



Dated 13 April **2023**

BRUNTWOOD PALL MALL LIMITED
DRAGONFLY CONTRACTS LIMITED

LETTER OF INTENT
(Developer to Contractor)
Redevelopment of Pall Mall Court, King Street,
Manchester

LETTER OF INTENT

From: **BRUNTWOOD PALL MALL LIMITED** (Company number 13558546 whose registered office is at Union, Albert Square, Manchester, United Kingdom, M2 6LW)

To: **DRAGONFLY CONTRACTS LIMITED** (Company number 05488395 whose registered office is at Barbers Arms 594 Manchester Old Road, Middleton, Manchester, England, M24 4PW)

Date: 13 April 2023

Dear Sirs

Proposed redevelopment Pall Mall Court, King Street, Manchester

1 In this letter:

CDM Regulations means the Construction (Design and Management) Regulations 2015

Conditions is defined in clause 21

Developer's Representative means the person designated as such in the Project Data

Development means the above development, as more fully described in the Documents

Documents means the documents listed as such in the Project Data which are expressly incorporated by reference into this letter, subject to any amendments or additions to them issued or approved by the Developer's Representative in writing

First Application Date means such date specified in the Project Data

Maximum Amount means such amount specified in the Project Data plus VAT on that amount (if any) due according to law

Programme means the programme for the design and construction of the Development referred to in the Project Data

Project Data means the data in the Schedule 1

Services means the services, work, goods and materials provided or to be provided by you under this letter.

Site means the land referred to above on which the Development is to be built and any structures on the land and their contents

1996 Act means the Housing Grants, Construction and Regeneration Act 1996

2 References in this letter to any legislation include any amendment to or re-enactment of it in force for the time being.

3 For the purposes of the 1996 Act:

(a) time shall be computed in accordance with s116 of the 1996 Act;

(b) the notice provisions in s115 of the 1996 Act apply;

- (c) the Scheme for Construction Contracts applies with respect to adjudication, subject to the following provisions:
 - (i) the adjudicator nominating body is the Royal Institution of Chartered Surveyors;
 - (ii) an adjudicator may determine more than one dispute between the parties at the same time and (if required to do so by the respondent party to a claim or counterclaim) shall determine any matter in the nature of set-off, abatement or counterclaim at the same time as he determines any dispute referred to him;
 - (iii) at the same time as he gives a decision, an adjudicator must give written reasons;
 - (iv) no legal proceedings to finally determine a dispute that is referred to adjudication may be commenced after the date (**relevant date**) which is 90 days after the date of issue of the adjudicator's decision;
 - (v) if neither party commences such legal proceedings before the expiry of the applicable time limit under clause 3(c)(iv), the adjudicator's decision shall be final and conclusive between the parties;
 - (vi) for the purposes of the adjudication and any such legal proceedings commenced after the date of referral of the dispute to adjudication, the referral to adjudication stops the running of time under the Limitation Act 1980 in respect of the dispute;
 - (vii) the burden of proof in legal proceedings is unaltered by an adjudicator's decision; and
- (d) the time limit in clause 3(c)(iv) does not apply to any appeal from the judgment of a court of law and does not run from the date of issue of an adjudicator's decision that is declared by the court or agreed by the parties to have been invalid; upon such declaration or agreement, the running of time under the Limitation Act 1980 resumes.

- 4 We would wish to appoint you as contractor to carry out the Development to the requirements of the Documents, but we are not yet in a position to enter into a contract with you other than in terms of this letter.
- 5 It is intended that the form of contract will be based on the JCT Design and Build Contract 2016 as amended by a bespoke schedule of amendments and annexures as set out in Schedule 2 (together the '**Contract**').
- 6 Notwithstanding that all the terms of the Contract are not yet agreed, we offer to appoint you on the terms of this letter, to proceed with the Services including the design, procurement and preparatory work necessary to enable you to comply with the Programme, and to proceed with the Development in accordance with the Documents.
- 7 Although the Contract has not been entered into, all of the terms and conditions of the Contract (so far as not inconsistent with the terms of this letter) will apply to any work carried out by you pursuant to this letter including but not limited to any work carried out prior to the date of this letter. In the event of an inconsistency between the Contract and this letter, the terms of this letter shall prevail.
- 8 Subject to satisfaction of the Conditions, you may enter the Site for the purposes of this letter.

- 9 In and about the provision of the Services you must comply with all reasonable requirements of the Developer's Representative notified to you in writing.
- 10 Subject to satisfaction of the Conditions, we shall pay you for the Services as provided below.
- 11 The amount payable under clause 10 shall be calculated, so far as appropriate, in accordance with the Documents, but to the extent that any Services cannot be priced in accordance with the Documents, the amount payable shall be a reasonable amount.
- 12 Our liability for the cost of the Services is limited to Services which are in accordance with the Documents; and (in the case of goods or materials) which are physically incorporated into the Development, or in which unencumbered title and possession are transferred to us no later than the relevant payment due date under clause 14.
- 13 Payments to you shall be made against your applications for payment to be submitted to the Developer's Representative monthly, the first such application to be made no later than the First Application Date, and subsequent applications to be made no later than the same day of each following month (or if there is no equivalent day in any following month, no later than the last day that month). Each application must be for the sum becoming due on the payment due date and must be supported by sufficient documentation to enable the Developer's Representative to check that the amount applied for is in accordance with the terms of this letter.
- 14 Each payment shall be due on the date (**payment due date**) which is 7 days after the last date for service of your application for payment.
- 15 Not later than 5 days after the payment due date the Developer's Representative shall give you a notice of the sum he considers is (or was) due on that date, and the basis of his calculation of that sum.
- 16 The final date for payment shall be 14 days after the payment due date.
- 17 Any payment reduction notice to be served on you under s111(3) of the 1996 Act must be served no later than 1 day before the final date for payment.
- 18 If we enter into the Contract with you for the carrying out of the Development:
- (a) our obligation to make payment under this letter shall end;
 - (b) any payments made under this letter shall be treated as payments on account pursuant to the Contract;
 - (c) everything done by you or on your behalf pursuant to this letter shall be deemed to have been done pursuant to the Contract; and
 - (d) our obligation to make payment for the Services shall be governed by the Contract.
- 19 Our total liability under this letter shall not under any circumstances exceed the Maximum Amount, other than as provided in clause 24.
- 20 The authority contained in this letter will automatically terminate on 17:00 GMT on 21 July 2023. If by that date (or by any extended date agreed in writing between us) the Contract has not been entered into, you must immediately stop work. In that event, subject to clause 20, we shall reimburse you for the Services performed to date pursuant to clause 11.
- 21 The **Conditions** are that:

- (a) you sign and provide the Developer's Representative with a copy of this letter, in acceptance of its terms;
- (b) you provide the Developer's Representative with written evidence that you have the contractor's insurances specified in the Project Data;
- (c) the Developer's Representative confirms to you in writing that you have complied with the Conditions in clauses 21(a) and 21(b) and authorises you to commence the performance of the Services.

22 You:

- (a) grant to us an irrevocable, non-exclusive, freely transferable, royalty-free licence to use and reproduce all drawings, calculations and specifications and the designs contained in them (**Designs**) prepared by you or on your behalf in connection with the Development, for all purposes connected with the Development;
- (b) shall supply to us on request copies of the Designs, and warrant that the use of the Designs for the purposes of the Development will not infringe the rights of any third party;
- (c) shall indemnify us against all loss or liability due to death or personal injury or damage to real or personal property (including the Site and the Development) arising out of or in connection with or by reason of any act or omission on your part under or in connection with this letter, save to the extent that such loss or liability is due to any act or neglect of ourselves or of our agents; and
- (d) accept your appointment as principal contractor under the CDM Regulations in connection with the Services, and agree to comply with the statutory duties of a principal contractor under those regulations.

23 Without prejudice to clause 21, we shall be entitled to require you to stop all work under this letter and to leave the Site by written notice served on you at any time and you agree to leave the Site within 7 days of such notice or such longer period as the notice may specify. Our liability for costs incurred by you after service of such notice shall be limited to demobilisation costs incurred in consequence of service of such notice.

24 You shall not be required to provide Services exceeding in value the Maximum Amount. The Maximum Amount shall not be increased except where agreed by us in writing and any costs incurred by you in excess of such sum will be borne by you. If the Maximum Amount is reached before we agree in writing to increase it, you shall be entitled to demobilise and to vacate the Site.

25 We shall be under no obligation to you to proceed with the Development or to select you for appointment as Contractor for the Development. Our sole financial obligation to you shall be in accordance with the express terms of this letter. You agree that we shall not be liable to compensate you for any other costs or losses arising out of our decision not to proceed with the Development and/or the termination of this letter including without limitation, any claims, expenses, damages, loss of profit, loss of contracts or any other costs or losses.

26 This letter shall be governed by English law and the English courts shall have exclusive jurisdiction with regard to all matters arising in connection with it.

- 27 Nothing in this letter shall confer or purport to confer any right to enforce its terms on a third party, either pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 28 You shall not be entitled to assign this letter or the benefit of it to any other party. We shall be entitled, without your consent, to assign this letter or the benefit of it to any other party, at any time.
- 29 This letter supersedes any previous instructions, correspondence or other discussions between us in relation to the Works and represents the entire agreement between us in relation to its subject matter.

Yours faithfully

DocuSigned by:

Andrew Butterworth

.....442E9EB0C717427...

(Director)

for and on behalf of **BRUNTWOOD PALL MALL LIMITED**

In the presence of:

DocuSigned by:

P. G.

.....8F4757A52C924E2...

(Witness)

We accept the terms of the within written letter and agree to proceed accordingly.

DocuSigned by:

Andy Penza

.....B54778E0FA54452...

for and on behalf of **DRAGONFLY CONTRACTS LIMITED**

In the presence of:

DocuSigned by:

[Signature]

.....C7DB8AEE795B425...

(Witness)