

1. (1) In these conditions in respect of this Sub-Contract (as hereinafter defined) all words and expressions have the same meaning as in the Main Contract unless otherwise provided or where the context otherwise requires.

(a) "Contractor" means ARM Pipetek Limited.

(b) "Employer" means the party who has entered into the Main Contract with the Contractor for the carrying out of the works under the Main Contract.

(c) "The Main Contract" means the contract, the particulars of which are set out in the Sub-Contract Order.

(d) "The Sub-Contract" means the contract for the provision or supply of services and/or goods in accordance with these conditions together with such other documents as are specified within the Sub-Contract Order.

(e) "The Sub-Contract Works" means the works described within the Description of Work – Specific" and "Description of Work - General" sections of the Sub-Contract Order which are to be carried out in accordance with these conditions.

(f) "Sub-Contractor's Equipment" means all appliances or other things of whatsoever nature required by the Sub-Contractor in the fulfilment of his obligations under this Sub-Contract but not including materials or other things intended to form or forming part of the Sub-Contract Works.

(g) "Maintain" means the execution of outstanding work and the correction of defects as required and the words "maintenance" and "maintaining" shall be construed accordingly.

(h) "Substantial Completion" means that the works under the Main Contract (or where the works under the Main Contract are to be completed by sections then the relevant section of those works) have reached substantial completion (or whatever similar term is used in the Main Contract) so that those works or that section of them is taken over by the Employer.

(i) "Contract Date" means the dates termed Contract Dates within the Sub-Contract Order.

(j) "Assessment Date" means the relevant date (as stated within the Sub-Contract Order or determined in accordance with these conditions) on which the Contractor assess the amount due to Sub-Contractor.

(k) "Price" means the total sum payable to the Sub-Contractor for carrying out the Sub-Contract Works which is stated in the Sub-Contract Order as that sum may be adjusted in accordance with these conditions but is exclusive of Value Added Tax unless specifically stated to the contrary in the Sub-Contract Order.

(l) the "Act" means the Housing Grants, Construction and Regeneration Act 1996 (as amended). (n) "Site Works Completion" means that the whole of the works under the Main Contract have reached Substantial Completion.

(m) "Key Date" means a date identified as such in the Sub-Contractor Order as the date by which a stated condition ("Condition") must be fulfilled.

(2) Words importing the singular also include the plural and vice-versa where the context requires. (3) All references herein to clauses are references to clauses numbered in these conditions and not to those in any other document forming part of this Sub-Contract unless otherwise stated.

(4) The word "including" and its cognate expressions will be construed as if followed by the words "without limitation".

2. (1) The Sub-Contractor has been given the opportunity to inspect and shall be deemed to have full knowledge of the provisions of the Main Contract. Unless the Sub-Contractor has notified the Contractor in writing to the contrary within 7 days of receipt of the Sub-Contract Order the Sub-Contractor shall be deemed to have (and by commencing the Sub-Contract Works re-confirms that he has) full access to the specifications and other documents referred to in the Sub-Contract Order. (2) The Sub-Contractor shall carry out the Sub-Contract Works in conformity with the requirements of both this Sub-Contract and the Main Contract.

(3) The Sub-Contractor shall carry out its obligations under this Sub-Contract so as to assist the Contractor to comply with (and so as not to put the Contractor in breach of any of) the Contractor's obligations under the Main Contract and shall grant to the Contractor such intellectual property and other rights as may be necessary to achieve this. The Sub-Contractor shall for the avoidance of doubt provide such information and documents in relation to the Sub-Contract Works and in relation to this SubContract, and within such timescales, as may be necessary to assist the Contractor to comply with (and so as not to put the Contractor in breach of any of) the Contractor's obligations under the Main Contract. Nothing in this Sub-Contract shall be interpreted as entitling the Sub-Contractor to act or refrain from acting in a way which is contrary to this clause 2(3) and in the event of conflict with another provision of this Sub-Contract this clause 2(3) shall prevail (4) Nothing in this Sub-Contract shall be construed as creating or evidencing any contract between the Sub-Contractor and the Employer. No person is intended to have any right to enforce any provision of this Sub-Contract under the Contracts (Rights of Third Parties) Act 1999.

3. The Sub-Contractor undertakes:

(1) to execute, complete and deliver up the whole of the Sub-Contract Works: in accordance with these conditions and the Main Contract (in so far as applicable to the Sub-Contract Works); with the best workmanship and materials; as and when required in accordance with the Key Dates and Contract Dates; in such manner as the Contractor may direct; to the satisfaction of the Employer or other relevant person under the Main Contract and to the satisfaction of the Contractor or any authorised employees or representatives under the control of the Contractor (or otherwise as the Contractor may direct); in accordance with the drawings, specifications and/or instructions or any amendments thereof supplied to him from time to time by the Contractor; and at all times in compliance with all reasonable instructions of the Contractor and its authorised employees and representatives;

(2) at all times to indemnify and keep indemnified the Contractor against all liabilities to other persons (including the servants and agents of the Contractor or Sub-Contractor) for bodily injury, damage to property or other loss which may arise out of the execution, completion or maintenance of the Sub-Contract Works (or failure to do so) and against all costs, charges and expenses that may be occasioned to the Contractor by the claims of such persons and to indemnify and keep indemnified the Contractor against and from any breach non-observance or non-performance by the Sub-Contractor, his servants or agents, of the provisions of the Main Contract or any of them or any other act or omission by the Sub-Contractor as a result whereof the Contractor directly or indirectly whether himself or by way of liability to other parties (including the Employer) incurs any loss expense damage claim or liability (which for the avoidance of doubt shall include any loss expense damage claim or liability arising in the future as a result of a breach by the Sub-Contractor of this Sub-Contract);

(3) to indemnify the Contractor and at all times to adequately insure against all liability, loss, claims and/or proceedings whatsoever by workmen or their dependants or third parties (persons and/or property) arising out of or in the course of his work and against injury to the Contractor's workmen and loss of or damage to the Contractor's property so arising, whether at common law or by statute, (which for the avoidance of doubt includes the maintenance of employer's liability insurance with the level of cover maintained being not less than the amount of cover specified in the Sub-Contract Order) and produce on demand the policies of insurance covering the risks, and to give notice of the Contractor's interest to the insurance companies concerned. In case of neglect by the Sub-Contractor to effect any such insurance, the Contractor shall be at liberty to insure on behalf of the Sub-Contractor and to deduct the premium so paid from any monies due or to become due to the Sub-Contractor. Failure by the Contractor so to insure shall not relieve the Sub-Contractor of any of his responsibilities under this clause;

(4) to maintain professional indemnity insurance against failure of the Sub-Contractor to use the skill and care normally used by professional design consultants carrying out design work of the sort which forms part of the Sub-Contract Works, the amount of cover and period for which it is to be maintained being as stated in the Sub-Contract Order, in respect of each claim without limit to the number of claims (unless a different basis of cover is stated in the Sub-Contract Order). If the Sub-Contractor defaults in maintaining such insurance the Contractor may deduct from any sums due to the Sub-Contractor under this SubContract a sum equal to the cost of latent defects or other similar insurance of the above amount for a period equal to the remainder of the above period (whether or not the Contractor actually buys such insurance or provides for or bears the risk in some other way).

(5) to maintain their work and materials in good repair and condition during the progress of the Sub-Contract Works and in accordance with clause 12 and to make good any defects arising therein to the satisfaction of the Employer or other relevant person under the Main Contract and to the satisfaction of the Contractor;

(6) to make good at his own expense any damage and/or consequential damage (whether accidental or otherwise) consequent upon his work or otherwise caused by the Sub-Contractor or those for whom the Sub-Contractor is responsible;

(7) not to assign or sub-let the whole or any part of the Sub-Contract Works, without the prior written consent of the Contractor (which will not be unreasonably withheld); but for the avoidance of doubt nothing in this clause 3 requires the Sub-Contractor to indemnify the Contractor in respect of any liability for death or personal injury to the extent that it was caused by the Contractor's own negligence.

(8) If the Sub-Contractor fails (in the opinion of the Contractor acting reasonably) to ensure that a Condition is fulfilled by the relevant Key Date and as a result the Contractor incurs additional cost either in carrying out work or by paying any additional amount to the Employer or others affected by such failure or otherwise suffers loss then such cost or amount or loss may be deducted from sums otherwise due to the Sub-Contractor or recovered from the Sub-Contractor as a debt.

4. The Sub-Contractor shall apply to the Contractor for all drawings, details or information necessary to perform the Sub-Contract Works by the time or times required and notify the Contractor in writing of any delay in or affecting his work within 24 hours thereof, giving details. Subject thereto, the Contractor will grant in writing a reasonable extension of time (identifying the Key Dates and Contract Dates in respect of which it applies and recognising that different extensions may be appropriate in respect of different Key Dates and Contract Dates) for delays arising in his opinion solely from causes beyond the Sub-Contractor's control. Copyright of all drawings, specifications and all other documents supplied by the Employer or the Contractor shall not pass to the Sub-Contractor.

5. The Sub-Contractor shall provide the Sub-Contractor's Equipment and all labour, tools and plant necessary for the execution completion and maintenance of the Sub-Contract Works. Where the Sub-Contract Order or documents referred to in it state that the Sub-Contractor may use any scaffolding, ladders or other equipment owned by or hired to or under the control of the Contractor the Sub-Contractor shall use it in compliance with all relevant instructions, rules and safety procedures and the Sub-Contractor shall make good any damage to such equipment caused by his employees, workmen or agents and shall indemnify and keep indemnified the Contractor against all liability, loss, claims and/or proceedings arising out of or in the course of such use (but for the avoidance of doubt this does not require the Sub-Contractor to indemnify the Contractor in respect of any liability for death or personal injury to the extent that it was caused by the Contractor's own negligence).

6. The Sub-Contractor shall liaise with and cooperate with and facilitate the work of the Contractor and its other subcontractors including providing to them and obtaining from them in good time programmes and other information; acting reasonably in agreeing access arrangements and arrangements relating to the availability and use of power, water and other resources; accepting a reasonable amount of interference with the Sub-Contract Works as a result of the Contractor and its other subcontractors carrying out their work; and seeking to minimise the impact of the Sub-Contract Works on the Contractor's and its other subcontractors' work.

7. The Sub-Contractor shall make all provision for the safe transporting, unloading and storing of his materials and subsequent handling on site. Without prejudice to the generality of clause 2, the Sub-Contractor shall comply with the requirements of the Main Contract as to the bringing on to and removal from the site of the Sub-Contractor's Equipment, materials and other things and in so far as any items thereof are hired by the Sub-Contractor, he shall comply with all the requirements of the Main Contract as to the terms of such hirings and as to the giving of information and certificates in relation thereto.

8. The Sub-Contractor shall constantly keep at the site and at any other locations required to carry out the Sub-Contract Works a competent foreman who shall be authorised to receive instructions on behalf of the Sub-Contractor. The Sub-Contractor shall permit the Employer, and the Employer's employees, servants and agents and the Contractor, his employees, servants and agents (including any other sub-contractors engaged in the execution of the Main Works), during working hours to have reasonable access to the Sub-Contract Works and to the places on the site where any work or materials therefore are being executed prepared or stored and the Sub-Contractor shall also permit or procure reasonable access for the Employer, his employees, servants and agents and for the Contractor, his employees, servants and agents during working hours to such places off the site where work is being executed or prepared by or on behalf of the Sub-Contractor in connection with the SubContract Works.

9. Where it is provided by the Main Contract that the property in any Sub-Contractor's Equipment, materials or things whatsoever shall in certain events vest in the Employer or vest or re-vest in the Contractor, then in so far as such Sub-Contractor's Equipment, materials or things are to be provided by the Sub-Contractor in connection with the Sub-Contract Works, the property therein shall pass from the Sub-Contractor to the Contractor immediately before it is due to vest in the Employer in accordance with the Main Contract and shall re-pass from the Contractor to the Sub-Contractor immediately after it has re-vested in the Contractor in accordance with the Main Contract.

10. (1) Variations, additions or omissions shall not invalidate this Sub-Contract and the Sub-Contractor shall make such variations of the Sub-Contract Works and/or the methods by which they are carried out, whether by way of addition, modification or omission, as may be:

(a) Agreed to be made by the Employer and the Contractor and confirmed in writing to the Sub-Contractor by the Contractor; or

(b) Instructed in writing by the Contractor.

(2) The Sub-Contractor shall not act upon an instruction for the variation of the Sub-Contract Works, which is directly received by him from the Employer or anyone acting on the Employer's behalf. If the Sub-Contractor shall receive any such direct instruction, he shall forthwith inform the Contractor's agent or foreman in charge of the Main Works and shall supply him with a copy of such direct instruction, if given in writing. The Sub-Contractor shall only act upon such direct instruction as

directed in writing by the Contractor, but the Contractor shall give his directions thereon with all reasonable speed.

(3) Where a variation is instructed or confirmed by the Contractor or where the Contractor notifies the Sub-Contractor that he is contemplating instructing a variation (and to avoid doubt a variation may include alterations to Key Dates and/or Conditions) the Sub-Contractor shall provide a written quotation to the Contractor identifying any addition to or reduction in the sums payable under this Sub-Contract and any necessary change to any Key Dates or Contract Dates as a result of the variation. The Contractor may either accept such quotation (or any revised quotation following negotiations) or reject it.

(4) If the Contractor rejects any quotation then the amount to be paid or allowed for the variations in question and any effect on the Key Dates or Contract Dates shall be ascertained in accordance with the terms of the Main Contract (less any additions under the Main Contract in respect of the Contractor's own profit and management or other preliminaries costs not incurred by the Sub-Contractor and less any extensions of time attributable to the effects of the variation on other parts of the works under the Main Contract). If there are no such terms applicable then the addition to or reduction in the sums payable under this SubContract and any necessary change to any Key Dates or Contract Dates shall be such as are fair and reasonable in all the circumstances.

(5) Should the Sub-Contractor consider he has been asked to carry out works not covered by the Sub-Contract Order or any other variation the Sub-Contractor shall notify the Contractor's QS and agree rates for the work prior to the commencement of it and if the Sub-Contractor fails to comply with this requirement Contractor will be entitled to pay for the work at whatever rates are reasonable in the circumstances.

(6) Notwithstanding any other provision of this clause 10, nothing which does not constitute a variation or change for which the Contractor is entitled to additional payment or as the case may be an extension of time under the Main Contract (or would be if the instruction in question had been given by the Employer under the Main Contract) shall entitle the Sub-Contractor to any additional payment or any change to the Key Dates or Contract Dates under this Sub-Contract.

(7) The Sub-Contractor shall not be entitled to any additional payment or any change to the Key Dates or Contract Dates in respect of any variation unless prior to carrying out the work in question the Sub-Contractor has notified the Contractor in writing that he believes a variation has been required or has occurred and has either provided a written quotation in accordance with clause 10(3) or has been specifically instructed by the Contractor to proceed before providing such a quotation.

(8) In addition to complying with this clause 10 the Sub-Contractor shall comply with any additional change control procedure which is notified to him as applicable to this contract.

11. The Sub-Contract Order is on a fixed price basis unless otherwise clearly specified in the Sub-Contract Order.

12. (1) If the Sub-Contractor shall complete the Sub-Contract Works as required before Site Works Completion (or where the works under the Main Contract are to be completed by sections before the Substantial Completion of any particular section which includes any of the Sub-Contract Works), the Sub-Contractor shall maintain the Sub-Contract Works in the condition required by the Main Contract (fair wear and tear excepted) to the satisfaction of the Employer and the Contractor and shall make good every defect and imperfection therein from whatever cause arising until Substantial Completion of the works under the Main Contract or section thereof is achieved and subject to clause 3 (insurance), shall not be entitled to any additional payment for so doing unless such defect or imperfection is caused by the act, neglect or default of the Employer, his employees, servants or

agents under the Main Contract or of the Contractor, his employees, servants or agents under the Sub-Contract.

(2) After Substantial Completion of the works under the Main Contract or of the section or sections thereof in which the SubContract Works are comprised, as the case may be, the Sub-Contractor shall maintain the Sub-Contract Works and shall make good defects and imperfections therein as the Contractor is liable to make good under the Main Contract for the like period and otherwise upon the like terms as the Contractor is liable to do under the Main Contract. Provided always that if any defect or imperfection made good by the Sub-Contractor under this sub-clause is caused by the act, neglect or default under the SubContract of the Contractor, his authorised employees, servants or agents, then notwithstanding that the Contractor may have no corresponding right under the Main Contract, the Sub-Contractor shall be entitled to be paid by the Contractor his reasonable costs of making good such defect or imperfection.

13. (1) If the Sub-Contractor:-

(a) without the written consent of the Contractor wholly or partly suspends the Sub-Contract Works;
or

(b) fails to proceed with the Sub-Contract Works with due diligence or fails to proceed with the same in accordance with the Contractor's instructions or fails (in the opinion of the Contractor acting reasonably) to ensure that a Condition is fulfilled by the relevant Key Date or fails to ensure that a Contract Date is complied with; or

(c) fails to execute the Sub-Contract Works or to perform his other obligations in accordance with the Sub-Contract; and in any of the above cases (a)-(c) shall continue such default for five days after written notice by the Contractor specifying the same or shall thereafter at any time repeat the default so specified; or

(d) refuses or to a substantial degree persistently neglects after notice in writing from the Contractor to remove defective materials or make good defective work; or

(e) does or omits to do any other act or thing which would or might occasion a termination of the Main Contract or of the Contractor's employment under it; or

(f) is required by the Employer to be removed from carrying out the Sub-Contract Works in accordance with the Main Contract; or

(g) has substantially broken a health or safety; then the Contractor may (in any of the above cases (a) – (g) and without prejudice to any other rights that the Contractor may have) forthwith and without further warning by written notice determine the employment of the Sub-Contractor under this SubContract and retain any monies due to the Sub-Contractor to be applied to the cost of completing the work. Notwithstanding the other provisions of this clause the Contractor may take possession of all materials, Sub-Contractor's Equipment and other things whatsoever brought onto the site by the Sub-Contractor and may use them for the purpose of executing, completing and maintaining the Sub-Contract Works and may if he thinks fit, sell all or any of them and apply the proceeds in or towards the satisfaction of monies otherwise due to him from the Sub-Contractor.

(2) If the Sub-Contractor becomes insolvent (as defined in S113 of the Act) or makes an arrangement with or assignment in favour of his creditors or enters into an arrangement in favour of his creditors the Contractor may without prejudice to any other rights including the continued operation of clause 13(3) by written notice determine this Sub-Contract and/or the SubContractor's employment under it and the effects of such determination shall be the same as if the Sub-Contractor had repudiated this Sub-Contract.

(3) In the event of determination under this clause the Contractor shall in addition to the powers set out in clause 13(1) have the same powers over the Sub-Contractor's Equipment, materials and property as under the Main Contract in like circumstances the Employer has over the plant materials

and property of the Contractor. The Contractor may also complete the Sub-Contract Works himself or employ another sub-contractor to do so and may recover from the Sub-Contractor as a debt all additional costs and/or damages and/or expenses incurred by the Contractor through the Sub-Contractor's default. Without prejudice to the other provisions of this clause 13 the Contractor may in lieu of giving a notice of determination take part only of the SubContract Works out of the hands of the Sub-Contractor and may by himself, his employees, agents or sub-contractors execute, complete and maintain such part of the Sub-Contract Works and in such event the Contractor may recover his reasonable costs of so doing from the Sub-Contractor or deduct such costs from monies otherwise becoming due to the Sub-Contractor.

14. The Sub-Contractor hereby acknowledges that any breach by him of this Sub-Contract may result in the Contractor committing breaches of and becoming liable in damages under the Main Contract and other contracts made by him in connection with the Main Contract and may occasion further loss or expense to the Contractor in connection with the Main Contract and all such damages loss and expense are hereby agreed to be within the contemplation of the parties as being probable results of any such breach by the Sub-Contractor. Furthermore should the Contractor become liable to pay liquidated damages for delay under the Main Contract through default of the Sub-Contractor, then the Sub-Contractor shall pay or allow to the Contractor (in addition to any extra cost occasioned to the Contractor by any effort made to minimise delay and thereby reduce such liquidated damages or otherwise incurred by the Contractor by reason of such default), such liquidated damages as the Contractor pays under the Main Contract or such part thereof as may be determined by the Contractor acting reasonably as being attributable to the default of the Sub-Contractor.

15. (1) If the Main Contract or the Contractor's employment under it is determined for any reason whatsoever before the SubContractor has fully performed his obligations under this Sub-Contract, then the Contractor may at any time thereafter by written notice to the Sub-Contractor forthwith determine this Sub-Contract or the Sub-Contractor's employment under it and thereupon the Sub-Contractor shall cease the Sub-Contract Works and, subject to clause 9, with all reasonable speed remove his men and Sub-Contractor's Equipment from the site.

(2) Upon such determination of the Sub-Contractor's employment, subject to sub-clause 15(3), the Sub-Contractor shall be entitled to be paid the full value, calculated by reference to the price and to the rates and prices contained in the Schedule of Works forming part of this Sub-Contract, of all work properly done on the site by the Sub-Contractor and of all materials properly brought and left on the site by the Sub-Contractor, together with his reasonable costs of removing his Sub-Contractor's Equipment from the Site, but less such sums as the Sub-Contractor has already received on account and less the value of all such materials which the Sub-Contractor is permitted by the Contractor to remove from the site. Furthermore if at the date of such determination the Sub-Contractor has properly prepared or fabricated off the site any goods for subsequent incorporation in the Sub-Contract Works and he shall deliver such goods to the site or to such other place as the Contractor may reasonably direct, then he shall be paid for such goods as for materials properly brought and left on the site by him. Provided always that nothing herein shall affect the rights of either party in respect of any breach of this Sub-Contract committed by the other prior to such determination, nor any right which accrued to the Sub-Contractor prior to such determination to receive any payment which is not in respect or on account of the price payable under the Sub-Contract.

(3) If the Main Contract or the Contractor's employment under it is determined by the Employer in consequence of any breach of this Sub-Contract by the Sub-Contractor, then the provisions of the preceding sub-clause as to payment shall not apply, but the rights of the Contractor and the Sub-Contractor hereunder shall be the same as if the Sub-Contractor had by such breach repudiated this

Sub-Contract and the Contractor had by his notice of determination under clause 15(1) elected to accept such repudiation.

16. The Contractor shall not be responsible for any loss or damage to the Sub-Contractor, his employees, materials, plant tools or equipment from any cause whatsoever other than negligence or wilful default on the part of the Contractor.

17. (1) No conditions in or attached to any tender or quotation for this Sub-Contract or other communications from the SubContractor shall be of any legal effect except such as constitute warranties or guarantees on the part of the Sub-Contractor.

(2) No purported amendment to these conditions shall be of any legal effect unless in the form of a written memorandum referring expressly to this clause 17(2) and signed by authorised representatives of the Sub-Contractor and a director, quantity surveyor or commercial manager of the Contractor (only people with those specific titles have authority to agree amendments to these conditions on behalf of the Contractor and then only when they do so in writing).

18. The method of measurement shall be the Schedule of Works stated in the Sub-Contract Order. The prices and items listed in the Schedule of Works are in every case the lump sum prices for each of the items listed unless otherwise clearly stated in the Sub-Contract Order.

19. (1) The Sub-Contractor shall be entitled to interim payments on account of the Price, calculated as at each Assessment Date and being, subject to clauses 19(5) and 19(6): the proportion of the Price which corresponds to the work done by the SubContractor in accordance with this Sub-Contract at that Assessment Date valued in accordance with the method of measurement set out at clause 18; less the sums which have already become due to the Sub-Contractor in respect of previous Assessment Dates.

(2) Should any Sub-Contract Works be carried out after the Assessment Dates stated in the Subcontract Order, the SubContractor should request the Contractor to provide further Assessment Dates which the Contractor shall do (acting reasonably) and which generally will be the last Sunday of each calendar month.

(3) The Sub-Contractor shall submit his application for payment to the Contractor prior to the Assessment Date to assist the Contractor to assess the amount which will become due in respect of that Assessment Date. If the Sub-Contractor fails to provide an application for payment prior to the Assessment Date the Contractor will carry out the assessment of amounts due without reference to any Sub-Contractor's application for payment which is presented late. Any late application for payment provided by the Sub-Contractor may be considered by the Contractor at the next Assessment Date.

(5) One tenth of the Price may be retained by the Contractor until the Sub-Contractor has submitted all items listed in the Subcontract Works Information referred to in the Sub-Contract Order.

(6) the Contractor may retain the retention percentage stated in the Sub-Contract Order from each interim payment due to the Sub-Contractor. The sum retained shall become due to the Sub-Contractor on the date or dates set out in the Sub-Contract Order or if no dates are set out there (or if the dates set out there do not comply with the requirements of the Act to provide an "adequate mechanism" for determining what payments become due and when) then the sum retained shall become due to the Sub-Contractor 18 months after completion of the Sub-Contract Contract Works.

20. (1) Payments shall become due to the Sub-Contractor 45 days from the Assessment Date (hereinafter called 'the Due Date') and the final date for payment shall be the Due Date plus 3 working

days (for bank clearing, these being days when clearing banks are open for normal business in the City of London).

(2) The Contractor will give written notice to the Sub-Contractor not later than five days after each Due Date specifying the sum (even if it is zero) that the Contractor considers to be or to have been due at the Due Date and the basis on which that sum is calculated. If the Contractor intends to pay less than the sum notified (or if no such notice was given intends to pay less than the sum applied for all invoiced by the Sub-Contractor) the Contractor shall give written notice to the Sub-Contractor not later than one day before the final date for payment specifying the sum (even if it is zero) that the Contractor considers to be due on the date the notice is served and the basis on which that sum is calculated.

21. This Sub-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 construed in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English Courts (save that proceedings may be brought in the courts of other jurisdictions in order to enforce any decision of the English Courts). In the event of any dispute concerning a matter on which the decision of the Architect/Engineer or any other person is final and binding under the Main Contract such decision shall also be final and binding on the Sub-Contractor. All other disputes shall (save as aforesaid in relation to enforcement proceedings) be referred to the English Courts unless the parties agree in writing to submit the dispute to arbitration but this is without prejudice to the right of either party to refer the matter at any time to adjudication pursuant to the Act in which case the adjudication shall be conducted in accordance with the Scheme for Construction Contracts made under the Act. All claims by the Sub-Contractor for payment shall be deemed relinquished on the date which is one year after the earlier of: the actual date of substantial completion of the Sub-Contract Works (whether or not certified); the date of termination of this Sub-Contract; and the date of termination of the Sub-Contractor's employment under it; except for claims in relation to the sums retained pursuant to clause 19(6) and claims which before the end of the one year period have been referred to the Courts or arbitration and claims in respect of which the Subcontractor's solicitors have within the 2 months before the end of the one year period given formal written notice to the Contractor stating that the Subcontractor wishes to make a claim, stating the exact sum claimed and giving reasonable details of the grounds for the claim.

22. The Contractor shall not be obliged to make any payment in respect of value added tax ("VAT") unless either the Contractor and Sub-Contractor have agreed to operate a self-billing arrangement or in the absence of such agreement the Contractor has previously received from the Sub-Contractor a valid VAT invoice in respect of it.

23. The Contractor is a "contractor" for the purposes of the Construction Industry Scheme under the Finance Act 2004 ("CIS") and the Contractor's obligation to make any payment under this Sub-Contract is subject to the provisions of the CIS.

24. (1) No neglect or forbearance by the Contractor in pursuing any claim or right hereunder against the Sub-Contractor shall prejudice or in any way affect the Contractor's rights hereunder or constitute a waiver of the Contractor's entitlement to subsequently pursue such claim or right.

(2) Any reference to a statute, statutory provision or statutory instrument shall be deemed to include a reference to any modification or re-enactment or revision or re-issuing of it from time to time in force.

(3) If any term or provision of these conditions shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law that term or provision or part shall to the

CONDITIONS OF SUB-CONTRACT

extent necessary to remove the illegality or unenforceability be deemed not to form part of these conditions and the enforceability of the remainder of these conditions shall not be affected. (4) These conditions are exclusive and no other terms or conditions which the Sub-Contractor may purport to apply or incorporate into this Sub-Contract or introduce in any modification of the terms of this Sub-Contract whether under any purchase order confirmation of order or otherwise shall be of any legal effect unless otherwise agreed in writing signed by an authorised officer of the Contractor. For the avoidance of doubt where any document referred to in the Purchase Order contains or refers to any set of standard legal terms and conditions used by the Sub-Contractor they shall not be incorporated into this Sub-Contract and shall be of no legal effect.

(5) An order by the Contractor for goods or services which is accepted by the Sub-Contractor in the future but which does not include a written Sub-Contract Order referring to specific legal terms and conditions which are to apply to it shall be deemed to incorporate these conditions unless the Sub-Contractor shall notify the Contractor in writing within 2 days of receipt of the order that it does not accept these conditions and stating the reasons why these conditions are not accepted. An order (including the Sub-Contract Order if this Sub-Contract is not otherwise evidenced) shall be deemed accepted by the Sub-Contractor so as to create a legally binding sub-contract incorporating these conditions as soon as the Sub-Contractor carries out any work in pursuance of it or if earlier 2 weeks after the Sub-Contractor accesses it via the Portal unless within that 2 week period the Sub-Contractor notifies the Contractor that it rejects the order in question.

25. The Contractor and the Sub-Contractor shall act as stated in this Sub-Contract and in a spirit of mutual trust and co-operation.