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THESE ARE THE TERMS AND CONDITIONS OF SUB-CONTRACT REFERRED TO IN THE PRECEDING SUB-CONTRACT ORDER

TERMS AND CONDITIONS applicable to Sub-Contract

1. GENERAL

(i) In these Terms and Conditions the following terms shall have the following meanings:

“CDM Regulations” means the Construction (Design and Management) Regulations 2015 or any amendment thereto or re-enactment thereof

“Contract Administrator” means the architect, engineer or other party appointed by the Employer to administer the Main Contract;

“Date of Completion of Making Good” means the date on which all defects in the Sub-Contract Works have been rectified;

“Defects Liability Period” means the defects liability period (or equivalent) provided for under the Principal Contract;

“Employer” means the party referred to as such in the Sub-Contract Order;

“Insolvent” means:

Where the Sub-Contractor is a company:


- The Sub-Contractor has entered into administration
- An Administrative receiver, a receiver or manager of the Sub-Contractor’s property has been appointed
- A receiver has been appointed in respect of the Sub-Contractor
- A resolution for voluntary winding-up has been passed in respect of the Sub-Contractor or
- An order for the winding-up of the Sub-Contractor has been made

Where the Sub-Contractor is a partnership:

- An order for the winding up of the Sub-Contractor has been made
- A sequestration is awarded on the estate of the Sub-Contractor
- The Sub-Contractor grants a trust deed for its creditors; or
- Any partner of the Sub-Contractor is the subject of an individual arrangement or any other event or proceedings referred to in this definition of “Insolvent”

Where the Sub-Contractor is an individual:

- A bankruptcy order has been made against the Sub-Contractor
- A sequestration is awarded on the estate of the Sub-Contractor
- The Sub-Contractor grants a trust deed for his creditors

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Regardless of the legal personality of the Sub-Contractor:

- The Sub-Contractor entered into an arrangement, compromise or composition in satisfaction of its debts;

“Main Contract” means the contract entered into by the Employer with a main contractor in respect of the project to which the Works relate;

“Practical Completion of the Sub-Contract Works” means that the Sub-Contractor has completed the Sub-Contract Works such that there are no defects within them that would prevent or hinder any follow on trades from carrying out and completing their works and would not prevent or hinder RIES from achieving practical completion (or its equivalent) in terms of the Principal Contract, AND, if requested by RIES, the Sub-Contractor has provided to RIES:

- three sets of complete “as built” plans, drawings and specifications to the satisfaction of RIES delineating all details of construction and services with dimensions and such other available information (including performance manuals and full copies of all maintenance agreements and guarantees in respect of the Sub-Contract Works) as will facilitate future maintenance of the Sub-Contract Works, including all variations;
- a schedule listing the names and addresses of all sub-contractors and suppliers who have been engaged by or on behalf of the Sub-Contractor in relation to the Sub-Works;
- copies of all statutory notices and any permissions and approvals and consents necessary which the Sub-Contractor is obliged to obtain in terms of this Sub-Contract for the completion of the Sub-Contract Works;
- a CAD disc of all drawings and specifications prepared by or on behalf of the Sub-Contractor.

“Pricing Document” means the document to be produced by the Sub-Contractor in a form acceptable to RIES in terms of clause 13(viii) and thereafter up-dated in terms of clauses 14 and 15 hereof.

“Principal Contract Manager” means the person appointed to administer the Principal Contract

“Principal Contract” means the contract referred to as such in the Sub-Contract Order;

“regularly and diligently” means to proceed with works: a) to the reasonable satisfaction of RIES; and b) at all times in such a manner as will not, in the opinion of RIES, prejudice the completion of the whole or any portion of the Works;

“Retention” means the sum calculated on the basis of the retention percentage stated in the Sub-Contract Order applied to the Gross Valuation

“RIES” means the Richard Irvin Services Group corporate entity stated in the Sub-Contract Order, which corporate entity shall be the employer of the Sub-Contractor;

“Site” means the site referred to as such in the Sub-Contract Order;


“Sub-Contract” means the contract entered into between RIES and the Sub-Contractor in terms of the Sub-Contract Order (including any documents referred to therein or instructions issued thereunder);

“Sub-Contractor” means the contractor referred to as such in the Sub-Contract Order;

“Sub-Contract Order” means the sub-contract order form signed by RIES and the Sub-Contractor;

“Sub-Contract Order Value” means the value referred to as such in the Sub-Contract Order;

“Sub-Contract Works” means the works to be carried out by the Sub-Contractor under the Sub-Contract;

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“Valuation Dates” means the date stated as such in the Sub-Contract Order

“Working Day” means any day which is not a Saturday, a Sunday, Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in Scotland; and

“Works” means the works to be carried out under the Principal Contract described as such in the Sub-Contract Order.


- (ii) The documents forming the Sub-Contract are to be taken as mutually explanatory. Where there is any conflict, omission or discrepancy between the documents forming the Sub-Contract the order of priority shall be (1) the Sub-Contract Order; (2) these Terms and Conditions; and, (3) any documents referred to in the Sub-Contract Order.
- (iii) For the avoidance of doubt these Terms and Conditions shall govern the Sub-Contract to the exclusion of any conditions proposed by the Sub-Contractor.

2. EXECUTION OF SUB-CONTRACT WORKS

- (i) The Sub-Contractor will carry out the Sub-Contract Works in accordance with the Sub-Contract (including, for the avoidance of doubt, all drawings, specifications, bill of quantities forming part of the Sub-Contract (where applicable) and any written instructions issued to him by RIES) to the satisfaction of RIES.
- (ii) The Sub-Contractor is deemed to have anticipated and satisfied itself as to the nature, scope and location of the Sub-Contract Works and all other factors relating to the performance of the same including, without limitation, the physical conditions and suitability of access on and to the Site. No claim for additional payment relating to the foregoing matters being other than the Sub-Contractor is deemed, hereunder, to have anticipated will be accepted by RIES.
- (iii) No approval whether express or implied by RIES, the Employer, the Contract Administrator or the Principal Contract Manager shall in any way relieve the Sub-Contractor of its responsibility for complying with the requirements of this Sub-Contract.
- (iv) The Sub-Contractor shall select materials for use in the Sub-Contract Works in accordance with the guidance set out in the publication "Good Practice in the Selection of Construction Materials" published by the British Council of Offices (as may be current as at the time of such selection or use) and shall not use or specify for use any materials that are prohibited under the Principal Contract or which a professionally qualified and competent designer, experienced in designing works of a similar size, scope and complexity to the Sub-Contract Works would know or suspect to be deleterious to health and safety or to the durability of the Works.

3. PRINCIPAL CONTRACT AND OTHER CONDITIONS

- (i) The Sub-Contractor is deemed to have full knowledge of and, so far as they are applicable to the Sub-Contract Works, agrees to comply with, the provisions of the Principal Contract and the Main Contract.
- (ii) The Sub-Contractor shall ensure that, no act no omission of it (or those for whom it is responsible) shall cause or contribute to a breach by RIES of the Principal Contract.
- (iii) In the event of a conflict between the terms of the Principal Contract and the terms of the Sub-Contract, the Sub-Contractor shall notify RIES of the same. In the event of such a conflict arising, RIES shall (at its sole discretion) decide what terms shall apply to the Sub-Contract.
- (iv) The Principal Contract is available for inspection at the offices of RIES responsible for administering the Sub-Contract Works.


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4. PROGRESS AND COMPLETION

- (i) The Sub-Contract shall carry out the Sub-Contract Works diligently and in such order, manner and times as RIES may reasonably direct so as to ensure completion of the Works or any portion thereof by the completion date or dates or such extended date or dates as may be allowed under the Principal Contract.
- (ii) The Sub-Contract Works are to be commenced immediately once the Sub-Contractor is instructed to proceed and are to be completed within the period for completion set out in the Sub-Contract Order subject only to such fair and reasonable extension of time as RIES shall allow if and to the extent that the Sub-Contract Works are delayed either by:
 - (a) Circumstances that correspond to circumstances under the Principal Contract for which RIES has an entitlement to claim an extension of time or relief from the Employer or any main contractor;
 - (b) Any negligence or any default or breach by RIES of its obligations under the Sub-Contract; or
 - (c) Any variation to the Sub-Contract Works authorised by RIES under clause 15.
- (iii) For the avoidance of doubt, notwithstanding the generality of clauses 4 (i) and (ii) above:
 - (a) the Sub-Contractor shall constantly use his best endeavours to prevent delay in the progress of the Sub-Contract Works, however caused, and to prevent their completion being delayed or further delayed beyond the relevant period for completion;
 - (b) in the event of any delay, the Sub-Contractor shall do all that may reasonably be required to the satisfaction of RIES to proceed with the Sub-Contract Works;
 - (c) no extension of time shall be granted to the Sub-Contractor to the extent that any delay arises as a consequence (directly or indirectly) of any negligence, breach or default by the Sub-Contractor
- (iv) In the event that the circumstances in Clauses 4(ii)(a) or (b) occur, the Sub-Contractor may be entitled to reimbursement of its reasonably, properly and demonstrably incurred costs associated with the relevant delay or disruption provided that the Sub-Contractor has used best endeavours to mitigate such delays and/or disruptions and the extent of such costs and that the circumstances giving rise to such costs correspond to circumstances for which RIES has an entitlement to claim payment under the Principal Contract or relate to the negligence, default or breach by RIES of its obligations under the Sub-Contract.
- (iv) If the Sub-Contractor is in breach of this Clauses 4(i), (ii), (iii)(a) or (iii)(b) he shall, without prejudice to and pending the final ascertainment or agreement between the parties as to the amount of the loss or damage suffered or which may be suffered by RIES in consequence thereof, forthwith pay or allow to RIES such sum as RIES shall bona fide estimate as the amount of such loss or damage, such estimate to be binding and conclusive upon the Sub-Contractor until such final ascertainment or agreement.

5. DEFECTS AND MAINTENANCE

The Sub-Contractor will maintain and protect the Sub-Contract Works at its own expense to the satisfaction of RIES, the Contract Administrator and the Principal Contract Manager both during the progress of the Sub-Contract Works and until the Contract Administrator has issued a "Practical Completion Certificate" (or equivalent as set out or referred to in the Principal Contract) over that part of the Works that includes the Sub-Contract Works. The Sub-Contractor shall make good, at its own expense, any defects or damage to the Sub-Contract Works (including those for which RIES becomes responsible under the Principal Contract) within the timescales set out in the Principal Contract and as directed by RIES. Failure to do so shall entitle RIES to make good the defect or employ others to do so and to deduct the cost from any sum due to the Sub-Contractor or otherwise to recover the same from the Sub-Contractor.

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6. SUB-CONTRACT EMPLOYEES

- i) The Sub-Contractor will, at the instruction of RIES, cease to deploy any one or more of his employees or sub-contractors (of whatever level) (or employees of such sub-contractors) to carry out any works in connection with the Sub-Contract Works to whom RIES may object or whose involvement with the Sub-Contract Works may: contravene the conditions of the Sub-Contract or the Principal Contract; or, may cause labour disputes in the Sub-Contractor's or any other trade. The Sub-Contractor shall replace such employee(s) or sub-contractor(s) immediately with appropriate alternative personnel. For the avoidance of doubt, the terms of this clause 6(i) may also be applied in connection with any replacement alternative personnel.
- ii) The Sub-Contractor shall ensure that all of its employees and its sub-contractors' employees are entitled to work lawfully within the United Kingdom. The Sub-Contractor agrees that it will immediately upon request by RIES supply copies of any and all documents confirming that its employees and its sub-contractors' employees are entitled to work lawfully within the United Kingdom. The Sub-Contractor will indemnify RIES against any fines, penalties, claims or other losses it may incur as a result of a breach of this provision.

7. ON-SITE FACILITIES/SERVICES


- (i) The Sub-Contractor shall have non-exclusive, reasonable and free use of such facilities and services provided by RIES and specified in the Sub-Contract Order provided that:
 - (a) Such use shall be at the sole risk of the Sub-Contractor who shall indemnify RIES, the Employer, the Contract Administrator, any other contractor working on the Site and any servant or agent of theirs against any claim for loss, damage or personal injury arising from such use by the Sub-Contractor or those for whom the Sub-Contractor is responsible, and
 - (b) RIES shall not be liable to the Sub-Contractor for any expense, loss or damage caused by any failure to provide any such amenities, facilities or services.
- (ii) All other facilities or services required in order to complete the Sub-Contract Works shall be provided by the Sub-Contractor at its own expense.

8. CUTTING AWAY

In no circumstances whatsoever shall any cutting away be done by or on behalf of the Sub-Contractor without prior written authority of RIES.

9. BACKGROUNDS AND PREVIOUS WORKS BY OTHERS

- (i) The Sub-Contractor shall satisfy itself before commencing the Sub-Contract Works as to the position, dimensions and suitability of any previous work carried out by others which may in any way inhibit or prevent the Sub-Contractor from carrying out the Sub-Contract Works in accordance with the Sub-Contract, (including, without restriction, any surface or background to which the Sub-Contractor is to fix or lay any part of the Sub-Contract Work) and shall immediately advise RIES in writing (giving full reasons) where it is not able to satisfy itself to that effect.
- (ii) **The Sub-Contractor shall have no claim or right of action against RIES arising from work previously carried out by others unless the discrepancy in position or dimension or other**


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unsuitability of the work or surfaces has been referred to RIES by the Sub-Contractor pursuant to Sub-Clause (i) of this Clause prior to the Sub-Contractor commencing the Sub-Contract Works.

10. INDEMNITIES AND INSURANCES

INJURY TO PERSONS AND PROPERTY

- (i) The Sub-Contractor shall indemnify RIES against and from all claims, causes of action, costs, loss and expense whatsoever in respect of:-
 - (a) Personal injury or death of any person or injury or damage to property arising out of or caused by the execution of the Sub-Contract Works (including but not restricted to the use of any plant, equipment or facilities whether in connection with such execution or otherwise) or any design undertaken by the Sub-Contractor;
 - (b) Any negligence or breach of duty on the part of the Sub-Contractor, its sub-contractors, it's or their servants or agents and
 - (c) Any breach, non-performance or non-observance of Clause 3 above by the Sub-Contractor
- (ii) The Sub-Contractor shall adequately insure, for a sum that shall be subject to approval by RIES, his and RIES's liability in respect of any claims, causes of action, costs, losses and expenses in respect of any of the matters referred to in Sub-Clause 10 (i) above and shall on demand produce to RIES adequate evidence of such insurance. In particular, although without prejudice to the foregoing, the Sub-Contractor shall maintain the following insurances:
 - (a) Public Liability Insurance with a minimum limit equal to that set out in the Sub-Contract Order against any one claim;
 - (b) Employer's Liability Insurance with a minimum limit equal to that set out in the Sub-Contract Order against any one claim; and
 - (c) Contractor's "All Risks" Insurance for the full value of the Sub-Contract Works or other agreed minimum amount set out in the Sub-Contract Order and RIES shall be named as joint insured under such policy.
- (iii) Where the Sub-Contract Works involve an element of design, the Sub-Contractor shall maintain Professional Indemnity Insurance and/or Product Liability Insurance (as required by RIES) for an amount no less than that set out in the Sub-Contract Order on an "each and every claim basis" for the period from commencement of the Sub-Contract Works to the date 12 years after the issue of the certificate of practical completion or equivalent thereof referred to in the Principal Contract.
- (iv) RIES will request annually from the Sub-Contractor documentary evidence to satisfy RIES and their nominated Insurance Broker (acting reasonably) that the required insurances have been effected and are being maintained (and, in the case of Professional Indemnity Insurance, as and when reasonably required by RIES). The Sub-Contractor will be required to provide such information timeously in order to remain on RIES's approved Sub-Contractor's database. In the event of any failure of the Sub-Contractor to adequately insure as required in Clauses 10 (ii) and 10(iii) above, RIES shall have the right to effect such insurance as RIES shall deem necessary and the cost of doing so shall be immediately recoverable from the Sub-Contractor.
- (v) The insurance in respect of claims for personal injury to, or death of, any person under a contract of service or apprenticeship with the Sub-Contractor 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 or any amendment or re-enactment thereof.

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(vi) The Sub-Contract Works, materials, tools, plant, scaffolding, machinery and buildings of the Sub-Contractor, the subject of or used in connection with the Sub-Contract whether on Site or not, shall in every respect be at the Sub-Contractor's risk (except those risks for which the Sub-Contractor is not responsible under Clause 11 hereof).

11. INSURANCE AGAINST FIRE STORM ETC.

- (i) The Sub-Contractor shall (other than to the extent of any insurance excess or other deductible under any relevant insurance policy) not be responsible for loss or damage caused to the Sub-Contract Works or to any materials (other than temporary buildings, plant, tools, scaffolding and machinery provided by the Sub-Contractor, or any scaffolding or other plant which is loaned to him by RIES), properly on the Site and in connection with and for the purpose of this Sub-Contract by fire, storm, tempest, lighting, flood, bursting and overflowing of water tanks, apparatus or pipes, earthquakes, aircraft (or anything dropped therefrom), aerial objects, riot and/or civil commotion, unless such loss or damage is due to any act or neglect of the Sub-Contractor or of any person for whom the Sub-Contractor is responsible.
- (ii) In the event of any such loss or damage that, in accordance with Clause 11(i) above is not the responsibility of the Sub-Contractor, the Sub-Contractor shall, if and when directed by RIES in writing, proceed immediately, with the rectification or replacement of the damaged work and materials and the erection and completion of the Sub-Contract Works in full accordance with the Sub-Contract. RIES shall be liable to make payment to the Sub-Contractor in respect of the carrying out such rectification or replacement the amount RIES is able to recover through any relevant insurance policies in place in respect of the carrying out of such rectification or replacement.

12. DETERMINATION OF SUB-CONTRACTOR'S EMPLOYMENT

- (i) In the event that:
 - (a) RIES issue by Recorded Signed for or Special Delivery post a written notice to the Sub-Contractor instructing the Sub-Contractor to proceed regularly and diligently with the Sub-Contract Works and, within seven days of dispatch of such written notice, the Sub-Contractor fails to proceed regularly and diligently with the Sub-Contract Works;
 - (b) RIES issue by Recorded Signed for or Special Delivery post a written notice to the Sub-Contractor instructing the Sub-Contractor to commence remedial work in respect of any defective workmanship or materials and fails to:
 - A proceed with the carrying out of such remedial works regularly and diligently within seven days of dispatch of such written notice or
 - B complete such remedial works to the satisfaction of RIES, the Contract Administrator or the Principal Contract Manager within such period as RIES specified in such notice (or, where no such period is specified, within a reasonable period);
 - (c) RIES issue by Recorded Signed for or Special Delivery post a written notice to the Sub-Contractor instructing the Sub-Contractor to comply with any of the Sub-Contractor's obligations under the Sub-Contract and, within seven days of dispatch of such written notice, the Sub-Contractor fails to so comply;
 - (d) RIES issue by Recorded Signed for or Special Delivery post a written notice to the Sub-Contractor instructing the Sub-Contractor to comply with any instruction issued under clause 6 of these Terms and Conditions and, within seven days of dispatch of such written notice, the Sub-Contractor fails to so comply;

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- (e) The Sub-Contractor sub-contracts any part of the Sub-Contract Works (including the carrying out of any design required thereunder) without RIES's consent;
- (f) The Sub-Contractor seeks to assign their interest (or any part thereof) under the Sub-Contract without RIES's consent
- (g) The Sub-Contractor fails to comply with any obligations upon them in terms of the CDM Regulations (including, for the avoidance of doubt, a failure by the Sub-Contractor to comply with any Construction Phase Plan thereunder)
- (h) The Sub-Contractor repeats at any time any default which was the subject of a written notice of a type referred to in clauses 12(i) (a)-(g) above;
- (i) The Sub-Contractor becomes Insolvent.
- (j) The Sub-Contractor fails to complete and deliver up the whole or any portion of the Sub-Contract Works by the completion date or dates specified in the Sub-Contract Order or by such amended completion date or dates as may be authorised by RIES;
- (k) The Sub-Contractor or any person employed by him or acting on his behalf shall have committed an offence under the Bribery Act 2010

then RIES may, without prejudice to any other of its rights or remedies, by written notice issued to the Sub-Contractor by Recorded Signed for or Special Delivery post, summarily determine the Sub-Contractor's employment under this Sub-Contract in respect of the whole or any portion of the Sub-Contract Works, such determination being effective upon issue of such notice.

- (ii) The Sub-Contractor shall not be entitled to compensation in respect of any determination of its employment under the Sub-Contract and shall not remove any of its equipment, materials or property from the Site. Notwithstanding anything contained in these Terms and Conditions, as at and following from, the date of the event giving rise to the right of determination, no payment shall be due to the Sub-Contractor until completion of the Sub-Contract Works by RIES or by others, whereupon the Sub-Contractor shall become entitled to payment for Sub-Contract Works executed by the Sub-Contractor subject always to the right of RIES to set off all losses, expenses and damages suffered or which may be suffered by RIES by reason of the determination and subject further to any other right to set off which RIES may have. Where, following any determination of the Sub-Contractor's employment, RIES completes the Sub-Contract Works itself or engages any third party to do so, RIES or such third party shall, for such purpose, have the free use of the Sub-Contractor's equipment, materials and property on the Site (and any materials or fabricated work lying at the Sub-Contractor's works or workshops which have been bought or fabricated for the purpose of this Sub-Contract) without responsibility to the Sub-Contractor for fair wear and tear thereof.
- (iii) In the event that the Principal Contract is determined or otherwise brought to an end for whatsoever reason then the employment of the Sub-Contractor shall be treated as determined from the same date that the Principal Contract was determined or otherwise brought to an end without any requirement for notice to be given in accordance with Clause 12 (i) and the entitlement of the Sub-Contractor will be that which is specified in Clause 12 (ii) hereof.


13. PAYMENT

- (i) RIES shall pay the Sub-Contract Order Value to the Sub-Contractor in interim payments in accordance with these Terms and Conditions.
- (ii) The first due date shall be the first Valuation Date occurring after the Sub-Contractor commenced the Sub-Contract Works. Due dates shall thereafter be the date of each subsequent Valuation Date until one


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month after Practical Completion of the Sub-Contract Works. No further interim payment shall be due until the Final Payment. The Final Payment shall fall due on the date occurring 28 days after the later of the date of expiration of the Defects Liability Period and the Date of Completion of Making Good (“the Final Payment Due Date”).

- (iii) No later than three Working Days prior to each due date, the Sub-Contractor shall issue a notice to RIES requesting interim payment stating the sum the Sub-Contractor considers to be due to them as at that due date and the basis upon which that sum is calculated. Said notice shall be in duplicate quoting the Sub-Contract Title and Sub-Contract Order Number (as referred to on the Sub-Contract Order) and shall contain such other details as RIES may reasonably require (including, without limitation, the proportion of the requested interim payment that relates to any variations or dayworks and detailed substantiation of rates and quantities). Notices requesting interim payment relating to dayworks must be signed by RIES's Site representative and notices requesting interim payment relating to materials stored on Site must incorporate detailed measurements and cost demonstrations and be accompanied by evidence of the Sub-Contractor's good title to the materials in question.
- (iv) No later than 45 days after the due date, RIES shall issue a notice to the Sub-Contractor stating the amount RIES considers to have been due to the Sub-Contractor at that due date and the basis upon which that sum is calculated. With the exception of the Final Payment, the final date for payment shall be the next Working Day following the date occurring 70 days after the due date. The final date for payment of the Final Payment shall be the next Working Day following the Final Payment Due Date.
- (v) RIES may, not later than 1 day before the final date for payment, issue a notice to the Sub-Contractor of their intention to pay less than the sum stated in the notice issued under clause 13(iv). Such notice shall specify the sum that RIES considers to be due to the Sub-Contractor on the date that the notice is served and the basis on which that sum is calculated.
- (vi) Any notice given pursuant to this Clause 13 and any sum due to the Sub-Contractor hereunder shall be without prejudice to the rights of RIES at common law or otherwise (including in any subsequent negotiations, adjudication or litigation) to seek to vary the amount claimed and set off and/or the grounds therefor.
- (vii) Payment will not fall due and owing to the Sub-Contractor by RIES in the event of no payment having been received by RIES under the Principal Contract in respect of the Sub-Contract Works due to the Employer (or any person between RIES and the Employer in the contractual chain) becoming Insolvent.
- (viii) A full and detailed breakdown of the Sub-Contract Order Value (“the Pricing Document”) must be provided by the Sub-Contractor to RIES in a form acceptable to RIES either prior to or with the first application for interim payment.
- (ix) Subject to any agreement between RIES and the Sub-Contractor noted in the Sub-Contract Order, the amount due in respect of each instalment payment due to the Sub-Contractor (with the exception of the Final Payment) shall be the Gross Valuation less any amount which may be deducted and retained by RIES in terms of clause 13(xii) and any sums previous due as interim payments under the Sub-Contract. The amount due to the Sub-Contractor in respect of the Final Payment shall be the Gross Valuation less any sums previously due as interim payments under the Sub-Contract.
- (x) The Gross Valuation shall be the total of the amounts referred to in clauses 13(x)(a) to (e) less the total of the amounts referred to in clause 13(x)(f) applied up to and including the relevant due date:
 - (a) the total value of the Sub-Contract Works on-site properly executed by the Sub-Contractor (such value to be calculated with reference to the Pricing Document as adjusted in terms of clauses 14 and 15) with the exception of any works carried out by the Sub-Contractor under clause 11(ii);

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- (b) the total value of any materials intended for incorporation in the Sub-Contract Works, provided that their value shall only be included if title in such materials has passed to RIES and such materials are adequately protected against weather and other casualties and they are not on site prematurely;
- (c) the total value of any sums due to the Sub-Contractor in terms of clauses 4(ii)(a) and 11(ii) of these Terms and Conditions;
- (d) the total value of any sums due to the Sub-Contractor in terms or by virtue of clause 19 of these Terms and Conditions
- (e) the total value of any sums to be deducted from sums that may otherwise be due to RIES under the Principal Contract to the extent that such deduction is properly attributable to any defects in the Sub-Contract Works or other breach, default or negligence by the Sub-Contractor;
- (f) the total value of any sums due to RIES by the Sub-Contractor in terms of clauses 4, 5, 10, 13(xiv) 16, 21 and 22 (and, where applicable and not otherwise recoverable by RIES under these Terms and Conditions, Clause 34(vi))
- (xi) The Sub-Contractor shall submit to RIES a draft final account within 28 days of the date of Practical Completion of the Sub-Contract Works. The draft final account must be in the same format as the Pricing Document as adjusted in terms of clauses 14 and 15.
- (xii) Up until the date of Practical Completion of the Sub-Contract Works, RIES shall be entitled to 100% of the Retention. After Practical Completion of the Sub-Contract Works but before the Final Payment, RIES shall be entitled to 50% of the Retention.
- (xiii) All interim payments shall be on account only and these shall not be held to signify approval by RIES and/or the Contract Administrator of the whole or any part of the Sub-Contract Works executed nor shall any final payment prejudice any claim RIES may have in respect of any defects in the Sub-Contract Works whenever such defects may appear.
- (xiv) Further, and in addition to the provisions of Clause 4 hereof, and RIES's contractual and other rights to set off, if:
 - (a) the Sub-Contractor shall cause RIES loss by reason of any breach of this Sub-Contract or any other contract between RIES and the Sub-Contractor or by any act or by any breach of statutory duty giving rise to a claim for damages or indemnity or contribution by RIES against the Sub-Contractor; or,
 - (b) RIES shall become entitled to payment from the Sub-Contractor under this or any other contract between RIES and the Sub-Contractor
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 Sub-Contractor shall forthwith pay or allow to RIES such sum as RIES shall bona fide estimate as the amount of such loss, indemnity, contribution or payment such estimate to be binding and conclusive upon the Sub-Contractor until such final ascertainment or agreement.
- (xv) If payment of any portion of the Sub-Contract Order Value is delayed beyond the relevant final date for payment, the Sub-Contractor shall notify RIES accordingly and, upon such notification being received by RIES, the Sub-Contractor shall be entitled to receive interest on the amount unpaid during the period of delay at the annual rate of 2% above the base rate of interest of the Royal Bank of Scotland as at the first day of any such delay.
- (xvi) (a) The provisions of this Clause 13 (xvi) shall apply throughout the term of this Sub-Contract save for any period during such term in respect of which i) RIES has received written confirmation from HMRC in a form which is reasonably satisfactory to RIES that it is not a contractor; or ii) any payment by RIES is not a contract payment.

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(b) In this Clause:

contract payment: has the meaning set out in Section 60 FA

contractor: means a person who is a contractor for the purposes of the Legislation

FA: means Finance Act 2004

Legislation: means Chapter 3 of Part 3 of the Finance Act 2004 and the Income Tax (Construction Industry Scheme) Regulations 2005 (SI 2005/2045), as amended from time to time


statutory deduction: means the deduction referred to in Section 61(1) FA or such other deduction as may be in force at the relevant time

HMRC: means Her Majesty's Revenue & Customs

- c) Not later than 21 days before the first payment under this Sub-Contract is due to be made to the Sub-Contractor or after the provisions of this clause apply for the first time and on each occasion when they apply following a period when they have not so applied the Sub-Contractor shall provide RIES with its unique taxpayer reference and any other information which RIES may be required to give to HMRC in order to verify the Sub-Contractor's tax status.
- d) RIES shall verify the Sub-Contractor's tax status with HMRC in accordance with the legislation and shall notify the Sub-Contractor in writing at least 14 days before the first payment under this Sub-Contract is to be made if it intends to make any statutory deduction and at what rate.
- e) RIES shall be entitled to make such deductions from any payment to the Sub-Contractor as it is required to make in accordance with the Legislation, at such rate as may be in force from time to time.
- f) Where any error or omission has occurred in calculating or making the statutory deduction then i) in the case of an over deduction, RIES shall correct that error by repayment of the sum over deducted to the Sub-Contractor; and ii) in the case of an under deduction, the Sub-Contractor shall correct that error or omission by repayment of the sum under deducted to RIES.
- g) RIES shall send promptly to HMRC any returns required by the Legislation, and shall provide to the Sub-Contractor a payment statement (where appropriate) and/or such other information as may be required by the Legislation in relation to any contract payment.
- h) If compliance with the provisions of this clause involves RIES or the Sub-Contractor in not complying with any other of the terms of this Sub-Contract, then the provisions of this clause shall prevail.


14. OVERTIME

- (i) No payment for overtime will be made unless the Sub-Contractor is advised in writing by RIES that payment will be made and, if the Sub-Contractor 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 Sub-Contractor will be required to obtain any necessary overtime permits from the appropriate authority.
- (iii) The Sub-Contractor shall require the authority of RIES to work overtime which is out with the normal Site hours.
- (iv) Where any overtime is approved by RIES in terms of this clause 14, the Priced Document shall be amended to reflect the value of such approved overtime.

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15. VARIATIONS, ADDITIONAL WORKS, DAYWORKS, PROVISIONAL AND PRIME COST SUMS

- (i) No variation shall vitiate this Sub-Contract but the Sub-Contractor shall advise RIES in writing of all work involving a variation or extra work within seven days of the need for such variation or extra work becoming apparent and, at the same time, shall submit detailed and priced calculations based upon this Sub-Contract showing any adjustment to the Sub-Contract Order Value requested by the Sub-Contractor. Variations or extra work shall not be undertaken by the Sub-Contractor nor shall it receive payment for such variation or extra works without written authority from RIES. For the avoidance of doubt, written authority from RIES to proceed with such varied or extra works is not an agreement by RIES to the Sub-Contract Order Value be adjusted as requested by the Sub-Contractor.
- (ii) The valuation of any varied or extra work (unless otherwise agreed between RIES and the Sub-Contractor) shall be in accordance with the following rules: -
- (a) The prices in the bill of quantities or other documents forming part of the Sub-Contractor's tender or within the Priced Document shall determine the valuation of work of similar character executed under similar conditions as work priced therein.
 - (b) Where work is not of a similar character or executed under similar conditions as set out in the bill of quantities or other documents forming part of the Sub-Contractor's tender or within the Priced Document, the value shall be calculated with reference to the basis of the prices contained within such document that are closely analogous failing which a fair valuation shall be made.
 - (c) Where the Sub-Contractor seeks reimbursement on a daywork basis he shall give RIES prior written notice to this effect in order that the time, materials and other items of expenditure may be certified and the Sub-Contractor shall deliver to RIES for signature by a senior representative vouchers 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 the opinion of RIES is that 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 the Principal Contract together with the percentage addition to each of the prime costs at the rates set out in the Sub-Contract Order.
 - (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 the Principal Contract together with the percentage addition to each prime cost at the rates set out in the Sub-Contract Order.
 - (f) Where variations or extra works cannot be valued by reference to this Sub-Contract then the value of such variations or extra works shall be subject to agreement between RIES and the Sub-Contractor.
- (iii) RIES shall calculate the value of any varied or extra works RIES have given written authority to be proceed with in accordance with clause 15(i) above and shall advise the Sub-Contractor accordingly. The Sub-Contractor shall thereafter up-date the Priced Document to reflect RIES's valuation and the Sub-Contract Order Value shall be adjusted accordingly.
- (iv) 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 Sub-Contract Order Value will be deemed to include all supervision, plant, insurance and other preliminary and general items in respect of work that is the

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subject of provisional and prime cost sums except where the same are included in the unit prices declared by the Sub-Contractor to have been used in the calculation of the Sub-Contract Order Value.


- (v) Notwithstanding the generality of the foregoing, where RIES are subject to provisions under the Principal Contract relating to variation and acceleration quotation procedures the Sub-Contractor shall provide such information as RIES may require from the Sub-Contractor, and that within such timescales, as may be necessary to ensure compliance with such provisions under the Principal Contract.

16. REMOVAL OF RUBBISH AND CLEANING UP

- (i) The Sub-Contractor shall at his own expense clear away regularly to an off-site dump to be found by the Sub-Contractor or, if provided by RIES, to a designated area on Site, all rubbish resulting from the execution of the Sub-Contract Works and shall keep access to the Sub-Contract Works clear at all times.
- (ii) The Sub-Contractor, upon Practical Completion of the Sub-Contract Works (and thereafter, after any works carried out to rectify defects in the Sub-Contract Works), shall properly clear up and leave the Sub-Contract 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 RIES.
- (iii) If the Sub-Contractor fails to carry out the requirements of Sub-Clauses 16 (i) and (ii) above, then RIES may without notice undertake the work on behalf of the Sub-Contractor and charge the cost to the Sub-Contractor.

17. HEALTH AND SAFETY

- (i) The Sub-Contractor shall observe and comply in all respects with the provisions of the Health & Safety at Work etc. Act 1974, and any legislation repealing, replacing or re-enacting such Act and any regulations made thereunder (including, for the avoidance of doubt, the CDM Regulations and shall further comply with RIES rules, regulations, requirements on matters affecting the safe conduct of work in the Site and all instructions from any person who is the Principal Contractor or Principal Designer pursuant to and as defined in the CDM Regulations. The Sub-Contractor warrants to RIES (a) that it has the competence, capacity, time and resources to carry out the Sub-Contract Works safely and to perform the obligations imposed on it by the CDM Regulations and (b) that it has allocated and will allocate adequate resources to enable it to comply with the CDM Regulations.
- (ii) The Sub-Contractor shall provide RIES with a copy of all safety procedures, instructions, rules and regulations issued by the Sub-Contractor to its employees, servants and agents.
- (iii) The Sub-Contractor shall prior to the commencement of the Sub-Contract Works, and at such other times as RIES may require, submit to RIES for approval risk assessments, method statements, produce data sheets, COSHH sheets and all other relevant documentation showing how the Sub-Contract Works are to be carried out in a safe manner, and indicating who will be responsible for ensuring that safe working practices are followed. Approval by RIES of the Sub-Contractor's assessments and statements shall not in any way relieve the Sub-Contractor of any of his obligations under the Sub-Contract, legislation or at common law.
- (iv) The Sub-Contractor shall be required to attend any on-site safety training which may be arranged by RIES from time to time during the currency of the Contract.
 - (a) All costs whatsoever incurred by the Sub-Contractor in attending any such on-site safety training shall be borne by the Sub-Contractor.

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- (b) Attendance at such on-site training will not entitle the Sub-Contractor to an extension of time or relieve him of his liability to complete the Sub-Contract Works by the date or dates set out on the Sub-Contract Order.

18. QUALITY MANAGEMENT

RIES operate a quality management system and the Sub-Contractor must provide all necessary information to meet the requirements of the system by the provision of an acceptable quality plan.

19. FLUCTUATIONS


Terms and conditions relating to fluctuations to be applied to the Sub-Contract Order Value shall be those conditions as set out in the Principal Contract and where applicable, details shall be as specified in the Sub-Contract Order.

20. ASSIGNATION AND SUBLETTING

The Sub-Contractor shall not assign the benefit of or its obligations under this Sub-Contract nor sublet the whole or any part of the Sub-Contract Works without the prior written permission of RIES.

21. INFORMATION AND CO-ORDINATION

- (i) RIES shall not be liable to the Sub-Contractor in respect of or in relation to any disruption or delay caused to the Sub-Contractor arising from or in connection with the late receipt or non-receipt by the Sub-Contractor of any instructions, drawings, levels or other information unless the Sub-Contractor had made written application to RIES 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 Sub-Contractor to receive the same.
- (ii) Any instructions, drawings, levels or other information relating to the Sub-Contract Works which are requested from the Sub-Contractor must be provided in due time and so as not to cause any disruption or delay to the Principal Works. The Sub-Contractor must ensure that the Sub-Contract Works are undertaken so as to cause the minimum disturbance, delay or disruption to RIES or any sub-contractor of RIES or others.
- (iii) The Sub-Contractor shall:
- (a) Co-ordinate his own work with that of RIES and other sub-contractors engaged on the Works, so that the Sub-Contract Works are executed with due regard to other works taking place and in a manner to ensure satisfactory construction, performance and progress of Sub-Contract Works;
 - (b) Where necessary, prepare working drawings for the Sub-Contract Works (such drawings shall be submitted to RIES for approval and shall take account of any work being undertaken by RIES or other sub-contractors so that proper co-ordination between the Sub-Contract Works and other aspects of the Works is achieved);
 - (c) When requested, within two weeks of the date of the Sub-Contract Order, prepare and submit to RIES a draft detailed programme of the Sub-Contract Works to be used as a basis for discussion and incorporation into the programme for the Works (the programme of the Sub-Contract Works, when agreed in writing by RIES, shall be used to monitor the progress of the Sub-Contract Works);

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- (d) Submit wiring diagrams, control panel fascia layouts, descriptions of operation of systems and other design documents to RIES for review prior to manufacture;
- (e) In sufficient time for RIES to incorporate the same within the overall Works documentation and, in any event, no later than 28 days from the completion of the Sub-Contract Works, submit three copies of any operation and maintenance manuals, technical literature, as built or as fitted drawings and all other documents required to achieve practical completion under the Principal Contract
- (iv) No extensions of time or additional payment will be granted for delays caused to the Sub-Contract Works due to the Sub-Contractor's failure to co-ordinate his own work with that of RIES or other sub-contractor and any delay and/or disruption caused by the Sub-Contractor's failure to co-ordinate its Sub-Contract Works properly may result in additional costs being charged to the Sub-Contractor.


22. DESIGN

- (i) Where the Sub-Contract Works includes for the design of part or the whole of the Sub-Contract Works, then:
 - (a) The Sub-Contractor shall carry out such design in accordance with the requirements of the Principal Contract and shall, in any event, exercise all the reasonable skill, care, diligence and attention as would be expected of a properly qualified professional experienced in designing works of a similar size, scope and complexity as the Sub-Contract Works;
 - (b) The Sub-Contractor shall comply with the obligations and responsibilities of a "designer" under the Construction (Design and Management) Regulations 2015; and,
 - (c) The Sub-Contractor shall relieve RIES of all responsibilities for such design and shall indemnify RIES against all claims whatsoever which may arise as a result of a design fault or failure to the Sub-Contract Works.
- (ii) The Sub-Contractor hereby grants to RIES and to the Employer a non-exclusive, royalty free, perpetual and irrevocable licence to reproduce and use in connection with the Works and the Site all documents prepared by or on behalf of the Sub-Contractor and passed to RIES in the course of the performance of the Sub-Contract Works (the "Documents"). RIES and the Employer shall each be entitled to grant sub-licences in respect of such to any party having an interest in the Works. The Sub-Contractor hereby irrevocably waives any moral rights conferred by virtue of Chapter IV (Moral Rights) of Part I of the Copyright Designs and Patents Act 1988 in respect of the Documents.

23. SITE USAGE

- (i) The Sub-Contractor shall not use the Site for any purpose other than for the carrying out of the Sub-Contract Works nor shall excavations be made on the Site for sand, gravel, or ballast. Any aspects of the Sub-Contract Works to be executed outside the Site boundary shall only be carried out with the prior written consent of RIES and shall, in any event, be carried out to suit the convenience of adjacent occupiers and/or Local Authorities at times to be agreed by RIES in writing.
- (ii) The Sub-Contractor shall not enter or cause a nuisance to a neighbouring property to the Site and shall, if interfering with the rights of neighbouring proprietors, obtain such consents as may be required, at no cost to RIES.

24. PROPERTY IN MATERIALS AND PLANT


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Without prejudice to any other provision within these Terms and Conditions where the Principal Contract provides that 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 Sub-Contractor in connection with the Sub-Contract Works, the Sub-Contractor shall procure that the property therein shall pass from the Sub-Contractor to RIES before it is due to vest in the Employer pursuant to the Principal Contract, but (subject always to Clause 10 hereof) the Sub-Contractor 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.

25. CLAIMS CODE

- (i) The parties to the Sub-Contract order will deal with all claims between them in accordance with the following procedures. “Claims” means claims or disputes in relation to or arising out of the Sub-Contract, including payment, extension of time, variations, the issuing of certificates, defects, non-performance or any other claim or dispute between the parties.
- (ii) The claimant will take all reasonable steps to ensure that
 - a) It submits only those claims which it honestly believes to be true, and which can be reasonably substantiated by accurate written or oral evidence.
 - b) It has a bona fide legal or contractual entitlement to the matters claimed.
 - c) The quantum of the claim has been accurately calculated in accordance with the Sub-Contract requirements.
 - d) The amount claimed has not been artificially marked up to include a “negotiating margin” or other illicit gain.
 - e) Evidence contrary to the claim is disclosed to the opponent alongside evidence in favour of the claim.
- (iii) The recipient will take all reasonable steps to ensure that
 - a) It reviews the claim diligently, objectively and in good faith.
 - b) It promptly pays any sums, awards any extension of time and issues any certificates which it believes are due in relation to the claim.
 - c) It promptly provides full reasons in relation to any items of the claim which it refuses to accept.
 - d) It complies with the obligations imposed on the claimant referred to in Clause 25ii) in relation to any allegation which it raises as a reason to reject the claim, or by way of set-off or counterclaim.
- (iv) Nothing in this clause is intended to limit the conscientious and vigorous pursuit of legitimate claims. The aim is purely to eliminate false or inflated claims.
- (v) Each party will take all reasonable steps to ensure that these provisions are complied with by all of its staff, consultants, parent and associated and subsidiary companies, agents consortium and joint venture partners, sub-contractors and suppliers.
- vi) If the recipient of the claim has prima facia evidence that the claim is incorrect due to the deliberate or reckless act of anyone associated with its submission, the recipient may report the matter to the authorities, and to any applicable trade or professional body.

26. ADJUDICATION

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- (i) Without prejudice to either parties rights under Clause 26(ii), where any dispute or difference arising under or by reason of breach of this Sub-Contract arises between the parties, either party may serve a written notice on the other identifying the dispute. Within fourteen days of such notice a panel (hereinafter referred to as the “Dispute Panel”) made up of one person (being a Director, Partner or suitably qualified technical person of RIES and the Sub-Contractor respectively) nominated by each party shall meet and attempt in good faith to resolve the dispute without recourse to adjudication or other legal proceedings. If at the end of such fourteen day period (or longer as the Dispute Panel may agree) the Dispute Panel have been unable to resolve the dispute either party may give notice to the other of its intention to refer the dispute to adjudication in accordance with Clause 26(ii).
- (ii) Without prejudice to the terms of clause 26(i) in the event of any dispute or difference arising between RIES and the Sub-Contractor under or in connection with the Sub-Contract or Sub-Contract Works (including any dispute or difference arising out of or in connection with Clause 26(ii) either party may give notice of its intention to refer said dispute or difference to adjudication at any time in accordance with Scheme for Construction Contracts (Scotland) Regulations 1998 as amended.

27. ANTI-CORRUPTION AGREEMENT


In order for the Sub-Contractor to remain on RIES’s approved Sub-Contractor database the Sub-Contractor will be required to sign annually RIES’s Anti-Corruption Agreement.

28. GENERAL

- (i) Any notices served pursuant to this Sub-Contract shall (other than any notices to be served in terms of clause 13 hereof, which may be served by e-mail) be in writing and shall be sent by Recorded Signed for or Special Delivery post to the respective addresses of RIES and/or the Sub-Contractor as shown on the Sub-Contract Order or as subsequently intimated by either party. Such notice shall be deemed to be duly served on the expiry of 48 hours after the time of posting.
- (ii) No relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Sub-Contract or the granting of time by either party to the other shall prejudice, affect or restrict the rights of that party under the Sub-Contract. No waiver by either party of any breach of the Sub-Contract shall operate as a waiver of any subsequent or continuing breach of the Sub-Contract.
- (iii) If any provision of the Sub-Contract is prohibited or rendered invalid or unenforceable such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions of the Contract which shall remain in full force and effect.
- (iv) Where required in the Sub-Contract Order, The Sub-Contractor shall provide such performance security (in, for example, the form of parent company guarantees and/or performance guarantees from financial institutions) in respect of the Sub-Contract Works as is required in the Sub-Contract Order. Any such performance security shall take the form attached to the Sub-Contract order.

29. COLLATERAL WARRANTIES

RIES may require that the Sub-Contractor executes collateral warranty agreements in favour of the Employer and/or any third party who might have or who might acquire an interest (proprietary or otherwise) in the Sub-Contract Works. When requested to do so, the Sub-Contractor shall execute such agreements in a form provided by RIES at no cost to RIES. Where the Sub-Contractor sublets or subcontracts any element of the Sub-Contract Works to a third party, the Sub-Contractor shall procure that such third party also executes such an agreement when requested to do so by RIES.

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30. BUILDING INFORMATION MODEL

Where RIES advises the Sub-Contractor that this clause 30 is to apply:


- (i) The Sub-Contractor shall be deemed to have full knowledge of and, so far as they are applicable to the Sub-Contract Works, agrees to comply with, the provisions of any BIM Protocol with which RIES has agreed to comply.
- (ii) The Sub-Contractor shall ensure that, no act or omission of it (or those for whom it is responsible) shall cause or contribute to a breach by RIES of the BIM Protocol. The Sub-Contractor shall provide such assistance as may be reasonably necessary to ensure that RIES is able to comply with such BIM Protocol
- (iii) In the event of a conflict between the terms of the BIM Protocol and the terms of the Sub-Contract, the Sub-Contractor shall notify RIES of the same. In the event of such a conflict arising, RIES shall (at its sole discretion) decide what terms shall apply to the Sub-Contract.
- (iv) The BIM Protocol is available for inspection at the offices of RIES responsible for administering the Sub-Contract Works.
- (v) The Sub-Contractor shall only have the benefit of any rights under the BIM Protocol as RIES notifies the Sub-Contractor of in writing.

31. COST SAVINGS AND VALUE IMPROVEMENTS

- (i) The Sub-Contractor is encouraged to propose changes to designs and specifications for the Sub-Contract Works and / or to the programme for their execution that may benefit RIES and / or the Employer, whether in the form of a reduction in the costs for the project or their associated life cycle costs.
- (ii) The Sub-Contractor shall provide details of his proposed changes, identifying them as suggested under this clause 31, together with his assessment of the benefit he believes RIES or the Employer may obtain, expressed in financial terms, and a quotation.
- (iii) Where RIES wishes to implement a change proposed by the Sub-Contractor, RIES and the Sub-Contractor shall negotiate with a view to agreeing its value, the financial benefit and any adjustment to time. Upon agreement, the change and the adjustment to the Sub-Contract Order Value shall be confirmed in an instruction from RIES together with any adjustment to the period for completion.
- (iv) The Sub-Contractor grants a royalty free, non-exclusive licence to RIES in respect of all intellectual property rights the Sub-Contractor has in connection with the proposals made under this clause 31, such that RIES may use or put into operation such proposals for any purpose (whether or not related to the Sub-Contract Works) and RIES shall have the right to grant sub-licences thereof.

32. SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL CONSIDERATIONS

- (i) The Sub-Contractor is encouraged to suggest economically viable amendments to the Works which, if directed as a variation, may result in an improvement in environmental performance in the carrying out of the Works or of the completed Works.
- (ii) The Sub-Contractor shall provide to RIES all information that he reasonably requests regarding the environmental impact of the supply and use of materials and goods which the Sub-Contractor selects.

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33. DESIGN SUBMISSION PROCEDURE

Where the Sub-Contractor is carrying out any design work the Sub-Contractor shall comply with such design submission procedure as RIES shall require. The Sub-Contractor shall not carry out any work designed by the Sub-Contractor (or by those for whom the Sub-Contractor is responsible) (and RIES shall not be obliged to make any payment in respect of the carrying out of any such work) unless that work is executed in accordance with designs properly approved in terms of such required design submission procedure.

34. NEC3 CONTRACT CONDITIONS

Where the Principal Contract is under the terms of a NEC3 suite contract the following provisions shall apply:

- (i) The Sub-Contractor shall, as soon as the Sub-Contractor becomes aware of any matter which could:
 - (a) increase the Sub-Contract Order Value
 - (b) delay Practical Completion of the Sub-Contract Works
 - (c) impair the performance of the Sub-Contract Works in use
 notify RIES in writing of such matter.
- (ii) The Sub-Contractor shall comply with any instruction issued by RIES to avoid or reduce the consequences of any such matter referred to in clause 34(i) above. The Sub-Contractor shall take such records in connection with such matter as the RIES shall direct.
- (iii) The Sub-Contractor submits a forecast of the date of Practical Completion of the Sub-Contract Works to RIES each week from the date of commencement of the Sub-Contract Works to Practical Completion of the Sub-Contract Works.
- (iv) The Sub-Contractor shall search for any defects in the Sub-Contract Works from the date of commencement of the Sub-Contract Works to Practical Completion of the Sub-Contract Works. RIES may notify a defect to the Sub-Contractor at any time before the expiry of the Defects Liability Period.
- (v) Before Practical Completion of the Sub-Contract Works, the Sub-Contractor shall correct any defect notified to it by RIES before it would prevent or hinder any other contractors (including RIES) from making progress with the carrying out of works at the Site.
- (vi) After Practical Completion of the Sub-Contract Works, the Sub-Contractor shall correct any defect in the Sub-Contract Works notified to them by RIES within the *defect correction period* stated in the Principal Contract. In the event of the Sub-Contractor not having corrected a defect within the *defect correction period* then the Sub-Contractor shall be liable to RIES for the costs of having the defect corrected by other people.
- (vii) The Sub-Contractor shall provide RIES with such notifications and information, and within such timescales, as may be necessary to ensure that RIES can comply with the compensation event mechanisms set out in the Principal Contract.

35. GOVERNING LAW

This Sub-Contract is subject to Scots Law and RIES and the Sub-Contractor hereby submit to the non-exclusive jurisdiction of the Scottish Courts in connection with any dispute or difference arising out of, pursuant to or in connection with this Sub-Contract.