



## **Sub Contract Order Conditions (Sept 2025 - 45 Days)**

### **DEFINITIONS**

1. In this Sub Contract the terms "Contractor", "Sub Contractor", "Sub Contract Period", "Sub Contract Price", "Sub Contract Works" and "Start Date" shall have the meanings given in the Sub Contract Order and the following terms will have the following meanings:
  - 1.1. "Associated Company" any subsidiary or holding company, or another subsidiary or holding company of such company, as subsidiary and holding company are defined in section 1159 of the Companies Act 2006, as amended.
  - 1.2. "Employer" means the person entering into a contract with the Main Contractor in respect of the Main Contract Works;
  - 1.3. "Main Contractor" means any persons, firms or companies to whom the Contractor has agreed to supply goods, materials and/or services of which the Sub Contract Works comprise part;
  - 1.4. "Main Contract" means the agreement entered into between the Contractor and the Main Contractor;
  - 1.5. "Main Contract Works" means the works carried out by the Contractor of which the Sub Contract Works form part;
  - 1.6. "Insolvent" shall have the same meaning as Section 13 of the Housing Grants, Construction and Regeneration Act 1996 (as amended by the Enterprise Act 2002 (Insolvency) Order 2003).
  - 1.7. "Payment Schedule" means the attached payment schedule.
  - 1.8. "Working Day" means any day which is not a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

### **INCORPORATION OF MAIN CONTRACT**

2. The Sub Contractor shall be deemed to have full knowledge of the Main Contract (including but not limited to the terms relating to liquidated and ascertained damages and quality of work) and shall be bound by and observe the Main Contract insofar as the Main Contract relates to the Sub Contract Works, save where the Main Contract conflicts with the Sub Contract, or any instruction given by the Contractor. The Sub Contractor shall indemnify and hold harmless the Contractor against and from:
  - 2.1. any breach, non-observance or non-performance by the Sub Contractor or its employees or agents of any of the provisions of the Main Contract; and
  - 2.2. any act or omission of the Sub Contractor or its employees or agents which involves the Contractor in any liability to the Employer under the provisions of the Main Contract.

### **MODIFICATIONS TO THE SUB CONTRACT**

3. Unless confirmed by the Contractor in writing, no additions modifications or variations nor any terms submitted by the Sub Contractor shall form part of the Sub Contract.
4. Commencing or continuing the Sub Contract Works shall be acceptance by the Sub Contractor of the Works in accordance with the Sub Contract whether or not the Sub Contractor has signed the Sub Contract.

5. The Contractor may cancel the Sub Contract at any time prior to the Sub Contractor commencing the Sub Contract Works without any liability to the Sub Contractor whatsoever (including but not limited to any liability in contract, tort, negligence or otherwise).
6. The Subcontractor shall comply at all times with all applicable laws, regulations, codes of practice, and industry standards in force, including any updates or amendments. It is the Subcontractor's responsibility to monitor and ensure ongoing compliance with the most current legal and regulatory requirements relevant to the Subcontract Works.
7. If any part of this Subcontract is found to be invalid or unenforceable, the rest of the agreement remains in full effect.

#### **SUB CONTRACTOR'S OBLIGATIONS**

8. Goods, services and/or materials forming part of the Sub Contract Works shall be of the highest quality, fit for their purpose, and conform precisely with this Sub Contract. If any of the goods, services or materials are not of the highest quality or not fit for their purpose or do not conform precisely with the Sub Contract the Contractor may at its option:
  - 8.1. determine this Sub Contract, or
  - 8.2. require the Sub Contractor to replace the said goods, services and/or materials with goods, services &or materials of the highest quality and fit for their purpose and do conform precisely to this Sub Contract.
9. The Sub Contractor shall not specify, use or permit to be used in the Sub Contract Works any materials which contravene any British Standard or EU equivalent, or which are generally considered to be deleterious within the building design professions in the UK.
10. The Sub Contractor shall protect the Sub Contract Works until completion of the Main Contract Works. Without prejudice to the foregoing the Sub Contractor shall not be entitled to any payment or an extension of time in respect of any damage to the Sub Contract Works howsoever caused including water damage or damage caused by the Contractor.
11. The Sub Contractor shall satisfy itself that the surfaces and work to which the Sub Contract Work are to be applied are in a satisfactory condition to receive the Sub Contract Works. Should the Sub Contractor consider any surface to be unsatisfactory the Sub Contractor shall notify the Contractor in writing immediately. In the absence of such notification the Sub Contractor shall be responsible for rectification of all defects in the Sub Contract and Main Contract Works.
12. The Sub Contractor shall carry out and complete the Sub Contract Works with due diligence, in a good and workmanlike manner and in accordance with all applicable law and the reasonable instructions and requirements of the Contractor.
13. The Sub Contractor shall provide at its own expense everything required to properly carry out and complete the Sub Contract Works, including all materials, labour, plant, equipment, facilities, attendances, storage and transport. The Sub Contractor shall be responsible for unloading and distributing all plant and materials used to carry out the Sub Contract Works. The Contractor shall not be responsible for the provision of any attendances agreed by the Contractor in writing.
14. The Sub Contractor shall keep all areas of the Site where the Sub Contract Works are carried out clean, tidy and safe at all times and dispose of all debris and rubbish resulting from the Sub Contract Works. If the Sub Contractor fails to do so, the Contractor may employ others to carry out this task and recover the cost of the same from the Sub Contractor as a debt or deduct the cost from the Sub Contract Price.

#### **RISK AND TITLE**

15. The property in all materials supplied by the Sub Contractor shall pass to the Contractor upon payment in respect of the said materials or when the materials are delivered to the Site, whichever is the earlier. Notwithstanding the passing of property in materials, the Sub Contractor shall be responsible for all necessary unloading, storage, protection, movement and lifting of materials. Risk of damage etc in the materials will remain with the Sub Contractor until completion of the Main Contract Works.

## **DESIGN LIABILITY**

16. The Sub Contractor will be fully responsible for the design of the Sub Contract Works including any design carried out by others (including but not limited to the Contractor), whether or not the design is referred to in the Sub Contract.
17. In designing the Sub Contract Works the Sub Contractor shall exercise all the reasonable skill, care and diligence to be expected of a duly qualified and experienced architect (or other appropriate professional designer) undertaking the design of works similar in size, scope, complexity, value and character to the Sub Contract Works.
18. The Sub Contractor shall maintain a professional indemnity insurance policy issued by a reputable insurer and acceptable to the Contractor. The minimum level of cover per claim under the policy shall be the same as that required under the Main Contract or £5,000,000 for each and every claim, whichever is the greater. The said policy shall be maintained in force for a period of 12 years from completion of the Main Contract Works. The policy or satisfactory evidence of its existence will be produced to the Contractor whenever requested.
19. If the Sub Contractor shall fail to take out the insurance required by clause 18, the insurance may be put in place by the Contractor and the cost incurred recovered from the Sub Contractor as a debt.
20. All designs, drawings and specifications are, unless the Contractor instruct otherwise in writing, to be sent to the Contractor and not the Main Contractor or any other party involved in the Main Contract Works or the Sub Contract Works.

## **VARIATIONS TO THE SUB CONTRACT WORKS**

21. The Contractor may instruct the Sub Contractor in writing to vary the Sub Contract Works, including the addition, omission or substitution of any work and the alteration of the kind or standard of any materials and goods to be used. All such changes shall be valued:
  - 19.1 in accordance with the rates and prices used by the Sub Contractor to produce the Sub Contract Price; or
  - 19.2 if no such rates or prices exist, a reasonable price for the additional/omitted work. Should the Contractor deem the rates and/or prices not to be reasonable, the Contractor shall value the varied works on a reasonable basis and such valuation shall be final.
22. The Sub Contractor is required to price up any works deemed additional works and submit a labour and material breakdown to the Contractor's Project Manager and Quantity Surveyor prior to carrying out such works. The submitted variation should be accompanied by marked up drawings/specifications/schedules which clearly identify the change to the Sub Contract Works. Any variations received without this information will not be valued until receipt of the information.
23. The Sub Contractor is required to notify the Contractor as soon it becomes aware of any possible change / variation to the Sub Contract Works.
24. If the Sub Contractor does not notify the Contractor of a variation and submit details of the costs of the variation to the Contractor within 15 days of becoming aware of the variation then the variation will be rejected and be null and void.
25. Daywork rates may not be used unless the Sub Contractor has obtained the Contractor's prior consent in writing to use daywork rates.
26. Notwithstanding any term to the contrary the Contractor may at any time and for any reason omit any part(s) of the Sub Contract Works and, in its discretion, arrange for the omitted part(s) to be carried out by a third party.
27. Should part(s) of the Sub Contract Works be omitted the Sub Contractor shall not be entitled to any payment in respect of the omitted part(s) (without limitation to the foregoing the Sub Contractor shall not be entitled to any payment of preliminaries, overheads or profit in respect of the omitted part(s)).
28. No commercial agreement or variation is valid unless agreed in writing by the Contractor's named commercial contact. The Contractor may update this contact at any time by email notice to the Subcontractor.

29. Where it is agreed in advance in writing that a variation will be valued on a daywork basis, daywork sheets of an approved form will be submitted daily to the Contractors representative for signature not later than noon on the next working day following the day on which the work was executed. The Contractor's Representative's signature shall not signify the Contractor's agreement that the work shall be valued on a daywork basis or at any rates that may be entered on the daywork sheet but shall signify only that the sheet contains a correct record of the labour and/or plant hours worked and materials supplied. The Contractor's Quantity Surveyor will value the work recorded on any properly submitted site instruction from the Contractor or signed daywork sheet where it has been agreed in advance of the work being carried out that such work will be valued on a daywork basis. All other daywork sheets will be of no effect.
30. The Contractor is not liable to the Subcontractor for any loss caused by insufficient or inaccurate information provided under this Subcontract.

#### **ASSIGNMENT AND SUB SUB CONTRACTING**

31. The Sub Contractor shall not sublet all or part of the Sub Contract Works without the Contractor's prior consent in writing. Where consent is given, the Sub Contractor shall not be relieved of its obligations under this Sub Contract.
32. The Sub Contractor shall not assign the benefit of this Sub Contract. The Contractor may assign the benefit of this Sub Contract to any person without the Sub Contractor's consent.

#### **PROGRESS OF THE SUB CONTRACT WORKS**

33. The Sub Contractor shall start the Sub Contract Works in accordance with the Start Dates or as notified by the Contractor under clause 34 and complete the Sub Contract Works within the Sub Contract Period. Notwithstanding this and any other terms of the Sub Contract, the Contractor shall have the right to instruct the Sub Contractor to alter or amend the sequence, order or duration of the Sub Contract Works (including the extension or acceleration of the Sub Contract Works) and/or the number of visits to the Site, to suit the Contractor and other sub contractors' progress. The Contractor shall have no liability whatsoever to pay any sum in addition to the Sub Contract Price (including without limitation damages or loss or expense) which the Sub Contractor may incur due to a change in the duration sequence or order in which the Sub Contract Works are performed.
34. The Contractor will endeavor to provide as much forward notice to commence the Sub Contract Works on site as possible. In the event of works programme(s) being accelerated, the Contractor reserves the right to issue notice to the Sub Contractor requiring it to commence the Sub Contract Works within ten days of the date of the notice. If the Sub Contractor fails to commence the Sub Contract Works after the notice period, the Contractor can terminate this Sub Contract with immediate effect. The Contractor shall have no liability whatsoever to pay any sum to the Sub Contractor (including without limitation damages or loss or expense) which the Sub Contractor may incur due to this termination.
35. The Contractor reserves the right to supplement the Sub Contractor's labour if the progress of the Sub Contract Works is not in line with the programme and/or agreements on site, at no cost to the Contractor whatsoever.
36. If the Sub Contractor fails to complete the Sub Contract Works or any milestone or section thereof within the Sub Contract Period (as such period may be extended under clause 38), the Sub Contractor shall pay or allow to the Contractor the amount of any direct loss and/or expense suffered or incurred by the Contractor that is caused by that failure, including any sum the Contractor is required to pay as liquidated damages under the Main Contract.

#### **DELAYS AND EXTENSION OF TIME**

37. If the completion of the Sub Contract Works or any milestone or section thereof is delayed by:
- 37.1. a breach of the Sub Contract by the Contractor or any impediment, prevention or default, whether by act or omission, by the Contractor, the Main Contractor, the Employer or any of their employees or agents;
- 37.2. any delay event which entitles the Contractor to claim an extension of time under the Main Contract;
- 37.3. variations instructed under clause 21; or
- 37.4. suspension by the Sub Contractor under clause 82,

then the Sub Contractor shall within seven days of the date when the delay became reasonably apparent (or should have become reasonably apparent to a competent sub contractor) give notice in writing to the Contractor of:

- 37.5. the alleged delay event;
- 37.6. the effect of the delay event on the progress of the Sub Contract Works;
- 37.7. the resulting delay to the completion of the Sub Contract Works or any milestone or section.
- 38. It shall be a condition precedent to the grant of an extension of time that:
  - 38.1. the Sub Contractor gives notice in writing as required by clause 33 above;
  - 38.2. the Sub Contractor shall at all times use its best endeavors to minimise any delay in the performance of its obligations under this Sub Contract, whatever may be the cause of such delay.

If the Sub Contractor does not comply with the requirements of clauses 38.1 and 38.2, the Sub Contractor shall not be entitled to any extension of time and the Contractor shall be discharged from any liability in connection with the event or circumstances giving rise to the purported claim.

- 39. Provided that:
  - 39.1. the Sub Contractor complies with the obligations in clauses 37 and 38; and
  - 39.2. the 'notified event is one of the events listed in clause 37 and has delayed the completion of the Sub Contract Works; and
  - 39.3. the notified event did not arise by reason of any error, omission, negligence or default of the Sub Contractor or its employees or agents; and
  - 39.4. the delay caused by the notified event is not concurrent with another delay for which the Sub Contractor is responsible,
- the Sub Contractor shall be granted an extension to the Sub Contract Period or milestone or section to reflect the delay to the completion of the Sub Contract Works caused by the notified delay event. The Sub Contractor shall have no greater entitlement to an extension of time than the Contractor has under the terms of the Main Contract.
- 40. An extension to the Sub Contract Period shall be the Sub Contractor's exclusive and only remedy in respect of any delay to the completion of the Sub Contract Works.

#### **COPYRIGHT**

- 41. The Sub Contractor hereby grants the Contractor an irrevocable royalty free licence to copy, use and amend all information supplied by the Sub Contractor in connection with the Sub Contract Works including (but not limited to) all drawings, designs, calculations, reports, matters in writing, information sent electronically etc.

#### **SITE WORKING CONDITIONS**

- 42. The Sub Contractor shall be deemed to have satisfied itself as to the nature, extent and location of the Site and the physical conditions of the Site (including its surroundings, existing structures, obstructions and services). No failure on the part of the Sub Contractor to discover or foresee any physical condition or risk, whether the same ought reasonably to have been discovered or foreseen or not, shall entitle the Sub Contractor to an addition to the Sub Contract Price or to claim damages or any additional payment or to an extension of time. The Sub Contractor shall not, and shall not be entitled to, rely upon any survey, report, data or other document prepared or provided by the Contractor regarding any such matter as is referred to in this clause 38 and the Contractor makes no representation and gives no warranty as to the accuracy or completeness of any such survey, report, data or document or any representation, recommendation or statement, whether negligently or otherwise made, therein contained.
- 43. The Contractor may at any time, and at its absolute discretion, instruct the Sub Contractor to remove any person within the Sub Contractor's control (including but not limited to the Sub Contractor's employees) from the Site. The

Sub Contractor shall remove the person from the Sites forthwith and shall not be entitled to any additional payment whatsoever in respect of the removal of the said person.

#### **SETTING OUT**

44. The Sub Contractor shall be responsible for setting out the Sub Contract Works.

#### **DEFECTS**

45. The Contractor may issue instructions in regard to the removal from the Site or rectification of any work, materials or goods which are not in accordance with this Sub Contract. The Sub Contractor shall comply with such instructions at no cost to the Contractor and without any extension of time being granted.
46. If any work, materials or goods are found not to be in accordance with this Sub Contract, the Contractor may issue instructions requiring the Sub Contractor, at no cost to the Contractor and without any extension of time being granted, to open up for inspection any work covered up or to arrange for or carry out any test of any materials or goods (whether or not already incorporated in the Sub Contract Works) or any executed work to establish that there is no similar defect, including making good thereafter.
47. The Sub Contractor shall, at the Sub Contractor's expense, make good all defects and other faults which appear in the Sub Contract Works for a period of 24 months from the date of practical completion of the Main Contract Works. The Contractor shall notify the Sub Contractor of any such defects and other faults and the Sub Contractor shall make good the same at its own expense within a reasonable time or such period as the Contractor, acting reasonably, may direct.
48. Should the Sub Contractor fail to make good any defects in accordance with clause 47, the Contractor may, without prejudice to its other rights and remedies, arrange for any necessary remedial works to be carried out at the Sub Contractor's expense. The Contractor may deduct any costs so incurred from sums becoming due to the Sub Contractor or recover the same from the Sub Contractor as a debt.

#### **SUB CONTRACTOR'S DEFAULT**

49. If the Sub Contractor:
- 49.1. being an individual, commits an act of bankruptcy or, being a corporation, goes into liquidation (other than a voluntary liquidation for the purposes of reconstruction or amalgamation);
- 49.2. becomes Insolvent; or
- 49.3. commits any breach of the Sub Contract and does not remedy that breach within 7 days of receipt of a notice from the Contractor identifying the breach and requiring it to be remedied,

the Contractor may forthwith terminate the Sub Contractor's engagement under this Sub Contract by giving notice in writing to the Sub Contractor.

50. If the Contractor shall terminate the Sub Contractor's engagement under this Sub Contract under clause 49 the Contractor may take possession of and have a lien on all Sub Contractor's equipment, materials, temporary buildings and structures, and other things whatsoever belonging to the Sub Contractor which are upon the Site. No further sum shall become due to the Sub Contractor under this Sub Contract until after the completion of the Sub Contract Works and the making good of defects therein Such lien shall endure until the Contractor has secured the final completion of the Sub Contract Works by other means and received payment from the Sub Contractor of such damages, losses and expenses as may have been incurred by the Contractor due to the termination, including the increased cost of having the Sub Contract Works completed by a third party. During the period of such lien the Contractor may use or permit others to use all such things of the Sub Contractor for the purpose of finally completing the Sub Contract Works and the Contractor shall not be liable to the Sub Contractor for any fair wear or tear or accidental damage that may occur to such things during the period of the lien.

#### **TERMINATION OF THE SUB CONTRACT FOR CONVENIENCE**

51. Without prejudice to any rights which the Contractor may possess, the Contractor may at any time on 2 days' notice in

writing to the Sub Contractor terminate the Sub Contractor's engagement under this Sub Contract.

52. In the event of a termination under the preceding clause the Contractor shall assess and pay ascertained sums due to the Sub Contractor in accordance with this Sub Contract save for:

52.1. demobilisation costs; and

52.2. profit and other consequential losses arising out of or in connection with the termination.

#### **CONSEQUENCES OF TERMINATION**

53. Termination of the Sub Contractor's engagement under this Sub Contract shall not determine the operation of any provisions of this Sub Contract which remain capable of operation after termination, or affect any rights, remedies, obligations or liabilities of the parties that have accrued prior to termination.

#### **HEALTH AND SAFETY**

54. The Sub Contractor shall co-operate and comply with the Contractor's Health and Safety Policy and with the Health and Safety Policy of the Main Contractor. The Sub Contractor shall comply at no cost to the Contractor with:

54.1. all health and safety legislation relevant to the Sub Contract Works and the manner in which they are being carried out;

54.2. all reasonable instructions of the Contractor aimed at ensuring such compliance by the Contractor and the Sub Contractor in relation to the Sub Contract Works; and

54.3. within the time reasonably required, any request by the Contractor for information necessary to demonstrate such compliance.

55. Each party undertakes to the other that it will duly comply with the applicable Construction (Design and Management) Regulations 2015. The Sub Contractor shall comply at no cost to the Contractor with all reasonable instructions and requirements of the Principal Designer relating to compliance with the CDM Regulations, including the supply of all documents and information reasonably necessary for the purposes of the health and safety file.

#### **INDEMNITIES**

56. The Sub Contractor shall indemnify the Contractor in respect of any expense, liability, loss, claim or proceedings whatsoever arising out of or in the course of or caused by:

56.1. any breach by the Sub Contractor of this Sub Contract and Main Contract;

56.2. any act or omission of the Sub Contractor which involves the Contractor in any liability to the Main Contractor;

56.3. any claim made arising out of or in connection with the Sub Contract Works by any third party in respect of injury or death to any person or loss or damage to any property, not caused by the negligence of the Contractor.

#### **INSURANCES**

57. The Sub Contractor shall arrange at its expense and keep in force for the duration of the Sub Contract Works and the performance of its obligations under this Sub Contract:

57.1. Public Liability Insurance for not less than £5,000,000.

57.2. Employer's Liability Insurance for not less than £10,000,000

or such other sums as the Contractor may agree to in writing.

58. The Sub Contractor shall if called upon by the Contractor produce evidence of the insurance arranged and maintained in accordance with clause 57.

## **SUB CONTRACT PRICE**

59. The Sub Contract Price is fixed for the duration of the Sub Contract Works, including any extension of time granted in accordance with this Sub Contract.
60. The Sub Contract Price shall be deemed inclusive of all costs in connection with the Sub Contract Works and for the avoidance of doubt includes all travel to and from the Site, overheads, contributions, levies, taxes, insurances holiday or other leave or sickness entitlement of any sort whether statutory or otherwise payable in connection with the Sub Contract Works or otherwise payable by a person firm or company trading in the capacity of a Sub Contractor or as an employer.

## **PAYMENT**

61. The Sub Contract Price shall be paid by instalments.
62. It will be a condition precedent to all payments being made to the Sub Contractor that the Contractor shall receive from the Sub Contractor:
- 62.1. An application in accordance with the particulars described herein received by the application date referred to in clause 64.
- 62.2. A valid Unique Tax Reference Number (UTR) for each instalment of the Sub Contract Price.
63. The first instalment of the Sub Contract Price shall be calculated on the basis of the proportion of the Sub Contract Works in the Contractor's reasonable opinion carried out from the Start Date to the 20<sup>th</sup> day of the calendar month from when the Sub Contract Works started on the Site. Subsequent instalments shall be calculated on the basis of the value of the Sub Contract Works in the Contractor's reasonable opinion properly carried out up to the 20<sup>th</sup> day of each subsequent calendar month.
64. The Sub Contractor's applications for payment shall be submitted on the dates set out in the Payment Schedule or, if no date is stated for the relevant month, applications for payment shall be submitted on the 15<sup>th</sup> day of every calendar month (or, if the 15<sup>th</sup> day is not a Working Day, on the nearest Working Day before it).
65. The due date for payment of each interim payment instalment shall be as stated in the Payment Schedule or, if no date is stated, it shall be 20 days after the 15<sup>th</sup> of the month in which the Sub Contractors application for payment is submitted under clause 64. Provided that if the due date for payment will fall on a day that is not a Working Day, the due date for payment shall be the last Working Day before that date.
66. Not later than 5 days after the due date for payment, the Contractor shall issue a notice to the Sub Contractor ("Payment Notice") specifying the sum the Contractor considers to be or have been due at the due date for payment ("Notified Sum") and the basis on which that sum is calculated. If the Contractor fails to issue a Payment Notice, the sum specified as being due in the application for payment submitted by the Sub Contractor under clause 59 shall become the Notified Sum instead (subject to any Pay Less Notice then issued by the Contractor).
67. Not later than 5 days after the issue of a Payment Notice by the Contractor (or, if a Payment Notice is not issued, after the date such Payment Notice should have been issued), the Sub Contractor shall issue to the Contractor an invoice for the Notified Sum.
68. The final date for payment of each interim payment instalment shall be as stated in the Payment Schedule or, if no date is stated, it shall be 40 days after the due date for payment. Provided that if the final date for payment will fall on a day that is not a Working Day, the final date for payment shall be the last Working Day before that date.
69. If the Contractor wishes to pay less than the relevant Notified Sum, it shall not later than 1 day before the relevant final date for payment issue a notice to the Sub Contractor specifying the sum it considers to be due at the date the notice is given and the basis on which that sum is calculated ("Pay Less Notice"). Where a Pay Less Notice is given under this clause, the Sub Contractor shall within 1 Working Day issue a credit note for the original invoice issued pursuant to clause 66 and shall issue to the Contractor a finally adjusted invoice for the sum specified in the Pay Less Notice.

70. For the purposes of exercising its rights under clauses 66 and 69, the Contractor may issue a Payment Notice specifying that the Notified Sum is a negative sum payable by the Sub Contractor to the Contractor and/or a Pay Less Notice specifying that the sum the Contractor considers to be due at the date such notice is given is a negative sum payable by the Sub Contractor to the Contractor.
71. Following completion of the Sub Contract Works the Sub Contractor shall be entitled to submit one further application for interim payment which shall be submitted and paid on the basis set out in clauses 64 to 70 above. No other payment shall be made until the Final Account Payment.
72. Not later than 3 months after the date of practical completion of the Sub Contract Works, the Sub Contractor shall submit to the Contractor its proposed final account document setting out the finally adjusted Sub Contract Price and the final payment considered to be due to the Sub Contractor, together with all supporting evidence needed to substantiate the same.
73. If the parties reach agreement on the final payment, the Contractor will issue a formal Final Account Statement, which the Sub Contractor shall sign. The signed statement confirms that the amount constitutes full and final settlement of all and any claims the Sub Contractor may have, and of any liability that the Contractor may owe to the Sub Contractor, whether arising from or in connection with the performance of the Works or otherwise under the Contract. The Sub Contractor accepts and agrees that this Final Account Agreement does not release the Sub Contractor from its obligations and responsibilities under the Contract.
74. The due date for payment of the final payment shall be 90 days after the date that the remaining balance of the retention becomes eligible for release under clause 75 or the date that all defects in the Sub Contract Works have been remedied to the Contractor's satisfaction (whichever occurs later). The final date for payment shall be 45 days after the due date for payment. Provided that if the due date for payment or the final date for payment will fall on a day that is not a Working Day, it shall be the last Working Day before that date instead. The Sub Contractor shall submit a final application for payment:
- 74.1. on the 15<sup>th</sup> day of the 24<sup>th</sup> month after the month in which practical completion of the Sub Contract Works occurred (or, if the 15<sup>th</sup> day is not a Working Day, on the nearest Working Day before it); or
- 74.2. if all defects in the Sub Contract Works have not been remedied to the Contractor's satisfaction by the date stated in clause 74.1, on the 15<sup>th</sup> day of the month after the month in which all defects in the Sub Contract Works have been remedied to the Contractor's satisfaction.

The parties shall then issue Payment Notices, Pay Less Notices and invoices in accordance with clauses 67, 68, 69 and 70.

75. The Contractor shall deduct retention at the rate specified in the Sub Contract Order from all sums payable and payments made to the Sub Contractor. Subject to there being no defects in the Sub Contract Works, half of the retention shall be included in the next interim payment after practical completion of the Sub Contract Works, with the second half of the retention being available for release 24 months after the date of practical completion of the Sub Contract Works and included in the final payment under clause 74.
76. Without prejudice to any other rights and remedies it may possess, the Contractor shall be entitled to set-off against any sum due in connection with this Sub Contract, the Contractor's bona fide written estimate of any loss, expense or damage or other sum incurred or likely to be incurred by the Contractor or any Associated Company which arise out of or in connection with the Sub Contractor's breach of this Sub Contract, or any other agreement between the Sub Contractor and the Contractor or any Associated Company.
77. Without prejudice to the foregoing the Sub Contract Price includes:
- 77.1. all fluctuations in cost howsoever arising;
- 77.2. delays or disruption to the Sub Contract Works;
- 77.3. non-productive and other overtime or premium time working.

78. The Sub Contractor is deemed to be fully informed in respect of existing conditions and matters which might in any way affect the Sub Contract Price. Any failure by the Sub Contractor to not take into account the foregoing conditions shall not entitle the Sub Contractor to any addition to the Sub Contract Price.
79. The Sub Contractor shall be solely responsible for any errors or omissions in calculating the prices, sums and rates included in this Sub Contract.
80. Notwithstanding any other provisions of the Sub Contract or Main Contract or any other rights the Sub Contractor may possess, if the Contractor does not receive payment from the Main Contractor in respect of any part of the Sub Contract Works due to the Main Contractor or any other person making payment to the Main Contractor or the Employer becoming Insolvent, the Contractor shall not be obliged to make any further payment to the Sub Contractor whatsoever unless payment in respect of the relevant part of the Sub Contract Works is made by the Main Contractor or the Main Contractor's Liquidator or Administrator or Receiver.
81. If the Contractor fails to pay any sum properly due under this Sub Contract by the relevant final date for payment, such sum shall bear simple interest at the rate of 2% over the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the final date for payment until actual payment of the overdue amount, whether before or after judgment. The parties agree that this rate of interest is a substantial contractual remedy pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
82. If a sum properly due to the Sub Contractor under this Sub Contract is not paid in full by its final date for payment, the Sub Contractor may suspend performance of any or all of its obligations under this Sub Contract, subject to first giving the Contractor at least 14 days' notice stating the ground or grounds on which the Sub Contractor intends to suspend performance. In the event of suspension, the Contractor shall pay the Sub Contractor a reasonable amount in respect of the actual costs and expenses proven to have been reasonably incurred by the Sub Contractor as a result of the exercise of its right to suspend performance. Applications in respect of any such costs and expenses shall be made to the Contractor and the Sub Contractor shall supply with its application such details of the costs and expenses as are reasonably necessary to ascertain the amount in question.
83. The Contractor shall be under no fiduciary obligation with regard to the retention and under no obligation to set aside in a separate bank account any amount representing the retention. The Contractor shall be entitled to the full beneficial interest in any interest accruing on the retention and shall be under no obligation to account to the Sub Contractor for any such interest. Any right of the Contractor to deduct or to set off any amount (whether arising under any express term of this Sub Contract or under any rule of law or of equity) shall be exercisable against any monies due or to become due to the Sub Contractor, whether or not such monies consist of or include any retention.
84. Without prejudice to any other rights or remedies available to the Contractor, the Contractor shall be entitled, at its sole discretion, to withhold, deduct or set off any amounts due or which may become due to the Subcontractor under this Subcontract Order against any amounts due from the Subcontractor to the Contractor (or to any of the Contractor's affiliated or group companies) under this or any other contract, agreement, or arrangement, whether current or future, and whether such amounts are liquidated or unliquidated, actual or contingent.
85. In the event that the Contractor's client becomes or is deemed to be insolvent, enters into administration, liquidation, receivership, or any analogous process (whether voluntary or involuntary), or otherwise ceases or threatens to cease to carry on business, the Contractor shall be entitled, at its sole discretion and without liability, to suspend, withhold, or defer any payment due or to become due to the Subcontractor under this Subcontract Order until such time as the financial position of the project and/or the Contractor's entitlement to payment from the client has been clarified or resolved to the Contractor's reasonable satisfaction.

This right is without prejudice to any other rights or remedies the Contractor may have under this Subcontract Order or at law.

#### **DISPUTE RESOLUTION AND ADJUDICATION**

86. The Scheme for Construction Contracts (England and Wales) Regulations 1998 (SI 1998 No. 649) shall apply to this Sub Contract. The adjudicator nominating body shall be the Royal Institution of Chartered Surveyors.
87. The laws of England and Wales apply to this Sub Contract and the Sub Contractor agrees that in the event of any dispute arising out of or in connection with or touching and concerning in any way this Sub Contract to submit to the

exclusive jurisdiction of the English Courts.

#### **BONDS GUARANTEES ETC**

- 88. The Sub Contractor shall provide all guarantees, bonds and warranties as required by:
  - 88.1. the Main Contract; and
  - 88.2. the Contractor's instruction.
- 89. The provision of the said guarantees etc:
  - 89.1. shall be included in the Sub Contract Price; and
  - 89.2. shall be a condition precedent to any payment being made under this Sub Contract.

#### **WAIVER**

- 90. Any waiver by the Contractor of any breach or default by the Sub Contractor shall not be deemed to be a waiver or estoppel of any subsequent breach or default and shall in no way affect the enforceability of the Sub Contract by the Contractor.

#### **CONFIDENTIALITY**

- 91. Save as may be necessary for the performance of the Sub Contract Works, or as the Contractor may otherwise allow in writing, the Sub Contractor shall treat as confidential all information relating to this Sub Contract, the Sub Contract Works, the Main Contract and the Main Contract Works and shall take all necessary steps to ensure its employees and agents do likewise.
- 92. The Sub Contractor shall not make public any photograph or other image of the Sub Contract Works or the Main Contract Works in any medium whatsoever without the Contractor's prior written consent.

#### **THIRD PARTY RIGHTS**

- 93. A person who is not a party to this Sub Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Sub Contract.

#### **NOTICES**

- 94. All notices required to be given under this Sub Contract shall be sent by any effective means to the relevant party's address as set out in the Sub Contract Order or such email address(es) as the recipient party may have instructed the other to use or as is (or are) regularly used by the recipient party in connection with this Sub Contract.

#### **LIMITATION PERIOD**

- 95. The limitation period for any claim, action or proceedings arising out of or in connection with this Sub Contract and/or the Sub Contract Works is a period of 12 years from the date of practical completion of the Main Contract Works under the Main Contract (or, if applicable, 12 years after the date of termination of the Sub Contractor's engagement under this Sub Contract) or, where relevant, any longer period that may be imposed by the Limitation Act 1980 (including without limitation under section 4B of that Act).

#### **CONTRACT RESTRICTION / DIRECT CLIENT CONTACT**

- 89. The Sub Contractor has no authority (and shall not hold himself/herself out as having authority) to bind the Client (Main Contractor / Developer), unless we (Woodford Heating & Energy Ltd) have specifically permitted this in writing in

advance.

90. The Sub Contractor has agreed to not become a competitor or contact an existing Client of the Contractor and is to inform the Contractor within five days in writing should an existing Client of the Contractor contact the Sub Contractor directly.



## PAYMENT SCHEDULE

|     |        |                    | N/A               | Application +<br>20 Days | Payment Due<br>Date + 5 Days | Final Payment -<br>1 Days | Payment Due Date<br>+ 40 days |
|-----|--------|--------------------|-------------------|--------------------------|------------------------------|---------------------------|-------------------------------|
| Val | Month  | Subcon<br>App Date | Valuation<br>Date | Payment Due<br>Date      | Cert Due                     | Payless Notice            | Final Date For<br>Payment     |
| 1   | Sep-25 | 15-Sep             | 20-Sep-25         | 05-Oct                   | 10-Oct                       | 13-Nov                    | 14-Nov                        |
| 2   | Oct-25 | 15-Oct             | 20-Oct-25         | 04-Nov                   | 09-Nov                       | 13-Dec                    | 14-Dec                        |
| 3   | Nov-25 | 15-Nov             | 20-Nov-25         | 05-Dec                   | 10-Dec                       | 13-Jan                    | 14-Jan                        |
| 4   | Dec-25 | 15-Dec             | 20-Dec-25         | 04-Jan                   | 09-Jan                       | 12-Feb                    | 13-Feb                        |
| 3   | Jan-26 | 15-Jan             | 20-Jan-26         | 04-Feb                   | 09-Feb                       | 15-Mar                    | 16-Mar                        |
| 4   | Feb-26 | 15-Feb             | 20-Feb-26         | 07-Mar                   | 12-Mar                       | 15-Apr                    | 16-Apr                        |
| 5   | Mar-26 | 15-Mar             | 20-Mar-26         | 04-Apr                   | 09-Apr                       | 13-May                    | 14-May                        |
| 6   | Apr-26 | 15-Apr             | 20-Apr-26         | 05-May                   | 10-May                       | 13-Jun                    | 14-Jun                        |
| 7   | May-26 | 15-May             | 20-May-26         | 04-Jun                   | 09-Jun                       | 13-Jul                    | 14-Jul                        |
| 8   | Jun-26 | 15-Jun             | 20-Jun-26         | 05-Jul                   | 10-Jul                       | 13-Aug                    | 14-Aug                        |
| 9   | Jul-26 | 15-Jul             | 20-Jul-26         | 04-Aug                   | 09-Aug                       | 12-Sep                    | 13-Sep                        |
| 10  | Aug-26 | 15-Aug             | 20-Aug-26         | 04-Sep                   | 09-Sep                       | 13-Oct                    | 14-Oct                        |
| 11  | Sep-26 | 15-Sep             | 20-Sep-26         | 05-Oct                   | 10-Oct                       | 13-Nov                    | 14-Nov                        |
| 12  | Oct-26 | 15-Oct             | 20-Oct-26         | 04-Nov                   | 09-Nov                       | 13-Dec                    | 14-Dec                        |
| 13  | Nov-26 | 15-Nov             | 20-Nov-26         | 05-Dec                   | 10-Dec                       | 13-Jan                    | 14-Jan                        |
| 14  | Dec-26 | 15-Dec             | 20-Dec-26         | 04-Jan                   | 09-Jan                       | 12-Feb                    | 13-Feb                        |
| 15  | Jan-27 | 15-Jan             | 20-Jan-27         | 04-Feb                   | 09-Feb                       | 15-Mar                    | 16-Mar                        |