



General Conditions of Sub-Contract

1. Definitions for the purpose of these Conditions:
 - "DIS" or "We" or "Us" or "our": Dragon Infrastructure Solutions Limited
 - "The Sub-Contractor" or "You": Any person, company or other entity with whom DIS instruct to provide the Works including any person who appears to us to act with your authority"
 - "The Works": The works to be carried out by you under the terms of this offer/sub-contract
2. In the absence of formal written acceptance by DIS of alternative contract terms and conditions the following shall prevail and apply. Any terms and conditions of contract between DIS and its Employer, a copy of which is available on request to the Sub-Contractor, apply also to this order. Where there is any conflict between the terms and conditions between DIS and the Employer and these General Conditions of Sub-Contract, then these General Conditions of Sub-Contract prevail.
- 3.1 The contract sum shall be as entered on this official order. The due dates for payment will be on the twenty first day of each month from commencement of the Works ("*the payment due date*"). The Sub-Contractor will submit an application for payment (a "*Payment Notice*") to DIS not later than 5 days after the payment due date setting out:
 - 3.1.1 The amount that the Sub-Contractor considers to be or to have been due as at the payment due date in respect of the payment; and
 - 3.1.2 The basis on which the sum due has been calculated, including but not limited to, the provision by the Sub-Contractor to DIS of as-laid information which is a condition precedent to payment becoming due to the Sub-Contractor.
- 3.2 The final date for payment of a Payment Notice, whether interim or final, shall be the first working day of the month after the month following the payment due date.
- 3.3 The sum set out in the Payment Notice shall be treated as the "notified sum" and must be paid on or before the final date for payment unless DIS issues a Pay Less Notice in accordance with clause 3.4 below.
- 3.4 If DIS intends to pay less than the notified sum, it must issue a Pay Less notice to the Sub-Contractor. In order to be valid, a Pay Less Notice must:
 - 3.4.1 Set out the amount that DIS considers to be due (irrespective of whether that sum is zero); and
 - 3.4.2 Set out the basis on which that sum has been calculated; and
 - 3.4.3 Be given not later than 14 days before the final date for payment.
- 3.5 Any sum due under the contract which is not paid by the final date for payment shall carry interest at the rate of 2% over the bank lending rate from time to time of Lloyds TSB Bank plc for the period from (a) the date of application by you to DIS in writing after the final date for payment and (b) the date on which payment is made. The Sub-Contractor will not also be entitled to recover from DIS any expenditure reasonably incurred in obtaining payment including, but not limited to, legal costs.
- 3.6 If DIS does not comply with clause 3.3 or 3.4 (whichever applies), the Sub-Contractor shall be entitled (without prejudice to any other remedy) to suspend performance of any or all of its obligations under this contract. The Sub-Contractor may not exercise the right of suspension unless it first (i) gives DIS at least 7 days' notice of its intention to do so and (ii) specifies in that notice the ground or grounds for the intended suspension. The right of suspension ceases when DIS makes payment in full of the sums required by clause 3.3 or 3.4 (whichever applies). DIS has the right to suspend the Works at any time upon written notice to the Sub-Contractor.
- 4.1 The quoted price is provided on a fixed price non fluctuating basis and based upon a full site inspection. DIS does not accept responsibility for the ground conditions encountered. In the event of ground conditions being encountered which could not reasonably have been foreseen following a full site inspection, DIS will attempt to recover from its Employer payment for additional services necessitated by the Sub-Contractor, but DIS' liability to the Sub-Contractor will be limited to what DIS is able to recover from the Employer, less DIS profit and overheads. Unless otherwise agreed in writing by DIS, all transport costs or removal of waste including cable drums will be at your cost, i.e. within the quoted price.
- 4.2 You will comply with any obligations applying to you under the Construction (Design and Management) Regulations 2007 and you will co-operate with DIS and any contractors or consultants engaged in relation to the Works in regard to their obligations under the said Regulations. The Sub-Contractor will be required to produce such method statements and risk assessments as DIS deem appropriate together with a copy of their Health & Safety Policy. These must all be submitted before the commencement of work on the site.
- 4.3 The Contractor will be required to maintain adequate Public and Employer's Liability insurances and to provide documentary evidence that such insurance has been taken out and maintained. The minimum requirement in any event is the sum of £5,000,000 (five million pounds) in respect of both insurances.
- 4.4 The Sub-Contractor shall not be entitled to subcontract any part of the Works without the prior written consent of DIS, such consent not to be unreasonably withheld or delayed.
5. The parties may terminate this contract if either is in material default of its obligations under the contract and fails to remedy the default after being given reasonable written notice to do so. Any suspension of any or all of the Works or the termination of the contract shall not affect the obligations of the parties in respect of the Works actually performed which shall continue to apply. If either party is unable to pay their debts within the meaning of the Insolvency Act 1986 s123 or is the subject of a bankruptcy notice or petition or a bankruptcy order is made against them, or being a company, either party has a receiver, liquidator or

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administrator appointed or a winding up order made or a resolution for winding up is passed, or a voluntary arrangement is made with creditors, or a petition is presented for a winding up order or an administration order, or any distress or execution is levied or threatened over any of a party's assets, the other party shall be entitled, without prejudice to any other remedies available, forthwith to suspend the Works and to remove all unused materials from the other party's premises and (at the other party's complete discretion) to terminate the contract forthwith but without prejudice to the rights which have accrued up to the date of such termination and to the rights which have accrued as a result of such termination..

6. Unless stated otherwise, all of your prices include VAT, discounts and main contractor's discount, retentions, liquidated damages for delay, payment for any building regulation plan or inspection fees of any other statutory charges including but not limited to, planning consents or approvals, party wall notices or other notices and any slurry or welfare. Your prices also include for the unloading, handling and distribution of your materials and for the removal of any surplus materials upon completion of each section of the Works.
7. The Sub-Contractor shall provide supervision (a) adequate to maintain programme and quality for the Works, (b) to act as the point of contact between the parties and (c) to be capable of receiving, progressing and actioning instructions from DIS. The Sub-Contractor will use all reasonable endeavours to carry out the Works within the agreed period stated in this order or within a reasonable time frame, however should you delay the Works then we shall be entitled to recover from you any additional costs arising from such delay or disruption, including but not limited to, the increased cost of materials, loss of profit and Employer's liquidated damages. DIS shall endeavour to provide notice of delay to you within a reasonable period of the delaying/disrupting event, providing details of the delay, the impact on the programme and the costs incurred; however we shall not be obliged to do so.
8. The Subcontractor warrants that the materials supplied will be of a satisfactory quality and that the Sub-Contractor will undertake the Works with the reasonable skill, care and attention as it is reasonable to expect of a suitably qualified and experienced contractor undertaking like services for projects of a similar scope, purpose, size and complexity to the Works. For the avoidance of any doubt, all personnel engaged in the Works on site must be authorised by the Lloyds Registration Scheme.
9. DIS may instruct a variation to the Works. The instruction must be in writing unless we waive this requirement in our absolute discretion. The variation shall be valued by us at either (a) the sum agreed between us in advance of the variation being carried out by you or in the absence of such agreement on a fair and reasonable basis. Where any actions have resulted or will result in a change to the Works, you will advise DIS as soon as possible of any cost and time implications. You will be entitled to a reasonable extension of time in relation to each variation.
10. It is a condition of any contract entered into that ownership of the goods supplied passes to DIS upon the supply of the said goods to DIS. The Sub-Contractor shall be responsible for materials brought by him onto the site and risk for those materials remains with the Sub-Contractor until such time as they are fully and finally incorporated within the Works.
11. Any notice given by one party to another under this contract shall be in writing, delivered by hand or by prepaid first class or special delivery post to the address given at the start of this contract, or to the registered office or principal place of business of the parties with the exception of the Pay Less notice referred to in clause 3 which may be provided by DIS by email to you.
- 12.1 In the event of any dispute or difference arising between the parties under, out of or in connection with this Agreement (a "Dispute"), the parties may procure, but shall not be bound to procure, that their respective senior management representatives shall, within 7 working days of a written request from either party to the other, meet in a good faith effort to resolve the Dispute without recourse to adjudication or legal proceedings.
- 12.2 If the matter is not resolved through negotiation, the parties may attempt, but shall not be bound to attempt, in good faith to resolve the dispute through a mediation procedure. If the parties need advice in appointing a suitable neutral to assist in the mediation procedure they will seek assistance from the Centre of Dispute Resolution or another comparable body.
- 12.3 Either party may at any time refer a Dispute to adjudication in which case the provisions of Part One of the Scheme for Construction Contracts (England and Wales) Regulations 1998 (as amended or re enacted) shall apply.
- 12.4 The adjudicator shall be agreed upon if the parties so wish or alternatively the referring party shall seek a nomination from the Royal Institute of Chartered Surveyors.
- 12.5 Either party may refer any Dispute to the Northampton County Court or to the Northampton District Registry of the High Court of the Courts of England for determination, provided that proceedings in relation to any Dispute which has been referred to adjudication may not be commenced until after the party commencing such proceedings shall have received a determination in respect of the dispute from the adjudicator.
13. This contract shall be governed and construed in accordance with the laws of England and the English courts shall have jurisdiction over any dispute or difference between DIS and the Sub-Contractor that arises out of or in connection with this contract.
14. The parties hereby agree that notwithstanding any other provision of this contract that no provision shall or shall purport to grant any right to any other party to enforce any term or condition of this Agreement for the purposes of the Contracts (Rights of Third Parties) Act 1999.

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