

Russell Sage Studio Limited's standard Terms of appointment

1. Governing terms

- 1.1. Unless expressly agreed otherwise in writing between the Client and RSS, these Terms shall apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice, law or course of dealing.
- 1.2. The Client's attention is drawn to the exclusions and limitations of RSS's liability in clause 10.
- 1.3. Definitions. In this Contract, the following definitions apply:

2. Interpretation

- 2.1. The following definitions apply in these Terms:

Additional Fees: the fees payable for Additional Services.

Additional Services: any additional work carried out by RSS due to:

- the Project or the Basic Services being varied by the Client or rendering work carried out by RSS to be duplicated or obsolete; or
- any Client Default (including any material delay by the Client in complying with its obligations) or any material delay by the Client in taking any other step necessary for the execution of the Project; or
- RSS being materially delayed by others or by events that were not reasonably foreseeable by RSS at the time that RSS provided the Project Proposal; or
- the Project being damaged or destroyed; or
- any other reasons beyond RSS's control.

Basic Services: the services to be provided by RSS as described in Schedule 2 of the Project Proposal.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Commencement Date: the date when RSS first commences the performance of the Services upon the Client's instruction to do so, or the date when the Client countersigns and returns the Project Proposal to RSS (whichever is the earlier).

Contract: the agreement between RSS and the Client comprising:

- the Project Proposal;
- these Terms; and
- the Documents.

In the event of any ambiguity or discrepancy, the documents shall have the order of priority set out above (commencing from the highest priority).

Client: the person named as the employer of RSS in the Project Proposal. If the Client is an agent for an undisclosed principal then, in addition to any rights RSS may have against the undisclosed principal, the Client accepts responsibility in its own right for compliance with these Terms on behalf of the undisclosed principal and any liabilities arising under them.

Client Default: any breach of contract, act or omission of the Client (including but not limited to non-payment or delayed payment of any part of the Fee), its other consultants or contractors or failure by any of them to perform any relevant obligation which causes RSS's performance of any of its obligations under the Contract to be prevented, delayed, disrupted or prolonged.

Commencement Date: the date when the Client countersigns and returns the Project Proposal to RSS or the date when the Client instructs RSS to commence the performance of the Services, (whichever is the earlier).

Deliverables: any deliverables which RSS has agreed to provide to the Client as part of the Services.

Documents: the documents listed in Schedule 3 of the Project Proposal.

Fee: the fees payable by the Client to RSS for the supply of the Basic Services details of which (or for the calculation of which) are set forth in Schedule 1 of the Project Proposal, together with any Additional Fees payable for Additional Services calculated in accordance with the Contract, and which shall include any expenses and/or disbursements reasonably incurred in connection with the Services including but not limited to payment for FF&E.

FF&E: any fixtures, fittings and effects to be provided as Deliverables.

Force Majeure Event: an event beyond the reasonable control of the parties including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of RSS or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

HGCRA: Housing Grants, Construction and Regeneration Act 1996 (as amended by the Local Democracy Economic Development and Construction Act 2009).

Insolvent: a party is insolvent if:

- (a) it suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (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; or
- (b) it commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that party with one or more other companies or the solvent reconstruction of that party; or
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with its winding up (being a company) other than for the sole purpose of a scheme for its solvent amalgamation with one or more other companies or its solvent reconstruction; or
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed over it (being a company); or
- (e) the holder of a qualifying floating charge over its assets (being a company) has become entitled to appoint or has appointed an administrative receiver; or
- (f) a person becomes entitled to appoint a receiver over all or any of its assets or a receiver is appointed over all or any of its assets; or
- (g) being an individual, it is the subject of a bankruptcy petition or order; or
- (h) a creditor or encumbrancer of it attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within ten Business Days; or
- (i) any event 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 paragraphs (a) to (h) above (inclusive); or
- (j) it suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply

for and be granted, renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Project: the works to be carried out at the Site as further described in the Project Proposal.

Project Proposal: RSS's letter to the Client (including the Schedules) which sets out details of the Project, including RSS's proposed Basic Services, the Fee (or basis of calculation thereof) and Documents.

RSS: Russell Sage Studio Limited registered in England and Wales at St Michael's House, 2 Elizabeth Street, London, SW1W 9RB with company number 06306642.

RSS's Materials: all materials, equipment, documents and any other property of RSS (including those hired) at the Site (or such other premises where the Services may be supplied) which are not Deliverables.

Services: the Basic Services and any Additional Services.

Site: the location of the Project as further described in the Project Proposal.

Terms: these terms as amended from time to time in accordance with clause 13.18.

VAT: value added tax chargeable for the time being as prescribed by law.

2.2. The following rules apply in the interpretation of these Terms:

- a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- b) a reference to a party includes its successors or permitted assigns;
- c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- d) any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- e) a reference to writing or written material includes faxes and e-mails; and
- f) a reference to a clause is a reference to a clause in these Terms unless stated otherwise.

3. Basis of contract

- 3.1. The Client countersigning and returning a copy of the Project Proposal to RSS and/or instructing RSS to begin performing the Services constitutes an offer by the Client to purchase the Services in accordance with the Project Proposals, on these Terms.

- 3.2. The Contract, pursuant to which the Client appoints RSS to carry out the Services on these Terms, shall come into effect on the Commencement Date.
- 3.3. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 3.4. Each party agrees that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 3.5. Any samples, drawings, descriptive matters, illustrations and pitch/presentation documents submitted by RSS are issued for the sole purpose of giving an approximate idea of the Services described in them and will not form part of the Contract.

4. RSS's obligations

- 4.1. RSS shall perform the Services for the Client
- 4.2. RSS shall use reasonable skill and care in the performance of the Services and its other obligations under the Contract. RSS shall have the right to make any necessary changes to the Services to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and RSS shall notify the Client in any such event.
- 4.3. Subject always to matters beyond its reasonable control, RSS shall use reasonable endeavours to perform the Services in accordance with any programme set out in the Project Proposal or otherwise agreed with the Client.
- 4.4. RSS shall co-operate with reasonable requests of other members of the Client's design team to enable co-ordination of the design.
- 4.5. RSS shall use reasonable endeavours to deliver any FF&E on any dates quoted for delivery of them, but such dates are approximate only, and the time of delivery is not of the essence. RSS shall not be liable for any delay in delivery of the FF&E where it has used such reasonable endeavours or where delay is caused by a cause beyond RSS's control.

5. Client's obligations

- 5.1. The Client shall ensure that the terms of the Contract and any information it provides in connection with the Contract are complete and accurate.
- 5.2. The Client shall co-operate with RSS in all matters relating to the Services and give decisions and approvals and take such actions necessary for the proper and timely performance of the Services.
- 5.3. The Client shall provide RSS, its employees, agents, sub-consultants and subcontractors, with such access to the Site where the Services will be required, office accommodation and other facilities as reasonably required by RSS.

- 5.4. The Client shall provide RSS with such information and materials as RSS may reasonably require in order to perform the Services, and shall ensure that such information is accurate in all material respects.
- 5.5. The Client shall take all necessary steps to prepare the Site for the supply of the Services.
- 5.6. The Client shall obtain and maintain all necessary licences, permissions and consents which may be required in relation to the provision of the Services before the date on which such Services are to be provided.
- 5.7. The Client shall keep and maintain RSS's Materials in safe custody at its own risk in good condition until returned to RSS, and not dispose of or use RSS's Materials other than in accordance with RSS's written instructions or authorisation.
- 5.8. Where work or services, other than those to be performed by the RSS, are required the Client shall appoint or otherwise engage other persons to perform such work or services and shall require them to collaborate with RSS. The Client acknowledges that RSS does not warrant the competence, performance, work, services, products or solvency of any such other persons.
- 5.9. In the event of a Client Default, provided the Client Default was not due to an act or omission on the part of RSS or its contractors, RSS shall have the right (without limiting any other rights or remedies it may have) to suspend performance of the Services pursuant to clause 11.1 until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays RSS's performance of any of its obligations under the Contract. RSS shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from RSS's failure or delay to perform any of its obligations under the Contract due to a Client Default. Any reasonable costs or losses sustained or incurred by RSS arising directly or indirectly from the Client Default and a reasonable amount in respect of costs and expenses reasonably incurred by RSS as a result of the exercise of the right to suspend shall be payable as a debt due from the Client to RSS upon written demand. Any period during which performance is suspended in pursuance of, or in consequence of the exercise of, the right conferred by this clause or clause 11.1 shall be disregarded in computing for the purposes of any contractual time limit the time taken by RSS, or by a third party, to complete any work directly or indirectly affected by the exercise of the right and where the contractual time limit is set by reference to a date rather than a period, the date shall be adjusted accordingly.
- 5.10. The Client shall not use any Deliverables provided by RSS at any location other than the Site for which they have been supplied, without prior written authority from RSS and payment of a further reasonable licence fee for their use at a different location. RSS shall have no liability for the use of the Deliverables for any purpose other than the purpose for which they were supplied.
- 5.11. Subject to the Client's prior written approval (such approval not to be unreasonably withheld or delayed), RSS shall have the right to publish photographs of its work for the Project and the Client shall give reasonable access to the Site and the Project for this purpose for up to two years after completion of the Services. RSS shall not publish any confidential information of the Client in exercising its rights pursuant to this clause. This clause shall survive termination of the Contract.

6. FF&E

- 6.1. The risk in the FF&E shall pass to the Client on completion of delivery to the Site.
- 6.2. Title to the FF&E shall not pass to the Client until RSS receives payment in full for the FF&E.
- 6.3. Until title to the FF&E has passed to the Client, the Client shall:
 - a) store the FF&E separately from all other goods held by the Client so that they remain readily identifiable as RSS's property;
 - b) not remove, deface or obscure any identifying mark or packaging on or relating to the FF&E;
 - c) maintain the FF&E in satisfactory condition and keep them insured against all risks for their full price on RSS's behalf from the date of delivery to the Site;
 - d) notify RSS immediately if the Client becomes Insolvent; and
 - e) give RSS such information relating to the FF&E as RSS may require from time to time

7. Payment

- 7.1. The Client shall pay RSS the Basic Fees in accordance with Schedule 1 of the Project Proposal.
- 7.2. The Client shall pay RSS Additional Fees for Additional Services. Unless the parties otherwise agree in writing, the Additional Fee shall be a reasonable amount calculated by reference to the time charges set out in the Project Proposal, provided that no Additional Fee shall be payable if the requirement for an Additional Service arises from RSS's default or negligence. Additional Fees shall be invoiced in accordance with the payment provisions in these Terms.
- 7.3. The Fee shall exclude any expenses and/or disbursements reasonably incurred in connection with the Services including, but not limited to payment for FF&E, travelling expenses, hotel costs and subsistence and for the cost of additional services provided by third parties and directed by the Client. Expenses shall be invoiced as part of the Fee and shall be charged at the invoice cost to RSS.
- 7.4. In the event that the Client cancels a meeting without reasonable notice and RSS is unable to obtain a reimbursement of its expenses, RSS shall be entitled to reimbursement from the Client for such expenses as part of the Fee.
- 7.5. The Fee shall be adjusted if the performance of the Services is materially delayed or disrupted due to:
 - a) a change in the scope size, complexity or duration of the Project; or
 - b) any other cause outside RSS's reasonable control;

provided that RSS shall not be entitled to any adjustment of the Fee where delay or disruption arises from RSS's default or negligence. RSS shall notify the Client of its intention to claim an adjustment to the Fee as soon as reasonably practicable after it becomes aware of any material

delay or disruption to the Services. Unless the parties agree otherwise in writing, the Fee shall be adjusted by a reasonable amount by reference to the time charges set out in the Project Proposal.

- 7.6. RSS shall be entitled to increase its standard daily fee rates on an annual basis provided that such charges shall not be increased more than 5% in any 12 month period. RSS will give the Client written notice of any such increase at least 2 months before the proposed date of the increase.
- 7.7. Unless otherwise agreed, RSS shall submit to the Client an invoice at not less than monthly intervals at the end of the calendar month for each instalment of the Fee, together with any supporting documents that are reasonably necessary to check the invoice. Where the amount of any instalment of the Fee is not stated in the Project Proposal, RSS shall be entitled to invoice the work done to the date of the invoice. Where the work is part of a stage payment, RSS shall be entitled to invoice its estimated percentage of the stage completed to the date of the invoice. RSS shall be entitled to interim payments until the Project is completed. The invoice and supporting documents (if any) shall specify the sum that RSS considers will become due on the payment due date in respect of the instalment of the Fee, and the basis on which that sum is calculated.
- 7.8. Where parts of the Services have been sub-contracted by RSS to a third party, RSS may render separate interim invoices upon receipt of the third party's invoice in respect of those parts of the Services and the terms contained in clause 7.9 to clause 7.18 shall apply thereto. RSS may also render separate invoices for payment to the suppliers of FF&E (at RSS's discretion either in advance or upon an order for FF&E being made or upon delivery of the FF&E) and/or for the supply of other goods or equipment and/or the provision of Services urgently at the Client's request providing such request is not due to RSS's default or negligence (collectively referred to as '**FF&E Invoices**') and the terms contained in clause 7.9 to clause 7.18 referable to FF&E Invoices shall apply thereto.
- 7.9. Payment shall be due on the date RSS issues each invoice to the Client.
- 7.10. Where the Contract is one to which the HGCR A applies, RSS's invoices shall be the payment notice required by section 110(A)(1) of Part II HGCR A, given by RSS as the payee to the Client as payer.
- 7.11. Save for FF&E Invoices, the final date for payment shall be 30 days after the date on which payment becomes due. The final date for payment for FF&E Invoices shall be the date specified on the invoice. Payment shall be made in cleared funds by electronic transfer to the bank account stated on the invoice submitted by RSS or otherwise nominated by RSS.
- 7.12. Subject to clause 7.16 and unless the Client has served a pay less notice under clause 7.13, the Client shall pay RSS the sum stated in the invoice (**notified sum**) on or before the final date for payment of each invoice.
- 7.13. Where the Contract is one to which the HGCR A applies, not less than 7 days before the final date for payment (or not less than one day before the final date for payment of FF&E Invoices) (**prescribed period**), the Client may give RSS notice that it intends to pay less than the notified sum (**a pay less notice**). Any pay less notice shall specify: (a) the sum that the Client considers to be due on the date the notice is served; and (b) the basis on which that sum is calculated. Where

a pay less notice is given in accordance with this clause 7.13, the obligation to pay the notified sum in clause 7.12 applies only in respect of the sum specified in that pay less notice.

- 7.14. If the Client fails to pay an amount due to RSS by the final date for payment and fails to give a pay less notice under clause 7.13, then the Client shall pay simple interest on the overdue amount at the rate of 4% annually above the Bank of England's base lending rate from time to time (but at 4% annually for any period the base rate is below zero percent). Such interest shall accrue on a daily basis from the final date for payment until actual payment of the overdue amount, whether before or after judgment. The Client shall pay such interest together with the overdue amount, together with RSS's reasonable costs in recovering the debt (including its own costs and those of any external advisors). The parties acknowledge that the Client's liability under this clause 7.14 is a substantial remedy for the purposes of section 9(1) of the Late Payment of Commercial Debts (Interest) Act 1998 where it applies.
- 7.15. The Client shall not delay payment of any undisputed part of the notified sum.
- 7.16. Where the Contract is one to which the HGCR applies, notwithstanding **clause 7.12** and clause 7.13 and without prejudice to clause 11.7, if RSS becomes Insolvent after the prescribed period, the Client shall not be required to pay RSS the notified sum on or before the final date for payment.
- 7.17. All amounts payable by the Client under the Contract are exclusive of amounts in respect of VAT, the amount of which shall be paid by the Client to RSS at the rate and in the manner prescribed by law.
- 7.18. Subject to clause 7.13 and clause 7.16, the Client shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Client shall not be entitled to assert any credit, set-off or counterclaim against RSS in order to justify paying less than the amount due.

To continue

8. Intellectual property rights

- 8.1. All Intellectual Property Rights in or arising out of or in connection with the Services including in the Deliverables (save for any FF&E in which the Intellectual Property Rights are owned by third parties) shall be owned by RSS or shall vest in RSS, as the case may be.
- 8.2. No part of any design by RSS may be registered by the Client without the consent of RSS in writing..
- 8.3. Subject to the payment of all Fees due to RSS from time to time by the final date for payment referred to in clause 7.11, RSS hereby grants the Client a non-exclusive licence to use RSS's Intellectual Property Rights in the Deliverables for any purpose related to the Project. Such licence shall enable the Client to use RSS's Intellectual Property Rights in the Deliverables for the extension of the Project but such use shall not include a licence to reproduce the designs contained therein for any extension of the Project. In the event of the Client being in default of payment of any part of the Fee, RSS may suspend further use of the licence on giving 7 days' notice of its intention of doing so. Use of the licence may be resumed upon receipt of payment of such outstanding amounts.

- 8.4. Except as is permitted in clause 8.3, the Client shall not use RSS's Intellectual Property Rights for any other purpose.
- 8.5. RSS shall not be liable for use of its Intellectual Property Rights in the Deliverables for any purpose other than the particular purpose for which they were provided to the Client.

9. Confidentiality

- 9.1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, clients or suppliers of the other party, except as permitted by clause 9.2 below.
- 9.2. A party may disclose the other party's confidential information:
 - a) to its employees, officers, representative, subcontractors, advisors or insurers who need to know such information for the purposes in connection with carrying out the party's obligations under the Contract and for RSS for professional indemnity insurance purposes and each party shall ensure that its employees, officers, representative, subcontractors or advisors to whom it discloses the other party's confidential information comply with this clause 9.2; and
 - b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 9.3. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract or as permitted in this clause.
- 9.4. This clause 9 shall survive termination of the Contract.

10. Limitation of liability and insurance:

Insurance

- 10.1. RSS shall maintain professional indemnity insurance until at least the expiry of the period specified in clause 10.11 with a limit of indemnity of not less than the sum stated in the Project Proposal (or £250,000 if no sum is so stated) in the aggregate, provided such insurance continues to be offered on commercially reasonable terms to RSS at the time when the insurance is taken out or renewed and subject to all exceptions, exclusions, and limitations to the scope of cover that are commonly included in such insurance at the time the insurance is taken out or renewed, as the case may be.
- 10.2. When reasonably requested by the Client, RSS shall produce for inspection a broker's letter confirming that the professional indemnity insurance cover is being maintained.

Liability which is unlimited

- 10.3. Nothing in this Contract shall limit or exclude either party's liability for:

- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
- b) fraud or fraudulent misrepresentation; or
- c) (where relevant) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
- d) any other liability which cannot be limited or excluded by applicable law.

General provision regarding limits on RSS's liability

- 10.4. The exclusions and limitations of liability set forth in clause 10.5 to clause 10.7 inclusive are subject to clause 10.3 and shall apply notwithstanding anything to the contrary contained in the Contract otherwise but without prejudice to any provision in the Contract by which liability is excluded or limited to a lesser amount.

Financial cap on the liability of each party

- 10.5. Each party's total liability to the other party, whether in contract, in tort, in negligence, for breach of statutory duty, or otherwise, shall not exceed the sum stated in the Project Proposal (or £250,000 if no sum is so stated). This limitation does not apply to the Client's liability to pay the Fee to RSS for the Services.

RSS's liability to the Client limited to indemnity recoverable under RSS's PI insurance cover

- 10.6. RSS's liability for any claim under or in connection with this Contract, whether in contract, in tort, in negligence, for breach of statutory duty, or otherwise, shall not exceed the amount, if any, recoverable by RSS by way of indemnity against the claim in question under the insurance taken out by it pursuant to clause 10.1 and in force at the time that the claim is, or (if earlier) circumstances that may give rise to the claim are, reported to the insurers in question, provided that RSS has complied with clause 10.1 in the relevant policy year and complies with the policy terms and conditions in respect of the claim, including the payment of any excess payable in respect of the claim.

RSS's liability is limited to what it is just and equitable for it to pay if it is at fault

- 10.7. RSS's liability is limited to such amount as it would be just and equitable for RSS to pay having regard to the extent of RSS's responsibility for the loss and/or damage in question and on the assumptions that:
- a) all other consultants, contractors, sub-contractors and other persons providing work or services for the Project have provided to the Client contractual undertakings on terms no less onerous than those of RSS under clause 4.2;
 - b) there are no exclusions of or limitations of liability nor joint insurance or co-insurance provisions between the Client and any other person referred to in this clause and that any such person who is responsible to any extent for the loss and damage is contractually liable for the loss and damage;

- c) all the persons referred to in this clause have paid to the Client such sums as it would be just and equitable for them to pay having regard to the extent of their responsibility for that loss and/or damage.

Exclusion of the personal liability of RSS's directors and employees, etc.

- 10.8. Except in respect of death or personal injury, the Client agrees not to pursue any claims in contract, in tort, in negligence, for breach of statutory duty or otherwise against any employee, officer, or director of RSS, or self-employed or agency personnel working for RSS and any liability they may have is excluded.

Exclusion of terms implied by statute

- 10.9. Except as set out in this Contract, all warranties, conditions and other terms implied by statute (including the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982) or common law are, to the fullest extent permitted by law, excluded from the Contract.

Warranties in respect of FF&E

- 10.10. Any FF&E procured or supplied by RSS for the Project are covered by manufacturers' warranties only where such warranties have been provided by the manufacturers (details of which can be provided on request). No warranties or guarantees are provided for antique, reclaimed or second-hand goods. Antique, reclaimed and/or second-hand goods are sold as seen and once delivered to the Site shall be deemed accepted by the Client and no claim shall be made in respect of faulty, damaged or unsuitable goods.

Limitation of time in which to bring claims

- 10.11. Neither party shall commence any legal action against the other under the Contract after six years from the date of the completion of RSS's Services, the termination of the Services, or as is prescribed by law, whichever is the earlier.
- 10.12. This clause 10 shall survive termination of the Contract.

II. Suspension and termination**Suspension**

- 11.1. RSS may suspend the performance of any or all of its Services and/or other obligations on giving not less than seven days' notice in writing to the Client of the intention and stating the reasons for doing so. Such reasons include but are not limited to:
 - a) failure by the Client to pay any fees or other amounts due by the final date for payment and no valid pay less notice has been issued;
 - b) the Client is in material and persistent breach of any of its obligations under the Contract;
 - c) RSS is prevented from or impeded in performing the Services for reasons beyond RSS's reasonable control;

- d) there is a Client Default;
 - e) Force Majeure as defined in clause 13.1; or
 - f) the Client becomes Insolvent or RSS reasonably believes that the Client is about to become Insolvent.
- 11.2. RSS shall cease performance of the suspended Services and/or the other obligations in an orderly and economical manner on the expiry of the notice period.
- 11.3. If the reason for a notice of suspension arises from a default which is remedied by the Client, RSS shall resume performance of the Services or other obligations within a reasonable period.
- 11.4. In the event of a suspension by RSS in accordance with the Contract, the Client shall pay RSS:
- a) a reasonable amount in respect of costs and expenses reasonably incurred by RSS as a result of any exercise of its right of suspension referred to in clause 11.1; and
 - b) (taking into account any sum paid under clause 11.4(a)) any adjustment to the Fee due under clause 7.2).
- 11.5. The period during which performance is suspended in pursuance of, or in consequence of the exercise of, the right conferred by clause 11.1 shall be disregarded in computing for the purposes of any contractual time limit the time taken by RSS exercising the right, to complete any work directly or indirectly affected by the exercise of the right and any performance dates shall be adjusted accordingly.

Termination

- 11.6. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty days of that party being notified in writing to do so;
 - b) the other party becomes Insolvent;
 - c) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
 - d) there is a Force Majeure Event (as defined in clause 13.1) which prevents RSS from providing any of the Services for more than 6 weeks.

Consequences of termination

- 11.7. Without affecting any other right or remedy available to either party, on termination of the Contract:

- a) the Client shall immediately pay to RSS all Fees properly due for payment under the Contract including all of RSS's outstanding unpaid invoices and any applicable interest and, in respect of Services supplied but for which no invoice(s) has been submitted, RSS shall submit an invoice(s) in accordance with the provisions of clause 7;
- b) the Client shall also pay any expenses and disbursements reasonably incurred by RSS as a result of termination;
- c) the Client shall promptly return all of the FF&E and any Deliverables that have not been fully paid for intact and in good order. If the Client fails to do so, then RSS may enter the Site and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;
- d) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- e) (clauses, which expressly or by implication have effect after termination, shall continue in full force and effect.

12. Dispute Resolution

- 12.1. Any dispute or difference arising under or in connection with the Contract may be referred to adjudication by either party at any time under Part I of the Scheme for Construction Contracts (England and Wales) Regulations 1998, which Part shall take effect as if it was incorporated into this clause.
- 12.2. Without prejudice to the parties' rights under this clause, if any dispute or difference arises under or in connection with the Contract, the parties acting in good faith shall attempt to resolve it by negotiation within 10 working days failing which the parties may agree (but shall not be bound) to refer the dispute to mediation.

13. General

Force Majeure

- 13.1. RSS shall not be liable to the Client as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.

Assignment and other dealings

- 13.2. Subject to clause 13.3, neither party shall at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior consent of the other party.

Subcontracting

- 13.3. RSS may recommend to the Client that the performance of part of the Services be sub-let to a sub-consultant. The Client shall not unreasonably withhold consent to such recommendation and

RSS shall integrate such sub-consultant's services into the Services. RSS shall be responsible for the performance and payment of any such sub-consultant.

Collateral warranties to third parties

- 13.4. RSS does not provide collateral warranties for the benefit of third parties. Should RSS agree to do so, then the following terms shall apply:
- a) the Client shall pay such fee for the provision of the warranties as RSS shall stipulate (which shall include the cost of any increase in RSS's professional indemnity insurance premiums as a consequence of agreeing to provide the warranty);
 - b) the form of the warranty shall be the Construction Industry Council's relevant 2003 form for funders, purchasers or tenants with appropriate amendments to be consistent with and no more onerous than the provisions of the Contract;
 - c) such warranties shall not give any greater benefit to those to whom they are issued in quantum, duration or otherwise than is given to the Client under the terms of the Contract and the form of warranty shall be amended to so provide;
 - d) RSS shall be entitled in any action or proceedings by any beneficiary to rely on any limitation or exclusion in the Contract and to raise the equivalent rights in defence of liability as RSS would have against the Client under the Contract and the form of warranty shall be amended to so provide;
 - e) it shall be a condition of the provision of such collateral warranties that all Fees due to RSS at the date of the execution of the collateral warranty shall have been paid.

Notices

- 13.5. Any notice or other communication required to be given to a party under or in connection with the Contract shall be in writing and shall be delivered to the other party by email or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office. All notices shall be addressed to Russell Sage on behalf of RSS.
- 13.6. Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by email, on the next Business Day after transmission.
- 13.7. These notices provisions shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of these notice provisions, "writing" shall include e-mails and for the avoidance of doubt notice given under the Contract shall be validly served if sent by e-mail.

Non-solicitation

- 13.8. Neither party shall, without the prior written consent of the other party, at any time from the date of this Contract to the expiry of 12 months after the termination of the Contract, solicit or entice

away from the other party or employ or attempt to employ any person who is, or has been, engaged as an employee of the other party during the provision of the Services.

- 13.9. Any consent given by RSS in accordance with clause 13.8 shall be subject to the Client paying to RSS a sum equivalent to the current annual remuneration of RSS's employee or, if higher, the annual remuneration to be paid by the Client to that employee.

Compliance with laws and policies

- 13.10. The parties shall comply with all applicable laws, statutes and regulations (as amended, extended, re-enacted or replaced from time to time) and RSS's policies relating to:

- anti-bribery and anti-corruption including the Bribery Act 2010;
- the Modern Slavery Act 2015;
- the Data Protection Act 1998 (until repealed and thereafter the General Data Protection Regulation);

and shall use reasonable endeavours to procure that their suppliers and subcontractors shall be obliged to so comply as well.

Waiver

- 13.11. A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 13.12. Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

Severance

- 13.13. If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 13.14. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

No partnership

- 13.15. Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties.

Third party rights

- 13.16. Except in respect of the benefits or right conferred on the categories of persons named in clause 13.4, nothing in the Contract confers or purports to confer on any third party any benefit or right to enforce any term of the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 13.17. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

Variation

- 13.18. Any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing by RSS.

Governing law and jurisdiction

- 13.19. This Contract, and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.