**To:** [**Hunter & Partners Limited** (Company number: 02290829) whose registered office address is at Space One, Beadon Road, London, W6 0EA]

**FAO:** [*name of principal contact at consultant*]

**Date:** [*date to be inserted only in signed copy*]

Dear Sirs

**Appointment to provide services for Sugar House Island, off Sugar House Lane, London E15 (the Project)**

We, Vastint UK Services Limited (incorporated and registered in England & Wales with company number 07394552 and whose registered office is at 135 High Street, London E15 2RB) (**Vastint**), write further to our request for proposal dated [*date RFP issued*] and your proposal in response dated [*date of consultant’s fee proposal*].

We are pleased to confirm your appointment by Vastint as architect and lead designer to carry out the Services (defined below) in connection with the Project upon the terms and conditions of this letter and its schedules (together the **Appointment**).

1 **Services**

1.1 Subject to clause 1.3, you shall perform the services set out in Schedule 1 to this Appointment (the **Services**) in connection with the Project.

1.2 You shall carry out such additional services as Vastint may reasonably require in writing and subject to clause 17, you shall be entitled to additional payment for services provided pursuant to this clause.

1.3 The Services are broken down into the sections set out in the table in Schedule 2 and as further described in Schedule 1 (each a **Section**). Save in respect of Section 1 and any additional services required pursuant to clause 1.2:

1.3.1 your entitlement to perform the Services comprised in each Section is conditional on receipt of written confirmation from Vastint that you are authorised to do so; and

1.3.2 until such confirmation from Vastint has been received pursuant to clause 1.3.1, you shall have no entitlement to:

a perform the Services comprised in such Section(s); and

b payment of the applicable part of the Fee in respect of such Section(s),

and you acknowledge that work you undertake on account of any Section(s) shall be on an ‘at risk’ basis until such confirmation is received pursuant to clause 1.3.1.

1.4 For the avoidance of doubt notwithstanding clause 1.3 above, the Services and the Fee are fixed at the date of this Appointment. In the event that Vastint confirms a Section of the Services is authorised pursuant to clause 1.3.1, the scope of services and the Fee for such Section shall be as set out in Schedules 1 and 2 respectively (with any additional services required at the time of authorisation being valued and agreed in accordance with clause 17).

2 **Duty of care**

You warrant that in the performance of the Services you have exercised and will continue to exercise all the reasonable skill, care and diligence to be expected of a properly qualified and competent architect and lead designer experienced in carrying out works/services for projects of a similar size, scope, value, character and complexity to the Services and the Project.

3 **Compliance with statute**

3.1 You warrant that you have exercised and shall continue to exercise the standard of reasonable skill, care and diligence required by clause 2 to see that you have complied with and shall comply with all statutory requirements, legislation, codes of practice, British Standards and environmental laws and good practice requirements (including without limitation health and safety requirements and, where applicable, the technical requirements and performance standards of the latent defects insurer that Vastint intend to use for the Project) in the performance of the Services.

3.2 You confirm that you:

3.2.1 are fully aware of your duties and obligations within your discipline pursuant to and in accordance with the Construction (Design and Management) Regulations 2007 (the **CDM Regulations**); and

3.2.2 possess the requisite degree of competence and level of resources to meet (and shall meet) the requirements of the CDM Regulations; and

3.2.3 shall at all times use all reasonable endeavours to ensure that Vastint as client does not breach its obligations under the CDM Regulations; and

3.2.4 shall report to Vastint within one month of commencing the Services and thereafter as often as reasonably necessary (and in any event no less frequently than bi-monthly), regarding the fulfilment of your obligations pursuant to the CDM Regulations and any issues which may have arisen in relation to the same.

4 **Budget and programme**

4.1 In the performance of the Services you shall, if so requested and if provided with the same by Vastint, have due regard to Vastint's budget for the Project (or the relevant part or parts of the budget which are so provided to you).

4.2 Programme dates and completion dates for the Project or parts thereof have been established or may be established and made known to you. Varied dates may be made known to you from time to time. You shall perform the Services regularly and diligently and in accordance with such programme and completion dates as have been established and/or varied and you shall provide all drawings, details, specifications, information and services for which you are responsible under this Appointment so as not to cause such dates to be missed.

5 **Prohibited materials**

5.1 You warrant that you have exercised and shall continue to exercise the standard of reasonable skill, care and diligence required by clause 2 to see that, subject to clause 5.2, you have not and shall not specify, authorise, cause or allow to be used in the Project any products or materials which:

5.1.1 do not conform with British or European Standards (where appropriate) or Codes of Practice (or where no such standard exists do not conform with a British Board of Agrèment Certificate); and/or

5.1.2 are generally known to members of your profession to be deleterious in the particular circumstances in which they are specified for use, to health and safety and/or the durability of buildings or structures; and/or

5.1.3 do not comply with the guidance by the British Property Federation and British Council of Offices current at the date of specification of such materials and/or substances entitled "Good Practice in the Selection of Construction Materials".

5.2 You will as soon as reasonably practicable notify Vastint if, in the ordinary course of performing the Services, you become aware of any proposed or actual specification and/or use in the Project of any materials which do not comply with clause 5.1 (it being agreed that nothing in this clause 5 requires you to perform additional checks or reviews of the Project or the work of the Other Consultants beyond those set out in the Services).

6 **Other agreements and policies**

6.1 In the event that Vastint supply you with details of any third party agreements (for example any agreement relating to development, planning, agreement for lease/sale and/or any joint venture agreement or similar) you will carry out the Services (as from the date of notification of any such third party agreements) so as not to, by any action or omission, cause or contribute towards a breach of Vastint's obligations under such agreements.

6.2 You will comply with all reasonable policies and guidelines of Vastint (for example in relation to environmental protection, working and social conditions etc.) as have been provided to you prior to the date of this Appointment, or have been agreed by you after the date of this Appointment.

7 **Provision of information**

7.1 You will keep Vastint fully and properly informed on all aspects of progress and performance of the Services.

7.2 Without prejudice to clause 7.1 in the event that you become aware of any matter(s) which may detrimentally impact on the Project including (but without limitation) in terms of time, cost and/or integration of services and/or works, you shall advise Vastint accordingly and as soon as reasonably practicable.

7.3 If requested by you, Vastint shall supply to you (in such time as may be reasonable having regard to the time and nature of any such request) any information or data which is necessary and relevant to the performance of the Services and which is in Vastint's possession or which may only be obtained by Vastint. For the avoidance of doubt Vastint shall not be liable for any inaccuracy or discrepancy in any data or information it provides to you.

8 **Liaison with others**

8.1 Vastint has appointed and/or will from time to time appoint various consultants, whose identity will be communicated to you (collectively the **Other Consultants**).

8.2 Without prejudice to your duties to Vastint you shall liaise and co-operate at all times with the Other Consultants and/or any eventual contractor(s) and/or supplier(s) and shall in the performance of the Services have regard to any reasonable opinion or comments they may make.

9 **Compliance with instructions and limitations on authority**

9.1 You will comply with all reasonable instructions given by Vastint in writing under or in connection with this Appointment and/or the Services.

9.2 You shall not:

9.2.1 consent or agree to any waiver or release of any obligation of any or all of the Other Consultants and/or Vastint's contractor(s) without Vastint's prior written approval; or

9.2.2 at any time hold yourselves out as agents, representatives or employees of Vastint and you acknowledge that the completion of this Appointment and the provision of the Services do not make you (or any of your employees) either an agent or employee of Vastint; or

9.2.3 make or approve any significant alteration (either in design or cost terms or in any way which would affect the lettable area and/or investment value or the period required for the completion of the Project) to any approved or settled design without Vastint's prior written approval.

10 **Insurance and indemnity**

10.1 You shall be liable for and shall indemnify Vastint against (for which purposes Vastint shall be entitled to withhold, deduct and/or claim any monies payable pursuant to the provisions of this clause 10.1 in accordance with the provisions of clause 16):

10.1.1 all and any loss, damage, cost, expense, liability, claims and/or proceedings whatsoever in respect of any personal injury to or death of any person whatsoever; and

10.1.2 any loss of or damage to any property whatsoever arising,

out of or in connection with the performance of the Services and due to any neglect, error, act or omission by you or any of your employees, agents and representatives.

10.2 Without prejudice to your liability under clause 10.1 you shall effect and maintain and shall ensure that each of your sub-consultants (if any) take out and maintain:

10.2.1 if applicable in accordance with the relevant legislation applying to you, Employer's liability insurance in an amount deemed necessary and in any event not less than ten million pounds, such insurance complying with the Employer's Liability (Compulsory Insurance) Act 1969, in respect of each occurrence and/or claim (as applicable); and

10.2.2 public liability insurance covering liability for bodily injury and/or death of any person (other than a person covered by the provisions of clause 10.2.1) and loss of or damage to property arising out of the execution of the Services with a limit of indemnity of not less than ten million pounds (£10,000,000) for any one occurrence or series of occurrences or, as applicable, any one claim or series of claims arising out of any one event;

such insurances specified in clauses 10.2.1 and 10.2.2 being effected from no later than the date of the commencement of the Services and being maintained until completion thereof; and

10.2.3 professional indemnity insurance with a minimum limit of indemnity of not less than ten million pounds (£10,000,000) for any one claim or series of claims arising out of any one event without unusual or onerous conditions and/or excesses; PROVIDED THAT the insurance remains available to organisations of equivalent size and type to yourselves at commercially reasonable rates and on commercially reasonable terms.

10.3 You will maintain the insurances referred to in clause 10.2:

10.3.1 throughout the course of carrying out the Services; and

10.3.2 with reputable insurance companies based in Europe (and will send Vastint within seven days of a request to do so evidence confirming your insurance details and that any premiums or other fees due to the insurer have been paid); and

10.3.3 in the case of the professional indemnity insurance required pursuant to clause 10.2.3, in addition to the requirement at clause 10.3.1, for a period of twelve (12) years from the date that the whole of the Services are complete in accordance with this Appointment.

10.4 You will inform Vastint if the insurances referred to in clause 10.2 are not maintained or renewed or for any reason become void or unenforceable or cease to be available at commercially reasonable rates and terms. In such event:

10.4.1 together we shall agree the best means of protecting our respective interests; and

10.4.2 you shall carry out such actions as shall be necessary to implement the same; and

10.4.3 you shall not in such circumstances be entitled to any further payment pursuant to this Appointment unless and until either the insurance(s) in question has/have been reinstated or renewed, or the actions agreed as necessary to protect our respective interests have been implemented by you.

11 **Key personnel**

11.1 The individuals identified in Schedule 1 shall be appointed in connection with the Services and they shall have responsibility for the overall management, supervision and co-ordination of your services under this Appointment and shall not be replaced without Vastint's consent and any replacement is to be subject to Vastint's approval.

11.2 Vastint shall have the right, after consultation with you, to request the removal of any person engaged in the performance of the Services if, in Vastint's reasonable opinion, their performance or conduct is or has been unsatisfactory. In such event you shall promptly remove such person and replace them with a person Vastint has previously approved.

12 **Copyright**

12.1 You hereby grant to Vastint, its affiliated companies and its agents an irrevocable non-exclusive royalty-free licence to copy and use all documents and information whether prepared by you or on your behalf in connection with the Project (whether in hard form or on computer aided disks or otherwise) (the **Documents**) and to reproduce the design and contents of them for any purpose whatsoever. This includes, but is not limited to, the execution, construction, completion, maintenance, letting, management, sale, advertisement, alteration, refurbishment, reinstatement and/or repair of the works comprising the Project or any part or parts thereof and/or any property/properties comprising such works/proposed works and/or the repair of the site of the Project and/or any structures/buildings on the aforesaid site (the **Licence**). Such Licence shall carry the right to grant sub-licences and shall be transferable to third parties and shall survive any termination of this Appointment and/or termination and/or suspension or similar of your engagement and/or the Services or any part or parts thereof.

12.2 You hereby irrevocably waive any rights you may have by virtue of Chapter IV of Part 1 of the Copyright Designs and Patents Act 1988 both in the Documents and the Project and you shall procure a Waiver Certificate (set out in Schedule 7 to this Appointment) from the author of any moral rights both in the Documents and the Project that the author may have by virtue of the aforementioned Act (such authors including, but not being limited to, the individuals listed as key personnel for the purposes of clause 11.1 of this Appointment).

12.3 You represent and warrant that the Documents do not and will not infringe any intellectual property rights of any third party; and you shall be liable for any costs, losses and/or expenses incurred by Vastint due in whole or part to the Documents being determined to have infringed another's copyright and/or other intellectual property rights.

12.4 It is hereby agreed that you shall not be liable for any use of the Documents by any party other than the use for which they were prepared.

12.5 If any of the Documents are prepared for you by any third party, you shall use reasonable endeavours to procure a Licence for the benefit of Vastint from such third parties on the same terms as the Licence.

12.6 You hereby agree to supply copies of the Documents:

12.6.1 to Vastint; and/or

12.6.2 to the Other Consultants and/or Vastint's contractor(s) as necessary to enable them to discharge their respective functions in relation to the Project,

in each case subject to payment of your reasonable expenses incurred in producing such copies, where the Services do not expressly include a requirement to provide them as envisaged by this clause 12.6.

13 **Confidentiality**

Save as may be necessary for:

(i) the proper performance of the Services;

(ii) to any legal advisers you appoint or to your insurers;

(iii) for the purposes of procuring any of the insurances required by this Appointment; and/or

(iv) as otherwise compelled by law,

you shall not during the performance of the Services or following termination of your engagement divulge or communicate to any person, company, business entity or other organisation any trade secrets or confidential information provided to you by Vastint or relating to Vastint. This restriction will not apply in respect of any information which has become available to the public generally otherwise than through the default of you, your agents or employees.

14 **Assignment, sub-letting and novation**

14.1 Vastint shall be entitled to assign, charge and/or transfer all or any of Vastint's rights under this Appointment at any time:

14.1.1 with your knowledge (but without your consent):

a to another company in same group of companies as Vastint (as defined by Section 1162 of the Companies Act 2006) (**Group Company**); and/or

b to any third party providing finance for or acquiring Vastint's interest in the whole or a substantial part of the Project, subject to a maximum of two such assignments and/or charges/transfers; and/or

14.1.2 with your consent to further parties who may acquire an interest in the properties comprising the Project, such consent not to be unreasonably withheld and/or delayed.

14.2 You may not assign or transfer all or any rights under or arising out of this Appointment which you may have without Vastint's written consent.

14.3 You shall not without Vastint's prior written consent sub-contract to any person the performance of any or all of the Services, such consent including Vastint’s approval pursuant to clause 14.6 of the form of sub-contract to be entered into. If Vastint agree at any time to any sub-contracting this shall be entirely without prejudice to and shall not derogate from your liabilities and obligations under this Appointment.

14.4 In the event that you are in contravention of the provisions of clauses 14.2 and 14.3 Vastint's obligation to pay and your right to be paid any monies pursuant to the terms of this Appointment shall, as confirmed in clause 16.7, only be effective once Vastint has given its written consent to such assignment or sub-letting.

14.5 In the event that you procure advice and/or services from any third party:

14.5.1 without prejudice to the provisions of clause 14.3, you accept liability for all and any such advice and/or services as if such advice and/or services had been performed by you pursuant to the terms and conditions of this Appointment; and

14.5.2 without prejudice to your statutory obligations, you will take all appropriate steps to satisfy yourself, acting reasonably, as to the competence, experience and allocation of sufficient resources of any such aforementioned third party/parties to perform the functions required of it/them; and

14.5.3 without prejudice to the above, you shall be responsible for checking the work/design carried out by any sub-consultant to ensure that it complies with the overall design intent and the co-ordination and integration of such works/design into the design of the Project.

14.6 Notwithstanding clause 14.3 you shall obtain Vastint's approval to the form of the appointment of any sub-consultant which appointment (without limitation) shall:

14.6.1 be executed as a deed; and

14.6.2 include provisions which comply with the requirements of clause 27.5 (anti-corruption); and

14.6.3 to the extent that the sub-consultant is carrying out any design or other professional services include obligations to:

a maintain professional indemnity insurance cover at a level reasonably acceptable to Vastint for a period of twelve years from completion of the services with a reputable insurer; and

b to provide sufficient evidence of such insurance; and

c include an obligation on the sub-consultant to execute and deliver as a deed within 14 days of a request to do so a deed or deeds of collateral warranty in favour of Vastint and/or any Third Parties (which for the purposes of this Appointment shall mean any party acquiring an interest in or having an interest in the Project or any part or parts thereof and/or providing finance for the Project or any part or parts thereof) in substantially the form set out at Schedule 3 of the Appointment (subject to any changes reasonably requested by the sub-consultant’s professional indemnity insurers).

14.7 You agree that upon request by Vastint this Appointment may be novated to a contractor engaged by Vastint to undertake the design and build of the Project and you shall at your own cost:

14.7.1 enter into a Novation Agreement in the form set out in Schedule 8 to give effect to this provision; and

14.7.2 execute as a deed and deliver to Vastint a collateral warranty in the form set out at Schedule 3 in favour of Vastint.

15 **Warranties and Third Party Rights**

15.1 For the purposes of this clause 15 the phrase **Third Party** shall have the following meaning:

“Any party who: (i) has/will have an interest in; and/or (ii) has acquired/will acquire an interest in; and/or (iii) has provided/will be providing finance/refinance in connection with the property comprising the Project or any substantial part or parts thereof and/or the works comprising the Project or any substantial part or parts thereof; but which shall not include any party acquiring an interest (whether freehold or leasehold) in a single residential unit.”

15.2 You will at Vastint's request from time to time and within 14 days of any such request, enter into warranties in favour of Third Parties in the form attached at Schedule 3 of this Appointment and deliver the same duly executed by you to Vastint (save in circumstances where such Third Party has already been named as a beneficiary under a Nominating Notice issued to you pursuant to clause 15.4 below).

15.3 Delivery of the aforesaid warranties in accordance with the provisions of clause 15.2 shall be a condition precedent to entitlement to payment pursuant to this Appointment in respect of any payment that becomes due where, at the Due Date for such payment (as defined in clause 16 in relation to each payment) there are any warranties provided for execution pursuant to the provisions of clause 15.2 that have not been delivered in accordance with clause 15.2 or have been delivered but are incorrectly executed or are not in the form required. You shall not in such circumstances be entitled to any payment pursuant to this Appointment unless and until all such outstanding warranties have been executed and delivered in accordance with the provisions of clause 15.2.

15.4 Vastint may, at any time, be entitled to issue a notice in the form set out in Schedule 4 (a **Nominating Notice**) to you conferring the benefit of the rights set out in Schedule 5 (the **Third Party Rights**) on a Third Party (save in circumstances where such Third Party has already had a duly executed warranty for its benefit provided pursuant to clause 15.2 above), with effect from the date of the relevant Nominating Notice.

15.5 Either you or Vastint may terminate your engagement under this Appointment or agree to rescind this Appointment or amend, vary or waive any terms of this Appointment or settle any dispute or other matter arising out of or in connection with this Appointment on such terms as the parties both see fit and without the consent of any Third Party.

15.6 Neither you or Vastint shall be entitled to vary or amend the Third Party Rights without the consent of any person who has been identified in any Nominating Notice issued pursuant to clause 15.4.

16 **Payment**

16.1 Your payment for the proper performance of the Services in accordance with this Appointment will be the sum set out at paragraph 1 of Schedule 2 (the **Fee**), which shall be inclusive payment for the Services and all costs, expenses and overheads of every kind incurred by you or on your behalf in connection with the Services and/or the Project.

16.2 The Fee shall be paid in the instalments provided by the schedule of fees set out in Schedule 2 to this Appointment.

16.3 Unless otherwise confirmed by Vastint in writing, to be considered a valid application for payment for the purposes of this Appointment any applications for payment you make must:

16.3.1 be addressed to “Accounts Payable, Vastint UK Services Limited, c/o 135 High Street, London E15 2RB; and

16.3.2 clearly state the reference number “Purchase Order [*purchase order number*]”; and

16.3.3 set out details of the sum you consider will be due to you on the Due Date (as defined in clause 16.5.1) and the basis upon which that sum is calculated, including a summary of the Services completed to which the sum due relates; and

16.3.4 include your bank account IBAN and BIC numbers; and

16.3.5 set out the total amount of the Fee already invoiced to Vastint prior to the date of the application for payment; and

16.3.6 be sent by email to both “accounts.uk@vastint.eu” and “[*project manager’s name*]@vastint.eu”; and

16.3.7 include such additional supporting documentation as may be required and agreed by Vastint from time to time; and

16.3.8 unless otherwise agreed by Vastint in writing, be submitted no later than the end of the month immediately following the month in which you were entitled to do so pursuant to the schedule of fees set out in Schedule 2.

16.4 Any value added tax properly due in respect of the Fee will be payable following receipt by Vastint of a value added tax invoice (supported by any further documentation reasonably necessary in order to permit such a payment to be properly made).

16.5 For the purposes of payment and in order to comply with Part II of the Housing Grants, Construction and Regeneration Act 1996 (the **Construction Act**):

16.5.1 the due date for payment of each instalment of the Fee (the **Due Date**) shall be the date of receipt by the payer of an application for payment from the payee which complies with the requirements of clauses 16.3 and/or 16.4;

16.5.2 within five days of the Due Date the payer shall give notice of the sum which the payer considers to have been due on the Due Date and the basis on which the sum was calculated (the **Payment Notice**);

16.5.3 if the payer does not issue a Payment Notice in accordance with clause 16.5.2 then the payee's valid application for payment shall be treated as the Payment Notice;

16.5.4 if the payer wishes to pay less than the amount stated in the Payment Notice the payer will issue a notice specifying the sum the payer considers to be due on the date the notice is served and the basis on which that sum is calculated (the **Pay Less Notice**). Any Pay Less Notice(s) shall be served no later than five days before the Final Date for Payment (as defined in clause 16.5.5);

16.5.5 the payer shall pay the amount stated in any Payment Notice or, if issued, any Pay Less Notice no later than thirty days after the Due Date (the **Final Date for Payment**).

16.6 Vastint's obligation to pay and your right to be paid any monies on account of the Fee or any applicable value added tax in respect of such Fee payable pursuant to the terms of this Appointment shall only be effective if there are no conditions precedent to payment which at the Due Date have not been satisfied, as provided for in clauses 10.4, 14.2, 14.3, 15.3 and (if Additional Services have been performed) clause 17.2.

16.7 If Vastint wrongfully withholds any amount after the Final Date for Payment that amount shall bear simple interest at the rate of 3% over the Bank of England bank rate for the time being from the Final Date for Payment to and including the date on which such amount is paid or discharged. You acknowledge that this is a substantial remedy for late payment in compliance with the Late Payment of Commercial Debts (Interest) Act 1998.

16.8 [Notwithstanding the previous provisions of this clause 16, you hereby acknowledge that as at the date of this Appointment you have been paid the sum of [*figure*] pounds (£[*figure*]) on account of the Fee in respect of the performance of the Services prior to the date of this Appointment.[[1]](#footnote-1)]

17 **Additional services**

17.1 Immediately upon it becoming apparent that any services over and above the Services and/or revision to the Services are, or are likely to be, required (**Additional Services**) you shall give Vastint written notice specifying the circumstances and shall, as soon as possible thereafter, submit full and detailed particulars of such Additional Services to Vastint for agreement.

17.2 You agree that where any Additional Services are necessary in whole or part due to negligence, omission or default on your part, you shall not be entitled to any additional payment for that part (or those parts) of the Additional Services.

17.3 Confirmation of Vastint’s instruction to proceed with any Additional Services can only be given by the issue of an Additional Services Order (the form of which is set out in Schedule 6). You shall not be entitled to perform any Additional Services until an Additional Services Order has been issued by Vastint in relation to the same and then signed on your behalf. In the event that you do perform any Additional Services prior to the issue and signature of an Additional Services Order, such services will be undertaken by you on an at risk basis (the issue and signature of an Additional Services Order being a condition precedent to payment in respect of those Additional Services).

17.4 In the event any such Additional Services are instructed:

17.4.1 you shall be entitled to the fee for such Additional Services agreed with Vastint and confirmed in the Additional Services Order; and

17.4.2 the Additional Services shall be deemed to be part of the Services for the purposes of this Appointment; and

17.4.3 the fee set out in the Additional Services Order in respect of such Additional Services (if any), shall be deemed to have been added to the Fee with an appropriate amendment being made to the schedule of fees set out in Schedule 2.

18 **Termination/suspension**

18.1 Vastint shall be entitled to terminate your employment under this Appointment or bring to an end any part or parts of the Services:

18.1.1 immediately, in the event of your becoming Insolvent (as defined in s.113 of the Housing Grants (Construction and Regeneration) Act 1996; and/or

18.1.2 at any time in its absolute discretion, upon giving you a minimum of fourteen (14) days written notice (termination being effected on the date of expiry of that notice period, unless prior to that date Vastint agrees in writing to revoke the notice issued).

18.2 Vastint may at any time, by a minimum of seven (7) days written notice, suspend the performance of all or part(s) of your services under this Appointment which notice shall be effective on the date of expiry of the period of notice given. Vastint may require you to resume performance of the Services by serving fourteen (14) days notice in writing on you and on expiry of such fourteen (14) day period you shall recommence performance of the Services from the point at which they were suspended. If Vastint has not required you to resume performance of the Services, or any part or parts so suspended, within six (6) months from the date of such notice of suspension, you may request in writing that your services be resumed. Unless Vastint gives you written instructions to resume within twenty eight (28) days after receipt of your request in accordance with this clause 18.2, your employment shall determine upon the expiry of the twenty eight (28) day period referred to above.

18.3 In the event that Vastint exercises its rights of termination and/or suspension in accordance with clauses 18.1 or 18.2, or you terminate your engagement in accordance with clause 18.4:

18.3.1 following service of the notice of termination or suspension (whether issued by you or Vastint) until the date such termination or suspension takes effect, unless otherwise authorised in writing by Vastint:

a you shall take all reasonable steps to prepare for the cessation of the performance of the Services, performing only such part or parts of the Services as are necessary and in the best interests of the Project given the forthcoming termination or suspension; and

b you shall not incur any new expenditure with or liabilities to third parties (whether suppliers, sub-consultants or otherwise);

18.3.2 you shall cease such works and services immediately on the date such termination or suspension takes effect and within five (5) days of the date of termination or suspension deliver to Vastint copies of the Documents, in both printed and electronic form (provided that you shall be entitled to keep a copy of the Documents for your own record-keeping purposes);

18.3.3 you shall be entitled to such proportion of the Fee as represents a fair and reasonable value of that part of the Services carried out up to the date of such termination and/or suspension PROVIDED ALWAYS:

a Vastint reserves the right to deduct from any such sum or sums the amount of any claim it may have in respect of any breach and/or failure by you in any way to observe or perform your obligations under this Appointment and/or as a result of you being Insolvent; and

b Vastint shall not be liable to reimburse you a sum greater than the sum which would have become due to you, pursuant to this Appointment, in the interim payment following the date of such termination and/or suspension; and

c you shall not be entitled to any payment or reimbursements of any loss of profit, loss of opportunity or loss of contract arising out of or in connection with the Services and/or the Project.

18.4 If Vastint is in material breach of its obligations under this Appointment you may serve twenty eight (28) days written notice of your intention to terminate stating the grounds for termination. If in such twenty eight (28) day period Vastint fails to rectify its breach you shall be entitled at the expiry of that period to serve further written notice terminating your employment under this Appointment with immediate effect.

19 **Not used**

20 **Contracts (Rights of Third Parties) Act 1999 and survival of provisions following termination**

20.1 Subject to the provisions of clauses 14 and 15 and Schedules 4 and 5 this Appointment does not create any right enforceable by a third party who is not a party to it pursuant to the Contracts (Rights of Third Parties) Act 1999.

20.2 Provisions contained in this Appointment that are expressed or by their sense and content are intended to survive the termination of this Appointment, including but not limited to the provisions of clauses 12 to 20 inclusive, shall survive any termination of this Appointment and/or termination and/or suspension of your appointment / engagement and/or the Services and/or any part or parts thereof.

21 **Interpretation**

In this Appointment:

21.1 clause headings are for convenience only and do not affect its interpretation;

21.2 words importing the singular meaning shall include where the context so allows the plural meaning and vice versa;

21.3 where the context so admits references in this Appointment to a schedule or clause are to a schedule or clause of this Appointment;

21.4 a reference to any statute or statutory instrument shall include a reference to any consolidation, extension, amendment or replacement of it for the time being in force.

22 **Miscellaneous**

22.1 No inspection or approval or review by Vastint and/or on its behalf nor any omission to inspect or review or to disapprove shall make ineffective or diminish any duty of care or liability on your part under or in connection with this Appointment.

22.2 This Appointment supersedes any previous agreement and/or arrangement between you and Vastint in respect of the Services (whether oral or written) and represents the entire understanding between you and Vastint in relation to the Services.

22.3 Notwithstanding the date of this Appointment it shall have effect as from actual commencement of the performance by you of the Services.

22.4 All additions amendments and variations to this Appointment shall be binding only if in writing and signed by the duly authorised representatives of you and Vastint.

22.5 If any provision of this Appointment is declared to be invalid or unenforceable it shall not affect the validity or enforceability of the remaining provisions of this Appointment.

23 **Law and jurisdiction**

23.1 This Appointment shall be subject to the laws of England and Wales and the exclusive jurisdiction of the English courts.

23.2 Notwithstanding clause 23.1, it is acknowledged that the provisions of the Construction Act apply to this Appointment and the parties shall be entitled to refer any dispute arising under it to adjudication. The procedure set out in Part 1 of the Scheme for Construction Contracts (England and Wales) Regulations 1998 (as amended), shall apply to any such adjudication.

24 **Limitation**

24.1 No action or proceedings for any breach of this Appointment whether in contract or in tort or in delict or in negligence or for breach of statutory duty or otherwise shall be commenced against you after the expiry of 12 years from the date of practical completion, or if earlier from the date you last performed the Services under the Appointment.

24.2 Notwithstanding any other provision of this Appointment but excluding any liability arising for death or personal injury, your liability for any claims arising under or in connection with this Appointment (whether in contract, in tort, in delict, for breach of statutory duty or otherwise) shall be limited to ten million pounds (£10,000,000) for each and every claim which may be made.

25 **Notices**

25.1 Any notice given under this Appointment must be in writing (but not including email, which shall not constitute notice for the purpose of this Appointment).

25.2 Any notice or document to be given or delivered must be given by delivering it personally or sending it by pre-paid first class post, or recorded delivery to the address and for the attention of the relevant party as follows:

25.2.1 to you at [*address consultant would like notices issued to*], marked for the attention of [*individuals to whom consultant would like notices addressed*];

25.2.2 to Vastint at 135 High Street, London E15 2RB marked for the attention the Managing Director and Legal Counsel.

25.3 Any such notice or document will be deemed to have been received:

25.3.1 if delivered personally, at the time of delivery provided that if delivery occurs before 9.00 am on a working day, the notice will be deemed to have been received at 9.00 am on that day, and if delivery occurs after 5.00 pm on a working day, or on a day which is not a working day, the notice will be deemed to have been received at 9.00 am on the next working day;

25.3.2 in the case of pre-paid first class registered or recorded delivery post at 9.00 am on the third working day after posting.

25.4 In proving delivery, it will be sufficient to prove that delivery was made or that the envelope containing the notice or document was properly addressed and posted as a prepaid first class or recorded delivery letter, as the case may be.

26 **Not used**

27 **Anti-corruption**

27.1 For the purposes of this clause 27, **Bribery Act** shall mean the Bribery Act 2010 which shall include all regulations and orders made under the statute and, unless the context otherwise requires any statute, regulations or orders amending, consolidating or replacing them in force from time to time.

27.2 You warrant and undertake to Vastint that:

27.2.1 you have not and shall not engage in any Corrupt Activity (which for the purposes of this clause 27 means extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence, money laundering and/or any similar activity including, without limitation, any activity, practice and/or conduct which would constitute an offence under Sections 1, 2 and/or 6 of the Bribery Act) in relation to the Services, the Project and/or this Appointment; and

27.2.2 you have not and shall not engage in any activity, practice and/or conduct which could place Vastint in breach of Section 7(1) of the Bribery Act; and

27.2.3 you have and will maintain in place adequate procedures designed to prevent any Associated Person (which for the purposes of this clause 27 means a person (including an employee, agent and/or subsidiary) who performs services for or on your behalf) from undertaking any conduct that would give rise to an offence under Section 7 of the Bribery Act.

27.3 You warrant that you have complied with your undertakings under clauses 27.2.1 to 27.2.3 inclusive and you expressly acknowledge that Vastint is entitled to rely on such for the purposes of its compliance of its obligations under and or pursuant to the Bribery Act and legislation governing any Corrupt Activity.

27.4 You undertake to inform Vastint immediately in writing should such aforementioned acknowledgment change or cease to be an accurate and complete representation of your engagement in any Corrupt Activity in such manner and at such times with the intent that no omission and/or default of you in relation thereto shall constitute, cause or contribute to any breach by Vastint of its obligations under or pursuant to the Bribery Act and/or any legislation in respect of Corrupt Activity.

27.5 Without prejudice to the obligations set out in clause 14.3, you will take all appropriate steps to satisfy yourself, acting reasonably, for which purposes you shall include an undertaking similar to that contained in clauses 27.2 and 27.3 from any third party from whom you procure advice and/or services, that they have, in turn, not and shall not engage in any Corrupt Activity in relation to the Services, the Project and/or their appointment with you.

28 **Code of Conduct and Publicity**

28.1 You shall act diligently during the term of this Appointment and shall never act in a manner which either is, or may be, prejudicial to the operations, reputation or business interests of Vastint or its affiliates. You confirm that you have read and understood the Interogo Holding Code of Conduct and agree to comply with it as well as any other rules and policies as may be communicated by Vastint from time to time during the term of this Appointment.

28.2 You shall not make any public statement, including without limitation: on your website; in any marketing literature; on social media; in a press release; or in a media interview, concerning Vastint or its affiliates or any of their business, the Project or this Appointment, without Vastint’s prior written consent.

This Appointment has been signed and executed as a deed by the parties to this Appointment and is delivered and takes effect on the date stated at its outset.

|  |  |
| --- | --- |
| Signed and Executed as a Deed by  **VASTINT UK SERVICES LIMITED** acting by one director in the presence of a witness: | …………………………………..  Andrew Cobden  Director |
| Witness signature ……………………………………..  Witness printed name ……………………………………..  Witness occupation ………………………………………  Witness address ………………………………………  ………………………………………. | |
|  |  |

Signed and Executed as a Deed by

**HUNTER & PARTNERS LIMITED** acting by one

Director in the presence of a witness: ………………………………………

Director

Director's printed name ……………………………………….

Witness signature ………………………………………..

Witness printed name ………………………………………..

Witness occupation ………………………………………..

Witness address …………………………………........

………………………………...........

**SCHEDULE 1 - The Services**

All those services that would reasonably be expected of an architect and lead designer experienced in carrying out services for projects of a similar size, scope, value, character and complexity to the Project, including, without limitation:

*[Agreed services, to include as a minimum:*

*• the scope of the consultant’s work for Vastint;*

*• any deliverables the consultant is to provide;*

*• any brief or other standards the consultant is to incorporate/comply with/factor in when providing the Services; and*

*• any approvals (whether from Vastint or a third party) which the consultant must procure before their work can be considered ‘complete’.*

*Insert list of key personnel for the purposes of clause 11.]*

**SCHEDULE 2 - Schedule of Fees**

1 The Fee is [*insert figure*] pounds £[*insert figure*] (plus VAT).

2 You and Vastint have agreed that the Fee is broken down into instalments (each a **Section Value**). Each Section Value is attributable to the performance of a Section of the Services by you and you agree that in respect of each such Section, the equivalent Section Value shall be the entire part of the Fee due to it in respect of that Section.

3 For the purposes of this Appointment the Section Values are[[2]](#footnote-2):

|  |  |
| --- | --- |
| **Section** | **Section Value** |
| Section 1 [*description of the stage of the Services*] | [*figure*] pounds (£[*figure*]) plus value added tax |
| Section 2 [*description of the stage of the Services*] | [*figure*] pounds (£[*figure*]) plus value added tax |
| Section 3 [*description of the stage of the Services*] | [*figure*] pounds (£[*figure*]) plus value added tax |
| Section 4 [*description of the stage of the Services*] | [*figure*] pounds (£[*figure*]) plus value added tax |
| Total: | [*figure*] pounds (£[*figure*]) plus value added tax |

4 On confirmation that you may perform a Section by Vastint pursuant to clause 1.3, you and Vastint shall agree the instalments (if any) by which the applicable Section Value will be paid to you.

5 Such instalments may be on a monthly basis during the completion of the applicable Section, provided that in each case the final such instalment shall:

5.1 only be payable to you on completion of all parts of the Services comprising the applicable Section, to the reasonable satisfaction of Vastint; and

5.2 unless otherwise agreed in writing by Vastint, be for a sum equivalent to at least forty five percent (45%) of the overall Section Value.

6 You have agreed with Vastint indicative values for the instalments by which each Section Value will be paid, which are set out at the Annex to this Schedule 2. For the avoidance of doubt these indicative values are included by way of example only. As set out in paragraph 4 above the actual instalments by which each Section Value will be paid shall be agreed at the time the applicable Section is instructed by Vastint.

7 The fact that a Section takes (or may take) longer to complete than you anticipated at the date of this Appointment shall not entitle you to an addition to either the applicable Section Value or the Fee, unless Vastint agrees in writing that such additional time can be considered Additional Services for the purposes of clause 17.

**Annex to Schedule 2**

**Indicative instalments for each Section Value**

**SCHEDULE 3 - Warranty to Third Parties**

dated

[*beneficiary’s name*]

(Beneficiary) (1)

and

[*consultant’s name*]

(Consultant) (2)

**Deed of Warranty**

**relating to an appointment to provide services in respect of a development at Sugar House Island, off Sugar House Lane, Stratford, London E15**

**Deed of warranty**

**dated the [ ] day of [ ] 20[ ]**

**Parties**

(1) [*beneficiary’s name*] (Company number: [*registered number*]) whose registered office is at [*registered office*] (the **Beneficiary**, which expression shall include its permitted assigns); and

(2) [*consultant’s name*] (Company number: [*registered number*]) whose registered office is situate at [*registered office*] (the **Consultant**).

**Introduction**

(A) The Beneficiary has an interest/will have an interest in the Property or a part or parts of the Property and/or the Development (both as defined below) and has entered into/will enter into an agreement (the **Agreement**) with Vastint UK Services Limited (the **Developer**).

(B) The Developer has procured or intends to procure the carrying out of works, a brief description of which are set out in Recital C below (the **Development**), at Sugar House Island, off Sugar House Lane, Stratford, London E15 (the **Property**).

(C) The Development means the development of the Property to create a mixed use regeneration scheme, comprising approximately 1,200 new homes (in a mixture of tenures and types), office space, restaurants, bars and a hotel and including all associated infrastructure and utilities.

(D) The Consultant carries on a business as [*consultant’s discipline*] and has been appointed as such by the Developer under an appointment dated [*date of appointment*] (the **Appointment**) for the carrying out of [*consultant’s discipline*] services (the **Services**).

(E) The Consultant has agreed to enter into this Deed in favour of the Beneficiary.

**Now in consideration of the sum of £10 (ten pounds) receipt of which the Consultant hereby acknowledges it is now agreed as follows:**

1 **Skill and Care**

1.1 The Consultant hereby warrants and undertakes to the Beneficiary:

1.1.1 that in respect of the Services under the Appointment:

a it has exercised and will continue to exercise all the reasonable skill, care and diligence as may be expected of a properly qualified and competent consultant of the applicable discipline(s), experienced in the provision of professional services for services for projects of a similar size, scope, value, character and complexity to the Services and the Development; and

b it shall owe a duty of care to the Beneficiary in respect of such matters; and

1.1.2 that it has performed and shall continue to perform all of its obligations under the Appointment.

1.2 The Consultant shall have no greater liability and shall have the equivalent rights in defence of its liability under this Deed (excluding rights of set off and counterclaim) than it would have done if, in lieu of this Deed the Beneficiary had been named as client instead of the Developer in the Appointment.

1.3 The Consultant hereby acknowledges that the Beneficiary may have relied and may continue to rely upon the Consultant’s professional skill and judgement in respect of such aforementioned matters.

2 **Licence**

2.1 The Consultant as beneficial owner hereby grants to the Beneficiary an irrevocable royalty-free non-exclusive licence to copy and use all drawings, details, plans, specifications, schedules, reports, calculations and other documents and information and other work and the designs contained in them which have been or are hereafter written, originated or made by the Consultant or on the Consultant’s behalf in relation to the Services and/or the Development and whether in hard copy and/or electronic form (the **Documents**) for any purpose whatsoever connected with the Development and/or the property or any part or parts thereof comprising the Development including, but without limitation, the execution, construction, completion, maintenance, alteration, letting, management, sale, advertisement, refurbishment, reinstatement and/or repair thereof provided always that:

2.1.1 the Consultant shall not be liable for any use of the Documents by the Beneficiary or any other person for any purpose that was not the purpose for which they were originally prepared and provided by the Consultant, and

2.1.2 such licence shall enable the copying and use of the Documents for an extension to the completed Development or any part or parts thereof but not to reproduce the designs contained in the Documents for any extension to the completed Development.

2.2 Such licence shall carry the right to grant sub-licences and shall be transferable to third parties.

3 **Assignment**

The Beneficiary shall be entitled to assign, charge and/or transfer all or any of its rights and/or obligations under this Deed to any two (2) further parties acquiring an interest in and/or taking a charge over the whole or part of the Beneficiary's interest in the Development and/or providing finance and/or refinance in connection with any such interest(s) in the Development, without the consent of the Consultant.

4 **Professional Indemnity Insurance**

4.1 The Consultant warrants that it has at all relevant times maintained and that it will continue to maintain professional indemnity insurance for a minimum amount of ten million pounds (£10,000,000) for any one claim or series of claims arising out of any one event and to continue to maintain such insurance for a period of twelve years from the date that the whole of the Services are complete in accordance with the Appointment provided always that such insurance cover is available and continues to be available to organisations of equivalent size and type to the Consultant’s practice/organisation at commercially reasonable rates and on commercially reasonable terms.

4.2 As and when reasonably required by the Beneficiary (but not more frequently than once every twelve months) the Consultant shall produce for inspection documentary evidence that the insurance referred to above is being properly maintained.

5 **Notices**

Any notice to be given hereunder shall be deemed to be duly given if personally delivered at or sent by prepaid special/guaranteed delivery to the relevant registered office(s) and any notice given by the Beneficiary hereunder shall be deemed to be duly given if it is addressed to the Managing Director/Senior Principal and personally delivered at or sent by prepaid special/guaranteed delivery to the above-mentioned address of the Consultant or to the principal business address of the Consultant for the time being and, in the case of any such notices, the same if sent by prepaid special/guaranteed delivery shall be deemed to have been received forty eight (48) hours after being posted.

6 **Continuing effect**

Notwithstanding the completion of the Development and/or the Services or any part thereof this Deed shall continue to have effect.

7 **Law**

This Deed shall be governed and construed in accordance with the laws of England and Wales and both parties shall irrevocably submit to the exclusive jurisdiction of the English and Welsh courts.

8 **Limitation**

No action or proceedings for any breach of this warranty whether in contract or in tort or in delict or in negligence or for breach of statutory duty or otherwise shall be commenced against the Consultant after the expiry of 12 years from the date of practical completion, or if earlier from the date the Consultant last performs its Services under the Appointment.

9 **Contract (Rights of Third Parties) Act 1999**

A person who is not a party to this Deed has no right under the Contract (Rights of Third Parties) Act 1999 to enforce a term of this Deed but this does not affect any right or remedy of a third party if it exists or if available apart from under the aforementioned Act.

**EXECUTED** as a **DEED** by the parties on the date first above written

**EXECUTED** as a **DEED** and **delivered** )

(but not until the date hereof) by )

[*Beneficiary’s name*] acting by )

Director

Director/Secretary

**EXECUTED** as a **DEED** and **delivered** )

(but not until the date hereof) by )

[*Consultant’s name*] acting by )

Director

Director/Secretary

**SCHEDULE 4 - Nominating Notice**

**TO:** [*Consultant’s name*] (Company number [*registered number*]) whose registered office address/principal place of business is at [*registered office*]

**FROM:** **VASTINT UK SERVICES LIMITED,** a company incorporated and registered in England & Wales with company number 07394552 and whose registered office is at 135 High Street, London E15 2RB (**Vastint**)

**DATE:** [*insert date only when notice is signed and issued*]

Dear Sirs

**Sugar House Island, off Sugar House Lane, Stratford, London E15 (the Project)**

You have been appointed as consultant by Vastint UK Services Limited under an appointment dated [*insert date*] (the **Appointment**) in respect of the Project.

Schedule 5 of the Appointment (**Schedule 5**) sets out the benefits and rights which may be enforced by a third party on the issue of this notice and Vastint hereby nominates [*beneficiary’s name*] of [*beneficiary’s registered address*] as a third party (the **Third Party**) entitled to enforce the benefits and rights set out in Schedule 5 of the Appointment in accordance with the terms of the Appointment as from the date of this notice.

The Third Party has or has acquired an interest in the Project or any part or parts thereof and/or is providing finance for the Project or any part or parts thereof.

Yours faithfully

…………………………..

**For and on behalf of Vastint UK Services Limited**

**SCHEDULE 5 - Third Party Rights**

For the purposes of this Schedule 5 the term **Beneficiary** shall, in each case, mean the Third Party named in a Nominating Notice issued pursuant to clause 15.4 of the Appointment.

1 **Skill and care**

1.1 You warrant to the Beneficiary that:

1.1.1 in respect of the Services and your obligations under the Appointment:

a you have exercised and will continue to exercise all the reasonable skill, care and diligence as may be expected of a properly qualified and competent consultant of the applicable discipline(s), experienced in the provision of professional services for services for projects of a similar size, scope, value, character and complexity to the Services and the Project; and

b you shall owe a duty of care to the Beneficiary in respect of such matters; and

1.1.2 you have performed and shall continue to perform all of your obligations under the Appointment.

1.2 You shall have no greater liability and shall have the equivalent rights in defence of your liability under these Third Party Rights (excluding rights of set off and counterclaim) than you would have done if, in lieu of receiving rights pursuant to these Third Party Rights the Beneficiary had been named as client instead of Vastint in the Appointment.

1.3 You hereby acknowledge that the Beneficiary may have relied and may continue to rely upon your professional skill and judgement in respect of such aforementioned matters.

2 **Licence**

2.1 As beneficial owner you hereby grant to the Beneficiary an irrevocable royalty-free non-exclusive licence to copy and use all drawings, details, plans, specifications, schedules, reports, calculations and other documents and information and other work and the designs contained in them which have been or are hereafter written, originated or made by you or on your behalf in relation to the Services and/or the Project and whether in hard copy and/or electronic form (the **Documents**) for any purpose whatsoever connected with the Project and/or the property or any part or parts thereof comprising the Project including, but without limitation, the execution, construction, completion, maintenance, alteration, letting, management, sale, advertisement, refurbishment, reinstatement and/or repair thereof provided always that:

2.1.1 you shall not be liable for any use of the Documents by the Beneficiary or any other person for any purpose that was not the purpose for which they were prepared and provided by you, and

2.1.2 such licence shall enable the copying and use of the Documents for an extension to the completed Project or any part or parts thereof but not to reproduce the designs contained in the Documents for any extension to the completed Project.

2.2 Such licence shall carry the right to grant sub-licences and shall be transferable to third parties.

3 **Assignment**

The Beneficiary shall be entitled to assign, charge and/or transfer all or any of its rights and/or obligations under these Third Party Rights to any two (2) further parties acquiring an interest in and/or taking a charge over the whole or part of the Beneficiary's interest in the Project and/or providing finance and/or refinance in connection with any such interest(s) in the Project, without your consent.

4 **Professional Indemnity Insurance**

4.1 You warrant that you have at all relevant times maintained and that you will continue to maintain professional indemnity insurance for a minimum amount of ten million pounds (£10,000,000) for any one occurrence or series of occurrences or, as applicable, any claim or series of claims arising out of any one event and to continue to maintain such insurance for a period of twelve years from the date that the whole of the Services are complete in accordance with this Appointment provided always that such insurance cover is available and continues to be available to organisations of equivalent size and type to your practice/organisation at commercially reasonable rates and on commercially reasonable terms.

4.2 As and when reasonably required by the Beneficiary (but not more frequently than once every twelve months) you shall produce for inspection documentary evidence that the insurance referred to above is being properly maintained.

5 **Notices**

Any notice to be given hereunder shall be deemed to be duly given if personally delivered at or sent by prepaid special/guaranteed delivery and any notice given by the Beneficiary hereunder shall be deemed to be duly given if it is addressed to the Managing Director and personally delivered at or sent by prepaid special/guaranteed delivery to your registered office address or to your principal business address for the time being and in the case of any notice given by you to the Beneficiary shall be deemed to be duly given if addressed to the Beneficiary FAO the principal at the address stated in the Nominating Notice issued to you in respect of the Beneficiary in both cases or such other address as may be notified by the other party in writing to the other from time to time and, in the case of any such notices, the same if sent by prepaid special/guaranteed delivery shall be deemed to have been received forty eight (48) hours after being posted.

6 **Continuing effect**

Notwithstanding the completion of the Project or any part thereof these Third Party Rights shall continue to have effect.

7 **Law**

These Third Party Rights shall be governed and construed in accordance with the laws of England and Wales and both parties shall irrevocably submit to the exclusive jurisdiction of the English and Welsh courts.

8 **Limitation**

No action or proceedings for any breach of the Third Party Rights whether in contract or in tort or in delict or in negligence or for breach of statutory duty or otherwise shall be commenced against you after the expiry of 12 years from the date of practical completion, or if earlier from the date you last performed the Services under the Appointment.

**SCHEDULE 6 - Additional Services Order**

**Vastint UK Services Limited (Vastint) – Additional Services Order**

**Site:** Sugar House Island **Consultant:** [*insert*]

**Appointment reference:** [*insert*] **Original Purchase Order:** [*insert*]

**Additional Purchase Order:** [*insert*] **Date:** [*insert*]

This Additional Services Order is made pursuant to an appointment to provide services entered into between (i) Vastint UK Services Limited and (ii) [*name of consultant*], dated [xxxxx] (the **Appointment**).

All defined terms used in this Additional Services Order shall have the meanings given to them in the Appointment.

1 It is hereby confirmed that the following services:

[*description of the additional services to be performed*],

are approved by Vastint to become Additional Services for the purposes of clause 17 of the Appointment.

2 Vastint further confirm that the sum payable to you in respect of these additional services is:

[*insert figure*] pounds (£[*insert figure*]) plus any applicable value added tax,

which sum shall be added to the Fee for the purposes of clause 16 of the Appointment.

3 The sum payable to you in respect of these Additional Services shall be paid in following instalments, which shall be added to the Schedule of Fees set out in Schedule 2 to the Appointment:

|  |  |
| --- | --- |
| **Section** | **Section Value** |
| Stage 1 [*description of the stage of the Additional Services*] | [*insert* *figure*] pounds (£[*figure*]) plus value added tax |
| Stage 2 [*description of the stage of the Additional Services*] | [*insert* *figure*] pounds (£[*figure*]) plus value added tax |

The covenants and conditions of the Appointment shall (except as added to by this Additional Services Order) in all other respects continue in full force and effect.

[*execution clause to be inserted in final version*]

**SCHEDULE 7 – Waiver Certificate**

Vastint UK Services Limited

135 High Street

London E15 2RB

Dated: [date]

Dear Sirs,

**Sugar House Island, off Sugar House Lane, London E15 (the Project)**

I, [*name of author*], write with reference to any and all services provided by me through my employment by [*name of consultant practice*] in relation to the Project (whether the same comprise designs, drawings, concepts, calculations or any other document or information) (the **Works**).

In consideration of the sum of ten pounds (£10) from Vastint UK Services Limited (**Vastint**), receipt of which I hereby acknowledge, I unconditionally and irrevocably waive:

1 all rights to be identified as the author of the Works; and

2 all rights to object to derogatory treatment of the Works,

to which I may now or at any future time be entitled under the Copyright, Designs and Patents Act 1988 as amended from time to time and under all similar legislation from time to time in force anywhere in the world.

This waiver is made in favour of Vastint and shall extend to Vastint’s licensees, sub-licensees, assignees and successors in title to the copyright in the Works or Vastint’s business.

This waiver and any dispute or claim 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 the law of England and Wales. I irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this waiver or its subject matter or formation (including non-contractual disputes or claims).

This waiver has been entered into on the date stated at the beginning of it.

Signed:

[*author’s name*]

**SCHEDULE 8 - Novation Agreement**

**dated 20[ ]**

**Parties**

(1) **[ ]** (the **Employer**),

(2) **[ ]** (the **Contractor**), and

(3) **[ ]** (the **Consultant**).

**Introduction**

(A) The Employer has appointed the Consultant to provide design services (the **Services**) by an agreement dated (the **Appointment**) in respect of a development at Sugar House Island, London (the **Project**).

(B) The Employer has appointed the Contractor under a contract (the **Building Contract**) to design and build the Project.

(C) The Employer, Consultant and Contractor have agreed that from the date of this agreement the Contractor shall assume the obligations of the Employer and that the Consultant shall perform its obligations under the Appointment in favour of the Contractor and that the Employer and the Consultant shall subject to the terms of this agreement, each release the other from any obligations owed by the other to them under the Appointment.

**Agreed terms**

1 **Novation**

1.1 The Employer hereby releases and discharges the Consultant from any and all obligations and liabilities owed to the Employer under the Appointment.

1.2 The Consultant undertakes to perform the Appointment and to be bound by its terms in every way as if the Contractor were, and had been from its inception, a party to the Appointment in lieu of the Employer.

1.3 The Consultant hereby releases and discharges the Employer from any and all obligations and liabilities owed to the Consultant under the Appointment and accepts the liability of the Contractor under the Appointment in lieu of the liability of the Employer.

1.4 Without prejudice to clause ‎1.2, the Consultant warrants to the Contractor that it shall be liable for any loss or damage suffered or incurred by the Contractor arising out of any negligent act, default or breach by the Consultant in the performance of its obligations under the Appointment (whether or not notified or complained of) prior to the date of this agreement. Subject to any limitation of liability in the Appointment, the Consultant shall be liable for such loss or damage notwithstanding that such loss or damage would not have been suffered or incurred by the Employer (or suffered or incurred to the same extent by the Employer).

1.5 The Consultant acknowledges that all fees and expenses properly due from the Employer to the Consultant under the Appointment up to the date of this agreement have been paid.

1.6 The Contractor undertakes to perform the Appointment and to be bound by its terms in every way as if the Contractor were, and had been from the inception, a party to the appointment in lieu of the Employer.

[1.7 From the date of this agreement, the Appointment shall be varied as follows:

“xxxxxxxxxxxxxxxxxxxxxx”.[[3]](#footnote-3) ]

2 **Proper law and jurisdiction**

This agreement and the rights and obligations of the parties hereto shall be governed and construed according to English Law. Any dispute shall be subject to the exclusive jurisdiction of the English Courts.

3 **Contracts (Rights of Third Parties) Act 1999**

Notwithstanding any other provision in this agreement, nothing in this agreement is intended to confer on any person any right to enforce any of the provisions of this agreement which such person would not have had, but for the Contracts (Rights of Third Parties) Act 1999.

This agreement has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Signed and Executed as a

Deed by ……………………………………….

a director for and on behalf of [ ]

Director's printed name ……………………………………….

in the presence of:

Witness signature ………………………………………..

Witness printed name ………………………………………..

Witness occupation ………………………………………..

Witness address ………………………………………..

………………………………………..

Signed and Executed as a

Deed by ……………………………………….

a director for and on behalf of [ ]

Director's printed name ……………………………………….

in the presence of:

Witness signature ………………………………………..

Witness printed name ………………………………………..

Witness occupation ………………………………………..

Witness address ………………………………………..

………………………………………..

Signed and Executed as a

Deed by ……………………………………….

a director for and on behalf of [ ]

Director's printed name ……………………………………….

in the presence of:

Witness signature ………………………………………..

Witness printed name ………………………………………..

Witness occupation ………………………………………..

Witness address ………………………………………..

………………………………………..

1. Include in the appointments of consultants who have already been paid for work undertaken on Sugar House Island. [↑](#footnote-ref-1)
2. Insert as many Sections as necessary given the Services to be performed and the Fee. [↑](#footnote-ref-2)
3. Included only if Contractor and Consultant agree that changes to the form of appointment are appropriate on novation. [↑](#footnote-ref-3)