

SUB-CONTRACT CONDITIONS

These are the Sub-Contract Conditions referred to by the Agreement for Domestic Sub Contract Works hereinafter referred to the Articles of Agreement to which they are attached. In the event that these Sub-Contract Conditions are not attached to the Articles of Agreement then they shall be deemed to be incorporated by reference in any event.

Definitions and General

- 1 In these Sub-Contract Conditions the following expressions and terms shall have the meanings given below:
 - 1.1 the Appendix to the Articles of Agreement means the appendix attached to the Sub-Contract;
 - 1.2 the Articles of Agreement means the Articles of Agreement engrossed by the parties in respect of the Sub-Contract Works;
 - 1.3 Completion means when the Sub-Contractor has done all the work which the Sub-Contract requires it to do, corrected all known defects which would prevent NU PROJECTS LTD and/or the Employer and/or any end user from using the Sub-Contract Works or any part of the Project dependant on the Sub-Contract Works, and supplied to NU PROJECTS LTD all manuals, health and safety documentation, records, drawings and the like required by this Sub-Contract and/or the Main Contract;
 - 1.4 the Sub-Contract means the contract entered into between NU PROJECTS LTD and the Sub-Contractor;
 - 1.5 the Sub-Contract Sum shall be the price stated in the Articles of Agreement or in the event that the Articles of Agreement have not been completed then within the Pre-Start Meeting Minutes or in the event that neither the Articles of Agreement or the Pre-Start Meeting Minutes have been completed then the amount stated on the NU PROJECTS LTD Purchase Order issued to the Sub-Contractor;
 - 1.6 the Sub-Contract Works shall mean those works described within the Appendices to this Sub-Contract and any amendments thereto recorded in the Pre-Start Meeting Minutes or other Numbered Documents;
 - 1.7 the Sub-Contractor shall mean the party appointed to carry out the Sub-Contract Works;
 - 1.8 the Employer shall mean the party which has employed NU PROJECTS LTD to construct the Main Contract Works;
 - 1.9 the Main Contract means the contract entered into between NU PROJECTS LTD and the Employer and shall be deemed to incorporate any other

contract or agreement stepped down into the Main Contract or incorporated therein by reference or other means;

- 1.10 the Main Contract Works means the works being undertaken by NU PROJECTS LTD for the Employer under the Main Contract (where NU PROJECTS LTD are employed as a main contractor the Main Contract Works will be the same as the Project Works defined below);
 - 1.11 the Numbered Documents are the documents listed within this Sub-Contract;
 - 1.12 the Pre-Start Meeting Minutes are the minutes of the Pre-Start Meeting held between NU PROJECTS LTD and the Sub-Contractor
 - 1.13 the Project Works shall mean those works described within then documents attached to this Sub-Contract;
 - 1.14 the Schedule of Valuation Dates is the list of dates noted within this Sub-Contract;
 - 1.15 the Site means the area within which the Project Works are being carried out together with any related storage areas immediate to that area but excluding the Sub-Contractor's offices, yards, workshops, stores and the like.
- 2 Any terms and conditions, whether arising out of the Sub-Contractor's quotations, correspondence or otherwise shall be null and void unless specifically and categorically accepted in writing by an authorised representative of NU PROJECTS LTD, or as recorded in the Pre-start meeting minutes, at the time of agreement of the Sub-Contract.
 - 3 Where this Sub-Contract does not specifically state the manner of service of any notice or other document required by this Sub-Contract such notice or other document shall be given or be served by any effective means to the agreed address. An effective means of delivery shall be either by signed for delivery to the agreed address, by facsimile transmission to the number notified by the parties to each other, or my email with a delivery receipt.
 - 4 The Sub-Contractor shall provide to NU PROJECTS LTD such bonds, guarantee's and warranties at the times and in the form(s) acceptable to NU PROJECTS LTD as are required under the Main Contract and are identified as being required in the Appendix to the Articles of Agreement or have been previously agreed between the parties.
 - 5 Where under this Sub-Contract an act is required to be done within a specified period of days after or from a specified date, the period shall begin immediately after that date. Where the period would include a day which is a Public Holiday that day shall be excluded.
 - 6 This Sub-Contract shall be governed by the laws of England & Wales save that any judgment or order of those courts may be enforced by means of legal proceedings in any jurisdiction.

The Sub-Contractor's Main Responsibilities

- 7 The Sub-Contractor shall:
- 7.1 execute complete and maintain the Sub-Contract Works in accordance with the Conditions of this Sub-Contract;
 - 7.2 be deemed to have full knowledge of the provisions of the Main Contract including any documents incorporated therein by reference or otherwise and save where the provisions of the Sub-Contract otherwise require the Sub-Contractor shall so execute complete and maintain the Sub-Contract Works so that no act or omission of the Sub-Contractor in relation thereto shall constitute cause or contribute to any breach by NU PROJECTS LTD of any of its obligations under the Main Contract and the Sub-Contractor shall save as aforesaid assume and perform hereunder all the obligations and liabilities of NU PROJECTS LTD under the Main Contract in relation to the Sub-Contract Works;
 - 7.3 comply with all requirements and restrictions included in the General Project Requirements and any Trade Specific Requirements identified
 - 7.4 comply with all statutes, statutory instruments, regulations, rules, codes of practice, byelaws, guideline or other laws or conditions including any law, rule regulation or directive promulgated by the European Union or any part thereof which are from time to time in force and which affect or relate to the Sub-Contract Works and shall provide NU PROJECTS LTD with such evidence of compliance or such information in connection that NU PROJECTS LTD shall reasonably require; and
 - 7.5 without prejudice to its obligations under clause 7.4 the Sub-Contractor shall comply with and ensure that its servants and agents comply with all rules and directions regulating Health and Safety matters and or the protection the natural environment as shall be made and brought into force from time to time by any of NU PROJECTS LTD, the Employer, any relevant Local Authority or Government Authority in respect of the Sub-Contract Works and/or the site thereof and its immediate surroundings, including the air and the waters flowing in any water course. In the event of any divergence or discrepancy in or between any one of the said rules or directions, the Sub-Contractor shall forthwith notify NU PROJECTS LTD of such divergence or discrepancy and NU PROJECTS LTD shall issue an instruction resolving such discrepancy or divergence with which instruction the Sub-Contractor shall comply with at no additional cost to NU PROJECTS LTD.
- 8 The Sub-Contract Works shall be carried out to the satisfaction of NU PROJECTS LTD and shall be commenced and completed within the dates specified in the Appendix to the Articles of Agreement (including reference to any requirements to complete the Sub-Contract Works in Sections as identified) and as detailed, or in accordance with the requirements of the programme for the execution and completion of the Project Works as set out or referred to in the Main Contract as the same may from time to time be amended in accordance with the provisions of the

Main Contract, or if no dates are stated and/or there is no such programme then in accordance with such dates and manner as NU PROJECTS LTD may from time to time direct.

- 9 The Sub-Contractor shall be responsible for the protection of the Sub-Contract Works until the date of practical completion of the Project Works or the acceptance in writing by NU PROJECTS LTD that the Sub-Contract Works are practically complete, whichever is the earlier.

Design

- 10 Where the Sub-Contractor designs or is responsible for the design of any part or all of the Sub-Contract Works (including all associated or related works whether permanent or temporary in nature) the Sub-Contractor warrants to NU PROJECTS LTD that the following matters will be in compliance with the requirements of the Main Contract:
- 10.1 the design of the Sub-Contractor Works; and
 - 10.2 the co-ordination and integration of the Sub-Contractor's design with the remainder of the Project Works and any design by others.

Variations

- 11 Any variation to the Sub-Contractor works must be authorised in writing by an authorised person of NU PROJECTS LTD and a quotation provided by the Sub-Contractor as soon as reasonably practicable thereafter.
- 12 Unless otherwise agreed by NU PROJECTS LTD and the Sub-Contractor or where a quotation has been formally accepted in writing by NU PROJECTS LTD, a valuation shall be made by NU PROJECTS LTD of all authorised variations in accordance with clause 13 herein.
- 13 The valuation of any variations instructed by NU PROJECTS LTD in writing shall be carried out strictly in accordance with the following provisions which shall constitute an order of precedence as to the method of valuation:
- 13.1 where the analysis of the Sub-Contract Sum includes a bill of quantities or schedule of rates and the varied work is of similar character, executed under similar conditions, then the varied work shall be measured and valued at the rates and prices contained in the said bill of quantities or schedule of rates;
 - 13.2 where the analysis of the Sub-Contract Sum includes a bill of quantities or schedule of rates and the varied work is of similar character but not executed under similar circumstances then the varied work shall be measured and valued using the rates and prices contained in the said bill of quantities or schedule of rates as the basis for the valuation by making an appropriate adjustment to take account of the differing circumstances;

- 13.3 where the varied work is not of similar character to work included in any bill of quantities or schedule of rates, the varied work shall be measured and valued at fair rates and prices;
- 13.4 where the varied work cannot be properly measured it shall be valued on a daywork basis.
- 14 In the case of any item of work to be carried out on a daywork basis, the Sub-Contractor shall only be entitled to payment where specific prior written authorisation from NU PROJECTS LTD has been obtained and daywork sheets are signed by NU PROJECTS LTD The Sub-Contractor shall submit to NU PROJECTS LTD for verification all records of labour, materials and plant used not later than the Monday of the week following the daywork and shall continue to provide this information each week until it is completed.
- 15 The submission of costs by the Sub-Contractor for each variation and/or the subsequent valuation of that variation shall include for any additional preliminary costs and for any loss and/or expense directly associated with that variation.
- 16 The Sub-Contractor shall send to NU PROJECTS LTD all documents necessary for the valuation of each variation to the Sub-Contract Works no later than three working days before NU PROJECTS LTD are obliged to submit all such documents and/or information under the Main Contract. In any event the submission of all such documents by the Sub-Contractor shall be no later than two weeks after completion of the work ordered by any variation.
- 17 In the event that the Sub-Contractor does not comply with the provisions of clause 16 within the time stated therein NU PROJECTS LTD shall be entitled to carry out the valuation of the variation based upon the information in its possession, which computation shall be final and conclusive as to the value of that variation.
- 18 Effect shall be given in the computation of the final account for the Sub-Contract Works to each agreement reached by NU PROJECTS LTD and the Sub-Contractor in accordance with Clause 12, the valuation of each variation by NU PROJECTS LTD carried out pursuant to clause 13 and each quotation accepted in writing by NU PROJECTS LTD

Sub-Contracting and Assignment

- 19 The Sub-Contractor shall not sub-let the Sub-Contract Works or any part thereof without the prior written consent of NU PROJECTS LTD, which consent shall not be unreasonably withheld.
- 20 The Sub-Contractor shall not assign the Sub-Contract or any right or benefit arising under or in relation to, without the prior written consent of NU PROJECTS LTD, which consent shall not be unreasonably withheld.

Progress, Completion and Maintenance

- 21 If in the opinion of NU PROJECTS LTD reasonable progress in the performance of the Sub-Contract Works is not being maintained then NU PROJECTS LTD, upon giving written notice to the Sub-Contractor, may (without prejudice to his right to terminate the Sub-Contract Works under clause 59 herein) accelerate the progress of the Sub-Contract Works by the employment of its own labour or that of other Sub-Contractors and any additional costs and expenses incurred by NU PROJECTS LTD as a result shall be paid to NU PROJECTS LTD by the Sub-Contractor or be otherwise recoverable from the Sub-Contractor as a debt.
- 22 The Sub-Contractor shall notify NU PROJECTS LTD in writing of the date when in its opinion the Sub-Contract Works as a whole or such works in a Section thereof are complete, having fully satisfied the requirements for Completion. If NU PROJECTS LTD agrees it shall confirm to the Sub-Contractor that Completion has been achieved. Otherwise NU PROJECTS LTD shall inform the Sub-Contractor of the date when it considers that the Sub-Contract Works have achieved Completion.
- 23 On Completion of the Sub-Contract Works the Sub-Contractor shall remove all its plant, tools, surplus materials and debris arising from its work and leave the Site clean and tidy.
- 24 The Sub-Contractor shall maintain and make good the Sub-Contract Works in the same manner and for the same period as NU PROJECTS LTD has to maintain and make good the Main Contract Works in accordance with the Main Contract. The commencement of the maintenance and making good of defects period is upon Completion of the Project Works unless otherwise agreed. This obligation shall include any like obligation to that of NU PROJECTS LTD to remedy defects, shrinkages or faults in the Main Contract Works.
- 25 The Sub-Contractor shall attend to all such defects and other similar matters as soon as they are reported to it and in any event by no later than the date notified to the Sub-Contractor by NU PROJECTS LTD. In the event that the Sub-Contractor does not comply with this requirement by the date so notified then NU PROJECTS LTD shall be entitled to make such arrangements as are necessary to remedy the issue in question without further notice to the Sub-Contractor and to deduct all costs incurred in doing so from the Sub-Contractor's account or retention or to recover the same as a debt from the Sub-Contractor.

Extension of Time for Completion

- 26 The Sub-Contractor shall be entitled to an extension of time by means of an adjustment to the date or dates for completion in the event that one of the following occur:
- 26.1 any of the events set out in the relevant provisions of the Main Contract for which NU PROJECTS LTD is entitled to receive an extension of time for completion of the Main Contract; or
- 26.2 any impediment, prevention or default of NU PROJECTS LTD or any of NU PROJECTS LTD's persons (including where NU PROJECTS LTD is the Principal contractor, any default, whether by act or omission, in that capacity)

providing always that the event causes delay to the completion of the Sub-Contract Works and that any act, omission or default of the Sub-Contractor is not causing or contributing to the delay to the completion of the Sub-Contract Works at the same time as the event that would entitle the Sub-Contractor to an adjustment of the date for completion.

- 27 In order to be entitled to an adjustment to the completion date the Sub-Contractor shall inform NU PROJECTS LTD of all events that cause delay to the progress of the Sub-Contract Works within 7 days of the occurrence of each such event. In its notice to NU PROJECTS LTD the Sub-Contractor shall identify all such events that constitute an event under clause 26.1 or clause 26.2 above, and provide NU PROJECTS LTD with all reasonable details and an estimate of the extent of the delay to the completion date.
- 28 The provisions of clauses 26 and 27 above apply equally to any Sectional Completion Dates in this Sub-Contract.
- 29 Upon receipt of the said notices and sufficient particulars above NU PROJECTS LTD shall within 8 weeks notify the Sub-Contractor whether in the opinion of NU PROJECTS LTD the Sub-Contractor is properly entitled to an extension of time to the date for completion. In any such notification NU PROJECTS LTD shall notify the Sub-Contractor as to which events it considers have caused or contributed to any extension of time awarded and the period of time awarded for each such event. NU PROJECTS LTD shall also detail the reasons behind its assessment of any extension of time that may be due including its reasons for not awarding an extension of time in respect of any event notified under clause 26 by the Sub-Contractor.

Payment

- 30 The Sub-Contractor shall submit Applications for Payment to NU PROJECTS LTD at intervals of no less than **30 days** from the commencement of the Works and one upon Completion.
- 31 The amount of the Application will be the gross value of the work carried out by the Sub-Contractor at the date of the Application, including any Variations that have been instructed by NU PROJECTS LTD, plus the cost of any unfixed materials which have been delivered to Site in anticipation of being incorporated into the Works. Where an item or activity has not been fully completed a percentage of the value of such an item or activity representing a reasonable estimate of the portion of the work carried out will be included in the Application.
- 32 There shall be due to the Sub-Contractor 30 days after submission of a valid Payment Application a sum calculated and determined by NU PROJECTS LTD in accordance with the Sub-Contract or by reference to the Sub-Contract Sum ("The Due Date"). The gross amount due to the Sub-Contractor shall be subject to the deduction of:
- 32.1 retention at the rate specified in the Appendix to the Articles of Agreement or as agreed;

- 32.2 the total amount paid by NU PROJECTS LTD in previous payments; and
- 32.3 any amount to be deducted in accordance with the Construction Industry Tax Deduction Scheme as set out later herein.
- 33 No later than 5 days after the Due Date NU PROJECTS LTD shall issue a notice to the Sub-Contractor stating the sum that he considers is due at that time (“Notified Sum”). In the event that NU PROJECTS LTD does not issue this notice within the stated period the Sub-Contractor may issue a further notice to NU PROJECTS LTD seeking the sum sought in the Payment Application and this notice becomes the Notified Sum.
- 34 The Final Date for Payment shall be 10 days from the date of the Notified Sum.
- 35 No later than 2 days before the Final Date for Payment NU PROJECTS LTD may give written notice to the Sub-Contractor of an intention to pay less than the Notified Sum (“Pay Less Notice”) stating the basis on which that lesser sum is calculated.
- 36 If NU PROJECTS LTD fails to pay the amount properly due by the Final Date for Payment, subject to any Pay Less Notice in accordance with Clause 35, then NU PROJECTS LTD shall pay to the Sub-Contractor in addition to the balance due simple interest thereon for the period until such payment is made at a rate of 2% above the official dealing rate of the Bank of England current at the date that the payment was due under this Sub-Contract. The acceptance of any payment of interest under this clause shall not in any circumstances be construed as a waiver by the Sub-Contractor of its right to proper payment of the balance.
- 37 The Sub-Contract Sum is exclusive of VAT and in relation to any payment to the Sub-Contractor under this Sub-Contract NU PROJECTS LTD shall in addition pay the amount of any VAT properly chargeable at the Final Date for Payment for each payment to be made.

Retention

- 38 The retention monies deducted in accordance with clause 32.1 shall be reduced by half in the first payment that becomes due after the date of Completion of the Project Works. If no payment becomes due within 30 days of the date of Completion then the first moiety of retention shall become due at that time.
- 39 The balance of retention monies held after the reduction in percentage referred to above shall become due 365 days after Completion of the Project Works subject to any rights of set off in respect of those Works.

Set Off/Contra Charges

- 40 Without prejudice to the rights which exist under this Sub-Contract or at common law NU PROJECTS LTD shall be entitled to withhold or defer payment of all or part of any sums otherwise due pursuant to the provisions hereof where:
- 40.1 NU PROJECTS LTD gives a Pay Less notice in accordance with Clause 35 above; and
- 40.2 NU PROJECTS LTD has included the amounts or quantities set out in the Payment Application in its own statement to the Employer in accordance with the Main Contract and such sums have been certified as due to NU PROJECTS LTD but the Employer or some other party upon whom the payment is dependent is insolvent and as a consequence the Employer or NU PROJECTS LTD has not been paid in full; or
- 40.3 the Sub-Contractor has not returned a valid VAT receipt for any previous payment due under this Sub-Contract.
- 41 NU PROJECTS LTD shall be entitled to set off against any sums (including retention) otherwise due to the Sub-Contractor under this Sub-Contract, the amount of any damages, cost, losses and expenses incurred by NU PROJECTS LTD or which NU PROJECTS LTD in good faith estimates it is likely to incur as a result of any breach of this Sub-Contract by the Sub-Contractor.
- 42 The Sub-Contractor acknowledges that the Liquidated and Ascertained Damages for which NU PROJECTS LTD may be liable under the Main Contract as identified in the Appendix to the Articles of Agreement may form part of any damages claim against the Sub-Contractor arising from a failure to complete the Sub-Contract Works by the date for completion, together with any other costs arising from or under the Main Contract and any other related contracts entered into by NU PROJECTS LTD. It is agreed that this sum is within the contemplation of the parties and does not constitute the limit of the Sub-Contractor's liability.
- 43 Tax will be deducted from payments due under this Sub-Contract in accordance with the Finance Act 1975 or any statutory modification thereof and in the event that the Sub-Contractor fails to produce to the satisfaction of NU PROJECTS LTD a valid tax certificate in accordance with the Construction Industry Tax Deduction Scheme and such renewals as may be necessary to keep it in force for the duration of the Sub-Contract, including up to the release of any retention monies.
- 44 Should the Sub-Contractor's Tax status change from gross to net or the Sub-Contractor has a net status then the Sub-Contractor must issue with its written statement a copy of all material invoices relevant to that written statement. Tax at the appropriate percentage will be deducted from all sums due less total value of all relevant invoices provided (all values to be exclusive of VAT). Failure to provide all such material invoices with the written statement will result in Tax being deducted at the relevant percentage from the amount due less the value of any relevant invoices received.
- 45 Title to any goods or materials for incorporation into the Project Works shall pass from the Sub-Contractor to NU PROJECTS LTD at the time of their arrival on site or upon payment by NU PROJECTS LTD to the Sub-Contractor, whichever occurs first. Notwithstanding the foregoing, the Sub-Contractor shall bear all risks of loss or

damage to such goods and materials until the date of practical completion of the Main Contract or acceptance in writing by NU PROJECTS LTD, whichever is the earlier.

Final Account

- 46 The Sub-Contractor shall send to NU PROJECTS LTD all documents necessary for the computation of the final account for the Sub-Contract Works no later than one month after Completion of the Project Works.
- 47 If the Sub-Contractor does not submit the documentation required by Clause 46 above then NU PROJECTS LTD may by issue of a written notice require the Sub-Contractor to submit all such documentation within one month of receipt by the Sub-Contractor of the said notice.
- 48 In the event that the Sub-Contractor does not submit the documentation required by Clause 46 within the time required from the receipt of the written notice referred to in Clause 47 then NU PROJECTS LTD shall be entitled to carry out the computation of the final account for the Sub-Contract Works based on the information in its possession and such computation shall be conclusive as to the final valuation of the Sub-Contract Works.
- 49 No later than 6 months after the necessary documentation for the final account has been received by NU PROJECTS LTD or 6 months after NU PROJECTS LTD has undertaken its computation of the final account under Clause 48, whichever is the later, the sum ascertained by NU PROJECTS LTD falls due to the Sub-Contractor ("the Final Account Due Date").
- 50 No later than 5 days after the Final Account Due Date NU PROJECTS LTD shall issue a notice to the Sub-Contractor stating the sum that he considers is due (the "Final Account Notified Sum"). In the event that NU PROJECTS LTD does not issue this notice within the stated period the Sub-Contractor may issue a further notice seeking the sum in its latest final account application and this notice becomes the Final Account Notified Sum.
- 51 The Final Date for Payment shall be 10 days from the date of the Final Account Notified Sum.
- 52 No later than 2 days before the Final Date for Payment NU PROJECTS LTD may give written notice to the Sub-Contractor of an intention to pay less than the Final Account Notified Sum ("Pay Less Notice") stating the basis on which that lesser sum is calculated.

Insurances

- 53 The responsibility for the Sub-Contractor's plant, materials and equipment or other property on the site shall be at the Sub-Contractor's sole risk.

- 54 The Sub-Contractor shall indemnify and save harmless, in so far as permitted by law NU PROJECTS LTD against and from:
- 54.1 any breach, non observance or non performance by the Sub-Contractor, his servants or agents of the said provisions of the Main Contract or any of them;
 - 54.2 any act or omission of the Sub-Contractor, his servants or agents which involves NU PROJECTS LTD in any liability to the Employer or others under the Main Contract;
 - 54.3 any claim, damage, loss or expense due to or resulting from any negligence or breach of duty on the part of the Sub-Contractor, his servants or agents; and
 - 54.4 any loss or damage resulting from any claim under any statute in force for the time being by an employee of the Sub-Contractor in respect of personal injury arising out of or in the course of his employment.
- 55 The Sub-Contractor shall be responsible for the cost of replacement of Free Issue Materials lost, damaged or stolen from the date of delivery to the Sub-Contractor of such Free Issue Materials until Completion of the Project Works.
- 56 The Sub-Contractor shall take out and maintain such insurance as is required by law and as specified in the Appendix to the Articles of Agreement hereto and the risks commonly insured against in relation to the Sub-Contract Works in respect of employees, third parties, adjoining properties and the like.
- 57 Whenever NU PROJECTS LTD shall request the Sub-Contractor shall provide evidence in the form of an authenticated certificate from a reputable Insurance Broker that such insurance is in place.
- 58 Where any claim is made under any Joint Names Insurance Policy taken out by the Employer or NU PROJECTS LTD, where the Sub-Contractor is either recognised as an insured under the Joint Names Insurance Policy or the insurers waive any rights of subrogation they may have against the Sub-Contractor, where such claim relates to any loss or damage caused (whether directly or indirectly) by any negligence, breach of statutory duty, omission or default of the Sub-Contractor or any person for whom the Sub-Contractor is responsible, the Sub-Contractor shall pay the sum of any excess paid by NU PROJECTS LTD or the Employer to the Insurer as required by such insurance policy or any other liability incurred by the Employer or NU PROJECTS LTD, whichever is the greater. This sum may be withheld or deducted from any amount to the Sub-Contractor subject to compliance by NU PROJECTS LTD with the requirements of clause 35. For the avoidance of doubt the Sub-Contractor's liability under this clause shall continue after completion of the Main Contract Works or termination of this Sub-Contract.

Termination

- 59 If at any time the Sub-Contractor fails to observe, perform or comply with any of its obligations under the Sub-Contract:

- 59.1 then if NU PROJECTS LTD shall give to the Sub-Contractor notice of such failure and if the Sub-Contractor for seven days continues with such failure then NU PROJECTS LTD shall be entitled by further written notice to terminate the Sub-Contract, or
- 59.2 by further written notice to the Sub-Contractor remove any portion of the Sub-Contract Works.
- 60 In the event that the Sub-Contractor:
- 60.1 makes a composition or arrangement with his creditors, or becomes bankrupt, or
being a company
- 60.2 makes a proposal for a voluntary arrangement for a composition of debts or scheme of arrangement to be approved in accordance with the Companies Act 1985 or the Insolvency Act 1985 as the case may be or any amendment or re-enactment thereof, or
- 60.3 has a provisional liquidator appointed, or
- 60.4 has a winding up order made, or
- 60.5 passes a resolution for voluntary winding up (except for the purposes of amalgamation or reconstruction), or
- 60.6 under the Insolvency Act 1986 or any amendment or re-enactment thereof has an administrator or an administrative receiver appointed
- then the employment of the Sub-Contractor is terminated forthwith.
- 61 If the Domestic Subcontract is terminated under clauses 59 or 60 then NU PROJECTS LTD may employ and pay others to complete the Sub-Contract Works and to make good defects of the kind referred to in clause 24 and NU PROJECTS LTD may enter upon and take possession of the Sub-Contract Works and (subject to third party consents) use all of the Sub-Contractor's temporary buildings, plant, tools, equipment and materials for those purposes.
- 62 The Sub-Contractor shall:
- 62.1 when requested in writing, but not before, remove all temporary buildings, plant, tools, equipment and materials;
- 62.2 if required by NU PROJECTS LTD and if it is lawfully required to do so, assign to NU PROJECTS LTD without charge, the benefit of any agreement for the supply of materials, goods or services for the purposes of this Sub-Contract;

- 63 If the Sub-Contract is terminated under clauses 59 or 60 then the provisions of clause 63.1 apply and all other provisions relating to payment and retention shall cease to apply.
- 63.1 Upon completion of the Sub-Contract Works and making good of defects in accordance with Clause 24 the Sub-Contractor may apply and NU PROJECTS LTD shall pay to the Sub-Contractor the value of any work executed and materials and goods supplied that have not been included in previous payments. Without prejudice to its other rights NU PROJECTS LTD may deduct from the payment direct loss and expense/or damage caused by the termination of the Sub-Contract. To the extent that amounts due to NU PROJECTS LTD exceed the amounts due to the Sub-Contractor the balance shall be recoverable from the Sub-Contractor as a debt.

Dispute Resolution

- 64 Without prejudice to either parties' rights to refer a dispute to Adjudication at any time, if at any time either party is dissatisfied with any matter arising under, out of or in connection with this Sub-Contract, the matter shall be referred, in writing, by the dissatisfied party to the other party, whereupon the authorised representatives the parties shall meet in an attempt to resolve such a dispute.
- 65 Failing the resolution of a dispute by the representatives, the parties may by agreement seek to resolve any dispute or difference arising under or out of this Sub-Contract through mediation.
- 66 Notwithstanding the provisions of Clauses 64 and 65 either party may at any time refer the dispute to be settled by an adjudicator to be nominated by the body identified in the Appendix to the Articles of Agreement or if not stated the Royal Institute of Chartered Surveyors within 7 days of the effective service of a notice of adjudication.
- 67 Only where all of the issues referred to adjudication are between NU PROJECTS LTD and the Sub-Contractor will the adjudication be subject to any effective adjudication rules included in or referred to by the Main Contract. In the event that no such rules are identified then the Scheme for Construction Contracts will apply.
- 68 Should NU PROJECTS LTD be of the opinion that any of the issues is or is likely to be related to a dispute under the Main Contract then NU PROJECTS LTD and Sub-Contractor hereby agree that any such dispute under this Sub-Contract shall be dealt with jointly with the dispute under the Main Contract and they shall follow and be bound by the adjudication procedure and decision under the Main Contract and any subsequent arbitration or other legal proceedings as provided for under the terms of the Main Contract.
- 69 Subject to Clause 66 above and the exceptions set out below, any dispute or difference between the parties of any kind whatsoever arising out of or in connection with this Sub-Contract, whether before, during the progress of or after Completion or termination of the Sub-Contract Works, shall be referred to arbitration in accordance with the edition of the Construction Industry Model Arbitration Rules

(CIMAR) current at the date of reference to arbitration. The exceptions to this clause are:

69.1 any dispute or difference arising under or in respect of the Construction Industry Tax Deduction Scheme or VAT, to the extent that legislation provides another method of resolving such disputes or differences; or

69.2 any disputes or differences in connection with the enforcement of any decision of an Adjudicator.

70 In the event that the Appendix to the Articles of Agreement indicate that Clause 69 does not apply then the English courts shall have jurisdiction over any dispute or difference between the parties which arises out of or in connection with this Sub-Contract.

Contracts (Rights of Third Parties) Act 1999

71 Notwithstanding any other provision of this Sub-Contract nothing in this Sub-Contract confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.