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CONSTRUCTION AGREEMENT
(FIXED PAYMENT ON COMPLETION, WITH RETENTION)

THIS AGREEMENT is made the

BETWEEN:

- (1) <<Name of Contractor>> a <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at <<Registered office>> (the "Contractor")
- (2) <<Name of Sub-Contractor>> ("Sub-Contractor")

IT IS AGREED as follows:

1. DEFINITIONS

- 1.1 In this Agreement the following terms shall have the meanings otherwise requires the following

'Confidential Information' means any information, data or other material, in any form, in which a party, information which is disclosed to the Contractor pursuant to or in connection with this Agreement, in writing or any other medium, and which is expressly stated to be confidential or marked as confidential;

'Main Contract' means the contract <<Date>> between (1) <<Name of Employer>> and (2) <<Name of Contractor>> for the carrying out of the Main Contract Works;

'Main Contract Works' means the works <<Main Contract Works>>;

'Works' means the works <<Works>> in Part 1 of the Schedule.

2. ENGAGEMENT OF SUB-CONTRACTOR

- 2.1 The Contractor hereby engages the Sub-Contractor to carry out the Works in accordance with the terms of this Agreement.
- 2.2 It is understood and agreed that the Sub-Contractor's activities and those of its employees and the workers engaged by the Sub-Contractor shall be under the exclusive direction and control of the Contractor.
- 2.3 The Sub-Contractor shall be registered with HMRC's Construction Industry Scheme and shall provide evidence of his registration to the Contractor.
- 2.4 Any obligation of the Sub-Contractor to make payment under this Agreement is subject to the provisions of the Construction Industry Scheme.
- 2.5 The Sub-Contractor shall not subcontract any of the Works without the prior written consent of the Contractor.
- 2.6 Neither party to this Agreement shall be entitled to claim the benefit of this Agreement or to enforce it without the other's prior written consent.
- 2.7 The grant and acceptance of this Agreement do not create any mutual obligations between the parties.

obligations on the
accept any further a
created or implied.

or the Sub-Contractor to offer or
nuing relationship shall hereby be

3. TIMING

3.1 The Sub-Contractor
<<Date>> and <<Date>>
instruction to comm

works [on <<Date>>] **OR** [between
days of the Contractor's written

3.2 The Sub-Contractor
<<Number>> week
timescale:

urs to complete the Works [within
nt] **OR** [according to the following

<<Insert timetable,
ates>>.

3.3 The Contractor sha
Works are practical

tor in writing of the date when the

3.4 The Sub-Contractor
of time rectify any d
within 3 months from

se and within a reasonable period
s notified to him by the Contractor
mpletion of the Works.

4. SUB-CONTRACTOR'S OBLIGATIONS

4.1 The Sub-Contractor
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4.2 The Sub-Contractor
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4.3 The Sub-Contractor

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d in Part 2 of the Schedule; and

4.3.2 all other goo
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4.4 The Sub-Contractor
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4.5 The Sub-Contractor
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site all wasted created during the

4.6 The Sub-Contractor
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ntractor's representative to ensure
the timing of the Works upon the
b-contractors also engaged by the

4.7 The Sub-Contractor
Works.

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4.8 The Sub-Contractor
Contractor relating t

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5. CONTRACTOR'S OBLIGATIONS

5.1 The Contractor sha

contractor has sufficient access to

- the site to perform the Works in accordance with the obligations under this Agreement.
- 5.2 The Contractor shall supply all the materials (if any) listed in Part 3 of the Schedule and all such materials shall be of a satisfactory quality.
- 5.3 The Contractor shall supply all tools, equipment and machinery, safety equipment and protective clothing and the materials listed in Part 4 of the Schedule.
- 5.4 The Contractor shall comply with the Construction (Design and Management) Regulations 2015 and the site.
- 6. LIABILITY, INDEMNITY AND LIMITATION OF REMEDY**
- 6.1 The Sub-Contractor shall be liable for, and shall indemnify the Contractor for, all liability, damages, loss, claims or proceedings in respect of any injury or death of any person where the injury or death is caused by the carrying out of the Works; and
- 6.1.1 arises out of the performance of the Works; and
- 6.1.2 is due to the negligence, omission or default of the Sub-Contractor or agents or any person for whom the Sub-Contractor is responsible.
- 6.2 The Sub-Contractor shall be liable for, and shall indemnify the Contractor for, all liability, damages, loss, claims or proceedings in respect of any injury or death of any person where such injury or death is caused by the carrying out of the Works; and
- 6.2.1 arises out of the performance of the Works; and
- 6.2.2 is due to the negligence, omission or default of the Sub-Contractor or agents or any person for whom the Sub-Contractor is responsible.
- 6.3 [The total liability of the Sub-Contractor under clauses 6.1 and 6.2 shall be limited to £<<sum>>].
- 6.4 The Sub-Contractor shall maintain professional indemnity and public liability insurance cover for the Works for the full or any part of the period of the insurance cover to the satisfaction of the Contractor.
- 7. PAYMENTS TO THE SUB-CONTRACTOR**
- 7.1 The price for the Works shall be made following practical completion of the Works.
- 7.2 Payment of <<e.g. 10% of the price>> shall be made following practical completion of the Works.
- 7.3 The remaining <<e.g. 90% of the price>> shall be payable 4 months after practical completion of the Works (or, if later, one month after any defects notified to the Sub-Contractor under clause 3.4 have been rectified (the "Final Payment Date").
- 7.4 After practical completion of the Works, the Sub-Contractor shall submit an invoice to the Contractor for <<e.g. 10% of the price>>. The invoice must specify the work and materials used.
- 7.5 After the Final Payment Date, the Sub-Contractor shall submit an invoice to the Contractor for the balance of the price. The invoice must specify the work and materials used.

3.4 have been rectified

7.6 The Contractor shall submit the invoices to the Employer and in the invoices within 14 days of receipt of the invoice.

7.7 All payments made by [REDACTED] are expressed exclusive of any Value Added Tax charged by [REDACTED].

7.8 If the Contractor has not paid the amount due by the due date the Contractor shall pay the Sub-Contractor the amount due at the rate of 5% per annum above the base rate of Barclays Bank plc from the due date until the payment is received.

<p>7.9 No further payment above the consideration payment will be made or other expenses incurred by the Contractor for the Works over and above the clause and without limitation no in respect of any goods, materials or other expenses incurred by the Contractor in carrying out the Works.</p>	<p>A</p>	<p>Contractor for the Works over and above the clause and without limitation no in respect of any goods, materials or other expenses incurred by the Contractor in carrying out the Works.</p>
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8. NON-COMPETITION AND

8.1 [The Sub-Contractor shall not, during the course of carrying out the Works or for a period of <<insert period>> following the termination or expiry of this Agreement, provide any confidential information to any competitor of the Contractor [within <<insert radius>> miles of the Works]. [The Contractor may waive this restriction entirely or in part on a case-by-case basis upon receipt of a written request from the Sub-Contractor.]

8.2 [The Sub-Contractor shall not, during the term of this Agreement, for a period of <<insert time period>> following the termination or expiry of this Agreement, solicit and/or engage the services of any clients and/or employees with which the Sub-Contractor has had dealings during the <<insert time period>> prior to the date of termination of this Agreement, or of any other clients of which the Sub-Contractor has had dealings, or may waive this restriction entirely on a case-by-case basis upon receipt of a written request from the Sub-Contractor. No such waiver may be given if it shall violate any prior agreement between the Sub-Contractor and the client in question as to the sharing of the client's confidential information.]

9. DATA PROTECTION [.] [S. 15 (1) (b) (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100) (101) (102) (103) (104) (105) (106) (107) (108) (109) (110) (111) (112) (113) (114) (115) (116) (117) (118) (119) (120) (121) (122) (123) (124) (125) (126) (127) (128) (129) (130) (131) (132) (133) (134) (135) (136) (137) (138) (139) (140) (141) (142) (143) (144) (145) (146) (147) (148) (149) (150) (151) (152) (153) (154) (155) (156) (157) (158) (159) (160) (161) (162) (163) (164) (165) (166) (167) (168) (169) (170) (171) (172) (173) (174) (175) (176) (177) (178) (179) (180) (181) (182) (183) (184) (185) (186) (187) (188) (189) (190) (191) (192) (193) (194) (195) (196) (197) (198) (199) (200) (201) (202) (203) (204) (205) (206) (207) (208) (209) (210) (211) (212) (213) (214) (215) (216) (217) (218) (219) (220) (221) (222) (223) (224) (225) (226) (227) (228) (229) (230) (231) (232) (233) (234) (235) (236) (237) (238) (239) (240) (241) (242) (243) (244) (245) (246) (247) (248) (249) (250) (251) (252) (253) (254) (255) (256) (257) (258) (259) (260) (261) (262) (263) (264) (265) (266) (267) (268) (269) (270) (271) (272) (273) (274) (275) (276) (277) (278) (279) (280) (281) (282) (283) (284) (285) (286) (287) (288) (289) (290) (291) (292) (293) (294) (295) (296) (297) (298) (299) (300) (301) (302) (303) (304) (305) (306) (307) (308) (309) (310) (311) (312) (313) (314) (315) (316) (317) (318) (319) (320) (321) (322) (323) (324) (325) (326) (327) (328) (329) (330) (331) (332) (333) (334) (335) (336) (337) (338) (339) (340) (341) (342) (343) (344) (345) (346) (347) (348) (349) (350) (351) (352) (353) (354) (355) (356) (357) (358) (359) (360) (361) (362) (363) (364) (365) (366) (367) (368) (369) (370) (371) (372) (373) (374) (375) (376) (377) (378) (379) (380) (381) (382) (383) (384) (385) (386) (387) (388) (389) (390) (391) (392) (393) (394) (395) (396) (397) (398) (399) (400) (401) (402) (403) (404) (405) (406) (407) (408) (409) (410) (411) (412) (413) (414) (415) (416) (417) (418) (419) (420) (421) (422) (423) (424) (425) (426) (427) (428) (429) (430) (431) (432) (433) (434) (435) (436) (437) (438) (439) (440) (441) (442) (443) (444) (445) (446) (447) (448) (449) (450) (451) (452) (453) (454) (455) (456) (457) (458) (459) (460) (461) (462) (463) (464) (465) (466) (467) (468) (469) (470) (471) (472) (473) (474) (475) (476) (477) (478) (479) (480) (481) (482) (483) (484) (485) (486) (487) (488) (489) (490) (491) (492) (493) (494) (495) (496) (497) (498) (499) (500) (501) (502) (503) (504) (505) (506) (507) (508) (509) (510) (511) (512) (513) (514) (515) (516) (517) (518) (519) (520) (521) (522) (523) (524) (525) (526) (527) (528) (529) (530) (531) (532) (533) (534) (535) (536) (537) (538) (539) (540) (541) (542) (543) (544) (545) (546) (547) (548) (549) (550) (551) (552) (553) (554) (555) (556) (557) (558) (559) (560) (561) (562) (563) (564) (565) (566) (567) (568) (569) (570) (571) (572) (573) (574) (575) (576) (577) (578) (579) (580) (581) (582) (583) (584) (585) (586) (587) (588) (589) (590) (591) (592) (593) (594) (595) (596) (597) (598) (599) (600) (601) (602) (603) (604) (605) (606) (607) (608) (609) (610) (611) (612) (613) (614) (615) (616) (617) (618) (619) (620) (621) (622) (623) (624) (625) (626) (627) (628) (629) (630) (631) (632) (633) (634) (635) (636) (637) (638) (639) (640) (641) (642) (643) (644) (645) (646) (647) (648) (649) (650) (651) (652) (653) (654) (655) (656) (657) (658) (659) (660) (661) (662) (663) (664) (665) (666) (667) (668) (669) (670) (671) (672) (673) (674) (675) (676) (677) (678) (679) (680) (681) (682) (683) (684) (685) (686) (687) (688) (689) (690) (691) (692) (693) (694) (695) (696) (697) (698) (699) (700) (701) (702) (703) (704) (705) (706) (707) (708) (709) (710) (711) (712) (713) (714) (715) (716) (717) (718) (719) (720) (721) (722) (723) (724) (725) (726) (727) (728) (729) (730) (731) (732) (733) (734) (735) (736) (737) (738) (739) (740) (741) (742) (743) (744) (745) (746) (747) (748) (749) (750) (751) (752) (753) (754) (755) (756) (757) (758) (759) (760) (761) (762) (763) (764) (765) (766) (767) (768) (769) (770) (771) (772) (773) (774) (775) (776) (777) (778) (779) (780) (781) (782) (783) (784) (785) (786) (787) (788) (789) (790) (791) (792) (793) (794) (795) (796) (797) (798) (799) (800) (801) (802) (803) (804) (805) (806) (807) (808) (809) (810) (811) (812) (813) (814) (815) (816) (817) (818) (819) (820) (821) (822) (823) (824) (825) (826) (827) (828) (829) (830) (831) (832) (833) (834) (835) (836) (8

9.1 In this Clause 9:

9.1.1 “Data Protection (UK) Act 2018” (the “DPA”) (1) unless and until GDPR is no longer directly applicable in the UK, GDPR and any national implementing legislation (as amended from time to time) and secondary legislation (as amended from time to time) in the UK and subsequently 2) any legislation which

9.1.2 “GDPR” means the 2016/679 General Data Protection Regulation;

9.1.3 “personal data” as defined in the Data Protection Legislation;

9.1.4 "First Party" [REDACTED] instance, either one of the parties to this Agreement [REDACTED]

9.1.5 “Other Party [REDACTED] for instance, whichever one of the parties is not [REDACTED]”

9.2 All personal data that [REDACTED] will be collected, processed, and held by that First Party [REDACTED] the provisions of Data Protection Legislation and the [REDACTED] Protection Legislation of the Other

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Party.

- 9.3 For complete details of the collection, processing, storage, and retention of personal data, not limited to, the purpose(s) for which personal data is collected or bases for using it, details of the Other Party's (and its) rights and how to exercise them, and personal data sharing, the Other Party should refer to the Privacy Notice of the Other Party.
- 9.4 For the purpose of this Agreement, if a First Party's Privacy Notice of a First Party is available to the Other Party, the First Party shall make it available to the Other Party.
- 9.5 [All personal data transferred to the Other Party under this Agreement shall be subject to the terms of the Data Sharing Agreement entered into on <<insert date>> pursuant to this Agreement.]
- 9.6 ¹[All personal data transferred to the Other Party under this Agreement shall be subject to the terms of the Data Processing Agreement entered into on <<insert date>> pursuant to this Agreement.]

10. CONFIDENTIALITY

- 10.1 Except as provided in this Agreement, each party shall keep confidential and [for <<insert period>>] the Confidential Information of the other party, and shall not disclose, use, or make available in any way or part with possession of the Confidential Information of the other party, or authorize any officer, employee, agent, subcontractor, or other person to do so, without the prior written authorization in writing by the other party, and shall ensure the continuance of this Agreement and its termination:
- 10.1.1 keep confidential the Confidential Information;
- 10.1.2 not disclose the Confidential Information to any other party;
- 10.1.3 not use any Confidential Information for any purpose other than as contemplated by this Agreement;
- 10.1.4 not make any Confidential Information available in any way or part with possession of the Confidential Information of the other party;
- 10.1.5 ensure that the Confidential Information of the other party, its officers, employees, agents, subcontractors, or other persons, which, if done by that party, would constitute a breach of the Confidential Information Clauses 10.1.1 to 10.1.4 above.
- 10.2 Either party may:
- 10.2.1 disclose any Confidential Information to:
- a) any subcontractor of that party;
 - b) any government authority or regulatory body; or
 - c) any other person of that party or of any of the subcontractors or bodies;
- provided that the disclosure is for the purposes contemplated by this Agreement (including for the limited to, the carrying out of the Confidential Information (including Works), or as required by the person, in which case that party shall first inform the person that the Confidential Information is confidential and that the disclosure is to any such body (including any subcontractor or officer of any such body) and that the party a written confidentiality undertaking. Such undertaking should be as required by this clause 10, to keep the Confidential Information confidential and to use it only for the purposes

¹ See the notes about Clause 9 in the information sheet.

- for which the
- 10.2.2 use any Confidential Information for any purpose, or disclose it to any other person, or at any time, without the prior written consent of the other party. It is at the date of this Agreement, and at the date of termination, and at any time thereafter, public knowledge through no fault of that party, that party must not disclose any Confidential Information which is not public knowledge.
- 10.3 The provisions of this Agreement shall continue in force in accordance with their terms, notwithstanding the termination of this Agreement for any reason.
11. **FORCE MAJEURE**
- 11.1 No party to this Agreement shall be liable for any failure or delay in performing their obligations which results from any cause that is beyond the reasonable control of the party. Such causes include, but are not limited to: power failure, industrial action, civil unrest, fire, flood, acts of terrorism, acts of war, governmental action, or any other cause which is beyond the control of the party in question.
- 11.2 [In the event that a party cannot perform their obligations hereunder as a result of a continuous period of <<insert period>>, the other party may terminate this Agreement by written notice at the discretion of the terminating party. In the event of such termination, the parties shall agree on a reasonable payment for all Works completed up to the date of termination. Such payment shall take into account any prior contractual obligations and the amount in reliance on the performance of this Agreement.]
12. **TERMINATION**
- 12.1 This Agreement may be terminated by either party (the "Terminating Party") with immediate effect to the other party (the "Other Party") if:
- 12.1.1 the Other Party fails to comply with the terms and obligations of this Agreement, and the Terminating Party, if capable of remedy, is not remedied within a reasonable time after written notice of such failure from the Terminating Party;
- 12.1.2 the Other Party is in liquidation or compulsory reconstruction or the reconstruction of the whole or part of the business of the Other Party;
- 12.2 If the Main Contract is terminated, then this Agreement shall terminate automatically;
- 12.2.1 this Agreement shall terminate automatically;
- 12.2.2 the Contractor shall notify the Sub-Contractor of the termination;
- 12.2.3 the Sub-Contractor shall leave the site.
- 12.3 [This Agreement may be terminated by either party at any time and without giving any reason for termination by giving 28 days' notice in writing to the other party.]
- 12.4 The termination of this Agreement shall be without prejudice to any rights, obligations or liabilities of the parties under this Agreement.

13. DISPUTE RESOLUTION

13.1 If a dispute arises between the parties which cannot be resolved by negotiations between the appointed representatives:

13.1.1 the parties shall agree to refer the dispute to arbitration;

13.1.2 either party may refer the dispute to arbitration in accordance with the Arbitration Scheme for Construction Disputes (England and Wales) Regulations 1998;

13.1.3 either party may refer the dispute to arbitration in accordance with the Arbitration Act 1996 as agreed between the parties. In the event that the parties are unable to agree on the arbitrator(s), either party may, upon giving written notice to the other, apply to the President or Deputy President for the Chartered Institute of Arbitrators for the appointment of an arbitrator and for any decision on the rules that may apply.

13.1.1 the parties shall agree to refer the dispute to arbitration;

13.1.2 either party may refer the dispute to arbitration in accordance with the Arbitration Scheme for Construction Disputes (England and Wales) Regulations 1998;

13.1.3 either party may refer the dispute to arbitration in accordance with the Arbitration Act 1996 as agreed between the parties. In the event that the parties are unable to agree on the arbitrator(s), either party may, upon giving written notice to the other, apply to the President or Deputy President for the Chartered Institute of Arbitrators for the appointment of an arbitrator and for any decision on the rules that may apply.

14. MISCELLANEOUS

14.1 This Agreement constitutes the entire agreement between the Sub-Contractor and the Contractor and supersedes any prior agreement between the parties. All such prior agreements are hereby cancelled as from the date of this Agreement and the parties acknowledge they have no claim against the other in respect of any previous agreement.

14.2 Any notice to be sent by one party to the other shall be sent by prepaid recorded delivery or by email to the address shown in this Agreement or to such other address as the parties shall have notified to the other in writing taking effect from the date of such notification. Clause or Agreement, and shall be deemed received 48 hours after the date of such notification.

14.3 The headings in this Agreement are for reference purposes only and shall not be incorporated into the Agreement.

14.4 In this agreement, unless the context otherwise requires, words in the singular shall include the plural and vice versa, and a reference to a body corporate shall include a reference to an unincorporated association.

14.5 The parties agree that no party to this Agreement has no right arising solely by virtue of the (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

14.1 This Agreement constitutes the entire agreement between the Sub-Contractor and the Contractor and supersedes any prior agreement between the parties. All such prior agreements are hereby cancelled as from the date of this Agreement and the parties acknowledge they have no claim against the other in respect of any previous agreement.

14.2 Any notice to be sent by one party to the other shall be sent by prepaid recorded delivery or by email to the address shown in this Agreement or to such other address as the parties shall have notified to the other in writing taking effect from the date of such notification. Clause or Agreement, and shall be deemed received 48 hours after the date of such notification.

14.3 The headings in this Agreement are for reference purposes only and shall not be incorporated into the Agreement.

14.4 In this agreement, unless the context otherwise requires, words in the singular shall include the plural and vice versa, and a reference to a body corporate shall include a reference to an unincorporated association.

14.5 The parties agree that no party to this Agreement has no right arising solely by virtue of the (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

15. GOVERNING LAW AND JURISDICTION

15.1 This Agreement shall be governed by the laws of England and Wales and any dispute concerning its interpretation or performance shall be adjudicated in that jurisdiction.

15.1 This Agreement shall be governed by the laws of England and Wales and any dispute concerning its interpretation or performance shall be adjudicated in that jurisdiction.

IN WITNESS WHEREOF this Agreement has been executed before written

executed the day and year first

SIGNED by

<<Name and Title of person signing>>

for and on behalf of <<Contractor's

In the presence of
<<Name & Address of Witness>>

SIGNED by

<<Name and Title of person signing
for and on behalf of <<Sub-Contractor's

In the presence of
<<Name & Address of Witness>>

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Part 1 – Description of the Works

<<Insert detailed description of Works and reference to the document, e.g. a tender>>

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Part 2 – List of goods and materials to be supplied by Sub-Contractor

<<Insert list>>

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Part 3 – List of goods and materials to be supplied by Contractor

<<Insert list>>

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Part 4 – List of tools, plant and machinery to be supplied and protective clothing to be supplied by the Contractor

<<Insert list>>

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