



**Subcontract Order**

To be signed by the Subcontractor and returned to the Contractor

SFM SUB 001

<b>Order Number</b>	<b>Date</b>	<b>Page</b> of
<b>To:</b>          Hereinafter referred to as the 'Subcontractor'	<b>Subcontract title</b>	
	<b>Main Contract</b> Works description:   Employer:   Conditions of Contract:	

Sonae (UK) Limited (hereinafter referred to as the 'Contractor') hereby instruct the Subcontractor to carry out and complete the Subcontract Works as set out in the Subcontract details hereunder for the sum of the Subcontract price less any stated discounts and all in accordance with the terms and conditions of Subcontract attached and/or on any other attachments forming part of this Subcontract Order all of which will have the same effect as if set out on this side of the Subcontract Order.

Subcontract details

<b>Subcontract Works description</b>	<b>Subcontract price</b>		
	<b>Delay Damages</b>  per day	<b>Retention</b>	<b>Defects Period</b>  months
<b>Insurance</b> Public Liability : Employers Liability: Contractors All Risk: Professional Indemnity:	<b>Daywork additions</b>  Other (please specify): N/A		
<b>Start date(s)</b>   (subject to clause 4)	<b>Completion date(s)</b>   (subject to clause 4)		
<b>Incorporated documents and enclosures</b>			
<b>For and on behalf of the Contractor:</b>  Executed by (BLOCK CAPITALS).....  Signature .....  Date.....		<b>For and on behalf of the Subcontractor:</b>  Executed by (BLOCK CAPITALS).....  Signature.....  Date.....	
* Delete whichever is inapplicable			

**THE SUBCONTRACT ORDER ATTACHED IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS**

**1. GENERAL**

(i) No payment will be made until the copy of this Subcontract Order marked ORIGINAL on the front hereof has been signed by the Subcontractor and returned to and received by the Contractor.

(ii) For the avoidance of doubt the terms and conditions set out herein and the provisions of the Main Contract as hereinafter referred to in Clause 3 shall govern the Subcontract to the exclusion of any conditions proposed by the Subcontractor. In the event of a conflict between the terms of the Main Contract and the Subcontract the terms of the Subcontract shall take precedence.

**2. EXECUTION OF SUBCONTRACT WORKS, ENTRY AND INSPECTION**

(i) The Subcontractor will do everything necessary to comply with all Drawings, Specifications, Bills of Quantities (where applicable) and/or written instructions issued to him by the Contractor to the satisfaction of the Contractor and of the Contract Administrator appointed under the Main Contract.

(ii) No approval whether express or implied by the Contractor or the Contract Administrator shall in any way relieve the Subcontractor of his responsibility for complying with the requirements of this Subcontract.

(iii) At any stage during the currency of the Subcontract, the Contractor shall be entitled to enter any premises or sites on which the Subcontractor is carrying out work for the purpose of carrying out the Subcontract Works to inspect and satisfy itself as to the quality of, programming for and/or materials used in relation to the Subcontract Works or any part thereof.

**3. MAIN CONTRACT AND OTHER CONDITIONS**

(i) Subject to Clause 1(ii) above, the Subcontractor is deemed to have full knowledge of and, so far as they are applicable to the Subcontract Works, agrees to comply with, the provisions of the Main Contract as though the same were incorporated herein and the Contractor were the Employer and the Subcontractor were the Contractor.

(ii) Nothing contained in the Contract Drawings and/or Specification(s) and/or Bill of Quantities (where applicable) shall override, modify or affect in any way whatsoever the application or interpretation of these Subcontract Conditions.

(iii) The Subcontractor acknowledges that breach by the Subcontractor of the Subcontract Conditions may result in the Contractor breaching the terms of the Main Contract and/or any other Subcontract entered into by the Contractor in respect of the Main Contract Works. It is accepted by the Subcontractor that any loss arising out of such breach by the Contractor is a result of breach by the Subcontractor of the Subcontract Conditions.

**4. PROGRESS AND COMPLETION**

The Subcontract Works are to be commenced when the Subcontractor is instructed to proceed and are to be completed by the Completion date specified in the Subcontract Details section on the front hereof (or as provided for in Clause 22 (v) of these conditions) subject only to such fair and reasonable extension of time as the Contractor shall allow where the Subcontract Works are delayed by causes which result in an extension of time under the Main Contract or where the Contractor has caused the Subcontractor delay. The Subcontract Works are to be carried out diligently and in such order, manner and time as the Contractor may reasonably direct so as to ensure completion of the Main Contract Works or any portion thereof by the completion date or key dates or such extended date or dates as may be allowed under the Main Contract. If the Subcontractor is in breach of the foregoing he shall without prejudice to and pending the final ascertainment or agreement between the parties as to the amount of loss or damage suffered or which may be suffered by the Contractor in consequence thereof and without prejudice to Clause 12 (v) forthwith pay or allow to the Contractor such sum as the Contractor shall bona fide estimate as the amount of such loss or damage, such estimate to be binding and conclusive upon the Subcontractor until such final ascertainment or agreement.

**5. DEFECTS AND MAINTENANCE**

The Subcontractor will maintain and protect the Subcontract Works at his own expense to the Contractor and the Contract Administrator's satisfaction both during the progress of the Subcontract Works and until the Contract Administrator has issued a Completion Certificate (or equivalent) in respect of the Main Contract Works including the Subcontract Works and make good at his own expense, and at a time to be decided by the Contractor, any defects or damage to the Subcontract Works.

**6. SUBCONTRACT EMPLOYEES**

The Subcontractor will at the request of the Contractor cease to employ on the Subcontract Works any one or more of his employees to whom the Contractor may object or whose presence on the Subcontract Works may contravene the conditions of this Subcontract or the Main Contract or may cause labour disputes in the Subcontractor's or any other trade and shall replace such employee or employees immediately with others to whom there is no objection.

**7. WELFARE/SITE SET-UP**

(i) The Subcontractor shall at his own risk in common with other subcontractors and others engaged upon the site on which the Subcontract Works are to be carried out have the reasonable and free use of such facilities/services provided by the Contractor and specified in the Works Information provided that:

(a) Such use shall be at the sole risk of the Subcontractor who shall indemnify the Contractor, the Employer, the Contract Administrator and/or any servant or agent of theirs against any claim for loss, damage or personal injury arising therefrom and undertakes to make good at his own expense any damage, loss or injury suffered by the Contractor any subcontractor or other person as a result of such use, and

(b) the Contractor shall not be liable to the Subcontractor for any expense, loss or damage caused by any failure to provide any such amenities, facilities or services.

(ii) All other facilities/services required in order to complete the Subcontract Works shall be provided by the Subcontractor at his own expense.

## 8. BACKGROUNDS AND PREVIOUS WORK BY OTHERS

(i) The Subcontractor shall satisfy himself before commencing the Subcontract Works or any section of the Subcontract Works as to the position, dimensions and suitability of any previous work which may in any way affect the Subcontract Works, (including without restriction any surface or background to which the Subcontractor is to fix or lay his work) and shall immediately advise the Contractor in writing if such previous work is out of position, wrongly dimensioned or in any other way unsuitable.

(ii) The Subcontractor shall have no claim or right of action against the Contractor arising from work previously carried out by others unless the discrepancy in position or dimension or other unsuitability of the work or surfaces has been referred to the Contractor by the Subcontractor pursuant to Sub-clause (i) of this Clause prior to the Subcontractor commencing the Subcontract Works or any section of the Subcontract Works.

## 9. INSURANCE

(i) The Subcontractor shall indemnify the Contractor against and from all claims, causes of actions, costs, loss and expense whatsoever in respect of:

(a) Personal injury or death of any person or injury or damage to any property real or personal arising out of or in the course of or caused by any works executed by the Subcontractor and/or the execution of such works (including but not restricted to the use of any plant, equipment or facilities whether in connection with such execution or otherwise) and/or any design undertaken by the Subcontractor and

(b) Any negligence or breach of duty on the part of the Subcontractor, his subcontractors, his or their servants or agents and

(c) Any breach or non-performance or non-observance by the Subcontractor, his subcontractors, his or their servants or agents of the provisions of the Main Contract insofar as they relate or apply to the Subcontract Works and are not inconsistent with the provisions of the Subcontract and

(d) Any act, omission, default or neglect of the Subcontractor, his Subcontractors, his or their servants or agents which involved the Contractor in any liability under the Main Contract.

(ii) The Subcontractor shall insure for the sum(s) as specified in the sub-contract details section on the front hereof in respect of any claims, causes of action, costs, losses and expenses in respect of any of the matters referred to in Sub-clause 9 (i) above and shall on demand produce to the Contractor adequate evidence of such insurance.

In the event of any failure of the Subcontractor to adequately insure as required above the Contractor shall have the right to effect such insurance as the Contractor shall deem necessary and the cost of doing so shall be immediately recoverable from the Subcontractor.

(iii) The insurance in respect of claims for personal injury to or death of any person under a contract of service or apprenticeship with the Subcontractor arising out of and in the course of such person's employment shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and any statutory orders made thereunder and any amendment or re-enactment thereof. The Subcontractor shall on demand produce policies of such insurance and receipts for premiums paid.

(iv) The Subcontract Works, materials, tools, plant, scaffolding, machinery and buildings of the Subcontractor, the subject of or used in connection with the Subcontract whether on site or not, shall in every respect be at the Subcontractor's risk.

## 10 FORCE MAJEURE

The Contractor reserves the right to defer completion date or payment or to terminate the subcontract if it is prevented from or delayed in carrying out the main contract works due to circumstances beyond the reasonable control of the Contractor including, without limitation, acts of God, government actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

## 11. TERMINATION OF SUBCONTRACT

(i) The Contractor may without prejudice to any other of its rights or remedies terminate the Subcontract in respect of the whole or any portion of the Subcontract Works if the Subcontractor:

(a) Fails within seven days from the giving of notice in accordance with Clause 29 from the Contractor to proceed diligently with the Subcontract Works to the reasonable satisfaction of the Contractor and at all times in such a manner as will not, in the opinion of the Contractor prejudice the completion of the whole or any portion of the Main Contract Works.

(b) Fails within seven days from the giving of notice in accordance with Clause 29 from the Contractor to commence remedial work to any defective workmanship and/or materials or fails to proceed with the same with due diligence or to complete such remedial work to the satisfaction of the Contractor, and the Contract Administrator within such period as the Contractor may specify in the said notice or if none is so specified within a reasonable time.

(c) Fails within seven days from the giving of notice in accordance with Clause 29 from the Contractor to comply with any of the obligations on the part of the Subcontractor herein contained.

(d) Fails within three days from the giving of notice in accordance with Clause 29 from the Contractor to withdraw any one or more of his employees to whom the Contractor objects or whose presence on the Subcontract Works may contravene the conditions of this Subcontract or the Main Contract, or may cause labour disputes in the Subcontractor's or any other trade, and to replace such employees immediately by others against whom there is no such objection.

(e) In the event of the Subcontractor repeating at any time any of the defaults noted in Sub-clauses 11 (i) (a)-(d) above (whether previously repeated or not).

(f) Becomes bankrupt or makes any composition or arrangement with his creditors or has a winding-up order passed or made whether voluntary or compulsory (save for the purpose of amalgamation or restructuring) or has a liquidator, provisional or interim liquidator, receiver, administrative receiver or administrator of his business appointed.

(g) Fails to complete and deliver up the whole or any portion of the Subcontract Works by the Completion date or dates specified or by such amended completion date or dates as may be authorised by the Contractor.

(h) Unable to complete the main contract works pursuant to Clause 10 due to circumstances beyond the reasonable control of the Contractor or Subcontractor.

(ii) Upon termination the Subcontractor shall not be entitled to compensation thereof and shall not remove any of his equipment materials or property on the site and, notwithstanding anything contained in these conditions, shall be entitled to no further payment (and no further sum shall become due or payable) until completion of the Subcontract Works by the Contractor or by others, whereupon the Subcontractor shall become entitled to payment for Subcontract Works executed by the Subcontractor subject always to the right of the Contractor to set off all losses, expenses and damages suffered or which may be suffered by the Contractor by reason of such termination and subject further to any other right to set off which the Contractor may have. For the purposes of such completion the Contractor shall have the free use of the Subcontractor's equipment, materials and property on the site without responsibility to the Subcontractor for fair wear and tear thereof and any materials or fabricated work lying at the Subcontractor's Works or workshops which have been bought or fabricated for the purpose of this Subcontract.

(iii) In the event that the Main Contract between the Contractor and the Employer is terminated or the employment of the Contractor is determined for whatsoever reason then the employment of the Subcontractor shall be treated as determined from the same date that the Main Contract or the employment of the Contractor was terminated or determined without any requirement for notice to be given in accordance with Clause 29 and the entitlement of the Subcontractor will be that which is specified in Clause 11 (ii) hereof.

## 12. PAYMENT

(i) The amount of any payment by way of instalments (hereinafter referred to as "interim payments") provided for in Clause 12 (ii) below shall be the difference between:

(a) an amount equal to the value of work performed during the period from the commencement of the Subcontract Works to the date specified in the application for payment referred to in Clause 12 (ii) below which date shall not be later than the date when the relevant application is made including the value of any materials provided by the Subcontractor in the aforementioned period which have been manufactured on site or brought on to site for the purposes of the Subcontract Works (not unreasonably early) and any other amount or sum which is payable during or in respect of the aforementioned period

LESS

(b) the aggregate of any sums which have been paid or are due for payment by way of instalments during the period from the commencement of the Subcontract Works to the end of the aforementioned period subject to any discounts and retention as specified in the sub-contract details section on the front hereof and in accordance with Clause 13 below.

Provided always that an amount calculated in accordance with Clause 12 (i) shall not exceed the difference between the Subcontract price and the aggregate of the instalments which have become due.

(ii) The Subcontractor shall render applications for payment to the Contractor on such dates as are required for inclusion in the Main Contract valuations or as otherwise agreed by the Contractor. Applications, together with such supporting documentation and information as the Contractor shall reasonably require, shall be submitted, quoting the Subcontract title and Subcontract order number.

(iii) Subject to the Contractor receiving from the Subcontractor applications for payment in accordance with Clause 12 (ii) then payments will be due to the Subcontractor 30 days after the value of the Subcontract Works as provided in Clause 12 (i) above is included in a valuation under the Main Contract to the Contractor or the making of a claim by the Subcontractor, whichever occurs later. Subject to Clause 12 (v) below, the final date for the making of any payments to the Subcontractor shall be 15 days from the date that payment becomes due, provided always that the entitlement of the Subcontractor to payment shall be subject to

performance of the obligations of the Subcontractor in terms of the Subcontract to the satisfaction of the Contractor acting reasonably and provided always that the Contractor shall be under no obligation whatsoever to make any payment to the Subcontractor in respect of the whole or any part of the Subcontract Works where such payment has not been received by the Contractor due to the insolvency of the Employer or any third person or any other person from whom such payment is to be made either directly or indirectly to the Contractor in terms of the Main Contract. For the avoidance of doubt, the term "insolvency" shall have the meaning ascribed to it by Section 113 of the Housing Grants, Construction and Regeneration Act 1996 (as amended or re-enacted). In the event of such insolvency, any payment made subsequently to the Subcontractor by the Contractor will be at the absolute discretion of the Contractor.

(iv) All interim payments shall be on account only and these shall not be held to signify approval by the Contractor and/or the Contract Administrator of the whole or any part of the Subcontract Works executed nor shall any final payment prejudice any claim the Contractor may have in respect of any defects in the Subcontract Works whenever such defects may appear.

(v) Further, and in addition to the provisions of Clause 4 hereof and the Contractor's common law rights of compensation, retention and/or set off, if the Subcontractor shall cause the Contractor loss by reasons of any breach of this or any other contract between the parties or by any act or by any breach of statutory duty giving rise to a claim for damages or indemnity or contribution by the Contractor against the Subcontractor or the Contractor shall become entitled to payment from the Subcontractor under this or any other contract between the parties then without prejudice to and pending the final ascertainment or agreement between the parties as to the amount of such loss, indemnity, contribution or payment the Subcontractor shall forthwith pay or allow to the Contractor such sum as the Contractor shall bona fide estimate as the amount of such loss, indemnity, contribution or payment such estimate to be binding and conclusive upon the Subcontractor until such final ascertainment or agreement. Not later than 5 days after the date on which any payment becomes due to the Subcontractor or would have become due if:

(a) the Subcontractor had carried out his obligations under the Subcontract and

(b) no set off or abatement was permitted by reference to any sums claimed to be due under one or more other contracts, the Contractor shall give notice to the Subcontractor specifying the amount (if any) of payment he has made or proposes to make, specifying to what the payment relates and the basis on which the amount is calculated. Any notice of intention to withhold payment shall be given by the Contractor to the Subcontractor not later than 7 days before the final date for payment in accordance with clause 12 (iii) above. Such notice shall specify the amount or amounts proposed to be withheld and the ground for withholding payment or if there is more than one ground, each ground and the amount attributable to it.

(vi) if the Contractor shall, subject to any notice issued pursuant to Clause 12 (v) above, fail to discharge its obligation to make payment to the Subcontractor as hereinbefore provided then, provided the Subcontractor shall have given 7 days notice in writing to the Contractor of its intention to suspend the performance of its obligations under the Subcontract and the ground or grounds on which it is intended to suspend performance the Subcontractor may without prejudice to any other right or remedy, suspend the performance of its obligations under the Subcontract until such discharge or until such direct payment is made whichever first occurs. Such period of suspension shall not be deemed a delay for which the Subcontractor is liable under the Subcontract.

### 13. RETENTION

Interim payments will be subject to the deduction of retention and any discounts as specified in the sub-contract details on the front hereof. One half of the retention will be released on Completion (or equivalent) of the Main Contract Works. The remainder of the retention will be released on expiry of the Defects Correction Period (or equivalent) of the Main Contract Works and after the making good of all defects to the Main Contract Works has been achieved (hereinafter referred to as "Completion"). The final payment under the Subcontract will be due 30 days after Completion or the making of a claim thereof, whichever occurs later. Subject to Clause 12 (v), the final date for the making of said payment (if any) to the Subcontractor shall be 15 days from the date that payment (if any) becomes due.

### 14. OVERTIME

(i) No payment for overtime or acceleration costs will be made unless the Subcontractor is advised in writing by the Contractor that payment will be made and, and if the Subcontractor is so advised, he will be reimbursed the net additional non-productive rate incurred, including any net additional cost of Employer's Liability and Third Party Insurances.

(ii) The Subcontractor will be required to obtain any necessary overtime authorisation from the contractor.

(iii) The Subcontractor shall require authorisation in writing from the Contractor to work overtime which is outside the normal site hours.

### 15. VARIATIONS, ADDITIONAL WORKS, COMPENSATION EVENTS

#### DAYWORKS, PROVISIONAL AND PRIME COST SUMS

(i) No variation shall vitiate this Subcontract but the Subcontractor shall advise the Contractor in writing of all work involving a variation or extra work within seven days of such variation or extra work becoming apparent at the same time submitting detailed and priced calculations based upon this Subcontract showing such price adjustment, if any, together with details of any effect on the Completion date/s. If the Subcontractor does not indicate any effect on the Completion date/s in writing within 7 days of variation or extra work becoming apparent, it shall be deemed that the proposed variation can be undertaken without any effect on the Completion date/s. Variations or extra work shall not be undertaken by the Subcontractor nor shall he receive payment for such variation or extra works without written authority from the Contractor. Where variations or extra works cannot be valued by reference to this Subcontract then the value of such variations or extra work shall be subject to agreement between the Contractor and the Subcontractor. The valuation (unless otherwise agreed between the Contractor and the Subcontractor) shall be in accordance with the following rules:

(a) The prices in bills of quantities or other documents forming part of the Subcontract shall determine the valuation of work of similar character executed under similar conditions as work priced therein.

(b) The said prices where work is not of a similar character or executed under similar conditions as aforesaid shall be the basis of prices for the same as far as may be reasonable failing which a fair valuation shall be made.

(c) Where the Subcontractor seeks reimbursement on a daywork basis he shall give the Contractor prior written notice to this effect in order that time, materials and other items of expenditure may be verified and the Subcontractor shall submit itemised daywork sheets to the Contractor for authorisation specifying such expenditure not later than the end of the week following that in which the work is executed. Work will only be on a daywork basis if in the opinion of the Contractor it cannot properly be valued as described in Sub-clauses (a) and (b) above.

(d) Where work is valued on a daywork basis it shall be calculated in accordance with the "Definition of Prime Cost of Daywork carried out under a Building Contract" issued by the Royal Institution of Chartered Surveyors and the National Federation of Building Trades Employers and current at the date of tender of the Main Contract together with the percentage addition to each prime cost at the rates set out in the Subcontract Details on the front hereof.

(e) Where work is within the province of any specialist trade the prime cost shall be calculated in accordance with the rules set out by the appropriate body representing the Employers of the specialist trade and current at the date of tender of the Main Contract together with the percentage addition to each prime cost at the rates set out in the Subcontract Details on the front hereof.

(ii) The valuation of items omitted shall be in accordance with the prices referred to in Subclause (i) (a) of this Clause provided that if variations substantially vary the conditions under which any remaining items are carried out the prices for such remaining items shall be valued under Sub-clause (i) (b) or (i) (c) of this Clause whichever is appropriate.

(iii) Instructions will be issued in respect of Provisional and Prime Cost Sums. No loss of profit will be allowed in respect of such instructions and the Subcontract Price will be deemed to include all supervision, plant, insurance and other preliminary and general terms in respect of Work the subject of Provisional and Prime Cost Sums except where the same are included in the unit prices declared by the Subcontractor to have been used in the calculation of the Subcontract Price.

## 16. ENVIRONMENTAL

The Subcontractor shall observe and comply in all respects with the provisions of the Environmental Protection Act 1990 and any legislation repealing, replacing or re-enacting such Act and any regulations made thereunder including but not restricted to Section 34 Duty of Care.

## 17. WASTE MANAGEMENT

(i) The Subcontractor shall at his own expense remove all waste material resulting from the execution of the Subcontract Works to licensed waste broker premises and provide evidence of all duty of care transfer notes to the Contractor or, have the reasonable and free use of on site designated waste disposal facilities provided by the Contractor and specified in the Works Information.

(ii) The Subcontractor upon completion of the Subcontract Works shall properly clear up and leave the Subcontract Works and all areas made available to him for the purpose of executing those works clean, tidy and in a state ready for their intended use all to the satisfaction of the Contractor.

(iii) If the Subcontractor fails to carry out the requirements of Sub-clauses 17 (i) and (ii) above, then the Contractor may without notice undertake the work on behalf of the Subcontractor and charge the cost to the Subcontractor.

## 18. HEALTH AND SAFETY

(i) The Subcontractor shall observe and comply in all respects with the provisions of the Health and Safety at Work etc. Act 1974, and any legislation repealing, replacing, amending or re-enacting such Act and any regulations made thereunder, including but not restricted to the Control of Substances Hazardous to Health Regulations 2015 (C.O.S.H.H.) The Management of Health and Safety at Work Regulation 1999, Construction (Design and Management) Regulations 2015 (CDM Regulations), The Construction (Health, Safety and Welfare) Regulations 2015 (CHSW Regulations) and shall further comply with the Contractor's rules, regulations and requirements on matters affecting the safe conduct of work on the Site.

(ii) The Subcontractor shall provide the Contractor with a copy of all safety procedures, instructions, rules and regulations issued by the Subcontractor to his employees, servants and agents.

(iii) (a) The Subcontractor shall provide on site for the duration of the Subcontract Works a representative who shall be adequately trained and qualified in implementing the CDM Regulations and supervising safe working practices as they relate to the Subcontract Works.

(b) Prior to commencement of the Subcontract Works on site the Subcontractor shall provide to the Contractor in writing the name, training details, qualifications and experience of their representative. The Subcontractor will not change his representative without the written approval of the Contractor.

(c) The Subcontractor shall prior to the commencement of the Subcontract Works, submit to the Contractor for approval a risk assessment/s and method statement/s which indicate how the Subcontract Works are to be carried out in a safe

manner. Approval by the Contractor of the Subcontractor's method statement and risk assessment shall not in any way relieve the Subcontractor of any of his statutory obligations or obligations at common law or under the Subcontract.

## 19. FLUCTUATIONS

Terms and conditions relating to fluctuations to be applied to the Subcontract Price shall be those conditions as set out in the Subcontract and where applicable, details shall be as specified in the Subcontract Details section on the front hereof.

## 20. ASSIGNATION AND SUB-LETTING

The Subcontractor shall not assign the benefit or obligations of this Subcontract nor sublet the whole or any part of the Subcontract Works without the prior written permission of the Contractor.

## 21. DESIGN

(i) The Contractor shall not be liable to the Subcontractor in respect of or in relation to any disruption or delay caused to the Subcontractor arising from or in connection with the late receipt or non-receipt by the Subcontractor of any instructions, drawings, levels, or other information unless the Subcontractor has made written application to the Contractor for such instructions, drawings, levels or other information at a date which is not unreasonably distant from nor unreasonably close to the date on which it is necessary for the Subcontractor to receive the same.

(ii) Any instructions, drawings, levels or other information relating to the Subcontract Works which are requested from the Subcontractor must be provided in due time and so as not to cause any disruption or delay to the Main Contract Works. The Subcontractor must ensure that the Subcontract Works are undertaken so as to cause the minimum disturbance, delay or disruption to the Contractor or any subcontractor of the Contractor or others.

(iii) Where the Subcontract Works includes for the design of part or the whole of the Subcontract Works, then the Subcontractor shall relieve the Contractor of all responsibilities for such design and shall indemnify the Contractor against all claims whatsoever which may arise as a result of a design fault or failure to the Subcontract Works.

(iv) The Subcontractor where necessary in the opinion of the Contractor shall prepare drawings for the Subcontract Works. These drawings shall be submitted to the Contractor for approval and shall take account of any work being undertaken by the Contractor or other subcontractors so that proper co-ordination between the Subcontract Works and other works is achieved.

## 22. PROGRAMME

(i) The Subcontractor shall co-ordinate his own work with that of the Contractor and other subcontractors, engaged on the works, so that the Subcontract Works are executed with due regard to other works taking place and in a manner that ensures satisfactory construction, performance and progress of Subcontract Works.

(ii) When requested the Subcontractor shall prepare and submit to the Contractor a detailed programme of the Subcontract Works for acceptance at intervals as specified within the works information. Within two weeks the Contractor shall notify the Subcontractor in writing of acceptance or non-acceptance of the programme detailing the reasons for non-acceptance.

(iii) In the event of any non-acceptance of the Subcontractor programme submission the prevailing programme shall be considered as the accepted programme under the subcontract order.

(iv) The accepted Subcontract programme shall be used to monitor progress of the Subcontract Works.

(v) Where there are no start and completion dates or alternative agreement noted in the Subcontract Details on the front hereof then the start and completion dates noted on the agreed Subcontract programme shall be regarded as the start and completion dates of the Subcontract Works.

(vi) No extensions of time or additional payment will be granted for delays caused to the Subcontract Works due to the Subcontractor's failure to co-ordinate his own work with that of the Contractor or other Subcontractors.

(vii) Any delay and/or disruption caused by the Subcontractor's failure to co-ordinate his Subcontract Works properly may result in additional costs being charged to the Subcontractor.

## 23. INTELLECTUAL PROPERTY

(ii) The Subcontractor hereby grants a full, free and irrevocable licence to the Contractor to use or reproduce all designs, information, drawings, plans, models, notes, specifications, calculations, documents and other written or recorded material connected with the Subcontract Works. The Subcontractor shall ensure that copyright in any article, process or invention used by the Subcontractor in the course of the Subcontract Works is the property of the Subcontractor. The Subcontractor shall indemnify the Contractor from all claims and expenses however incurred by reason of the Subcontractor infringing or being held to have infringed any copyright.

## 24. AS BUILT DRAWINGS AND OTHER DOCUMENTS

Where it is a requirement of the Subcontract then the Subcontractor shall be responsible for providing 'as-built' drawings, test records, specifications and such other documents as specified within the Works Information for the Subcontract Works as required by the Subcontract or Main Contract.

## 25. SITE USAGE

The Site shall not be used by the Subcontractor for any purpose other than for the carrying out of the Subcontract Works nor shall excavations be made on the Site for sand, gravel, or ballast without the agreement in writing of the Contractor. Subcontract Works to be executed outside the Site boundary shall be carried out to suit the convenience of adjacent occupiers and/or Local Authorities at times to be agreed by the Contractor in writing.

## 26. TITLE

Where it is provided by the Main Contract that property in any plant, materials or goods shall vest in the Employer then insofar as such plant, materials or goods are to be provided by the Subcontractor in connection with the Subcontract Works, the Subcontractor shall procure that the property therein shall pass from the Subcontractor to the Contractor immediately before it is due to vest in the Employer in pursuance of the Main Contract, but (subject always to Clause 9 hereof) the Subcontractor shall remain liable for any damage to or loss of such plant, materials or goods until the risk in the same passes to the Employer.

## 27. VALUE ADDED TAX (V.A.T.)

The Subcontract Price shall be regarded as exclusive of V.A.T. and V.A.T. will be charged in pursuance of Part One of the Finance Act 2017 or any statutory replacement, amendment or modification thereof for the time being in force.

(i) In respect of each invoice issued by the Subcontractor will utilise the "valuation" date on the invoice as the Subcontractor tax point for output tax purposes.

(ii) In the event that the Subcontractor ceases to be registered for V.A.T. or has a change of registration number he shall immediately notify the Contractor in writing to that effect.

## 28. ADJUDICATION AND ARBITRATION

(i) In the event of any dispute arising or difference between the Contractor and the Subcontractor under or in connection with the Subcontract either party may give notice at any time of its intention to refer said dispute or difference to adjudication. The appointment of an Adjudicator shall be agreed between the parties within 7 days of the date of the notice of intention to refer or failing such agreement be appointed by the President for the time being of the Chartered Institute of Arbitrators on the application of either the Contractor or the Subcontractor within 7 days of the date of the notice of intention to refer. Upon agreement by the parties on the appointment of the Adjudicator or upon receipt by the parties from the Chartered Institute of Arbitrators of the name of the nominated Adjudicator the parties shall thereupon execute with the Adjudicator the JCT Adjudication Agreement current as at the date of the notice of intention to refer.

The Adjudicator will settle the dispute or difference by notifying the Contractor and the Subcontractor of his decision together with his reasons within 28 days of referral to him. Provided that the party who has made the referral may consent to allowing the Adjudicator to extend the period of 28 days by up to 14 days; and that by agreement between the parties after the referral has been made a longer period than 28 days may be notified jointly by the parties to the Adjudicator within which to reach his decision. In reaching his decision the Adjudicator shall act impartially, set his own procedure and at his absolute discretion may take the initiative in ascertaining the facts and the law as he considers necessary in respect of the referral. Unless and until the Adjudicator's decision is issued, the Contractor and the Subcontractor shall proceed as if the subject matter of the dispute or difference was not in issue and the decision of the Adjudicator is final and binding unless and until revised by the Arbitrator in terms of Clause 28 (ii) below.

In settling the dispute or difference the decision of the Adjudicator is enforceable as a matter of contractual obligation between the Contractor and the Subcontractor and is not an arbitral award. The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is in bad faith and this protection from liability shall similarly extend to any employee or agent of the Adjudicator. If either the Contractor or the Subcontractor is dissatisfied with the decision of, or any failure to make the decision by, the Adjudicator, he must notify the other party of his intention to refer the matter to arbitration within 4 weeks of the decision of, or failure to decide by, the Adjudicator provided always that the arbitral proceedings shall not commence before the Completion date (or equivalent) of the Main Contract Works or earlier termination.

(ii) Should any question or dispute arise on any matter, out of or in connection with this Subcontract, including for the avoidance of doubt any matter arising out of dissatisfaction of either of the parties with the decision of, or failure to provide a decision by, the Adjudicator in terms of Clause 28 (i) above, the same shall (except where the Main Contract provides for such to be subject to the final decision of the Contract Administrator) be referred for arbitration to some person agreed upon, or failing agreement, to a person appointed by the President for the time being of the Chartered Institute of Arbitrators or as otherwise provided in the Main Contract within 14 days after either party has given to the other written notice to concur in the appointment of such a person. No arbitration proceedings are to be commenced unless the Contractor decides otherwise in writing until after the date of certification of the Completion date (or equivalent) of the Main Contract Works.

(iii) The party serving the notice to adjudicate shall bear all of the costs and expenses incurred by both parties in relation to the adjudication, including but not limited to all legal and experts fees. The party serving the notice shall be liable for the Adjudicator's fees and expenses.



## 29. SERVICE OF ANY NOTICE

Any notice to be served pursuant to this Subcontract shall be in writing and shall be deemed to be sufficiently served:

(i) if it is sent by first class recorded delivery post or by facsimile transmission addressed to the other party at its office which administers this Subcontract. Such notice shall be deemed to be duly served in the case of postal delivery at the expiry of 48 hours after the time of posting and in the case of facsimile transmission at the time when confirmation of such transmission is received; and

(ii) in the event that a recorded delivery letter is returned by the Post Office undelivered, if it is left at the last known place of abode or business of the addressee.

## 30. GOVERNING LAW

This Subcontract is subject to English Law and the jurisdiction of the English Courts.