the terms of any of the respective contracts without Bellway's prior written approval, such approval not to be unreasonably withheld or delayed. Without prejudice to the foregoing, Bellway shall be entitled to withhold its approval if such approval would put it in breach of any of the Superior Contracts or if the approval would materially adversely affect the rights and remedies available to Bellway under the deed of warranty to be executed in favour of Bellway or any Third Party Beneficiary or if the approval would materially adversely affect the rights and remedies available to Bellway under the deed of warranty to be executed in favour of Bellway or any Third Party Beneficiary;
- 28.6.8 notify Bellway in writing as soon as reasonably practicable of any breach of duty or default under the terms of their contract by any of the Sub-Contractor's Persons and the steps taken to remedy such breaches; and
- 28.6.9 notify Bellway in writing as soon as reasonably practicable of any material dispute, difference or disagreement

with any of the Sub-Contractor's Persons of whatever nature, which might affect the regular and diligent carrying out and completion of the Project or the Sub-Contract Works or any part of them.

- 28.7 Not later than twenty-eight (28) days after receipt of a request to do so, the Sub-Contractor shall procure that each Sub-Contractor's Person engaged in connection with any material element of the design of the Sub-Contract Works or any part of them or selection of materials for use in the Sub-Contract Works or any part of them executes and delivers a deed or deed of collateral warranty in favour of each of:

28.7.1 Bellway; and

28.7.2 each Third Party Beneficiary,

in the form attached or referred to in the Sub-Contract Documents, containing the completed relevant particulars in the collateral warranty appendix, mutatis mutandis, or such other form or forms as Bellway shall have previously approved in writing. The Sub-Contractor warrants and undertakes to Bellway that it shall not do or omit to do or allow or permit anything to be done which might adversely affect the rights and remedies afforded to a beneficiary under any collateral warranty provided by any of the Sub-Contractor's Persons.

- 28.8 If the engagement of any consultant or sub-contractor engaged by the Sub-Contractor is terminated or otherwise brought to an end, the Sub-Contractor shall as soon as reasonably practicable appoint another consultant or sub-contractor to complete the services or works and the terms of this clause 28 shall apply to each such replacement consultant or sub-contractor.

29. THIRD PARTY RIGHTS/COLLATERAL WARRANTIES

- 29.1 The Sub-Contractor shall duly execute and deliver to Bellway no later than fourteen (14) days after the date of receipt of a request from Bellway to do so a deed or deeds of collateral warranty in the form described in or attached or referred to in the Sub-Contract Order or in such other terms reasonably required by Bellway in favour of any one or more Third Party Beneficiary.

- 29.2 If the Sub-Contractor fails to comply with its obligation in clause 29.1, then an amount equivalent to ten per cent (10%) of the Sub-Contract Sum may be withheld from the Sub-Contractor by Bellway until such time as the deed or deeds of collateral warranty are duly executed and delivered to Bellway.

- 29.3 The Sub-Contractor warrants and undertakes to Bellway that it shall not do or omit to do or allow or permit anything to be done which might adversely affect the rights and remedies afforded to a beneficiary under any collateral warranty provided by the Sub-Contractor in favour of any Third Party Beneficiary.

- 29.4 The obligations and duties imposed on the Sub-Contractor and the rights, powers and remedies vested in Bellway under or in connection with the Sub-Contract shall be enforceable by and shall (in addition) vest in each Third Party Beneficiary pursuant to the Contracts (Rights of Third Parties) Act 1999.

- 29.5 In any proceedings brought by any Third Party Beneficiary, the Sub-Contractor shall not be entitled to rely on:

29.5.1 any set-off with respect to its remuneration under the Sub-Contract;

29.5.2 any counterclaim which would have been available to the Sub-Contractor if such proceedings had been brought by Bellway; or

29.5.3 any set-off or counterclaim relating to any matter not connected to the Sub-Contract Works.

- 29.6 Subject always (and if applicable) to the Parties complying with the termination and variation provisions of these Conditions, Bellway and the Sub-Contractor shall be entitled to agree any amendment, variation, waiver or release under or arising from or in respect of the Sub-Contract, and to terminate the Sub-Contractor's engagement under the Sub-Contract or otherwise bring the Sub-Contract to an end without the consent of any Third Party Beneficiary being required.

- 29.7 The Sub-Contractor shall not be entitled to contend that any Third Party Beneficiary is precluded from recovering under the Sub-Contract any loss incurred or damage suffered by it resulting from any breach of the Sub-Contract (whenever happening), by reason of the fact that such person is not a named party under the Sub-Contract or by reason of the fact that Bellway or any assignee escaped any loss or damage by reason of the fact of the disposal of any interest in the Project (or any part of the Project) or that Bellway or any assignee has not suffered the same, any or as much loss or damage as such Third Party Beneficiary or has suffered a different loss or damage to Bellway.

30. PARENT COMPANY GUARANTEE, BOND, CREDIT REFERENCES

- 30.1 The Sub-Contractor shall deliver to Bellway no later than fourteen (14) days after the date of receipt of a request from Bellway to do so a guarantee of the Sub-Contractor's duties and obligations under the Sub-Contract in the form described in or attached to the Sub-Contract Order or in terms reasonably required by Bellway executed as a deed and delivered by the Sub-Contractor's ultimate parent company or such other entity as may be approved by Bellway. Up to an amount equivalent to ten per cent (10%) of the Sub-Contract Sum may be withheld from the Sub-Contractor by

Bellway until such time as the guarantee is executed and delivered to Bellway.

30.2 The Sub-Contractor shall deliver to Bellway no later than fourteen (14) days after the date of receipt of a request from Bellway to do so a performance bond in the form described in or attached to the Sub-Contract Order or in terms reasonably required by Bellway executed as a deed and delivered by a bondsman, the identity of which is also subject to Bellway's prior written consent. Up to an amount equivalent to ten per cent (10%) of the Sub-Contract Sum may be withheld from the Sub-Contractor by Bellway until such time as the bond is executed and delivered to Bellway.

30.3 The Sub-Contractor shall deliver to Bellway no later than fourteen (14) days after the date of receipt of a request from Bellway to do so a credit reference from a reputable credit agency or a bank and a copy of the Sub-Contractor's latest management accounts.

31. SUSPENSION AND TERMINATION

31.1 Bellway may instruct the Sub-Contractor to suspend performance of the Sub-Contract Works at any time and for any reason on written notice.

31.2 Bellway may terminate the Sub-Contractor's engagement under the Sub-Contract at any time and for any reason whatsoever by giving to the Sub-Contractor seven (7) days' prior written notice. Unless otherwise notified by Bellway, on the expiry of such notice period the Sub-Contractor's engagement under the Sub-Contract shall terminate automatically.

31.3 Upon termination of the Sub-Contractor's engagement under clause 12.9, 31.2 or 31.9, the amount due to the Sub-Contractor shall be calculated in accordance with the following amounts:

31.3.1 the total value of work properly carried out and completed as at the date of termination of the Sub-Contractor's engagement, ascertained in accordance with these Conditions as if the Sub-Contractor's engagement had not been terminated, together with any other amounts due to the Sub-Contractor under these Conditions;

31.3.2 the reasonable cost of removal under clause 32.3.3;

31.3.3 the costs of materials or goods properly ordered for use in the Sub-Contract Works, for which the Sub-Contractor has paid; and

31.3.4 the Cancellation Payment

LESS the aggregate of: amounts previously paid to the Sub-Contractor; any amounts previously deducted in accordance with these Conditions, but without deduction of any Retention.

Payment for any materials and goods referred to in clause 31.3.3 shall be subject to those materials and goods becoming Bellway's unencumbered property on payment with full title guarantee, free from charges, liens and any other encumbrances.

31.4 On termination under clause 31.2, Bellway shall not be liable to the Sub-Contractor for any losses, costs, damages, claims or expenses accrued, suffered or incurred by the Sub-Contractor arising from or in connection with termination of the Sub-Contractor's engagement under the Sub-Contract for any reason (and Bellway shall not be liable to pay the Sub-Contractor any losses, costs or compensation for any loss of profit, loss of contract or loss of opportunity).

31.5 If any one or more of the following occurs then Bellway may give written notice to the Sub-Contractor to terminate the Sub-Contractor's engagement under the Sub-Contract and such termination shall take effect from the date and time of receipt by the Sub-Contractor of such notice:

31.5.1 any Material Breach by the Sub-Contractor of the Sub-Contract;

31.5.2 a breach by the Sub-Contractor of the terms of any of: clause 38 (Bribery Act compliance), clause 39 (Modern Slavery Act compliance), clause 40 (Data Protection) or clause 43 (Anti-Fraud);

31.5.3 the Sub-Contractor fails to proceed regularly and diligently, promptly and efficiently with the Sub-Contract Works or in accordance with Bellway's direction;

31.5.4 the Sub-Contractor postpones or suspends any of the Sub-Contract Works or the performance of any of its duties and obligations under the Sub-Contract without any lawful cause;

31.5.5 the Sub-Contractor refuses or fails to repair, replace or reinstate any defective work, plant, materials or equipment;

31.5.6 the Sub-Contractor fails to comply with any Statutory Requirements or Requisite Consents;

31.5.7 the Sub-Contractor at any time fails to meet the competency requirements as required under clause 37 (CM Regulations and Building Regulations);

- 31.5.8 any act or threat of violence or dishonesty or criminal damage by the Sub-Contractor or the Sub-Contractor's Persons relating to the Sub-Contract Works or Project or Site;
- 31.5.9 any breach of Bellway's site rules or health and safety requirements; or
- 31.5.10 the Sub-Contractor is, has become or is likely to become (in Bellway's reasonable opinion) Insolvent.
- 31.6 In circumstances where the Sub-Contractor's engagement has been terminated under clause 31.5, Bellway shall not be liable to the Sub-Contractor for any losses, costs, damages, claims or expenses accrued, suffered or incurred by the Sub-Contractor arising from or in connection with termination of the Sub-Contractor's engagement under the Sub-Contract for any reason (and Bellway shall not be liable to pay the Sub-Contractor any losses, costs or compensation for any loss of profit, loss of contract or loss of opportunity). In addition, except as expressly provided for in clause 25 of these Conditions, Bellway shall not be obliged to make any further or other payment to the Sub-Contractor and no further or other sums shall become due to the Sub-Contractor under the Sub-Contract and Bellway need not pay any sum that has already become due either: (i) insofar as Bellway has given or gives a Pay Less Notice in accordance with these Conditions; or (ii) if the Sub-Contractor, after the last date upon which such notice could have been given by Bellway in respect of that sum, has become Insolvent.
- 31.7 In circumstances where the Sub-Contractor's engagement has been terminated under clause 31.5, the Sub-Contractor shall be liable to Bellway for all costs, losses, damages, claims and expenses which Bellway accrues, suffers or incurs arising from or in connection with such termination. All such costs, losses, damages, claims and expenses shall be a debt payable by the Sub-Contractor to Bellway.
- 31.8 If Bellway purports to terminate the Sub-Contractor's engagement under clause 31.5, but no ground for termination under clause 31.5 has arisen, or any ground that had arisen had been waived by Bellway, then Bellway shall be deemed to have decided to terminate and to have terminated the Sub-Contractor's engagement under the Sub-Contract under clause 31.2 with the termination having taken effect seven (7) days after the giving of the notice under clause 31.5.
- 31.9 In addition and, without prejudice to the foregoing, if the regular progress of the Sub-Contract Works is affected by any force majeure event or any other event beyond Bellway's control for a period of three (3) months or more, then Bellway may terminate the Sub-Contractor's engagement under the Sub-Contract at any time thereafter by giving to the Sub-Contractor seven (7) days' prior written notice. Unless otherwise notified by Bellway, on the expiry of such notice period the Sub-Contractor's engagement under the Sub-Contract shall terminate automatically.
- 31.10 If the Sub-Contractor becomes aware that any event has occurred, or circumstances exist, which may entitle Bellway to terminate the Sub-Contractor's engagement under the Sub-Contract, then the Sub-Contractor shall immediately notify Bellway in writing.
- 31.11 As from the date the Sub-Contractor is or becomes Insolvent, whether or not Bellway has given notice to terminate the Sub-Contractor's engagement under the Sub-Contract:
- 31.11.1 clauses 32.2 and 32.3 shall apply as if such notice had been given;
- 31.11.2 the Sub-Contractor's obligations to carry out and complete the Sub-Contract Works shall be suspended; and
- 31.11.3 Bellway may take reasonable measures to ensure that the Site, the Sub-Contract Works and all materials, goods, products, plant, equipment and other items on Site are adequately protected from any theft, loss, injury or damage and that they are retained on Site; the Sub-contractor shall allow and shall not hinder or delay the taking of those measures.
- 31.12 Irrespective of the grounds of termination, the Sub-Contractor's engagement under the Sub-Contract may, at any time, be reinstated if and on such terms as the Parties agree. The terms of such reinstatement shall be recorded in writing and must be signed by the Authorised Representative.
- 31.13 The provisions of clauses 12.9 (termination), 31 (termination) and 32 (consequences of termination) are without prejudice to any other rights, powers or remedies available to Bellway.

32. CONSEQUENCES OF TERMINATION

- 32.1 Termination of the Sub-Contractor's engagement under the Sub-Contract shall not affect the accrued rights and remedies available to either Party as at the date of such termination, including but not limited to the right to claim damages in respect of any breach of the Sub-Contract, which existed at or before the date of termination. The Sub-Contractor's obligations and liabilities shall survive termination of the Sub-Contractor's engagement under the Sub-Contract or in the event the Sub-Contract is brought to an end for any reason, except for the obligation to carry out any further works after the date of such termination.
- 32.2 On termination of the Sub-Contractor's engagement under the Sub-Contract for any reason, Bellway may complete the Sub-Contract Works or may employ any other contractor or contractors to do so. On termination of the Sub-Contractor's engagement under clause 31.5, then for the purposes of completion of the Sub-Contract Works and/or the Project, Bellway shall have the unrestricted use of the Sub-Contractor's materials, plant and equipment on Site without responsibility to the Sub-Contractor for fair wear and tear and subject to reimbursing the Sub-Contractor's actual costs

arising from the use of such materials, plant or equipment, use any of the materials, plant, equipment or fabricated work on Site or at the Sub-Contractor's premises which have been bought or fabricated for the purpose of the Sub-Contract and to the extent not already paid for. In addition or, alternatively, Bellway shall be entitled to take possession of the Sub-Contractor's materials, plant and equipment and sell part or all of it to satisfy and discharge any amounts owed by or claimed from the Sub-Contractor.

32.3 If required by Bellway, the Sub-Contractor shall:

- 32.3.1 assign to Bellway without charge the benefit of any agreement for the supply of materials, plant, equipment or products and shall execute (and procure that any of its suppliers or sub-contractors execute) without delay all such deeds or documents which may reasonably be required by Bellway in order to effect any such assignment;
- 32.3.2 deliver all Copyright Material (in such editable format as may be reasonably requested by Bellway) to Bellway; and
- 32.3.3 immediately remove or procure the removal of all temporary buildings or structures, plant, labour, tools, equipment, materials, goods, products and other items which belongs to the Sub-Contractor (including the Sub-Contractor's Persons) or for which it is responsible from the Site. If the Sub-Contractor fails to comply with its obligations under this clause, Bellway shall be entitled to store, transport and/or dispose of any such items and recover the cost and associated expenses of doing so from the Sub-Contractor as a debt or, at its discretion, use the items for the purposes of the Project or on another site and the Sub-Contractor shall not be entitled to any additional payment for such use.

33. EMPLOYMENT STATUS

- 33.1 For the avoidance of doubt, nothing in the Sub-Contract or in any Sub-Contract to which the Sub-Contract applies shall be construed as at any time establishing the Sub-Contractor or any servant, worker, agent or employee of the Sub-Contractor as the servant, worker, agent or employee of Bellway or of any Group Company.
- 33.2 For the avoidance of doubt nothing in the Sub-Contract shall be construed at any time as making the Sub-Contractor or any servant, worker, agent or employee of the Sub-Contractor a 'worker' for or of Bellway or any Group Company as defined in Regulation 2 (1) of the Working Time Regulations 1998 (as may be amended, modified or re-enacted from time to time).
- 33.3 Nothing in the Sub-Contract or in any sub-contract between Bellway and the Sub-Contractor shall be deemed to constitute either Party as the agent of the other Party or authorise any Party to:
 - 33.3.1 incur any expense on behalf of the other Party;
 - 33.3.2 enter into any engagement or make any representation on behalf of the other Party; or
 - 33.3.3 pledge the credit of or otherwise bind the other Party to a third party or the other Party in any way whatsoever without in each case the other Party's prior written consent.
- 33.4 Without prejudice to the other provisions in the Sub-Contract, the Sub-Contractor shall ensure that any eligible employees or other persons engaged to work by the Sub-Contractor in connection with the Sub-Contract Works are paid at a rate equal to or exceeding the National Minimum Wage in force from time to time during the performance of the Sub-Contract Works.
- 33.5 The Sub-Contractor warrants and undertakes that all the Sub-Contractor's Persons have permission to live lawfully in the United Kingdom and to lawfully carry out the work in question in the United Kingdom at all times. The Sub-Contractor shall comply (and procure that all the Sub-Contractor's Persons comply), in all respects with their obligations under the Immigration, Asylum and Nationality Act 2006 in respect of each of the Sub-Contractor's Persons. At all times, the Sub-Contractor shall keep up to date, adequate and suitable records in relation to the Sub-Contractor's Persons as required by law and in compliance and in accordance with this clause. The Sub-Contractor shall provide Bellway with such information as Bellway may from time to time reasonably require in order to verify such compliance.
- 33.6 The Sub-Contractor shall immediately notify Bellway if it or any of the Sub-Contractor's Persons is subject to any penalties or enforcement activity under the Immigration, Asylum and Nationality Act 2006 in respect of any of the Sub-Contractor's Persons and/or any enforcement activity and/or compliance or closure notices under the Immigration Act 2016. Any of the Sub-Contractor's Persons in respect of whom the penalty or enforcement activity relates shall be immediately removed from the Site, Sub-Contract Works and/or the Project.
- 33.7 The Sub-Contractor shall indemnify, save, defend and hold harmless Bellway and keep it so indemnified at all times from and against any and all loss, liability, cost and/or expense accrued, suffered or incurred by Bellway or any Group Company in connection with:
 - 33.7.1 any assessment, determination or demand made by any relevant tax authority in respect of any income tax, Apprenticeship Levy, construction industry training levy, employer's and/or employee's national insurance contributions and any interest, penalty or fine in connection therewith in each case arising out of or in

connection with any of the Sub-Contract Works; and/or

- 33.7.2 any employment related claim or any claim based on worker status brought by the Sub-Contractor or any Sub-Contractor's Persons or any IR35 Contractor arising out of or in connection with the provision of the Sub-Contract Works; and/or
- 33.7.3 any liability under Sections 15-25 of the Immigration, Asylum and Nationality Act 2006 and/or the Immigration Act 2016 which shall include but not be limited to any liability for any penalties or losses arising from cessation in part or whole of the Sub-Contract Works or the Project and/or closure of the Site or any part of it.
- 33.8 The Sub-Contractor shall not provide to Bellway or otherwise utilise in the provision of any Sub-Contract Works any individual who could reasonably be considered to be an IR35 Contractor, unless the Sub-Contractor notifies Bellway not less than fourteen (14) days in advance of the date on which the IR35 Contractor is to commence performance of any part of the Sub-Contract Works of its intention for the IR35 Contractor to perform any part of the Sub-Contract Works (or, where the IR35 Contractor is already utilised in the provision of Sub-Contract Works as at the date of the Sub-Contract, notifies Bellway that this is the case) (the '**Prior Notification**') and Bellway has given its consent in writing that the IR35 Contractor be engaged to perform part of the Sub-Contract Works (the '**Acceptance**').
- 33.9 The Sub-Contractor shall in the case of an individual who is to commence provision of any part of the Sub-Contract Works and who could reasonably be considered to be an IR35 Contractor, provide to Bellway within seven (7) days after the date of request by Bellway such information and assistance as Bellway may reasonably specify in order to produce a statement in accordance with the requirements of section 61NA ITEPA (the '**Status Determination Statement**'). The Sub-Contractor also agrees to provide reasonable assistance to Bellway in order to manage any appeal which the IR35 Contractor may lodge against a Status Determination Statement conclusion it reaches.
- 33.10 If the Status Determination Statement issued by Bellway to the Sub-Contractor provides that the IR35 Contractor is deemed to be an employee of Bellway (or office holder) for tax purposes, the Sub-Contractor shall make such deductions of income tax and National Insurance contributions from any payment to the IR35 Contractor, and shall make such payment of employer National Insurance contributions and Apprenticeship Levy in respect of such payment, as is required by law, and shall upon written request by Bellway provide such details of the sums so deducted and/or paid as Bellway may reasonably require within a period of seven (7) days after the date of request. In the event the IR35 Contractor performs any of the Sub-Contract Works via a third party intermediary other than the Sub-Contractor, the Sub-Contractor shall procure that such entity will comply with any obligations to make such deductions or contributions as is required by law from any payment to the IR35 Contractor. The Sub-Contractor shall notify Bellway as soon as reasonably practicable of any information of which the Sub-Contractor becomes aware which may be relevant to the ongoing applicability of the Status Determination Statement.
- 33.11 The Parties do not expect the commencement, termination or expiry in whole or part of the Sub-Contract, any contract between Bellway and the Sub-Contractor, the Sub-Contract Works, or any other activities carried out by the Sub-Contractor on behalf of Bellway or any Group Company to give rise to a 'relevant transfer' under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('**TUPE**'). Accordingly, the Parties agree as follows:
- 33.11.1 In the event that any person (an '**Undisclosed Employee**') asserts or establishes that their contract of employment (or a liability in connection with it) has transferred under TUPE from an Original Employer to a New Employer in connection with the commencement, termination or expiry in whole or part of the Sub-Contract, any other sub-contract between Bellway and the Sub-Contractor, the Sub-Contract Works, or any other activities carried out by the Sub-Contractor on behalf of Bellway or any Group Company, then once the Sub-Contractor becomes aware of the assertion they shall notify Bellway of it in writing within fourteen (14) days of becoming aware of the assertion.
- 33.11.2 The Sub-Contractor shall procure that the Original Employer shall within fourteen (14) days of the notification referred to in clause 33.11.1 offer employment to the Undisclosed Employee on identical terms as applied to them immediately before the alleged transfer (or take such steps as may be required for them to effectively withdraw their claim), but if by the end of that fourteen (14) day period: (i) the Original Employer does not make the offer; (ii) the offer is made but not accepted; or (iii) the claim is not effectively withdrawn to Bellway's reasonable satisfaction; then the New Employer shall be entitled to terminate the person's employment; and
- 33.11.3 If: (i) the New Employer terminates the Undisclosed Employee's employment within thirty five (35) days of the above notification; or (ii) the Undisclosed Employee's claim does not relate to the transfer of their contract of employment but to the transfer of a liability in connection with it or its termination; then the Sub-Contractor shall indemnify, save, defend and hold harmless Bellway and keep it so indemnified at all times from and against all liabilities (including, without limitation, legal, other professional fees and management time) suffered or incurred by Bellway and/or any New Employer in relation to the Undisclosed Employee's employment and its termination, including without limitation, any claims for failure to inform and consult under TUPE, any claims for unfair dismissal and all costs associated with the employment of the individual up to and including the date that their employment terminates (and if the Undisclosed Employee asserts that a liability in connection with their employment or its termination has transferred to a New Employer, all liabilities incurred in connection with the settlement and withdrawal of that claim.)
- 33.11.4 For the purpose of clause 33.11:

- (a) 'New Employer' means Bellway, a Group Company, or a replacement sub-contractor that is engaged to carry out works that replace, in whole or part, works carried out by the Sub-Contractor on behalf of Bellway or a Group Company; and
- (b) 'Original Employer' means the Sub-Contractor, other member of the Sub-Contractor's group of companies, or any other entity which employed the Undisclosed Employee immediately before the alleged transfer of their employment (or of a liability in connection with it).

34. SEVERANCE

- 34.1 If any term or condition of these Conditions is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable by law it shall be severed and deemed to be deleted from these Conditions and the validity and enforceability of the remainder of these Conditions shall not be affected or impaired in any way and shall remain in full force and effect. If any provision of these Conditions is so found to be illegal, invalid, ineffective, inoperable or otherwise unenforceable but would be legal, valid, effective, operable or otherwise enforceable by law if some part of the provision were deleted or modified, the provision in question shall apply as if with such modification as may be necessary to make it legal, valid, effective, operable or otherwise enforceable by law.

35. CONFIDENTIALITY AND PUBLICITY

- 35.1 The Sub-Contractor shall treat as confidential any and all Confidential Information and must not copy, use, reproduce or exploit the Confidential Information in any way whatsoever except as may be required and necessary for the proper performance of the Sub-Contractor's obligations and duties under the Sub-Contract. Except as expressly permitted under clause 35.2, the Sub-Contractor must not disclose any such Confidential Information to any third party without Bellway's prior written consent.
- 35.2 The Sub-Contractor shall be entitled to disclose Confidential Information:
- 35.2.1 as may be required and necessary for the proper performance of its obligations and duties under the Sub-Contract; or
 - 35.2.2 in order to seek professional advice from its accountants, auditors, insurers, insurance brokers or solicitors in relation to its rights and obligations under the Sub-Contract and on terms which preserve confidentiality; or
 - 35.2.3 to any securities exchange, the London Stock Exchange plc, the Financial Conduct Authority, the Prudential Regulation Authority or Panel on Takeovers and Mergers (and any successor body of any of them), whether or not the requirement for information has the force of law; or
 - 35.2.4 as may be required by law, by any governmental or other regulatory authority or statutory body or any award or order or demand of any court or tribunal to which the Sub-Contractor is subject and having jurisdiction under the Sub-Contract provided that, to the extent it is legally permitted to do so, the Sub-Contractor gives Bellway as much advanced written notice of such required disclosure as is reasonably practicable in the given circumstances; or
 - 35.2.5 which is or becomes generally available to the public (other than as a result of its disclosure by the Sub-Contractor or any of the Sub-Contractor's Persons in breach of these Conditions); or
 - 35.2.6 as far as necessary to implement and enforce any of the terms of the Sub-Contract or pursue any rights and remedies available under the Sub-Contract.
- 35.3 The Sub-Contractor shall apply the same security measures and degree of care to the Confidential Information as the Sub-Contractor applies to its own confidential information, which the Sub-Contractor warrants as providing adequate protection from unauthorised disclosure, copying or use.
- 35.4 The Sub-Contractor shall ensure that the Sub-Contractor's Persons are bound by similar confidentiality obligations and publicity restrictions as stated in this clause 35.
- 35.5 The provisions of this clause 35 shall continue to apply to any such documents and materials retained by the Sub-Contractor for the duration of its obligations, duties and liabilities under or in connection with the Sub-Contract
- 35.6 Following receipt of a request to do so from Bellway, the Sub-Contractor shall promptly:
- 35.6.1 destroy or return to Bellway any or all documents and materials (in hard and/or electronic format, together with any copies) containing, reflecting, incorporating, or based on the Confidential Information;
 - 35.6.2 erase all or specified classes, categories or parts of the Confidential Information from its computer systems; and
 - 35.6.3 certify in writing to Bellway that it has complied with the requirements of this clause.
- 35.7 The Sub-Contractor shall not without Bellway's prior written consent:

- 35.7.1 take or permit to be taken any photographs of the Sub-Contract Works, Project or the Site or any part of them for use in publicity or advertising;
- 35.7.2 publish alone or in conjunction with any other person or permit to be published by any other person any articles, photographs, videos or other illustrations relating to the Sub-Contract Works or Project or the Site or any part of them or the subject matter of the Sub-Contract; or
- 35.7.3 provide or permit to be provided to any publication, journal or newspaper or any radio or television programme or internet site or social media any information in relation to the Sub-Contract Works or Site or Project or any part thereof or copy, use or reproduce any Bellway logo or images or associated assets, such as uniform or signage.

35.8 Bellway may monitor all references to Bellway that are in the public domain, including but not limited to any reference to Bellway in any internet publication, social media, blogs, forums, on X (formerly Twitter), Linked-in, Instagram, TikTok and Facebook posts. The Sub-Contractor shall ensure that it does not and shall procure that the Sub-Contractor's Persons do not make (whether direct or indirect and whether alone or in conjunction with anyone else) any adverse or negative comments, observations or remarks (including, but not limited to, anything which could bring Bellway, its business or personnel into disrepute or damage reputation or in any way defame or disparage Bellway, its customers, employees, suppliers or other stakeholders or which could constitute discrimination, bullying, harassment or victimisation of Bellway's employees or other third parties) about Bellway or any element of its business or personnel in any social media. The Sub-Contractor shall indemnify, save, defend and hold harmless Bellway in full from and against all liabilities, losses (whether direct or indirect and including loss of profits, loss of contracts and loss of opportunities), damages (including special and consequential damages), costs and expenses (including legal expenses) awarded against or incurred or paid or suffered by Bellway as a result of or in connection with a breach of this clause.

35.9 The Sub-Contractor and Bellway shall co-operate with each other to agree and then adhere to an operation and communications strategy document in relation to the Sub-Contract Works. The Sub-Contractor shall prepare the first draft and the terms of the strategy document shall be subject to Bellway's approval, not to be unreasonably withheld or delayed. The Parties shall establish effective processes to receive and promptly respond to communications from any of the Third Party Beneficiaries using the relevant Third Party Beneficiary's preferred contact method.

36. NOTICES

36.1 Any notice to be given under or in connection with the Sub-Contract shall be in writing and sent to the relevant Party's registered office address or principal business address or other such address or contact details as referred to in the Sub-Contract Order or such other contact details as either Party may notify in writing to the other Party from time to time. Bellway may serve a notice in connection with the Sub-Contract by any effective means, including but not limited to by email. In the case of notices to be given to Bellway, all notices must be marked for the attention of the Authorised Representative and may only be sent by personal delivery or post (except that interim applications for payment and invoices may be sent to the Authorised Representative by email unless otherwise expressly stated in the Sub-Contract Documents).

36.2 In the case of adjudication and/or court proceedings only, copies of all notices to Bellway must (in addition) be sent to:

Address: Bellway Homes Limited, Woolsington House, Woolsington, Newcastle upon Tyne NE13 8BF or, if no such address is then current, the recipient's last known registered office address.

FAO: Group Legal Director

AND

Address: DAC Beachcroft LLP, Bank House, East Pilgrim Street, Newcastle upon Tyne NE1 6QF or, if no such address is then current, the recipient's last known principal office in Newcastle upon Tyne.

FAO: Bellway Homes Construction Contact Partner

36.3 In the absence of evidence of earlier receipt, a notice is deemed to be received:

36.3.1 if delivered personally (including courier), then on delivery;

36.3.2 if sent by post, then two (2) Working Days after posting it;

36.3.3 if sent by Royal Mail special delivery, then one (1) Working Day after posting it; and

36.3.4 if sent by email, then on completion of its transmission provided that receipt will not be deemed to have occurred if the sender receives an automated message indicating that the email has not been delivered to the receiving Party.

37. CDM REGULATIONS AND BUILDING SAFETY LAWS

- 37.1 The Sub-Contractor warrants, represents and undertakes that it has complied with and shall continue to comply with its statutory duties under the Statutory Requirements (including but not limited to the CDM Regulations and Building Regulations) in relation to the Project and shall procure compliance by each of the Sub-Contractor's Persons with such Statutory Requirements (including but not limited to the Building Safety Laws). The Sub-Contractor shall not do anything or allow or permit anything to be done which will result in, or is likely to result in, Bellway being in breach of any Statutory Requirements (including but not limited to the Building Safety Laws).
- 37.2 The Sub-Contractor shall at all times comply with all reasonable directions given by the CDM Principal Contractor, Building Regulations Principal Contractor, the CDM Principal Designer and Building Regulations Principal Designer at no cost to Bellway.
- 37.3 The Sub-Contractor warrants, represents and undertakes that:
- 37.3.1 adequate resources have been allocated by the Sub-Contractor or, as appropriate, shall be allocated by the Sub-Contractor to enable the Sub-Contractor to comply with its statutory duties under Statutory Requirements (including but not limited to the CDM Regulations, Building Regulations and Building Safety Laws); and
- 37.3.2 the Sub-Contractor has and the Sub-Contractor's Persons have and shall continue to have the competence, qualifications, skills, knowledge, expertise, experience, behaviours, organisational capability and capacity to enable it to comply with all of its obligations and duties under the Statutory Requirements (including but not limited to the CDM Regulations, Building Regulations and Building Safety Laws) and including as required by the CDM Regulations to prepare any design (as defined in the CDM Regulations) which it has prepared or shall prepare as part of the Sub-Contract Works. The Sub-Contractor shall include in each contract appointing any Sub-Contractor's Person a warranty equivalent to that set out in this clause.
- 37.4 The Sub-Contractor shall:
- 37.4.1 provide information relating to health and safety as may reasonably be required from time to time by Bellway and/or any third party involved in the Project;
- 37.4.2 at all times liaise, co-operate and collaborate with the Registered Building Inspector, any design team, contractors, consultants, and any other Trade Contractors and persons involved in the Project to enable Bellway, the Sub-Contractor and all other third parties involved in the Project to comply with their statutory duties under the Statutory Requirements and comply with all Requisite Consents;
- 37.4.3 promptly and without charge provide information and documents in connection with the Sub-Contract Works and/or the Project to Bellway as Bellway and/or any Third Party Beneficiary may from time to time reasonably require in order to comply with and discharge any of its or their obligations and/or duties under the Statutory Requirements;
- 37.4.4 provide such information as the CDM Principal Designer may require to enable the Principal Designer to compile the health and safety file for the Project pursuant to the CDM Regulations; and
- 37.4.5 provide such information as the Building Regulations Principal Designer and/or Bellway may require to enable the Building Regulations Principal Designer and/or Bellway to comply with their duties and obligations under the Building Regulations.
- 37.5 Whether or not the Sub-Contractor is the Principal Contractor under the CDM Regulations and/or Part 2A of the Building Regulations may be stated in the Sub-Contract Documents. If the Sub-Contractor is the Principal Contractor, the Sub-Contractor warrants and represents to Bellway that it has the necessary competence, knowledge, skills and experience to undertake the role of Principal Contractor under the CDM Regulations and/or Part 2A of the Building Regulations and has sufficient resources and will allocate those resources to the fulfilment of its duties as Principal Contractor.
- 37.6 The Sub-Contractor shall provide, if requested by Bellway in writing, such details, evidence and information as Bellway may reasonably require to satisfy itself that the Sub-Contractor is complying with its statutory duties under the CDM Regulations, the Building Regulations and the warranties given in this clause 37.
- 37.7 The Sub-Contractor shall notify Bellway as soon as reasonably practicable when there is any change in the organisational status or performance or professional accreditation of any individual performing works or services in relation to the Sub-Contract Works that affects or could reasonably affect the Sub-Contractor's ability to meet the requirements of this clause 37.
- 37.8 In the event that Bellway considers that any of the Sub-Contractor's Persons does not meet the requirements of this clause 37, then the Sub-Contractor shall, following Bellway's request, replace or procure a prompt replacement of such person

38. BRIBERY ACT COMPLIANCE

- 38.1 In this clause 38:
- 38.1.1 the expressions 'adequate procedures', 'foreign public official', 'associated person(s)' and 'performing

services' shall bear the meanings assigned to them in the Bribery Act 2010 ('the **Bribery Act**') and, as the case may be, any Guidance for the time being issued under section 9 of the Bribery Act ('the **Bribery Act Guidance**'); and

38.1.2 an associated person of the Sub-Contractor includes any contractual counterparty or sub-contractor of the Sub-Contractor.

38.2 The Sub-Contractor warrants, represents and undertakes that it shall and shall procure that any associated person or other person performing services in connection with the Sub-Contract shall:

38.2.1 comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption practices including the Bribery Act and the Bribery Act Guidance (together 'the **Bribery Act Requirements**'); and

38.2.2 comply with Bellway's Anti-bribery Policy as Bellway may update the same from time to time a copy of which is available for inspection at Bellway's registered office at all times upon request.

38.3 The Sub-Contractor warrants, represents and undertakes that it shall not engage in, and shall procure that any associated person or other person performing services in connection with the Sub-Contract shall not engage in, any activity practice or conduct which would constitute an offence under Sections 1, 2 or 6 of the Bribery Act if such activity practice or conduct had been carried out in the United Kingdom.

38.4 The Sub-Contractor warrants, represents and undertakes that it shall:

38.4.1 throughout the term of the Sub-Contract, have in place and maintain its own policy and procedures including adequate procedures to ensure compliance with the Bribery Act Requirements, Bellway's Anti-bribery Policy, and clause 38.3 above and shall enforce them whenever appropriate;

38.4.2 promptly report to Bellway any request or demand for any financial or other advantage of any kind offered promised or given to it in connection with the performance of the Sub-Contract;

38.4.3 at Bellway's request certify to Bellway in writing signed by it or its duly authorised officer compliance with this clause by it and by all associated persons of it performing services in connection with the Sub-Contract;

38.4.4 forthwith notify Bellway in writing in the event that a foreign public official becomes an officer or employee of it or acquires a direct or indirect interest in the Sub-Contractor and the Sub-Contractor warrants, represents and undertakes that no officer, employee or direct or indirect owner of it is a foreign public official as at the date of the Sub-Contract; and

38.4.5 be directly liable to Bellway in the event of any breach of this clause 38 by an associated person of it and shall fully indemnify, save, defend and hold harmless Bellway for any costs, losses, damages or expenses consequent upon such breach howsoever arising.

38.5 Without prejudice to any other rights, powers and remedies Bellway may have under or in connection with the Sub-Contract, breach of this clause 38 by the Sub-Contractor shall entitle Bellway at its option to terminate the Sub-Contract forthwith with immediate effect. On termination in accordance with this clause 38, the Sub-Contractor shall be liable to Bellway for all costs, losses, damages, claims and expenses which Bellway accrues, suffers or incurs arising from or in connection with such termination.

39. MODERN SLAVERY ACT COMPLIANCE

39.1 In performing its obligations under the Sub-Contract, the Sub-Contractor warrants, represents and undertakes that the Sub-Contractor shall comply and shall ensure that each of the Sub-Contractor's Persons shall comply with:

39.1.1 The Modern Slavery Act 2015; and

39.1.2 Bellway's Anti-Slavery Policy as Bellway may update from time to time a copy of which is available for inspection upon request at Bellway's registered office at all time during working hours.

39.2 Without prejudice to any other rights, powers and remedies Bellway may have under or in connection with this Sub-Contract, Bellway may terminate the Sub-Contractor's engagement under the Sub-Contract with immediate effect by giving written notice to the Sub-Contractor if the Sub-Contractor commits a breach of Bellway's Anti-Slavery Policy or breach of this clause 39. On termination in accordance with this clause 39, the Sub-Contractor shall be liable to Bellway for all costs, losses, damages, claims and expenses which Bellway accrues, suffers or incurs arising from or in connection with such termination.

39.3 The Sub-Contractor shall permit Bellway and its third party representatives, on reasonable notice, but without notice in case of any reasonably suspected breach of the Sub-Contractor's obligations under this clause 39, to have access to and take copies of the Sub-Contractor's records and any other information (or those of the Sub-Contractor's Persons) and to meet with the Sub-Contractor or Sub-Contractor's Persons to audit the Sub-Contractor's compliance with its obligations under this clause 39.

40. DATA PROTECTION

40.1 In this clause 40, the following terms shall have the following meanings:

40.1.1 **'Data Protection Laws'**: means all data protection and privacy legislation, regulations and guidance applicable from time to time including, without limitation:

- (a) the 'UK GDPR' as defined in section 3(10) of the Data Protection Act 2018 ('DPA');
 - (b) the DPA;
 - (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003; and
 - (d) any applicable guidance or codes of practice issued by a Data Protection Regulator
- all as amended, updated or re-enacted from time to time;

40.1.2 the terms 'controller', 'processor', 'data subject', 'personal data', 'personal data breach' and 'processing' shall have the meaning set out in the Data Protection Laws (and 'process' and 'processed' shall be construed accordingly); and

40.1.3 **'Data Protection Regulator'**: means the Information Commissioner's Office or any successor body from time to time.

40.2 The Parties acknowledge that for the purposes of the Sub-Contract, Bellway is the controller and the Sub-Contractor is the processor. The details of the processing carried out by the Sub-Contractor on Bellway's behalf are set out below:

Purposes of Processing	to permit or enable the Sub-Contractor to commence, carry out or complete the Sub-Contract Works and perform any other obligations or duties arising under or in connection with the Sub-Contract.
Duration of Processing	from the effective date of the Sub-Contract and throughout the Sub-Contract Works. In addition, personal data shall be stored until the date which is four (4) years after completion of the Sub-Contract works or such longer duration as may be specified in the Sub-Contract or by Bellway.
Nature of Processing	collection of personal data (both from Bellway and directly from the data subject) and such further processing as required to enable and complete the Sub-Contract Works and for the proper performance of the Sub-Contractor's duties or obligations in connection with the Sub-Contract (for example, contacting data subjects to arrange appointments and recording the Sub-Contract Works completed).
Description of data	name, contact details, identity information, legal negotiations, contract terms, property details, snagging details, property defects, financial information, business information, information relating to disputes or claims, actual or proposed settlement terms and any other data identified or referred to in the Sub-Contract or provided to the Sub-Contractor for the performance of its obligations under the Sub-Contract.
Special categories of data	it is not envisaged that special categories of data will be routinely processed. However, by exception, the processing may include special category data where strictly necessary (for example, details of a disability in order to enable appropriate adjustments to proposed Sub-Contract Works and/or the Project).
Categories of Data Subjects	<p>Bellway's employees and those of any other contractor, sub-contractors or any other third party connected to the carrying out or completion, testing, inspection or approval of the Sub-Contract Works or any part of the Site.</p> <p>Bellway's customers or residents or occupiers of the Site or any part of it.</p> <p>Any other individuals who are relevant to the Sub-Contract Works to be provided by the Sub-Contractor, including accountants, surveyors, valuers, estate agents, other professional advisors, experts, sub-contractors, household members of Bellway's customers and any other relevant individuals.</p>

- 40.3 Each Party shall comply with its obligations under Data Protection Laws.
- 40.4 Without prejudice to the generality of clause 40.3, the Sub-Contractor shall :
- 40.4.1 only process personal data for and on behalf of Bellway for the purposes set out in clause 40.2 and in accordance with any other instructions issued by Bellway in writing from time to time unless otherwise required by law or any other regulatory body (in which case the Sub-Contractor shall, where permitted, notify Bellway of that legal or regulatory requirement in writing before processing). Without limitation to the generality of the foregoing, the Sub-Contractor shall not market its own services directly to data subjects or share personal data with a third parties for the purpose of marketing services (whether in exchange for payment or other benefit);
 - 40.4.2 notify Bellway promptly if in its opinion any instruction from Bellway would contravene Data Protection Laws;
 - 40.4.3 not do or omit to do anything which will place Bellway in breach of any Data Protection Laws;
 - 40.4.4 ensure that only such of the Sub-Contractor's Persons who may be required by the Sub-Contractor to assist it in meeting its obligations and duties under the Sub-Contract have access to the personal data;
 - 40.4.5 ensure that persons authorised by it to process personal data have committed themselves to duties of confidentiality or are under an appropriate statutory duty of confidentiality;
 - 40.4.6 implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data in such a manner as meets the requirements of Data Protection Laws;
 - 40.4.7 not transfer or allow the transfer of the personal data outside the United Kingdom;
 - 40.4.8 at Bellway's choice, delete or return all personal data to Bellway on expiry of the Duration of Processing and delete existing copies unless required by law or regulatory requirements to retain such personal data;
 - 40.4.9 maintain complete and accurate records and information to demonstrate its compliance with the obligations set out in this clause 40 and make available to Bellway all information necessary to demonstrate compliance and allow for and contribute to audits, including inspections, conducted by Bellway or another auditor appointed by Bellway including but not limited to giving Bellway (or its designated auditors) access to the Sub-Contractor's premises on reasonable notice and provide all reasonable assistance to Bellway to enable it (or its designated auditors) to audit the Sub-Contractor's compliance with this clause 40 and the Data Protection Laws;
 - 40.4.10 notify and provide full details to Bellway of any potential or actual personal data breach within 48 hours and take all measures necessary to remedy or address the issue and co-operate with Bellway to resolve such issue; and
 - 40.4.11 not appoint a sub-processor unless:
 - (i) prior written authorisation has been provided by Bellway; and
 - (ii) a written contract has been entered into with the sub-processor which contains terms which are no less onerous than those terms set out in the Sub-Contract.
- 40.5 In the event that the Sub-Contractor appoints a sub-processor in accordance with this clause 40, it shall remain responsible and fully liable for the acts and omissions of that sub-processor as if such acts and omissions were its own.
- 40.6 Where Bellway requires assistance from the Sub-Contractor in order to respond to requests, queries and/or investigations in respect of the personal data or requires the Sub-Contractor to help Bellway in reconstructing and/or otherwise safeguarding the personal data or requires that the Sub-Contractor assists Bellway in complying with Data Protection Laws in relation the Sub-Contract, the Sub-Contractor shall (at its cost) provide Bellway with such assistance as Bellway reasonably requests within any timescales reasonably specified by Bellway.
- 40.7 The Sub-Contractor shall indemnify, save, defend and hold Bellway harmless from and against any and all losses, damages, claims, costs and expenses (including, without limitation, reasonable legal expenses) suffered or incurred by or awarded against Bellway as a result of or in connection with:
- 40.7.1 any breach by the Sub-Contractor of this clause 40;
 - 40.7.2 any penalties or fines levied by a Data Protection Regulator, the costs of any investigative, corrective or compensatory action required by a Data Protection Regulator or of defending any investigation, allegation or claim made by a Data Protection Regulator, (in each case) where those fines, costs or claims have arisen as a result of a breach of the Sub-Contract by the Sub-Contractor; and/or

40.7.3 where the Sub-Contractor, through its acts or omissions, is itself in breach of, or causes Bellway, to be in breach of the Data Protection Laws.

41. AUDIT

- 41.1 Throughout the duration of the Sub-Contract and for so long as the Sub-Contractor is liable under or in connection with the Sub-Contract, the Sub-Contractor shall keep and maintain full and accurate records (together with such supporting or underlying documents and materials) of the performance of the Sub-Contractor's obligations and duties under the Sub-Contract (including but not limited to all or any part of the Sub-Contract Works), all expenditure, disbursements and expenses reimbursed by Bellway and all payments made by Bellway. The Sub-Contractor shall at any time on reasonable notice permit Bellway and its authorised representatives such access to audit, inspect and take copies of those records as may be required by Bellway in connection with the Sub-Contract. In addition, Bellway shall be entitled from time to time to conduct an audit of the Sub-Contractor's operations, facilities and working conditions and its quality, environmental, ethical and health and safety procedures and systems to ensure that the Sub-Contractor has the appropriate facilities, procedures, systems and personnel appropriate for the Sub-Contractor to carry out and complete the Sub-Contract Works and comply with its obligations and duties under the Sub-Contract.
- 41.2 The Sub-Contractor shall take all practicable steps to ensure that the Sub-Contractor's Persons are bound by similar obligations in their respective contracts as stated in this clause 41.
- 41.3 If any inspection or audit by Bellway pursuant to this clause 41 discovers substantive findings related to fraud, misrepresentation, non-compliance or non-performance, the Sub-Contractor shall reimburse Bellway all of Bellway's costs, losses and expenses accrued, suffered or incurred arising from or associated with such inspection or audit.
- 41.4 On receipt of a reasonable request to do so, the Sub-Contractor shall promptly provide to Bellway all documentary evidence and information necessary to demonstrate observance and compliance with all of its obligations and duties under or in connection with the Sub-Contract.
- 41.5 The Sub-Contractor shall notify Bellway in writing as soon as reasonably practicable of any actual, anticipated or suspected breach of or default under the terms of the Sub-Contract by the Sub-Contractor or any of the Sub-Contractor's Persons and the steps proposed to be taken and/or having been taken to remedy such breach or default.

42. REAL LIVING WAGE

- 42.1 Subject to clause 42.2, the Sub-Contractor warrants and undertakes that it shall, with effect from the date of the Sub-Contract, ensure that each of the Sub-Contractor's Persons who is aged 18 or over is paid at a rate that is at least equal to the Real Living Wage.
- 42.2 If an increase in the Real Living Wage is announced by the Living Wage Foundation, the Sub-Contractor shall, with effect from a date that is no more than six (6) months after the date of the announcement, ensure that each of the Sub-Contractor's Persons who is aged 18 or over is paid at a rate that is at least equal to the increased Real Living Wage.
- 42.3 The Sub-Contractor shall notify Bellway in writing of the date and amount of any increase to be made to the pay of any of the Sub-Contractor's Persons in accordance with clause 42.2.
- 42.4 For the purpose of this clause 42, 'Real Living Wage' in respect of any of the Sub-Contractor's Persons means the real living wage published by the Living Wage Foundation that applies to the location where that Sub-Contractor's Person resides and, for the avoidance of doubt, means the London Living Wage for individuals who live in a London borough.

43. ANTI-FRAUD

- 43.1 The Sub-Contractor warrants undertakes for the duration of the Sub-Contract:
- 43.1.1 not to engage in any activity, practice or conduct which would constitute fraud, including but not limited to a frauds offence under section 199(6) of the Economic Crime and Corporate Transparency Act 2023;
- 43.1.2 to comply with Bellway's Anti-Fraud Policy as updated from time to time;
- 43.1.3 to notify Bellway if the Sub-Contractor becomes aware of any suspected or actual breach of this clause 43, or has reason to believe that it has received a request or demand to commit a fraud offence within the meaning of section 199(6) of the Economic Crime and Corporate Transparency Act 2023, in connection with the performance of the Sub-Contract;
- 43.1.4 to establish, maintain and enforce its own policies and procedures include but not limited to reasonable procedures to prevent the commission of fraud and to ensure compliance with clause 43;
- 43.1.5 if requested, to co-operate with and provide assistance to Bellway, at Bellway's reasonable cost, to enable Bellway to investigate, or respond to requests from a relevant government department or agency to investigate, an alleged offence under section 199 of the Economic Crime and Corporate Transparency Act

2023; and

43.1.6 within one (1) month of the date of the Sub-Contract, and annually thereafter, to certify to Bellway in writing signed by an officer of the Sub-Contractor compliance with this clause 43 by the Sub-Contractor. The Sub-Contractor shall provide supporting evidence of compliance as Bellway may reasonably request.

43.2 Without prejudice to any other rights, powers and remedies Bellway may have under or in connection with the Sub-Contract, breach of this clause 43 by the Sub-Contractor shall entitle Bellway at its option to terminate the Sub-Contract forthwith with immediate effect. On termination in accordance with this clause 43, the Sub-Contractor shall be liable to Bellway for all costs, losses, damages, claims and expenses which Bellway accrues, suffers or incurs arising from or in connection with such termination.

44. WAIVER, FORBEARANCE AND VARIATION

44.1 Any agreement by Bellway to waive any obligation or liability of the Sub-Contractor will only be effective if it is made in writing, refers to the Sub-Contract and this clause and is signed in pen and ink by the Authorised Representative. Failure or delay by either Party at any time in exercising any right, power or remedy provided under or in connection with these Conditions or the Sub-Contract or by law or to enforce any provision of these Conditions against the other shall not constitute or be construed as a waiver of such entitlement or any other right, power or remedy and shall not affect the validity of these Conditions or any Sub-Contract or any part or parts thereof or the right, power or remedy of the relevant Party to enforce any provision in accordance with these Conditions, nor shall it preclude or restrict any further exercise of that or any other right, power or remedy. The rights which each Party has under these Conditions and/or the Sub-Contract shall not be prejudiced or restricted by any indulgence or forbearance extended to either Party. No waiver by either Party in respect of a breach shall, under any circumstances whatsoever, operate as a waiver in respect of any subsequent breach.

44.2 These Conditions may only be amended or varied where such variation is in writing and signed by an authorised signatory of Bellway. Any other purported variation shall be of no effect. No variation shall vitiate the Sub-Contract.

44.3 No allowance of time, indulgence, non-enforcement, waiver, forbearance, release, inspection, admission, approval, comment, recommendation, instruction, decision, direction, review, consent or indication of satisfaction or any failure or delay or omission to inspect, approve, comment, recommend, instruct, decide, direct, review or consent by Bellway or its employees, servants, sub-contractors or agents or any statutory or regulatory body shall operate in any way whatsoever to affect, derogate, limit, vary, modify, reduce, exclude or extinguish the Sub-Contractor's duties, liabilities, responsibilities and/or obligations in connection with the Sub-Contract. Notwithstanding any other provision of the Sub-Contract, the term 'approval' when used in the context of any approval to be given by Bellway shall have the meaning 'acceptance of general principles only' and no such approval shall diminish or relieve the Sub-Contractor from any of its duties, liabilities, responsibilities and/or obligations under the Sub-Contract.

44.4 The single or partial exercise of any right, power or remedy provided by law or under or in connection with the Sub-Contract will not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

44.5 Bellway's rights, powers and remedies provided in these Conditions are cumulative and not exclusive of any rights, powers and remedies provided by law. The provisions in these Conditions are without prejudice to and not in substitution of any other rights, powers and remedies of Bellway.

45. BELLWAY POLICIES AND PROCEDURES

45.1 The Sub-Contractor shall comply with (and procure that its employees, servants and agents comply with) all aspects of Bellway's policies and procedures relevant to the Sub-Contract Works and/or the Site, which are current as at the date of the Sub-Contract and as may be updated from time to time, copies of which are available for inspection during business hours at Bellway's office or address or on request or can be found on Bellway's website: <https://www.bellwayplc.co.uk/investor-centre/governance/commercial>

45.2 Bellway shall be entitled to require the Sub-Contractor to remove from any further involvement in the Sub-Contract Works any person who fails to comply with Bellway's policies and procedures or any requirement of the Sub-Contract and the Sub-Contractor shall promptly comply with such request.

46. FURTHER ASSURANCES

46.1 The Sub-Contractor agrees to execute and deliver such documents and instruments, shall perform such acts and take such further actions as Bellway may, from time to time, reasonably require for the purpose of giving full effect to the Sub-Contract and securing the full benefit of the rights, powers and remedies conferred upon Bellway under or in connection with the Sub-Contract.

47. LIMITATION PERIOD

47.1 Notwithstanding the manner in which the Sub-Contract has been entered into, the statutory contractual limitation period in respect of the Sub-Contractor's obligations and liabilities for breach of the Sub-Contract shall extend to the expiration of twelve (12) years after the date of completion of the Project. For the avoidance of doubt, any action or proceedings under statute may be brought or commenced against the Sub-Contractor within any prescribed statutory limitation

period and nothing in these Conditions or the Sub-Contract excludes or limits any right or remedy which Bellway or any Third Party Beneficiary has or may have under the Building Act 1984 or the Defective Premises Act 1972.

- 47.2 For the avoidance of doubt, the provisions of the Limitation Act 1980 (and any subsequent amendment, extension or re-enactment) relating to claims in contract are excluded and do not apply to claims, actions or proceedings by Bellway against the Sub-Contractor for breach under the Sub-Contract. The Sub-Contractor agrees that it shall not rely upon a defence under the Limitation Act 1980 (and any subsequent amendment, extension or re-enactment) in any action or proceedings brought by Bellway for breach under the Sub-Contract.

48. DISPUTE RESOLUTION

- 48.1 The Sub-Contractor shall co-operate and assist Bellway in dealing with any dispute that Bellway may have with any third party in relation to the Sub-Contract Works and/or the Project.
- 48.2 Without prejudice to Bellway's or the Sub-Contractor's right to commence or continue with court proceedings, any dispute or difference arising as between the Sub-Contractor and Bellway under the Sub-Contract may (subject to the appointment of an Adjudicator in accordance with clause 48.3) be referred by either Party to adjudication in accordance with the Scheme.
- 48.3 The referring Party may apply to TECBAR for the appointment of an Adjudicator.
- 48.4 If the dispute or difference to be referred to adjudication under the Sub-Contract raises issues which are substantially the same as or connected with issues raised in a related dispute under another contract to which Bellway is a Party which has already been referred for determination to an adjudicator, Bellway and the Sub-Contractor hereby agree that the dispute or difference under the Sub-Contract shall be referred to the adjudicator appointed to determine the related dispute.

49. GOVERNING LAW AND JURISDICTION

- 49.1 The Sub-Contract shall be governed by and construed in accordance with English law. Subject to either Party's right to refer a dispute or difference to adjudication at any time, the English courts shall have exclusive jurisdiction (except for the purposes of enforcement of an English court judgment or order in another jurisdiction) with regard to all matters arising from it.

EXECUTED as a **DEED** and delivered (but not until the)
date hereof) by **[INSERT FULL NAME OF SUB-**)
CONTRACTOR] acting by a director, in the presence of:)

.....
Director

**I HEREBY CONFIRM THAT I WAS PHYSICALLY PRESENT
TO WITNESS THE ABOVE-NAMED DIRECTOR EXECUTE
THESE CONDITIONS**

Witness Signature

Witness Name

Witness Address:

.....

.....

Witness Occupation:

DATE: