

# General Conditions of Engagement

## 1 General Conditions

1.1 This Contract is made between us and you for the provision of the Works, details of which appear in the Schedule. These general conditions of engagement ("**General Conditions**") shall apply to this Contract to the exclusion of any other terms and conditions contained or referred to in any acknowledgement of order, form of contract, letter or other communication sent by you to us. The General Conditions are modified by any Special Conditions, contained in the Schedule.

1.2 Any concession made or latitude allowed by us to you shall not affect our strict rights under this Contract. If any of these General Conditions is held to be invalid or held not to apply to this Contract, other conditions shall continue in full force and effect. No variation to this Contract or these General Conditions shall be binding unless expressly agreed in writing by us and signed on our behalf.

## 2 Your Obligations

2.1 You shall carry out the Works:

- (a) to comply with the Specification and all specifications and drawings provided to you for the execution and completion of the Works; and
- (b) to comply with the requirements of the National House Building Council and the Statutory Requirements; and
- (c) to comply with any additional requirements specifically communicated by us to you either specifically in relation to the Works or generally in relation to work of the same or a similar kind undertaken by us; and
- (d) in a good and workmanlike manner and to our reasonable satisfaction; and
- (e) to comply with the Health and Safety Documents (and we reserve the right to deny access to you or to any Subcontractor's Persons to the whole or part of the site or the Works upon failure to comply with the Health and Safety Documents).

2.2 You shall:

(a) make good or rectify at your own expense any defects in the Works for which you or any Subcontractor's Persons are responsible that you identify or that are notified to you verbally or in writing (a "**Defects Notice**"), provided that:

(i) if you fail to do so within a reasonable time of discovery or of a Defects Notice, we have the right to instruct others to rectify such defects and you shall indemnify us for our additional costs of rectifying the Works (or any part) by engaging additional labour, plant and materials and we may recover the additional costs from you;

(ii) when you consider that any such making good has been achieved, you shall notify us and, as soon as we are reasonably satisfied that it has been achieved, we shall notify you;

(iii) making good shall be deemed to have taken place on the date notified by us or on such other date as is either agreed or determined in accordance with the dispute resolution procedures of this Contract; and

(iv) where an appropriate deduction is made under the Main Contract, then, to the extent that such deduction is properly attributable to inaccurate setting out by you or to defects or other faults in the Works, the deduction, or the appropriate proportion of it, shall be borne by you and shall either be recoverable by us from you as a contra-charge or debt or be taken into account in the calculation of the sum due to you following a final application for payment; and

(b) clear away all rubbish resulting from the execution of the Works to a place designated by us. If you do not do so within a reasonable time we have the right to instruct others to clear away such rubbish and to recover the cost from you; and

(c) perform and assume our obligations, liabilities and risks contained within the Main Contract that relate to the carrying out of the Works as if they were expressly referred to in this Contract as your obligations, liabilities and risks. You are deemed to have read and be fully aware of any obligations, liabilities and risks contained in the Main Contract that relate to the carrying out of the Works; and

(d) ensure that no act, default or omission on your part or on the part of any Subcontractor's Persons shall cause, contribute or give rise to any breach by us of any of our obligations under the Main Contract. Because we rely on you as an expert in the Works, you are obliged to inform us if you either become aware or ought to have become aware of any circumstances related to the Works or to our own works that could give rise to such a breach; and

(e) indemnify us against all losses, claims, demands, costs, penalties and expense incurred or suffered by us to the extent that they are attributable to your performance or failure to perform your obligations under this Contract.

2.3 All materials and goods supplied by you:

(a) shall be of satisfactory quality and fit for their purposes at the time of fixing or installation; and

(b) shall be stored and protected in such a manner that does not affect their performance and ensures that they are in suitable condition when installed or fixed; and

(c) shall be in accordance with the Specification; and

(d) shall not be materials or substances which are known in the construction industry at the time of use or incorporation into the Works to be capable of causing a or constituting a physical defect or hazard to health and safety, or which fails to conform to applicable British Standards or Codes of Practice (or their European equivalent), or which is otherwise known to be deleterious in the context in which it is used.

2.4 The property in the materials and goods you supply shall vest to us immediately upon them being incorporated into the Works or upon payment for them, whichever is earlier. The risk of loss or damage to the materials and goods you supply shall remain with you until they are incorporated into the Works.

2.5 You shall provide at your own expense all such tools of trade, plant and equipment as may be necessary or expedient for the safe and effective performance of the Works.

2.6 You shall ensure that any plant used by you (and whether owned or hired by you or us) shall:

(a) be maintained properly in accordance with the manufacturer's recommendations and our reasonable maintenance requirements; and

(b) comply with all Statutory Requirements; and

(c) be your sole responsibility and be used or stored at your sole risk; and

(d) be operated by personnel who are properly trained to use such plant.

2.7 We shall be entitled to deduct or recover from you the cost of any repair or replacement of any plant which has arisen from your failure to comply with clause 2.6.

2.8 We shall not be under any obligation to provide you or any Subcontractor's Persons with any safety and protective clothing. You shall ensure that you and the Subcontractor's Persons comply with the Health and Safety Requirements including the provision of safety and protective clothing (with replacements and spares available) appropriate to the task and requirements under the Main Contract. Any Subcontractor's Persons that persistently fail to comply with this requirement may be removed from site. Without prejudice to this clause, we may at our discretion (but shall not be obliged to) supply you with safety and protective clothing and recover the cost from you.

2.9 You shall comply with all Health and Safety Requirements that apply by Statutory Requirements or of which you are otherwise notified, including but not limited to:

(a) compliance with Health and Safety at Work Act 1974, to include having a written policy and arrangements if you have 5 or more employees;

(b) compliance with the Construction Design and Management Regulations 2015 and any approved Code of Practice made under or in connection with them;

(c) provision of task or site-specific risk assessments and method statements and any Control of Substances Hazardous to Health (COSHH) assessments for hazardous substances to be used prior to commencement of Works;

(d) specific training relevant to the Works and any plant or equipment to be used;

(e) all Subcontractor's Persons to carry job specific Construction Skills Certification Scheme (CSCS) cards;

(f) supervisors to have relevant training, and a supervisor to be available on site at all times;

(g) notification to us of anyone under 18 working on site;

(h) attendance by all Subcontractor's Person at an induction with our employer under the Main Contract on site;

(i) ensuring all Subcontractor's Persons sign a register at beginning of every shift on site;

(j) compliance with any Statutory Requirements relevant to a task;

(k) compliance with any mandatory requirements from the client at the site;

(l) report immediately to us, any accident or incident, or other matter relating to health and safety, defects, damage or near misses; and

(m) keeping a weekly record in writing of checks of plant and equipment, lifting equipment and accessories and any vibration usage times for powered equipment.

## 3 Timetable

3.1 You shall:

(a) begin the Works on the date specified by us ("**Commencement Date**"); and

(b) achieve Completion of the Works (or any part) by the date notified to you or stated in our programme issued to you ("**Completion Date**").  
all of which being the "**Timetable**".

3.2 Completion of the Works (or any part) by the Completion Date is of the essence of this Contract. Your failure to complete the Works (or any part) by the Completion Date shall be deemed to be a Material Breach.

3.3 If you fail to or are unlikely to complete the Works (or any part) in accordance with the Timetable, then you shall indemnify us for:

(a) our additional cost to complete the Works (or any part) by engaging additional labour, plant and materials; and

(b) any costs we incur as a result of the disruption and any other consequences of your failure or delay.

and we may recover the additional costs from you.

3.4 Following the making good of all defects identified by you or notified to you before or during the Defects Period, we shall confirm in writing that such defects have been made good ("**Notice of Making Good**").

## 4 Payment

4.1 The Schedule states whether payments will be made on a 30 days from end of month, monthly or fortnightly basis.

4.2 You shall include in every Interim Application for Payment such supporting documentation as we may reasonably require.

4.3 Where an Interim Application for Payment is received:

- (a) After the relevant Application Date, or
- (b) does not include such supporting documentation as we may reasonably require,

you shall not be entitled to have such Interim Application for Payment considered until the following Payment Period (whether 30 days from end of month, monthly or fortnightly as applicable according to the Schedule) when the Interim Application for Payment made (if any) shall be consolidated and submitted with the next Interim Application for Payment.

### 30 days from end of month accounts

4.4 This clause applies where the Schedule states that 30 days from end of month accounts will apply.

(a) The following terms have the following meanings:

**"30 day Interim Application for Payment"** means an interim application for payment where the Schedule states that 30 days from end of month accounts will apply.

**"30 day Application Date"** means the first Working Day of a calendar month that immediately follows the end of the relevant Payment Period.

(b) Subject to clauses 4.2 and 4.3:

(i) for the Works carried out during the relevant Payment Period, you shall submit a 30 day Interim Application for Payment on the 30 day Application Date;

(ii) where a 30 day Interim Application for Payment is received before the relevant 30 day Application Date, it will be deemed to have been received on the 30 day Application Date;

(iii) the due date for a 30 days from end of month interim payment shall be the 28th day of the calendar month in which the 30 day Application Date falls; and

(iv) the final date for a 30 days from end of month interim payment shall be the first Friday of the month following the month in which the 30 day Application Date fell (or if the first Friday is not a Working Day, the next Working Day).

### Monthly accounts

4.5 This clause applies where the Schedule states that Monthly accounts will apply.

(a) The following terms have the following meanings:

**"Monthly Interim Application for Payment"** means an interim application for payment where the Schedule states that Monthly accounts will apply.

**"Monthly Application Date"** means the Submission Deadline specified in the Monthly Payment Timetable for the relevant Payment Period.

(b) Subject to clauses 4.2 and 4.3:

(i) for the Works carried out during the relevant Payment Period, you shall submit a Monthly Interim Application for Payment on the Monthly Application Date;

(ii) where a Monthly Interim Application for Payment is received before the relevant Monthly Application Date, it will be deemed to have been received on the Monthly Application Date;

(iii) the due date for a Monthly interim payment shall be the Payment Processed date specified in the Monthly Payment Timetable for the relevant Payment Period.

(iv) the final date for payment for a Monthly interim payment shall be the S/C Bank date specified in the Monthly Payment Timetable for the relevant Payment Period.

### Fortnightly accounts

4.6 This clause applies where the Schedule states that Fortnightly accounts will apply.

(a) The following terms have the following meanings:

**"Fortnightly Interim Application for Payment"** means an interim application for payment where the Schedule states that Fortnightly accounts will apply.

**"Fortnightly Application Date"** means the first Working Day of the calendar week that immediately follows the end of the relevant Payment Period.

(b) Subject to clauses 4.2 and 4.3:

(i) for the Works carried out during the relevant Payment Period, you shall submit a Fortnightly Interim Application for Payment on the Fortnightly Application Date;

(ii) where a Fortnightly Interim Application for Payment is received before the relevant Fortnightly Application Date, it will be deemed to have been received on the Fortnightly Application Date;

(iii) the due date for a Fortnightly interim payment shall be the date that is 3 working days after we receive (or are deemed to receive, if later) the relevant Fortnightly Interim Application for Payment; and

(iv) the final date for payment for a fortnightly interim payment shall be the date that is 7 Working Days after the due date.

4.7 Not later than 5 days (excluding any Public Holidays) after each due date, we shall issue to you a payment notice stating the sum that we consider to be or have been due at the due date in respect of the relevant interim payment ("Payment Notice").

The Payment Notice shall include the basis on which the sum therein has been calculated and we shall issue a Payment Notice even if the sum considered due is zero.

4.8 If we do not issue a Payment Notice in accordance with clause 4.7, then where you have made an Interim Application for Payment in accordance with clause 4, that Interim Application for Payment is for the purposes of this Contract a **"Subcontractor Payment Notice"** and you may not give a further such notice.

4.9 Subject to clause 4.13 and unless we have given a Pay Less Notice under clause 4.12, the amount to be paid by way of interim payment on or before the final date for payment ("**the Notified Sum**") shall be:

- (a) the sum stated as due in the Payment Notice; or
- (b) if a Payment Notice has not been issued in accordance with clause 4.7, but a Subcontractor Payment Notice has been given in accordance with clause 4.8, the sum stated as due in the Subcontractor Payment Notice.

4.10 Subject to giving a Pay Less Notice in accordance with clause 4.12, we may withhold or reduce any sum payable to you under this Contract by reason of claims or alleged claims against you or any Subcontractor's Persons.

4.11 Subject to giving a Pay Less Notice in accordance with clause 4.12, we may set off against payments due to you any costs, and/or damages incurred by us due to your negligence, default and/or failure to meet the requirements of the Specification, drawings or programme and we may deduct any other amounts owed to us by you whether under this Contract or otherwise.

4.12 If we intend to pay less than the Notified Sum, we shall not later than 1 day before the final date for payment ("**the Prescribed Period**") give you a notice ("**a Pay Less Notice**") that shall specify both the sum that we consider to be due to you in respect of the Notified Sum and the basis on which it is calculated.

4.13 Notwithstanding clauses 4.9 and 4.12, if you become Insolvent after the Prescribed Period, we shall not be required to pay you the Notified Sum on or before the final date for payment.

4.14 Within 2 months of the Notice of Making Good you shall supply all necessary documents to show the total amount to be paid to you by us (or visa versa as the case may be) under this Contract including any supporting documentation we reasonably require and this shall be treated as a final application for payment (to include any request for release of Retention) to which the provisions of this clause 4 shall apply in the same way as they do for the relevant Interim Application for Payment, with the Application Date for a final application for payment being the date 2 months after the Notice of Making Good.

4.15 Payment by the Main Contractor to us shall not be a precondition of payment by us to you save that, notwithstanding any other provision in this Contract and to the extent permitted by Section 113 of the Housing Grants, Construction and Regeneration Act 1996 ("1996 Act"), in the case of the Main Contractor becoming Insolvent, a payment ("the said payment") otherwise payable to you by us pursuant to this Contract shall not be payable unless and to the extent that we have first received from the Main Contractor payment ("Relevant Payment") in respect of the Works to which the said payment relates.

4.16 Further, to the extent permitted by the 1996 Act, if the Main Contractor is not Insolvent but fails to make a Relevant Payment to us in reliance upon any term of a contract which makes such payment conditional upon payment to the Main Contractor by a third party and that third party is Insolvent, then receipt from the Main Contractor by us of the Relevant Payment shall be a pre-condition of the said payment by us to you.

## 5 Amount

5.1 The amount payable to you for the Works shall be as stated in the Schedule or Subcontractor Order as the **"Order Value"** together with any other amounts payable in accordance with this Contract. If the Order Value is established by a schedule of rates then the Order Value shall be established by the re-measurement of the Works.

5.2 The amount of an interim payment shall be an amount equal to the value of any work performed and any other amounts payable in accordance with this Contract from the Commencement Date to the end of the relevant Payment Period, less:

- (a) the amounts payable or owed by you to us in accordance with this Contract; and
- (b) the amounts stated in the Schedule as Retention;
- (c) the previous amounts which have become due or which have been paid; and
- (d) CITB levy, if applicable.
- (e) any applicable taxes

5.3 Where the local authority or any other statutory authority reasonably requires testing of any part of the Works that you have offered to complete, you will bear the costs of such testing and, if we have to pay any such costs associated with such testing, you shall reimburse us.

5.4 If you cause any damage to our works, we shall be entitled to require you to pay for the costs of rectification by way of contra-charge.

5.5 For the avoidance of doubt, you are not entitled to be paid your costs of preparing any tender or specification.

## 6 Additional Work

6.1 We may instruct a change to the Works (a **"Variation"**).

6.2 No change to the Works will be deemed to be a Variation where the necessity for the change to the Works is due in whole or in part to your failure to comply with this Contract.

6.3 No Variation will be deemed to have been instructed until confirmed in writing by us. Unless the valuation of a Variation is agreed between you and us within 7 days from the date of the instruction and confirmed in writing it shall be valued by us on a fair and reasonable basis.

## 7 Indemnity and Insurance

7.1 You are responsible for and shall indemnify us and keep us indemnified from and against all actions, claims, proceedings, losses, liabilities, damages, penalties, fines, judgments, costs, charges or expenses of whatever kind and nature including those relating to:

- (a) the death of or injury to any person; and
  - (b) the loss or destruction of or damage to any property; and
  - (c) any other loss, costs or damages whatsoever incurred (including but without limitation direct financial loss and any claims from third parties arising in connection with your performance or non-performance of this Contract).
- (together known as "Costs") whether such Costs arise as a result of any negligence, breach of this Contract or breach of statutory duty by you, any Subcontractor's Persons save to the extent that such Costs are caused by our negligent act or omission or breach of this Contract by our employees or agents.

7.2 Without prejudice to clause 7.1 you shall:

- (a) maintain in full force and effect public liability insurance, in respect of your liability for death or injury to any person, or loss or damage to any property, arising out of the performance of your obligations under this Contract in an amount not less than stated in the Schedule for any one occurrence or series of occurrences consequent upon one event or original cause; and
- (b) maintain in full force and effect insurance which complies with the Employers' Liability (Compulsory Insurance) Act 1969 of not less than £10,000,000 (ten million pounds) for any one occurrence or series of occurrences consequent upon one event or original cause; and
- (c) provide us with satisfactory evidence that the insurances stated above have been effected and inform us when such insurances are renewed. Your failure to provide such evidence shall be deemed to be a Material Breach which shall be grounds for withholding any payment that would otherwise be payable to you.

## 8 Confidentiality, Assignment and Sub-Contracting

8.1 You shall not during the carrying out of the Works or following the termination of this Contract disclose to any third party or make use of any information of any kind whatsoever relating either to the Works or to us or to our business.

8.2 You shall not without our written consent assign the benefit of or arising from this Contract.

8.3 You shall not without our written consent sub-contract the whole or any part of the Works including the design of the Works. Notwithstanding our consent for any sub-contracting of the Works, you shall remain wholly responsible for carrying out and completing the Works.

## 9 Termination and Suspension

9.1 We may terminate this Contract at any time and for any reason by giving you not less than seven (7) days' prior written notice. Unless otherwise notified by us, on the expiry of such notice period this Contract will terminate automatically.

9.2 Without prejudice to any right or remedy we may have against you for breach or non-performance of this Contract, we may at any time by notice in writing to you terminate this Contract as from the date specified in such notice whenever any of the following events occurs:

- (a) you commit a Material Breach (in our reasonable opinion) of any provision of this Contract which is not remediable or, if remediable, is not remedied with a period of 3 days after we have given notice to you requiring such breach to be remedied; or
- (b) you become Insolvent.

9.3 Upon termination of this Contract, the rights and obligations under this Contract shall cease except that termination shall not affect the accrued rights and obligations at the date of termination.

9.4 We may at any time suspend your carrying out of the Works by giving you written notice to that effect. If such suspension continues for longer than 12 months, you may request in writing that you resume the Works. Unless we give you written instructions so to resume the Works within 1 month of receipt of a request to resume, the Contract shall terminate at the expiry of that one-month period.

9.5 If the Contract is terminated under clauses 9.1 or 9.4, you shall prepare a valuation setting out your entitlements under this Contract at the date of termination within 7 days of the date of termination. The valuation will be treated as an application for payment in accordance with the provisions of clause 4.

9.6 If this Contract is terminated under clause 9.2, we shall not be obliged to make further payment to you until the later of the completion of the Works or until we have determined the additional costs that we have incurred in undertaking the Works and any loss, damages, costs, claims and expenses suffered by us and for which you are liable, whether arising as a consequence of termination or otherwise arising out of this Contract when compared with those costs that we would have incurred had this Contract not been terminated. Once we have determined these sums we will issue you a notice setting them out. The amount stated as payable in such notice shall become due on the date of such notice and the final date for payment for such sum shall be the first Friday (or if that is not

a Working Day, the next Working Day) after the last day of the month in which the notice is given.

9.7 Where termination is made under clause 9.1 we shall pay you a Cancellation Payment.

9.8 For the avoidance of doubt, and subject to clause 9.7, we shall not be liable to you for any losses, costs, damages, claims or expenses accrued, suffered or incurred by you arising from or in connection with such termination under clauses 9.1, 9.2 or 9.4 (and shall not be liable to pay compensation for any loss of profit, loss of contract or loss of opportunity).

## 10 Force Majeure

10.1 If either you or us can provide evidence to the reasonable satisfaction of the other that the performance of any of the obligations under this Contract is prevented by reason of any event or combination of events beyond our reasonable control, then you or us shall be entitled to relief from performing each such obligations under this Contract for such period as the event or combination of events continues to prevent performance.

10.2 Neither you nor us shall be entitled to claim relief in respect of any period during which you or us could have complied with any obligation (or any part thereof) by using their best endeavours to avoid, overcome or minimise wholly or partly the effects of the said event or combination of events.

10.3 When you or us are prevented from performing any obligation under this Contract in the circumstances contemplated by clause 10.1, then you or us shall notify the other as soon as either becomes aware of the event. Both you and us shall use all reasonable endeavours to avoid, overcome or minimise wholly or partly the effect of any event referred to in clause 10.1 upon the performance of their obligations under this Contract.

10.4 In the case of any prevention under clause 10.1 the time for performance of such obligations under this Contract shall be extended by a period equivalent to the delay provided that if such delay or failure persists for more than 30 days, then either you or us shall have the right to terminate this Contract and in the event of such termination you shall be paid for all Works properly carried out prior to the date of termination.

## 11 Construction Industry Scheme

The provisions of the Construction Industry Scheme under section 561 of the Income and Corporation Taxes Act 1988 ("CIS") shall apply to this Contract and you and us shall comply with our respective obligations pursuant to the CIS.

## 12 Entire Agreement

This Contract, and the documents referred to in it, constitute the entire agreement and understanding between you and us and supersede any previous agreement between you and us relating to the subject matter of this Contract or the Works.

## 13 Rights of Third Parties

No term of this Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

## 14 Adjudication

Any dispute or difference regarding any matter arising out of or in connection with this Contract may be referred to adjudication at any time under the Scheme for Construction Contracts (England and Wales) Regulations 1998 (No. 649) (as amended by the Scheme for Construction Contracts (England and Wales) Regulations 1998 (Amendment) (England) (Regulations 2011).

## 15 Governing Law

This Contract shall be governed by and construed in accordance with English law and both you and us submit to the exclusive jurisdiction of the English Courts.

## 16 Interpretation and Definitions

16.1 In this Contract unless the context otherwise requires:

- (a) the headings are for convenience only and shall not affect the Contract's interpretation;
- (b) references to a clause, schedule or paragraph are to a clause, a schedule or a paragraph in the Contract;
- (c) the schedules to this Contract shall have the same effect as if contained in the body of this Contract, and any reference to this Contract shall include the schedules provided that, in the event of any inconsistency, provisions set out in the body of this Contract shall take precedence over schedules;
- (d) any reference in this Contract to any statute or Statutory Requirements shall include references to any statutory modification or consolidation of it or any re-enactment that supersedes it, and to any regulation of subordinate legislation made under it (or under such a modification, consolidation or re-enactment); and
- (e) any rights to recover costs shall be on demand and include the right to deduct the cost from any payment due or recover the cost as a debt.

(f) capitalised words shall have the same meaning detailed in the Schedule unless otherwise noted to the contrary;

16.2 In this Contract the following words have the following meanings:

"Application Date" means the 30 day Application Date, the Monthly Application Date or the Fortnightly Application Date as applicable under clause 4, depending on whether the Schedule states that payments will be made on a 30 days from end of month, Monthly or fortnightly basis.

**"Cancellation Payment"** means the amount stated in the Subcontractor Order s being the sum due to you upon termination by us pursuant to clause 9.1 of this Contract or if no amount is stated then the amount shall be [two hundred and fifty pounds] (£250) (inclusive of VAT)

**"Completion"** means the date on which we confirm the Works are practically complete

**"Contract"** means:

- (a) the Subcontractor Order
- (b) the Schedule (including the documents listed or referred to in the Schedule)
- (c) the General Conditions
- (d) the Special Conditions

**"Defects Period"** means the defects period stated in the Subcontractor Order but if there is no period stated there, 12 months after Completion

**"Health and Safety Documents"** means any documents which are issued by us to you in relation to health and/or safety issues which relate or affect the carrying out of the Works, including any particular documents listed in the Schedule

**"Health and Safety Requirements"** means the requirements stated in clause 2.9

**"Insolvent"**

- (1) For the purposes of this definition a company becomes insolvent:
  - (a) when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986,
  - (b) on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part,
  - (c) on the passing of a resolution for voluntary winding-up without a declaration of solvency under section 89 of that Act, or
  - (d) on the making of a winding-up order under Part IV or V of that Act.
- (2) For the purposes of this definition a partnership becomes insolvent:
  - (a) on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act, or
  - (b) when sequestration is awarded on the estate of the partnership under section 22 of the Bankruptcy (Scotland) Act 2016 or the partnership grants a trust deed for its creditors.
- (3) For the purposes of this definition an individual becomes insolvent:
  - (a) on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986, or
  - (b) on the sequestration of his estate under the Bankruptcy (Scotland) Act 2016 or when he grants a trust deed for his creditors.
- (4) A company, partnership or individual shall also be treated as insolvent on the occurrence of any event corresponding to those specified in sub-paragraphs (3), (4) or (5) under the law of Northern Ireland or of a country outside the United Kingdom.

**"Interim Application for Payment"** means the 30 days Application for payment, Monthly Application for Payment or the Fortnightly Application for Payment as applicable under clause 4, depending on whether the Schedule states that payments will be made on a 30 day from end of month, monthly or fortnightly basis.

**"Main Contract"** means the contract between us and our employer for works on the site that is the subject of this Contract of which the Works form part

**"Main Contractor"** means our employer under the Main Contract

**"Material Breach"** means a breach of this Contract that is material as stated in this Contract and including but not limited to:

- (a) your having inadequate resources to carry out the Works in accordance with this Contract;
- (b) the Main Contractor's persistent dissatisfaction with the Works;
- (c) failure to adhere to the Health and Safety Requirements;
- (d) failure to meet the obligations imposed on us under the Main Contract, to the extent that they apply to the Works;
- (e) use of unsuitable plant;
- (f) unresolved poor quality of workmanship by you or the Subcontractor's Persons

**"Notice of Making Good"** has the meaning given to it in clause 3.4

**"Payment Period"** means the payment periods for which the end dates are notified to you or are detailed in the Schedule

**"Public Holiday"** means Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday

**"Retention"** means the amount stated in the Schedule or Subcontractor Order

**"Schedule"** means the Schedule appended to the Subcontractor Order or the General Condition

**"Special Condition"** means any special condition contained in the Schedule

**"Specification"** means the specification on the Works referred to in the Subcontractor Order or the Schedule

**"Statutory Requirements"** means any Act of Parliament; and instrument; any regulation or byelaw of any local authority; any statutory undertaker which has any jurisdiction with regard to the Works

**"Subcontractor Order"** means the Subcontractor Order issued by us and agreed by you for the Works

**"Subcontractor's Persons"** means your sub-subcontractors and their employees, your employees, your agents, and any freelancers or third-party supplier personnel deployed by you or on your behalf for carrying out the Works

**"us/we"** means the Tithegrove company stated on the Subcontractor Order

**"Working Day"** means any day which is not a Saturday, a Sunday or a Public Holiday

**"Works"** the works to be carried out pursuant to this Contract, as stated on the Subcontractor Order or the Schedule

**"you"** means the name stated on the Subcontractor Order