

SUBCONTRACT ORDER (For use in Scotland)

Subcontract Order Sheet

This Subcontract Order Sheet forms part of the Subcontract Order and shall be read together with the Subcontract Terms and Conditions attached. The Contractor agrees to engage the Subcontractor and the Subcontractor agrees to carry out the Subcontract Works in accordance with this Subcontract Order. The Subcontract Terms and Conditions shall not be amended or superseded unless agreed in writing by the Contractor and the Subcontractor.

NOTE: The wording in italics in this Subcontract Order Sheet forms part of the Subcontract Order and should not be deleted.

DATE: _____

PARTIES	
Contractor:	Space Solutions (Scotland) Limited , a company incorporated under the Companies Acts, having the company number SC3221119), and having their Registered Office at Bishop House, 50 Carden Place, Aberdeen AB10 1UP
Subcontractor:	Full company/firm name: _____ Company registration no: _____ Registered office address: _____ _____
WORKS AND MAIN CONTRACT	
Employer:	Full company/firm name: _____ Company registration no: _____ Registered office address: _____ _____
Main Contract:	The contract between the Employer and the Contractor dated []
Works:	The works to be constructed and, if applicable, designed under the Main Contract.

SUBCONTRACT WORKS	
<p>Subcontract Works: (Description of the whole of the Subcontract Works)</p>	<p>_____</p> <p>_____</p> <p>_____</p> <p>including any Changes in accordance with this Subcontract Order.</p>
<p>Subcontract Sections: (Complete description of Subcontract Sections to be completed in addition to description of the Subcontract Works where there are Subcontract Sections. Where no Subcontract Sections are specified Subcontract Sections do not apply)</p>	<p>Subcontract Section 1: _____</p> <p>Subcontract Section 2: _____</p> <p>Subcontract Section 3: _____</p>
<p>Site:</p>	<p>_____</p>
<p>Start Date:</p>	<p>For the Subcontract Works (where Subcontract Sections do not apply): _____</p> <p>For Subcontract Sections (where Subcontract Sections apply):</p> <p>Section 1: _____</p> <p>Section 2: _____</p> <p>Section 3: _____</p>
<p>Finish Date:</p>	<p>For the Subcontract Works (where Subcontract Sections do not apply): _____</p> <p>For Subcontract Sections (where Subcontract Sections apply):</p> <p>Section 1: _____</p> <p>Section 2: _____</p> <p>Section 3: _____</p> <p>or as extended in accordance with this Subcontract Order</p>
<p>Defects Longstop Date: (Where no date is specified the Defects Longstop Date shall be the date 12 months after the last date of Practical Completion)</p>	<p>_____ or such earlier date as may be notified by the Contractor to the Subcontractor after the date of this Subcontractor Order</p> <p>(A specific date should be inserted or words that will result in the calculation of a specific and fixed date, for example, a period from Practical Completion under this Subcontract Order)</p>

<p>Contract Documents:</p>	<p>[Redacted] Main Contract (copy available on request)</p> <p>Employer's/Contractor's Specification</p> <p>Contractor's Handbook</p> <p>Contractor's Drawings</p> <p>Subcontractor's Drawings</p> <p>Schedule of Attendances Subcontractor's Schedule of Rates</p> <p>Employer's Health & Safety Guide</p> <p>Contractor's Health & Safety Guide</p> <p>_____</p> <p>_____</p> <p><i>(Delete or insert additional documents as applicable)</i></p>
<p>BIM Protocol:</p> <p><i>(Where no protocol is specified, the Subcontract Works are not subject to any BIM requirements)</i></p>	<p>_____</p> <p>_____</p>
<p>INSURANCE</p>	
<p>Insurance to be maintained by the Subcontractor:</p> <p><i>(Where no amount is specified, the Subcontractor is required to maintain insurances at the same level as is required of the Contractor under the Main Contract)</i></p>	<p>Public Liability: £ _____</p> <p>Employer's Liability: £ _____</p> <p>Professional Indemnity: £ _____</p> <p>Products Liability: £ _____</p> <p>[Product recall/guarantee £ _____</p> <p>Defective workmanship/other £ _____</p>
<p>PAYMENT</p>	
<p>Subcontract Price:</p>	<p>£ _____ (Subject to adjustment in accordance with this Subcontract Order)</p>
<p>Payment Intervals:</p>	<p>The Subcontractor shall submit Applications for Payment:</p> <ul style="list-style-type: none"> • Monthly • Upon completion of Stages • Monthly and upon completion of Stages <p>Where Monthly the first due date is _____ and thereafter on a monthly basis or on the nearest Working Day (<i>Where no date is stated the date for the first monthly application will be the last working day of the month after the Start Date or first Start Date</i>)</p> <p><i>(Delete bullets as appropriate – if the Payment Intervals include Stages then complete the following "Stages" section)</i></p>

<p>Stages: <i>(If not completed then payment will be Monthly or on such other periodic basis as is stated under Payment Intervals)</i></p>	<p style="text-align: right;">Cumulative value</p> <p>1. _____ Payment due: £ _____</p> <p>2. _____ Payment due: £ _____</p> <p>3. _____ Payment due: £ _____</p> <p>-or-</p> <p>Stages and payments are set out in the following document: _____</p>																
<p>Final Date Payment Period: <i>(Where no period is specified, the period shall be 30 days)</i></p>	<p>_____ days between the Subcontractor's application for payment (due date) and the final date for payment.</p>																
<p>Interest: <i>(Where no rate is stated the annual percentage rate is 2%)</i></p>	<p>Annual percentage rate of _____% to be added to the Bank of Scotland base rate</p>																
<p>Retention: <i>(Where no amount of Retention is stated, the Retention shall be 5%)</i></p>	<p>_____ % at the date of this Subcontract Order</p> <p>_____ % from Practical Completion (half the percentage rate at the date of the Subcontract Order)</p> <p>0% from the date of the defects discharge notice</p>																
<p>Subcontractor's Overtime and Daywork Rates: <i>(Overtime rates and daywork rates will only apply where the Contractor expressly instructs the Subcontractor to carry out such overtime working or daywork)</i></p>	<p>Overtime rates:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;">Staff Level</th> <th style="width: 40%;">Rate (daily or hourly)</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table> <p>Daywork rates:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;">Staff Level</th> <th style="width: 40%;">Rate (daily or hourly)</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Staff Level	Rate (daily or hourly)							Staff Level	Rate (daily or hourly)						
Staff Level	Rate (daily or hourly)																
Staff Level	Rate (daily or hourly)																
<p>Subcontractor's payment application to be provided to:</p>	<p>_____</p>																
<p>Subcontractor's VAT Invoice to be provided to:</p>	<p>accounts@spacesolutions.co.uk</p>																
<p>CONSTRUCTION AND PROFESSIONAL TEAM</p>																	
<p>Principal Designer where overall project notifiable:</p>	<p>_____</p>																
<p>Principal Contractor where overall project notifiable:</p>	<p>_____</p>																

The Professional Team comprises:	Architect: [] Structural Engineer: [] Services Engineer: [] Contract Administrator: [] Principal Designer [] Principal Contractor []
WARRANTIES	
Warranties are required to be provided by the Subcontractor: <i>(Where not completed, warranties are not required to be provided by the Subcontractor, and the Contract (Third Party Rights) (Scotland) Act 2017 shall apply)</i>	Yes – warranties to be provided in favour of: <ul style="list-style-type: none"> • the Employer • Owner(s) of the Site • Tenant(s) of the Site • Purchasers(s) of the Site • -or- No
DISPUTES, GOVERNING LAW AND JURISDICTION	
Adjudicator nominating body: <i>(Where no particular nominating body has been selected, the nominating body will be the body selected by the party making the reference to adjudication)</i>	<ul style="list-style-type: none"> • RICS • Law Society of ScotlandCIArb • RIAS (Delete as applicable)
Applicable law: <i>(Where the Works are not carried out in Scotland, separate advice should be sought as to the applicable local law)</i>	Scotland
Courts of jurisdiction: <i>(Where not completed, the courts of Scotland will have jurisdiction)</i>	_____
GENERAL	
Assignment: <i>(Where not completed, neither party may assign the benefit of this Subcontract Order without the prior written consent of the other party)</i>	The Contractor may assign the benefit of this Subcontract Order to: _____ The Subcontractor may assign the benefit of this Subcontract Order to: _____

IN WITNESS WHEREOF these present consisting of this Order Sheet (and the Contract Documents referenced therein) and the attached Subcontract Terms and Conditions are executed as follows:

Signed by or on behalf of the Contractor: _____

signatory name

at

on

In the presence of: _____

witness' signature

witness' name

witness' address

Signed by or on behalf of the Subcontractor: _____

signatory' name

at

on

In the presence of: _____

witness' signature

witness' name

witness' address

SUBCONTRACT ORDER
Subcontract Terms and Conditions

1 Interpretation:

In this Subcontract Order:

1.1 the following terms have the meanings set out below:

“Contract Documents” means all documents provided with this Subcontract Order and referred to on the Subcontract Order Sheet

“Force Majeure” means any event or circumstance beyond a party’s reasonable control

“Practical Completion” means a stage of completeness of the Subcontract Works which allows the Site to be occupied and used and where:

(a) there are no apparent deficiencies or defects or incomplete items of work which would or could:

(i) compromise the health and safety of persons entering and/or occupying the Site; and/or

(ii) given their cumulative number and/or nature, have more than a trivial impact on the beneficial occupation and use of the Site for its intended purpose;

(b) the location of the Subcontract Works at the Site has been substantially cleared of the Subcontractor’s plant, equipment, unused materials and rubbish;

(c) all other requirements which the Contract Documents state are to be complied with by the Subcontractor before or at Practical Completion have been complied with to the reasonable satisfaction of the Contractor;

(d) operation and maintenance manuals or materials for inclusion in operation and maintenance manuals have been provided relating to the Subcontract Works;

(e) all relevant Statutory Requirements and consents have been complied with; and

(f) all commissioning, testing and/or adjustment of any mechanical or electrical services installations forming part of the Subcontract Works that the Contract Documents expressly state is to be completed before Practical Completion of the Subcontract Works is satisfactorily achieved and the relevant certificates issued

“Professional Team” means any professional consultants named in the Subcontract Order Sheet and any other professional consultants engaged by the Employer in relation to the Works

“Public Holiday” means Christmas Day, Good Friday or a day which under the Banking and Financial Dealings Act 1971 is a bank holiday in Scotland

“Skill and Care” means the level of skill and care reasonably to be expected of a qualified and competent designer in the discipline to which such design relates experienced in carrying out work on projects of a similar nature to the Subcontract Works

“Statutory Requirements” means any directly applicable provision of the EU treaty, any EU regulation, any act of parliament or statutory instrument, regulation, rule or order made pursuant thereto, any regulation or bye-law of any local authority or under or pursuant to any notices or permissions served or granted under any such act, regulation, rule or order, regulation or bye-law

“Subcontract Order” means together these Terms and Conditions, the

Subcontract Order Sheet and all of its appendices and/or attachments including the Contract Documents

“Subcontractor’s Persons” means the Subcontractor’s employees, contractors and all other persons for whom the Subcontractor is responsible and which are engaged in relation to the Subcontract Works

“Working Day” means a day other than Saturday, Sunday or a Public Holiday;

1.2 other capitalised terms have the meanings set out in the Subcontract Order Sheet and in the subsequent paragraphs of these Terms and Conditions;

1.3 where the Subcontract Works are divided into Subcontract Sections and the Subcontract Sections are identified in the Subcontract Order Sheet, reference to:

- (a) Start Date is to the Start Date of the relevant Subcontract Section or Subcontract Sections (as the context requires);
- (b) Finish Date is to the Finish Date of the relevant Subcontract Section or Subcontract Sections (as the context requires);
- (c) Practical Completion is to the Practical Completion of the relevant Subcontract Section or Subcontract Sections (as the context requires);
- (d) Subcontract Works is to the relevant Subcontract Section or Subcontract Sections (as the context requires);

1.4 where an act is required to be done within a specified period after or from a specified date, the period begins immediately after the date and where the period would include a Public Holiday that day shall be excluded.

2 Applicability

This Subcontract Order contains the sole terms upon which the Subcontract Works will be supplied by the Subcontractor to the Contractor. These Terms and Conditions shall apply to the entire

exclusion of any statements made on or prior to this Subcontract Order and of terms set out in any other documentation used by the parties or otherwise relating to the Subcontract Works. Where the Subcontractor has carried out any Subcontract Works prior to the date of this Subcontract Order, those Subcontract Works will be deemed to have been provided under the terms of this Subcontract Order.

3 The Subcontract Works

3.1 The Subcontractor shall commence the Subcontract Works on the Start Date and shall proceed with the Subcontract Works regularly and diligently and so that the Subcontract Works are completed by the Finish Date subject to any extensions of time to which the Subcontractor may be entitled under clause 12. The Subcontractor shall carry out the Subcontract Works in a good and workmanlike manner and in compliance with the Contract Documents and Statutory Requirements.

3.2 To the extent that the Subcontract Works include design, the Subcontractor shall carry out design using Skill and Care and in accordance with the Main Contract. Insofar as and to the extent that the Subcontract Order includes for design of the Works, the Subcontract Sum shall be deemed to include for the entire cost including all fees relative to design of the Works and the Subcontractor shall insure by means of Professional Indemnity Insurance, product guarantee, or similar cover, against each and every risk consequent upon his responsibilities with regard to the design of the Subcontract Works to the minimum level stated in the Subcontract Order Form. The Subcontractor shall maintain such policy of Professional Indemnity Insurance for as long as he remains liable for the Works.

3.3 The Subcontractor shall not specify for use or use in the Subcontract Works materials which are not in accordance with applicable British or European standards and materials which the Subcontractor specifies for use in the Subcontract Works shall be suitable for their intended purpose and meet the requirements of the Employer. The Subcontractor shall not make any change

- 3.4 to the standard or type of materials for use in the Subcontract Works without express written authorisation from the Contractor or a member of the Professional Team.
- 3.5 The Subcontractor shall notify the Contractor in writing without delay if the Subcontractor becomes aware that any goods or materials being used in the Subcontract Works are not in accordance with applicable British or European standards or are otherwise not suitable for their intended use.
- 3.6 The Subcontractor is aware of the terms of the Main Contract and shall observe, perform and comply with the provisions of the Main Contract to the extent that they relate to the Subcontract Works. The Subcontractor shall ensure that no act or omission by it shall constitute, cause or contribute to any breach by the Contractor of any of its obligations under the Main Contract.
- 3.7 The Subcontractor shall at all times comply with:
 - (a) instructions from the Contractor including in relation to the order, manner and times of Subcontract Works; and
 - (b) Site rules provided or communicated by the Contractor, the Employer or the Professional Team. The Subcontractor shall co-ordinate the Subcontract Works with other works packages at the Site, including design co-ordination where the Subcontractor is responsible for design, and shall at all times co-operate with the Professional Team, the Contractor and any other designers, subcontractors, trades and other persons at the Site.
- 3.8 Where the Site comprises occupied premises, the Subcontractor shall ensure that the Site is left fit for occupation at the end of each day. Where services are required to be disconnected to allow the Subcontract Works to be carried out, the Subcontractor shall prior to such disconnection agree with the Contractor the period of disconnection, and shall reconnect the services within the agreed period. The Subcontractor shall be liable to the Contractor for any cost or liability incurred by the Contractor as a result of any breach of this obligation.
- 3.9 The Subcontractor shall incorporate within his procedures, disciplines for quality assurance of the Subcontract Works, including (but not limited to) the requirements of ISO 9001, or as may be required within the terms of the Main Contract. Such procedures shall include disciplines for ensuring the competence of operatives, quality of materials, the use of suitable tools and equipment, inspection and testing of the Subcontract Works including the keeping of suitable records relative to these, as may be required by the Contractor.
- 3.10 The Subcontractor shall supply and maintain at his own expense all the necessary plant, equipment, electricity, lighting, fuel, power, etc for the execution of the Subcontract Works.
- 3.11 The Subcontractor will be permitted the free use of any temporary welfare accommodation and/or services (including first aid facilities and treatment) which the Contractor or Employer may provide on the Site in connection with the Works, provided that any such use or treatment shall be at the sole risk of the Subcontractor who shall indemnify the Contractor and Employer and/or their employees against any claim for loss, damage or personal injury arising therefrom.
- 4 Access, Site conditions and setting out**
- 4.1 The Subcontractor has been afforded the opportunity to inspect the physical and other conditions (including, where applicable, sub-surface conditions) of that part of the Site where the Subcontract Works are to be carried out

and its surrounds and the available means of access to and egress from the Site and shall be deemed to have fully acquainted itself with the same and to have obtained all necessary information concerning any associated risks, contingencies and other circumstances that may affect the execution of the Subcontract Works. No failure on the part of the Subcontractor to discover or foresee any such condition, risk, contingency or circumstance (whether or not the same ought reasonably to have been discovered or foreseen) nor any misunderstanding in respect of any matter affecting the Site and its surrounds and the available means of access thereto and the available space and conditions at the location at the Site where the Subcontract Works are to be carried out shall relieve the Subcontractor from any risks or obligations imposed on or undertaken by it, nor shall the Subcontractor be entitled to an addition to the Subcontract Price or to an adjustment of the Finish Date in respect of any such failure. The Subcontractor shall, where applicable, be deemed to have satisfied himself, before commencing his work, as to the suitability of any surfaces on which the Subcontractor is to fix or lay his work.

4.2 The Subcontractor may at its own risk and expense rely upon and use any survey, report or other document provided to it by the Contractor regarding any such matter as is referred to in clause 4.1, but the Contractor makes no representation or warranty as to the accuracy or completeness of any such survey, report or document or any representation or statement contained therein and the Subcontractor shall be wholly responsible for checking the accuracy of any such survey, report, document, representation or statement.

4.3 The Subcontractor shall access the Site in accordance with the Access Requirements specified in the Subcontract Order Sheet or, where no Access Requirements are specified, as reasonably directed by the Contractor. Access will be non-exclusive and may not be continuous in order to accommodate other work packages. The Subcontractor shall co-operate with others in its use and access of the Site.

4.4 The Contractor shall provide reasonable access to the Site to the Subcontractor prior to commencement of the Subcontract Works (unless otherwise agreed) for the purpose of setting out the Subcontract Works. The Subcontractor shall be wholly responsible for setting out the Subcontract Works.

4.5 The Subcontractor may with the prior written agreement of the Contractor use facilities at the Site for the purposes of providing the Subcontract Works.

5 Subcontractor's Persons

5.1 The Subcontractor shall ensure that all Subcontractor's Persons bring their own personal protective equipment to the Site and that they satisfy and comply with all regulations and requirements, including health and safety guidance, governing the carrying out of work at the Site. All Subcontractor's Persons must be in a fit state to carry out the Subcontractor's obligations under this Subcontract Order.

5.2 The Subcontractor and any Subcontractor's Persons shall be responsible for providing, maintaining and safeguarding their own tools, plant and equipment at the Site and the Contractor shall have no liability whatsoever for any loss of or damage to any such tools, plant and equipment.

5.3 The Subcontractor shall ensure that all Subcontractor's Persons are suitably qualified and competent to carry out the Subcontract Works. Where the Contractor considers that any of the Subcontractor's Persons is not competent or is otherwise in breach of the terms of this clause 5 or any other terms of this Subcontract Order the Contractor may require the Subcontractor to remove immediately and replace the relevant person, without obligation to give a reason. In such cases the Subcontractor shall provide a suitable and acceptable replacement as soon as reasonably practicable without any adjustment to the Subcontract Price or Finish Date.

6 Subcontractor's indemnities

The Subcontractor shall indemnify and hold harmless the Contractor in respect of any and all losses, liabilities, claims, proceedings, damages, costs and

expenses which may be suffered or incurred by the Contractor or brought or made against the Contractor as a result of:

- (a) personal injury, death or damage to property (including any third party property within the Site) arising out of or in the course of or caused by the carrying out of the Subcontract Works except to the extent due to any act or negligence of the Contractor;
- (b) loss or damage caused by equipment or plant belonging to or under the control of the Subcontractor;
- (c) loss or damage caused by or contributed to as a result of materials or goods supplied or procured by the Subcontractor;
- (d) breach by the Subcontractor of clause 3.5; and
- (e) any other breach of the terms of this Subcontract Order.

7 Changes and Instructions

7.1 The following will constitute a “Change” for the purposes of this Subcontract Order:

- (a) an instruction by the Contractor for the Subcontractor to carry out additional work, omit work, substitute work, alter the kind or standard of any material or goods to be used in the Subcontract Works, alter quantities, alter design, remove properly completed Subcontract Works from the Site or otherwise alter the Subcontract Works and/or any of the Contract Documents including so that the Subcontract Works comply with changes to relevant Statutory Requirements made after the date of this Subcontract Order; or
- (b) an instruction by the Contractor to the Subcontractor issued after the date of this Subcontract Order materially

altering the sequence in which the Subcontract Works are to be carried out, altering the time or method for the Subcontractor’s access to the Site, or altering the Subcontractor’s working space or working hours.

7.2 The Contractor shall have the right at any time to instruct Changes. Any Change instructed by the Contractor shall be in writing or, where given orally, shall only be valid if confirmed by the Contractor in writing.

7.3 Within five Working Days of receipt of an instruction from the Contractor instructing a Change, the Subcontractor shall submit a quotation to the Contractor setting out the proposed cost for implementing the instructed Change. The Subcontractor’s quotation shall be provided in a level of detail and shall include such information as the Contractor may reasonably require.

7.4 The Contractor may:

- (a) where the Contractor agrees with the Subcontractor’s quotation, accept the quotation and instruct the Subcontractor to proceed with the Change, in which case the Subcontract Price shall be adjusted by the amount stated in the Subcontractor’s quotation; or
- (b) where the Contractor has not accepted the Subcontractor’s quotation or where the Subcontractor does not provide a quotation within the time required under clause 7.3, instruct the Subcontractor to proceed with the Change and provide to the Subcontractor the Contractor’s valuation of the Change, which shall be based as far as reasonably practicable on the rates and prices in the Subcontractor’s Schedule of Rates or, if there are no applicable rates or prices, on a fair and reasonable valuation. The Subcontract Price shall be adjusted by the amount stated in the Contractor’s valuation; or

(c) notify the Subcontractor that a Change is withdrawn,

provided always that where a Change is required to be instructed as a result of any default, delay or breach of the terms of this Subcontract Order on the part of the Subcontractor, the cost of effecting that Change shall be met wholly by the Subcontractor and no adjustment shall be made to the Subcontract Price.

8 Concealed works

8.1 Where the Subcontract Works include elements which are to be covered up or concealed, the Subcontractor shall arrange with the Contractor for these elements to be inspected and/or tested prior to being covered up or concealed. The Subcontractor shall provide as much notice as reasonably practicable to the Contractor in advance of the date when the Subcontractor expects the relevant elements to be ready for inspection and/or testing.

8.2 If the Subcontractor covers up the Subcontract Works or any part of them before the Contractor has had an opportunity to inspect and/or test them, the Subcontractor shall be responsible for and shall indemnify the Contractor in respect of any and all losses incurred by the Contractor as a result of the Contractor needing to open up, test, investigate, remove material and/or make good defective works as a result of any failure by the Subcontractor to comply with its obligation under clause 8.1.

9 Supply of Information

9.1 The Subcontractor may request the Contractor to provide such relevant information as the Subcontractor reasonably requires in order to design, carry out and complete the Subcontract Works. The Contractor shall provide any properly requested information within a reasonable time of receipt of such a request.

9.2 The Subcontractor shall provide to the Contractor all information required by the Contractor in relation to any applicable BIM Protocol in such format and at such time as the Contractor may require.

9.3 The Contractor and the Subcontractor shall each provide to the other any

information which is reasonably requested in relation to the Works or the Subcontract Works within a reasonable time.

10 Insurance

The Subcontractor shall take out and maintain for no less than the period between the Start Date and the date of Practical Completion, and so far as necessary for the making good of defects, the insurances detailed in the Subcontract Order Sheet. The Subcontractor shall provide to the Contractor on request evidence that the required insurances are being maintained.

11 Copyright and confidentiality

11.1 The Subcontractor grants to the Contractor, with immediate effect, an irrevocable, non-exclusive, non-terminable, royalty-free licence to copy and make full use of any drawings, reports and other documents prepared by or on behalf of the Subcontractor and to reproduce the designs contained in them for any purpose relating to the Works (and the completed Works). This licence carries the right to grant sub-licences and is transferable to third parties without the Subcontractor's consent.

11.2 The Subcontractor shall have no liability for use of its drawings, reports and other documents for any purpose other than that for which they were prepared and/or provided.

11.3 Each party shall keep confidential commercial information about the other party save where disclosure of such commercial information is necessary for the provision of the Subcontract Works by the Subcontractor or the Works by the Contractor or for the purposes of either party taking professional or legal advice or in accordance with Statutory Requirements.

12 Time for completion of the Subcontract Works

12.1 The Subcontractor shall carry out and complete the Subcontract Works by the Finish Date as may be extended pursuant to this clause 12.

12.2 Where the Subcontract Works are not completed by the then current Finish

Date, the Subcontractor shall be liable to and shall reimburse the Contractor in respect of all losses, costs, expenses, liabilities, claims, proceedings and damages, costs and expenses which may suffered or incurred by or made against the Contractor as a result of the late completion of the Subcontract Works including in respect of any resulting delay or disruption to the Works or to other trades working at the Site.

12.3 The Finish Date shall be extended where the Finish Date for the Subcontract Works is delayed as a result of any:

- (a) Changes, unless and to the extent that such Change is required to be instructed as a result of any default, delay or breach of the terms of this Subcontract Order on the part of the Subcontractor;
- (b) cause or event in respect of which the Contractor would be entitled to an extension of time under the Main Contract.
- (c) unreasonable delay by the Contractor in providing information or design data to the Subcontractor;
- (d) delay by the Contractor in providing access to the Site so that access granted does not comply with the applicable Access Requirements; or
- (e) breach of this Subcontract Order for which the Contractor is responsible.

12.4 If the Subcontractor becomes aware that the Subcontract Works have been or will be delayed as a result of one or more of the matters listed in clause 12.3, the Subcontractor shall give written notice to the Contractor within seven Working Days of the date it became aware or should have become aware of the delay and shall include with such notice the Subcontractor's calculation as to what should be the resulting extended Finish Date. The Subcontractor shall use best endeavours to prevent or minimise delay in the carrying out of the Subcontract Works.

12.5 Within a reasonable period after receipt of a notice from the Subcontractor pursuant to clause 12.4, the Contractor shall notify the Subcontractor of the Contractor's assessment of what is a fair and reasonable extension of time (and the Subcontractor shall only be entitled to an extension to the Finish Date as a result of a delay under clause 12.3 (b) where the Contractor is awarded a corresponding extension of time under the Main Contract). The Finish Date will be extended by the amount set out in the Contractor's notice unless the Subcontractor notifies the Contractor in writing within 14 days of the date of the Contractor's notice, giving reasons why the Subcontractor disagrees with the Contractor's calculation of the extended Finish Date, and an alternative Finish Date is subsequently agreed or determined in accordance with the dispute resolution provisions under clause 22.

12.6 The Subcontractor shall provide to the Contractor a programme setting out the timing and sequencing of the Subcontract Works. The Subcontractor shall provide its programme within the time period specified by the Contractor. The Subcontractor shall ensure that its programme shows the Subcontractor's proposed working windows and a proactive view of how the Subcontract Works will interface with other trades at the Site so as to ensure the Subcontract Works are complete by the Finish Date. The Subcontractor shall provide its programme in whatever format is requested by the Contractor.

12.7 The Contractor shall provide its overall programme for the Works to the Subcontractor as soon as reasonably practicable, provided that where the Contractor has requested the Subcontractor to provide its programme under clause 12.6 the Contractor shall not be required to provide its overall programme until such time as the Subcontractor has provided its programme. The Subcontractor shall carry out the Subcontract Works in accordance with the Contractor's programme and shall have regard to the

timescale for the Works. In particular, the Subcontractor shall not programme the Subcontract Works in a way that interferes with completion of the Works or that may prevent finishing trades from gaining access to the Site in time for the Works to be completed on time as shown in the Contractor’s programme. No guarantee is given or implied that the whole of the Subcontract Works may be executed continuously and the Subcontractor is deemed to have allowed in the Subcontract Price for executing the whole of the Subcontract Works in such a manner and sequence as the Contractor may reasonably require including working either continuously or in sections or staging the Subcontract Works to suit the progress of other trades. The Subcontract Price is deemed to cover multiple visits to the Site if necessary

13 Payment

- 13.1 In consideration of the provision of the Subcontract Works by the Subcontractor the Contractor shall pay the Subcontractor the Subcontract Price (as may be adjusted pursuant to this Subcontract Order) in accordance with this clause 13.
- 13.2 Unless expressly agreed in advance in writing by the Contractor, the Subcontractor shall not be entitled to payment for offsite materials. Where the Contractor agrees to pay for offsite materials, no payment shall be due to the Subcontractor unless and until the Subcontractor has provided to the Contractor a valid vesting certificate vesting ownership in the offsite materials in the Contractor and the Subcontractor has complied with any other terms required by the Contractor in respect of offsite materials.
- 13.3 The Subcontractor shall not be entitled to any payment for overtime working and shall not be entitled to payment on a daywork basis unless the Contractor expressly instructs the Subcontractor in writing to carry out overtime working or daywork (as applicable). Where the

Contractor expressly instructs overtime working or daywork (as applicable), the Subcontractor shall provide to the Contractor evidence of time spent on overtime working or daywork (as applicable) and the applicable rates for Subcontractor’s Persons engaged in overtime working or daywork (as applicable) in a format and to the level of detail required by the Contractor. No payment shall be due to the Subcontractor for overtime working or daywork (as applicable) unless the Subcontractor has provided such evidence.

13.4 On the Payment Intervals the Subcontractor shall submit an application for payment to the Contractor and shall if required by the Subcontract Order Sheet provide a copy of each application for payment to the party stated in the Subcontract Order Sheet. The “**due date**” shall be the date of submission of the Subcontractor’s application. The Subcontractor’s application will set out what the Subcontractor considers to be due on the due date and the Subcontractor’s calculation of the amount due on the following basis:

- (a) the proportion of the Subcontract Price to which the Subcontractor is entitled at the due date, with adjustments for any Changes and any other entitlements and adjustments in accordance with this Subcontract Order;
- less:
- (b) any Retention percentage on the value of the Subcontract Works portion; and
 - (c) sums already paid by the Contractor to the Subcontractor as at the relevant due date.

The Subcontractor shall provide with each application for payment supporting documents and information to evidence its entitlement, which may include timesheets, invoices, fee notes, evidence of supply and invoices for suppliers, any documents required under clauses 13.2 and 13.3 and any other information or documentation reasonably required by the Contractor.

- 13.5 Not later than fourteen days after the due date the Contractor shall issue a payment notice (“**payment notice**”) to the Subcontractor specifying the amount the Contractor considers to be due to the Subcontractor at the due date and the basis on which the Contractor calculates that sum. If the Contractor does not serve a payment notice within the period required by this clause 13.5, the Subcontractor’s application for payment will be the payment notice.
- 13.6 Following receipt of the payment notice or upon expiry of the period for service of the payment notice the Subcontractor shall provide a valid VAT invoice to the Contractor for the amount stated as due in the payment notice. The final date for payment of the sum due (“**final date**”) shall be calculated as set out in the Subcontract Order Sheet under Final Date Payment Period.
- 13.7 If the Contractor intends to pay less than the amount in the payment notice the Contractor shall no later than two Working Days before the final date issue a written notice (“**pay less notice**”) to the Subcontractor setting out the sum the Contractor considers to be due on the date the notice is served and the basis on which that sum is calculated.
- 13.8 The Contractor shall pay to the Subcontractor not less than the amount stated as due either in the payment notice or in any pay less notice (as applicable) by the final date. If the Subcontractor has not been paid by the final date in accordance with this Subcontract Order, the Subcontractor shall be entitled to payment of simple interest from the final date until the actual date of payment, calculated on a daily basis at the annual percentage rate stated in the Subcontract Order Sheet above the base rate set from time to time by the Bank of Scotland. .
- 13.9 On the first final date after the date of Practical Completion or 30 days from the Sub-Contractor’s Application for Payment, whichever of the dates occurs later.. The Contractor shall pay to the Subcontractor an amount equal to half any Retention percentage.
- 13.10 The Subcontractor shall submit to the Contractor its draft final account within 28
- 13.11 days of the date of Practical Completion (or the last Practical Completion where there are Subcontract Sections). The Subcontractor must provide with its draft final account all calculations required to enable the Contractor fully to understand the draft final account, together with documentary evidence to substantiate the Subcontractor’s entitlement to payment of the sums claimed within the draft final account. The Contractor may request further information or evidence from the Subcontractor to substantiate its entitlement to payment of the sums claimed in the draft final account and the Subcontractor shall provide any such additional information or evidence as soon as reasonably practicable.
- 13.12 The Contractor shall provide to the Subcontractor its initial assessment of the Subcontractor’s draft final account within 28 days of receipt of the draft final account or, if later, within 28 days of receipt of the Subcontractor’s information and evidence to substantiate its entitlement to payment of the sums claimed in the draft final account.
- 13.13 The Contractor and the Subcontractor shall work to seek to agree the amount of the final account and, where agreed, the Contractor shall issue a final payment notice (“**final payment notice**”) stating the agreed amount due to the Subcontractor in respect of the final account, including in respect of the remaining Retention. Where the final account has not been agreed within two calendar months of the date of Practical Completion, the Contractor shall issue a final payment notice setting out its final assessment of the Subcontractor’s final account including in respect of the remaining Retention and the Contractor’s final payment notice shall be final and binding on the parties unless the Subcontractor has challenged the final payment notice or aspects of it by proceedings in accordance with clause 22 within 21 days of receipt. The Subcontractor shall upon receipt of the final payment notice or an adjudicator’s decision (as applicable) provide to the Contractor a valid VAT invoice for the amount stated as due in the final payment notice or adjudicator’s decision (as applicable).

- 13.14 The due date for the amount stated as due in the Contractor’s final payment notice or any applicable adjudicator’s decision (the “**final due date**”) shall be the later of:
- (a) the date of issue of the Contractor’s final payment notice;
 - (b) the date of receipt by the Contractor of a valid VAT invoice for the amount stated as due in the final payment notice or in any applicable adjudicator’s decision; and
 - (c) the date specified in the Contractor’s notice (defects discharge notice) under clause 16.3.
- 13.15 The final date for payment of the amount stated as due (if any) in the Contractor’s final payment notice or any applicable adjudicator’s decision (if any amount is due) shall be 30 days from the final due date (“**final payment date**”).
- 13.16 If the Contractor intends to pay less than the amount invoiced in the final payment notice under clause 13.12 it shall no later than two Working Days before the final payment date issue a pay less notice to the Subcontractor setting out the sum the Contractor considers to be due on the date the notice is served and the basis on which that sum is calculated.
- 13.17 The Contractor shall pay to the Subcontractor not less than the amount stated as due either in the final payment notice submitted pursuant to clause 13.12 or in any valid pay less notice (as applicable) by the final payment date. If the Subcontractor has not been paid by the final payment date, the Subcontractor shall be entitled to payment of simple interest from the final payment date until the actual date of payment, calculated on a daily basis at the annual percentage rate stated in the Subcontract Order above the base rate set from time to time by the Bank of Scotland.
- 13.18 The Subcontract Price is exclusive of Value Added Tax (“VAT”) and in relation to any payment to the Subcontractor, subject to the Subcontractor providing a valid VAT invoice, the Contractor shall
- 13.19 also pay any VAT properly chargeable in respect of it.
- 14 Construction Industry Scheme**
- 14.1 The Contractor is a “contractor” for the purposes of the Construction Industry Scheme (“CIS”). The Subcontractor shall provide evidence of its CIS status and registration to the Contractor and no payments shall fall due to the Subcontractor under this Subcontract Order until such evidence has been provided to the Contractor.
- 14.2 The Contractor’s obligation to make any payment under this Subcontract Order is subject to the provisions of the CIS.
- 15 Practical Completion**
- 15.1 The Subcontractor shall give written notice to the Contractor when it considers that the Subcontract Works have reached Practical Completion.
- 15.2 Within a reasonable period after receipt of the Subcontractor’s notice under clause 15.1, the Contractor shall inspect the Subcontract Works and shall either:
- (a) confirm that the Subcontract Works have reached Practical Completion, in which case the Contractor shall issue a notice stating the date of Practical Completion; or
 - (b) notify the Subcontractor of what further works are required in order for the Subcontract Works to reach Practical Completion, in which case the Subcontractor shall carry out those works and the procedure in clause 15.1 and this clause 15.2 shall be repeated.
- 15.3 The Contractor will not be under any obligation to issue a notice of Practical Completion until the Subcontractor has provided to the Contractor in relation to the Subcontract Works:
- (a) all operation and maintenance manuals;
 - (b) all test certificates reasonably required by the Contractor;

- (c) as-built drawings showing the completed Subcontract Works;
 - (d) all other documents which this Subcontract Order and the Contract Documents require to be provided including (but not limited to) all warranties and product guarantees relating to the Subcontract Works.
- 15.4 As soon as reasonably practicable and in any event within 10 days of the date of Practical Completion (or the last Practical Completion where applicable), the Subcontractor shall clear and remove from the Site all its plant, equipment and rubbish and shall where requested by the Contractor take reasonable measures to protect the Subcontract Works where the Subcontract Works have reached Practical Completion before the Works are complete. The Subcontractor may not remove, retain for itself or sell any materials delivered to the Site for incorporation into the Subcontract Works without express prior written permission from the Contractor.
- 16 Defects and works not in accordance with this Subcontract Order**
- 16.1 If any defects appear in the Subcontract Works before the Defects Longstop Date due to materials, goods or workmanship not in accordance with this Subcontract Order (including any parts of the Subcontract Works identified as incomplete), the Contractor may give instructions to the Subcontractor for the rectification of such defects, including the rectification of any damage caused to the Works or the Site as a result of the defects in the Subcontract Works. The Subcontractor shall proactively rectify any defects and resulting damage before the Defects Longstop Date and shall comply with any timescales contained in instructions from the Contractor in relation to the rectification of defects or damage and where any such matters are required to be completed for the Works to be practically complete under the Main Contract, the Subcontractor shall rectify such matters so as to comply with the relevant timescales under the Main Contract.
- 16.2 The Contractor shall not later than 14 days after the Defects Longstop Date
- 16.3 notify the Subcontractor of any defects in the Subcontract Works or damage resulting from such defects which have not been previously notified pursuant to clause 16.1 and the Subcontractor shall make good such defects and any damage at its own cost and within the timescales specified by the Contractor, unless the Contractor notifies the Subcontractor that such making good is not required.
- 16.4 When in the Contractor’s reasonable opinion the Subcontractor’s obligations under this clause 16 have been discharged, the Contractor shall issue a notice to the Subcontractor confirming the date they were discharged (“**defects discharge notice**”).
- 17 Sub-subcontracting**
- The Subcontractor shall not sub-subcontract any part of the Subcontract Works without prior written approval from the Contractor as to the element of the Subcontract Works to be sub-subcontracted, the identity of the proposed sub-subcontractor and the terms of the proposed sub-subcontract. The Subcontractor shall remain responsible for the carrying out of the Subcontract Works by sub-subcontractors appointed in accordance with this clause 17.
- 18 Warranties**
- Where the Subcontract Order Sheet specifies that warranties are required to be provided by the Subcontractor, the Subcontractor must provide signed warranties in the form required by the Contractor within 14 days of a written request from the Contractor. Where a warranty has been requested by the Contractor, no payment shall fall due to the Subcontractor under this Subcontract Order until the Subcontractor has provided the signed warranty in the required form.
- 19 Suspension and Termination**
- 19.1 Where the Contractor fails to pay any sum payable to the Subcontractor by the final date for payment of the relevant sum under the Subcontract Order, the Subcontractor shall be entitled (without prejudice to any other right or remedy) to suspend performance of any or all of its

19.2 obligations under this Subcontract Order by giving the Contractor not less than seven days' written notice stating the ground or grounds on which it intends to suspend performance. The right to suspend performance shall cease when the Contractor makes payment in full of the sum payable and any period during which performance is validly suspended pursuant to this clause shall be disregarded in computing the time taken by the Subcontractor to complete any part of the Subcontract Works directly or indirectly affected by the exercise of the right.

19.3 Where the Subcontractor exercises its right of suspension under clause 19.1, the Contractor shall pay the Subcontractor a reasonable amount in respect of costs and expenses reasonably incurred by the Subcontractor as a result of the exercise of the right.

19.4 If at any time:

- (a) the Subcontractor fails to progress with the Subcontract Works regularly and diligently or is otherwise in breach of the terms of this Subcontract Order and, in the case of a breach which is capable of rectification, has not rectified the breach within seven days of receipt of a notice from the Contractor notifying the Subcontractor of the nature of the breach and the steps required to rectify it;
- (b) the Employer becomes insolvent (as defined in section 113 of the Housing Grants, Construction and Regeneration Act 1996 (as amended));
- (c) the Main Contract between the Contractor and the Employer is terminated;
- (d) the Subcontractor becomes insolvent (as defined in section 113 of the Housing Grants, Construction and Regeneration Act 1996 (as amended)); or
- (e) the Subcontract Works are delayed for a period greater than six months as a result of Force Majeure,

the Contractor may at any time thereafter by written notice to the Subcontractor terminate the Subcontractor's employment under this Subcontract Order.

19.5 If at any time the Contractor becomes insolvent (as defined in section 113 of the Housing Grants, Construction and Regeneration Act 1996 (as amended)) then the Subcontractor may by written notice to the Contractor terminate the Subcontractor's employment under this Subcontract Order.

19.6 If at any time:

- (a) the Contractor fails to pay any sums payable to the Subcontractor by the final date for payment of those sums under this Subcontract Order and the Contractor has failed to pay such sums within 21 days of the Subcontractor's written notice specifying details of the non-payment default; or
- (b) the Subcontract Works are delayed after commencement for a period greater than six months as a result of Force Majeure,

then the Subcontractor may by a further written notice to the Contractor of at least seven days terminate the Subcontractor's employment under this Subcontract Order and any exercise by the Subcontractor of its right to suspend under clause 19.1 shall not prevent the Subcontractor from exercising its right subsequently to terminate its employment under this clause 19.5.

19.7 Except for termination for Subcontractor breach under clause 19.3(a) or Subcontractor insolvency under clause 19.3(d) or termination under clause 19.3(c) where such termination was caused or contributed to by a breach by the Subcontractor, the Contractor shall pay to the Subcontractor the value of work properly carried out in relation to the Subcontract Works up to the date of termination after taking into account amounts previously paid to the Subcontractor. The Subcontractor shall not have any entitlement to loss of profit

19.8 or other losses arising from the termination.

19.9 Where termination is under clause 19.3(a) or 19.3(d) or clause 19.3(c) where such termination was caused or contributed to by a breach by the Subcontractor:

(a) no further sum shall become due to the Subcontractor other than any amount that may become due under clause 19.7(b) and the Contractor shall not be required to make any further payment to the Subcontractor in respect of any sum due where a pay less notice has been issued under this Subcontract Order or where the Subcontractor has become insolvent after the last date upon which a pay less notice in respect of such payment could have been given;

(b) the Contractor shall collate the costs incurred by the Contractor as a result of the Subcontractor's breach or insolvency, following which the Contractor shall pay to the Subcontractor the difference (if any) between the amount that would otherwise be due to the Subcontractor and the costs incurred by the Contractor or if the costs incurred exceed the amount due to the Subcontractor the excess shall be a debt due from the Subcontractor to the Contractor.

19.10 If the Subcontractor's employment is terminated, the Subcontractor shall forthwith upon request by the Contractor remove its plant and equipment from the Site in accordance with the requirements of the Contractor. The Subcontractor shall comply with all instructions from the Contractor in this regard and in particular the Subcontractor may not remove any goods or materials from the Site without the prior written consent of the Contractor.

20 CDM Regulations and Health & Safety

20.1 The Subcontractor and his employees shall comply with all legislation relating to health and safety, fire and protection of the environment including without limitation the Health and Safety at Work etc. Act 1974 or any subsequent re-enactment thereof and all secondary legislation made thereunder The Subcontractor will also comply with the Contractor's health and safety policy and procedures, and all requirements on matters affecting the safe conduct of the Main Contract Works contained in the Main Contract and otherwise as the Contractor may direct from time to time.

20.2 The Subcontractor shall carry out the Subcontract Works in compliance with the Construction (Design and Management) Regulations 2015 ("CDM Regulations") (as they apply to the Works and the Site) and shall provide to the Principal Contractor and Principal Designer (as relevant) such information as is reasonably required for the preparation of the health and safety file relating to the Works.

21 Notices

21.1 Subject to clause 21.2:

(a) any notice to be provided under this Subcontract Order must be provided in writing and may be served by post or by hand to the recipient's registered office address or to another address notified to the sender in writing by the recipient; and

(b) notices may not be served by email without the express agreement of the recipient.

21.2 Payment applications and invoices issued by the Subcontractor and instructions and notices relating to Changes issued by either party may be submitted by email.

22 Disputes, governing law and jurisdiction

22.1 Subject to clause 22.2, any dispute or difference shall, in the first instance, be referred to the respective site representatives of the Contractor and the Subcontractor. If there is a failure to reach agreement between the parties

then the dispute may be referred by either party to representatives at director

22.2 level. In respect of any dispute or difference, the parties and their representatives at each relevant level shall attempt, in good faith, to resolve the matter.

22.3 Each party shall have the right to refer any dispute or difference at any time to adjudication in accordance with Part 1 of the Schedule to the Scheme for Construction Contracts (Scotland) Regulations 1998 (SI 1998/687) as amended by the Scheme for Construction Contracts (Scotland) Regulations 1998 (Amendment) (Scotland) Regulations 2011 (SI 2011/371) The adjudicator shall be appointed by the nominating body in accordance with the Subcontract Order Sheet.

22.4 The law specified in the Subcontract Order Sheet shall govern the application and interpretation of this Subcontract Order. Each party submits to the jurisdiction of the courts specified in the Subcontract Order Sheet.

22.5 The Contractor may enforce any of its rights under this Subcontract Order outside the jurisdiction in which the Site is located.

23 General

23.1 The Contractor or the Subcontractor may assign the benefit of this Subcontract Order to the extent permitted on the Subcontract Order Sheet, otherwise neither party may assign the benefit of this Subcontract without the prior written consent of the other party.

23.2 Nothing in this Subcontract Order confers or purports to confer on any third party any benefit or any right to enforce any term of this Subcontract Order.

23.3 No variation to this Subcontract Order may be made without the written agreement of the Contractor and the Subcontractor.

23.4 The parties will comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.