

ANDREWS ECOLOGY LTD

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

1. INTERPRETATION

1.1 In these Conditions, the following definitions apply: -

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

Claim means any claim which Andrews Ecology Ltd has or may have against the Client under, arising out of or in connection with the Contract (including, without limitation, an extension of time to complete the Services or any additional payment in connection with a variation or any payment whatsoever in excess of or in addition to the charges under the Contract or any adjustment upwards to such charges) and howsoever arising under any circumstances whatsoever (including, without limitation, by reason of a breach of contract on the part of Client, breach of statutory duty or tortious or negligent act or omission).

Commencement Date has the meaning set out in clause 2.2.

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

Contract means the formal contract or agreement between Andrews Ecology Ltd and the Client for the supply of Goods and/or Services in accordance with these Conditions.

Client means the person or firm who purchases the Goods and/or Services from Andrews Ecology Ltd.

Deliverables means any written report, licence etc. to be prepared by Andrews Ecology Ltd in accordance with an agreed Service Specification.

Delivery Location has the meaning set out in clause 4.1.

Force Majeure Event has the meaning given to it in clause 15.1.1.

Goods means the goods (or any part of them) required for performance of the Work, as agreed between the parties in the Work Specification.

Goods Specification means any specification for the Goods required for the purpose of any Work, including any relevant plans or drawings, set out in a Work Specification.

Insolvent means, in relation to a person: **a)** any corporate action, legal proceedings or other procedure or step is taken in relation to the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration (or the service at court of any notice of intention to appoint an administrator) or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than a solvent liquidation or reorganisation; or **b)** any corporate action, legal proceedings or other procedure or step is taken in relation to composition, compromise, assignment or arrangement with any creditor; or **c)** any corporate action, legal proceedings or other procedure or step is taken in relation to the appointment of a liquidator (other than in respect of a solvent liquidator), receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of Andrews Ecology Ltd or any of its assets; or **d)** any corporate action, legal proceedings or other procedure or step is taken in relation to enforcement of any security over any assets or any analogous procedure or step is taken in any jurisdiction; or **e)** any corporate action, legal proceedings or other procedure or step is taken in relation to any expropriation, attachment, sequestration, distress or execution affects any asset or assets; or **f)** any financial indebtedness is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

Intellectual Property Rights means 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 for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order means the Client's order for the supply of Services, as set out [the Client's purchase order form incorporating the Service Specification].

Services means the services, including the Deliverables, supplied by the Andrews Ecology Ltd to the Client as set out in the Service Specification, which may include the provision of Work as when the requirement for that Work is identified and the parties agree that such Work shall be carried out by Andrews Ecology Ltd.

Service Specification means the description or specification for the Services provided in writing by the Andrews Ecology Ltd to the Client.

Andrews Ecology Ltd Materials has the meaning set out in clause 8.1.7.

Work means the carrying out by Andrews Ecology Ltd of physical works at the Delivery Location or such other location as the parties may agree in relation to the matters dealt with in any report prepared by the Andrews Ecology Ltd as part of the Deliverables and in accordance with a Work Specification.

Work Specification means a description or specification for Work provided in writing by the Andrews Ecology Ltd to the Client and specifying whether the related Goods are to be supplied by the Andrews Ecology Ltd or by the Client.

1.2 In these Conditions, the following rules apply: -

- a. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- b. a reference to a party includes its [personal representatives,] 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' includes faxes, e-mails and any other electronic communication.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the Client to purchase Goods and/or Services in accordance with these Conditions. The supply of any Goods, the carrying out of any Work and the preparation of a Work Specification shall be by agreement of the parties following issue of the Deliverables by the Andrews Ecology Ltd.
- 2.2 The Order shall only be deemed to be accepted when Andrews Ecology Ltd issues written acceptance of the Order at which point and on which date the Contract shall come into existence (Commencement Date).
- 2.3 The Contract constitutes the entire agreement between the parties. The Client acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Andrews Ecology Ltd which is not set out in the Contract.
- 2.4 Any drawings, descriptive matter or advertising issued by Andrews Ecology Ltd and any descriptions of the Goods or illustrations or descriptions of the Services contained in Andrews Ecology Ltd website, catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 These Conditions 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 or course of dealing.
- 2.6 Any quotation given by Andrews Ecology Ltd shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.
- 2.7 All of these Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. GOODS

- 3.1 The Goods are described in the Goods Specification.

- 3.2 To the extent that the Goods are to be in accordance with a Goods Specification supplied by the Client, the Client shall indemnify Andrews Ecology Ltd against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable]professional costs and expenses) suffered or incurred by Andrews Ecology Ltd in connection with any claim made against Andrews Ecology Ltd for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Andrews Ecology Ltd use of the Goods Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3 Andrews Ecology Ltd reserves the right to amend the specification of the Goods OR Goods Specification if required by any applicable statutory or regulatory requirements.
- 3.4 Where Andrews Ecology Ltd agrees to carry out Work but the related goods are to be supplied by the Client, clause 5, clause 6 and clause 9.4 shall not apply and Andrews Ecology Ltd shall have no liability as a result of any matter set out in clause 5.1.1, clause 5.1.2 and/or clause 5.1.3 not being true in relation to such goods.

4. DELIVERY OF GOODS

- 4.1 Andrews Ecology Ltd shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (Delivery Location) at such times as are reasonably required in order to allow the Work to be carried out in accordance with the Work Specification.
- 4.2 Delivery of the Goods shall be completed on the Goods' arrival at the Delivery Location.
- 4.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. Andrews Ecology Ltd shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Client's failure to provide Andrews Ecology Ltd with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.4 If Andrews Ecology Ltd fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Client in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. Andrews Ecology Ltd shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event, or the Client's failure to provide Andrews Ecology Ltd with adequate delivery instructions for the Goods or any relevant instruction related to the supply of the Goods.
- 4.5 If the Client fails to accept or take delivery of the Goods within two Business Days of Andrews Ecology Ltd notifying the Client that the Goods are ready, then except where such failure or delay is caused by a Force Majeure Event or by Andrews Ecology Ltd.'s failure to comply with its obligations under the Contract in respect of the Goods: 4.5.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which Andrews Ecology Ltd notified the Client that the Goods were ready; and, 4.5.2 Andrews Ecology Ltd shall store the Goods until delivery takes place, and charge the Client for all related costs and expenses (including insurance).
- 4.6 If three Business Days after Andrews Ecology Ltd notified the Client that the Goods were ready for delivery the Client has not accepted or taken delivery of them or has failed to allow Andrews Ecology Ltd or its agent access to the Delivery Location to deliver the Goods, Andrews Ecology Ltd may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Client for any excess over the price of the Goods or charge the Client for any shortfall below the price of the Goods.

5. QUALITY OF GOODS

- 5.1 The Andrews Ecology Ltd warrants that on delivery, the Goods shall: 5.1.1 conform in all material respects with their description and any applicable Goods Specification; 5.1.2 be of satisfactory quality (within the meaning of the *Sale of Goods Act 1979*); and, 5.1.3 be fit for any purpose held out by Andrews Ecology Ltd.
- 5.2 Subject to clause 5.3, if: 5.2.1 the Client gives notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1; 5.2.2 Andrews Ecology Ltd is given a reasonable opportunity of examining such Goods; 5.2.3 Andrews Ecology Ltd shall repair or replace the defective Goods (but only if such notice is given no later than 1 month after completion of any related Work).
- 5.3 Andrews Ecology Ltd shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if: 5.3.1 the Client makes any further use of such Goods after giving a notice in accordance with clause 5.2; 5.3.2 the defect arises because the Client failed to follow Andrews Ecology Ltd.'s oral or written instructions as to the use or maintenance of the Goods or (if there are none) good trade practice; 5.3.3 the defect arises as a result of Andrews Ecology Ltd following any drawing, design or Goods Specification supplied by the Client; 5.3.4 the Client alters or repairs such Goods without the written consent of Andrews Ecology Ltd; 5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; 5.3.6 the Goods differ from their description or the Goods Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

- 5.4 Except as provided in this clause 5, Andrews Ecology Ltd shall have no liability to the Client in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by Andrews Ecology Ltd under clause 5.2.

6. TITLE AND RISK

- 6.1 The risk in the Goods shall pass to the Client on completion of delivery.
- 6.2 Title to the Goods shall not pass to the Client until Andrews Ecology Ltd has received payment in full (in cash or cleared funds) for: 6.2.1 the Goods; and, 6.2.2 any other goods that Andrews Ecology Ltd has supplied to the Client in respect of which payment has become due.
- 6.3 Until title to the Goods has passed to the Client, the Client shall: 6.3.1 hold the Goods on a fiduciary basis as Andrews Ecology Ltd.'s bailee and not dispose of or part with possession of or charge the same; 6.3.2 until the Goods are used in connection with Work, store the Goods separately from all other goods held by the Client so that they remain readily identifiable as Andrews Ecology Ltd.'s property; 6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; 6.3.4 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on Andrews Ecology Ltd.'s behalf from the date of delivery; 6.3.5 notify Andrews Ecology Ltd immediately if it becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.12; and, 6.3.6 give Andrews Ecology Ltd such information relating to the Goods as Andrews Ecology Ltd may require from time to time.
- 6.4 If before title to the Goods passes to the Client the Client becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.12, or Andrews Ecology Ltd reasonably believes that any such event is about to happen and notifies the Client accordingly, then, provided the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy Andrews Ecology Ltd may have, Andrews Ecology Ltd may at any time require the Client to deliver up the Goods and, if the Client fails to do so promptly, enter any premises of the Client or of any third party where the Goods are stored in order to recover them.

7. SUPPLY OF SERVICES

- 7.1 Andrews Ecology Ltd shall provide the Services to the Client in accordance with the Service Specification in all material respects.
- 7.2 Andrews Ecology Ltd shall use reasonable endeavours to meet any performance dates for the Services specified in the Services Specification or otherwise agreed in writing by the parties], but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 Andrews Ecology Ltd shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Andrews Ecology Ltd shall notify the Client in any such event.
- 7.4 Andrews Ecology Ltd warrants to the Client that the Services will be provided using reasonable care and skill.
- 7.5 For the avoidance of doubt, in providing the Services, Andrews Ecology Ltd does not give legal advice and nor shall any part of the Services, including any Deliverables, be construed as constituting legal advice of any kind and nor shall the Client be entitled to rely on any part of the Services as if it were legal advice. Where a course of action is recommended by Andrews Ecology Ltd in relation to the matters the subject of the Services, it shall be the responsibility of the Client to decide if that course of action is lawful and/or legal.
- 7.6 Andrews Ecology Ltd shall have no liability for any delay or non-performance of Work where such delay or non-performance is the result of Goods delivered to the Delivery Location being made unavailable or inaccessible to Andrews Ecology Ltd or Goods having being removed or damaged by the Client or its contractors or agents or (in any case where Goods are not supplied by Andrews Ecology Ltd) any of those thing happening to goods supplied or provided by the Client or any failure by the Client to replace or repair damaged or defective goods or procure the replacement or repair of those goods except where such damage is caused by the negligent act or omission of Andrews Ecology Ltd.

8. CLIENT'S OBLIGATIONS

- 8.1 The Client shall: 8.1.1 ensure that the terms of the Order are complete and accurate; 8.1.2 co-operate with Andrews Ecology Ltd in all matters relating to the Services; 8.1.3 provide Andrews Ecology Ltd, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required by Andrews Ecology Ltd to provide the Services; 8.1.4 provide Andrews Ecology Ltd with such information and materials as Andrews Ecology Ltd may reasonably require to supply the Services, and ensure that such information is accurate in all material respects; 8.1.5 prepare the Client's premises for the supply of the Services; 8.1.6 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; 8.1.7 keep and maintain all materials, equipment,

documents and other property of Andrews Ecology Ltd (Andrews Ecology Ltd Materials) at the Client's premises in safe custody at its own risk, maintain Andrews Ecology Ltd Materials in good condition until returned to Andrews Ecology Ltd, and not dispose of or use Andrews Ecology Ltd Materials other than in accordance with Andrews Ecology Ltd.'s written instructions or authorisation; and, 8.1.8 [ANY OTHER RELEVANT OBLIGATIONS].

- 8.2 If Andrews Ecology Ltd.'s performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (Client Default): 8.2.1 Andrews Ecology Ltd shall without limiting its other rights or remedies have the right to suspend performance of the Services 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 Andrews Ecology Ltd.'s performance of any of its obligations; 8.2.2 Andrews Ecology Ltd shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from Andrews Ecology Ltd.'s failure or delay to perform any of its obligations as set out in this clause 8.2; and, 8.2.3 the Client shall reimburse Andrews Ecology Ltd on written demand for any costs or losses sustained or incurred by Andrews Ecology Ltd arising directly or indirectly from the Client Default.

9. CHARGES AND PAYMENT AND CANCELLATIONS

- 9.1 The price for Goods shall be the price set out in the Work Specification.
- 9.2 The charges for Services shall be those specified in the Order: 9.2.1 the charges shall be calculated in accordance with Andrews Ecology Ltd.'s standard daily fee rates; 9.2.2 Andrews Ecology Ltd.'s standard daily fee rates for each individual person are calculated on the basis of 7.5 hour day from 8.30 am to 5.00 pm worked on Business Days; 9.2.3 Andrews Ecology Ltd shall be entitled to charge an overtime rate of 50 (fifty) per cent of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 9.2.2; and, 9.2.4 Andrews Ecology Ltd shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom Andrews Ecology Ltd engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Andrews Ecology Ltd for the performance of the Services, and for the cost of any materials. Andrews Ecology Ltd charges for emails and virtual meetings that require any review of documents, analysis, or detailed responses, that are not already quoted for within a fixed fee commission, these are chargeable on a pro-rata basis, calculated in 15-minute increments at my standard hourly rate.
- 9.3 Andrews Ecology Ltd reserves the right to increase the price of the Goods, by giving notice to the Client at any time before delivery, to reflect any increase in the cost of the Goods to Andrews Ecology Ltd that is due to: 9.3.1 any factor beyond the control of Andrews Ecology Ltd (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs); 9.3.2 any request by the Client to change the delivery date(s), quantities or types of Goods ordered, or the Goods Specification; or, 9.3.3 any delay caused by any instructions of the Client in respect of the Goods or failure of the Client to give Andrews Ecology Ltd adequate or accurate information or instructions in respect of the Goods.
- 9.4 In respect of Goods, Andrews Ecology Ltd shall invoice the Client on or at any time after completion of delivery. In respect of Services, Andrews Ecology Ltd shall invoice the Client as per the invoicing schedule, to be agreed between the parties.
- 9.5 The Client shall pay each invoice submitted by Andrews Ecology Ltd: 9.5.1 within 30 days of the date of the invoice; and, 9.5.2 in full and in cleared funds to a bank account nominated in writing by Andrews Ecology Ltd, and time for payment shall be of the essence of the Contract.
- 9.6 Without limiting any other right or remedy of Andrews Ecology Ltd, if the Client fails to make any payment due to Andrews Ecology Ltd under the Contract by the due date for payment (Due Date), Andrews Ecology Ltd shall have the right to charge interest on the overdue amount at the rate of twelve per cent per annum above the then current National Westminster Bank's base rate accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment, and compounding quarterly.
- 9.7 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 Andrews Ecology Ltd in order to justify withholding payment of any such amount in whole or in part. Andrews Ecology Ltd may, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by Andrews Ecology Ltd to the Client.
- 9.8 Booked meetings, site visits, telephone calls or virtual meetings may be cancelled or rescheduled with a minimum of 48 hours' notice. Where less than 48 hours' notice is given, or where the Client does not attend a scheduled meeting, the consultant reserves the right to charge for the time reserved at the standard hourly rate. Where preparation, review, or travel has already been undertaken prior to cancellation, this time shall remain chargeable regardless of notice period. Meetings cancelled with less than 48 hours' notice may be charged in line with the Terms and Conditions.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Andrews Ecology Ltd.
- 10.2 The Client acknowledges that, in respect of any third-party Intellectual Property Rights in the Services, the Client's use of any such Intellectual Property Rights is conditional on Andrews Ecology Ltd obtaining a written licence from the relevant licensor on such terms as will entitle Andrews Ecology Ltd to license such rights to the Client.
- 10.3 All Andrews Ecology Ltd Materials are the exclusive property of Andrews Ecology Ltd.

11. CONFIDENTIALITY

- 11.1 A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 11 shall survive termination of the Contract.

12. LIMITATION OF LIABILITY

- 12.1 Nothing in these Conditions shall limit or exclude Andrews Ecology Ltd.'s liability for: 12.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; 12.1.2 fraud or fraudulent misrepresentation; 12.1.3 breach of the terms implied by section 2 of the *Supply of Goods and Services Act 1982* (title and quiet possession); 12.1.4 breach of the terms implied by section 12 of the *Sale of Goods Act 1979* (title and quiet possession); or, 12.1.5 defective products under the *Consumer Protection Act 1987*.
- 12.2 Subject to clause 12.1: 12.2.1 Andrews Ecology Ltd shall under no circumstances whatever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any: a) loss of profit (whether direct, indirect or consequential); b) loss of sales (whether direct, indirect or consequential); or, c) indirect or consequential loss, arising under or in connection with the Contract; and, 12.2.2 Andrews Ecology Ltd.'s total liability to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount paid or payable to Andrews Ecology Ltd.
- 12.3 The terms implied by sections 13 to 15 of the *Sale of Goods Act 1979* and the terms implied by sections 3 to 5 of the *Supply of Goods and Services Act 1982* are, to the fullest extent permitted by law, excluded from the Contract.
- 12.4 This clause 12 shall survive termination of the Contract.

13. TERMINATION

- 13.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if: 13.1.1 the other party commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 30 days after receipt of notice in writing of the breach; 13.1.2 the other party 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) is deemed unable to pay its debts within the meaning of section 123 of the *Insolvency Act 1986* or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the *Insolvency Act 1986* or (being a partnership) has any partner to whom any of the foregoing apply; 13.1.3 the other party 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 its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party]; 13.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party; 13.1.5 the other party (being an individual) is the subject of a bankruptcy petition or order; 13.1.6 a creditor or encumbrancer of the other party 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 14 days; 13.1.7 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 the other party (being a company); 13.1.8 a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver; 13.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; 13.1.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.1.2 to clause 13.1.9 (inclusive); 13.1.11 the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or, 13.1.12 the other party (being

an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

13.2 Without limiting its other rights or remedies, the Andrews Ecology Ltd may terminate the Contract: 13.2.1 by giving the Client one month's written notice; 13.2.2 with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under this Contract on the due date for payment.

13.3 Without limiting its other rights or remedies, Andrews Ecology Ltd shall have the right to suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Client and Andrews Ecology Ltd if: 13.3.1 the Client fails to make pay any amount due under this Contract on the due date for payment; or, 13.3.2 the Client becomes subject to any of the events listed in clause 13.1.2 to clause 13.1.12, or Andrews Ecology Ltd reasonably believes that the Client is about to become subject to any of them.

14. CONSEQUENCES OF TERMINATION

14.1 On termination of the Contract for any reason: 14.1.1 the Client shall immediately pay to Andrews Ecology Ltd all of Andrews Ecology Ltd.'s outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, Andrews Ecology Ltd shall submit an invoice, which shall be payable by the Client immediately on receipt; 14.1.2 the Client shall return all of Andrews Ecology Ltd Materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then Andrews Ecology Ltd may enter the Client's premises 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 this Contract; 14.1.3 the accrued rights and remedies of the parties as at 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, 14.1.4 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

15. GENERAL

15.1 **Force majeure:** 15.1.1 For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of Andrews Ecology Ltd including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party 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 Andrews Ecology Ltd.'s or subcontractors. 15.1.2 Andrews Ecology Ltd shall not be liable to the Client as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event. 15.1.3 If the Force Majeure Event prevents Andrews Ecology Ltd from providing any of the Services and/or Goods for more than 4 (four) weeks, Andrews Ecology Ltd shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Client.

15.2 **Assignment and subcontracting:** 15.2.1 Andrews Ecology Ltd may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party. 15.2.2 The Client shall not, without the prior written consent of Andrews Ecology Ltd, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.3 **Notices:** 15.3.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number. 15.3.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid 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 fax, on the next Business Day after transmission. 15.3.3 This clause 15.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

15.4 **Waiver and cumulative remedies:** 15.4.1 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. 15.4.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and to not exclude rights provided by law.

15.5 **Severance:** 15.5.1 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. 15.5.2 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.

- 15.6 **No partnership:** 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, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.
- 15.7 **Third parties:** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 15.8 **Variation:** Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by Andrews Ecology Ltd.
- 15.9 **Governing law and jurisdiction:** This Contract, 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, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

16. CONSTRUCTION-SPECIFIC TERMS

- 16.1 If the Services under the Contract are “construction operations” as defined in section 105 of the *Housing Grants, Construction and Regeneration Act 1996*, then in relation to payment for those Services the following terms shall apply when interpreting the Contract: 16.1.1 Andrews Ecology Ltd shall submit to the Client an invoice for each instalment of the charges payable, together with any supporting documents that are reasonably necessary to check the invoice and verify the sum claimed. The invoice and supporting documents (if any) shall specify the sum that Andrews Ecology Ltd considers will become due on the payment due date in respect of the instalment of the charges payable and the basis upon which that sum is calculated; 16.1.2 payment shall be due on the date Client receives each properly prepared invoice; 16.1.3 no later than five (5) days after payment becomes due, Client shall notify Andrews Ecology Ltd of the sum that Client considers to have been due at the payment due date in respect of the payment and the basis upon which that sum is calculated; 16.1.4 subject to clause 16.1.7 and unless Client has served a notice under clause 16.1.5, Client shall pay to Andrews Ecology Ltd the sum referred to in the notice given by Client under clause 16.1.3 (or, if Client has not served notice under clause 16.1.3, the sum referred to in the invoice referred to in clause 16.1.1) (in this clause 16.1, the Notified Sum) on or before the final date for payment of each invoice; 16.1.5 not less than on the third day before the final date for payment (in this clause 16.1, the Prescribed Period), Client may give Andrews Ecology Ltd notice that it intends to pay less than the Notified Sum (in this clause 16.1, a Pay Less Notice). Any Pay Less Notice shall specify: a) the sum that Client considers to be due on the date the notice is served; and, b) the basis on which that sum is calculated; 16.1.6 notwithstanding anything to the contrary elsewhere in these Conditions, if any third party upon whom either Client is dependent (directly or indirectly) for payment is Insolvent, Client shall not be obliged to make any further payment to Andrews Ecology Ltd of any sum which is due or may become due to Andrews Ecology Ltd unless Client has received payment in respect thereof from such third party and then only to the extent of such receipt; 16.1.7 notwithstanding any other provision of these Conditions, if Andrews Ecology Ltd becomes Insolvent after the Prescribed Period, Client shall not be required to pay Andrews Ecology Ltd the Notified Sum on or before the final date for payment; 16.1.8 for the avoidance of doubt, Client shall be entitled to recover from Andrews Ecology Ltd any overpayments made at any time. All interim payments made to Andrews Ecology Ltd shall be payments on account only of sums due under these Conditions; and, 16.1.9 any Claim must be made by Andrews Ecology Ltd in writing and received by Client within ten (10) Business Days of the event first occurring on which Andrews Ecology Ltd relies as being the cause of the Claim, and the parties agree that in the case of conflict or ambiguity between any part of clause 9 and clause 16.1, then the provisions of clause 16.1 shall take precedence to the extent of such conflict or ambiguity.