

## 1. General

- 1.1 In these conditions:
- a) “*Cleartech*” means Cleartech Group Limited (Company No: SC264196) whose trading address is at 17 Langlands Avenue, Kelvin South Business Park, East Kilbride G75 OYG together with any Appendices Hereto;
  - b) “*Subcontractor*” means the Subcontractor or Supplier of Goods or Services as set out in the Subcontract Order. Reference to the Subcontractor shall include the Subcontractor’s employees, any approved Sub-Subcontractors and any other party for whom the Subcontractor is responsible;
  - c) “*Subcontract*” means the contract between Cleartech and the Subcontractor;
  - d) “*Subcontract Sum*” means the agreed price for the works stated in the Subcontract Order; The Sum payable to the sub-contractor for carrying out the works, exclusive of VAT (unless identified accordingly) subject to retention, CIS, CITB or any other statutorily required deductions, fixed and firm expecting where either the works are varied and valued by the terms of this Agreement or by supplemental agreement.
  - e) “*Subcontract Order*” means the Order issued by Cleartech identifying the works to be carried out by the Subcontractor as completed by Cleartech. Signature of the Subcontract Order shall have the same effect as executing these terms and conditions as a Deed;
  - f) “*Cleartech’s Employer*” means the party with whom Cleartech has entered into a contract with;
  - g) “*Main Contract*” means the contractual agreement between Cleartech’s Employer on the project and Cleartech;
  - h) “*The Subcontract Works*” means all of the work to be carried out by the Subcontractor in accordance with these conditions as set out in the Subcontract Order.
  - i) “*Day*” means a calendar day unless otherwise stated.
- 1.2 Communications in writing include all communications in printable (letter, fax or email) form received by either party at their usual place of relevant business.
- 1.3 This Subcontract incorporates the terms and conditions of the Main Contract between Cleartech and the party whom has engaged or employed Cleartech on this project. The Subcontractor is deemed to have full knowledge of all the Terms and Conditions in the Main Contract (excluding information relating to payment periods, prices and rates), which are available for inspection by appointment upon request at Cleartech offices. The Subcontractor shall perform the obligations of Cleartech under the Main Contract as though it was named as the Party which Cleartech is named within that Main Contract, in respect of carrying out the Subcontract Works and all other administrative obligations imposed by the Main Contract.
- 1.4 The Subcontractor has withdrawn all additional terms, qualifications or limitations within any pre-Subcontract Correspondence, tender or quotation or updated version(s) of such. Clarifications shall only apply if specifically appended to this Subcontract as a Schedule of Clarifications. The Subcontract Agreement shall constitute the entire agreement between Cleartech and the Subcontractor.

## 2. Ambiguities

- 2.1 Where there is an ambiguity or conflict between the provisions of the Main Contract and the Subcontract, the Subcontractor shall notify Cleartech as soon as it becomes aware of such and Cleartech shall issue any necessary clarification or instruction to resolve, which shall be at no additional cost to Cleartech. These terms and conditions shall be construed as being jointly drafted by the Parties.

## 3. Subcontractor Obligations

- 3.1 The Subcontractor shall carry out and complete the Subcontract Works including all variations notified to him in writing. The Subcontractor shall carry out and complete the Subcontract Works regularly and diligently within the Subcontract Period and in conformity with the directions and requirements of Cleartech, in a good and workmanlike manner and in accordance with the Health & Safety Plan using only materials and workmanship of an appropriate quality and standard, all to the reasonable satisfaction of Cleartech. The

Subcontractor shall carry out any design, as required under or implied by the Subcontract. The Subcontractor shall complete its works with due regard to other site operations of Claretech or Claretech's Employer and its agents and Subcontractors. The Subcontractor shall coordinate its works with all other interfacing parties to avoid services clashes and preventable delays.

- 3.2 The Subcontractor will complete the works in accordance with the Subcontract Order and any agreed programme of works.
- 3.3 If the Subcontractor fails to complete the Subcontract Works, or any section thereof, within the period(s) specified or any validly extended period, he shall pay Claretech any loss or damage suffered or incurred by Claretech caused by the failure of the Subcontractor, including but without limitation any liability incurred by Claretech to pay liquidated and ascertained damages under the Main Contract. Claretech shall give notice at any time that such loss or damage is being suffered or has been incurred or is likely to be incurred.
- 3.4 The Subcontractor may be entitled, subject to making a valid application, to an extension of the date for completion, if and to the extent that completion is or will be delayed by any of the following factors:
- (a) a Variation, properly issued under the terms of this Subcontract;
  - (b) exceptionally adverse climatic conditions;
  - (c) any delay, impediment or prevention caused by or attributable to Claretech, Claretech's Employer, or others on site.

If the Subcontractor considers himself to be entitled to an extension of time and/or additional payment, under this or any other clause of the Subcontract or otherwise in connection with the Subcontract, the Subcontractor shall, as a condition precedent to any such claim, give notice as soon as reasonably practicable, and in any event not later than 5 days after the Subcontractor became aware, or should have become aware of the event or circumstance. The Subcontractor shall throughout maintain detailed contemporaneous records of all material factors affected by any delay and submit these to Claretech weekly. Following the service of the notice the Subcontractor shall submit particulars in as much detail as is available within 14 days of such notification. If the Subcontractor fails to give valid notice of a claim, or provide adequate records, or subsequent particulars, within the periods stated in this sub-clause the time for completion shall not be extended, the Subcontractor shall not be entitled to additional payment, and Claretech shall be discharged from all liability in connection with any such claim under the Subcontract and otherwise at law.

- 3.4a The Subcontractor will comply with any Site Operating Rules and any additional rules previously communicated to the Subcontractor.
- 3.5 The Subcontractor shall provide a safe method for carrying out the Subcontract Works and shall comply with all relevant legislation during the execution of the Subcontract Works. This includes but is not limited to all relevant health and safety legislation and all environmental disposal legislation. Failure to comply with the law is a breach of contract. Where such a breach occurs, the Subcontractor shall indemnify Claretech against any direct, indirect or consequential loss, damage or costs arising as a result of the Subcontractor's breach. Consequential loss includes but is not limited to any loss incurred to ongoing operations of Claretech, losses arising or likely to arise, under the Main Contract, or other costs whatsoever.
- 3.6 The Subcontractor shall provide all Health & Safety files and provide all necessary details for operating and maintenance manuals required under the Main Contract within five days of completion of the Subcontract Works or at Practical Completion of the Main Contract works, whichever is the earlier. Failure to supply this information, within the time limit stipulated, will result in withholding of any payments due.
- 3.7 Any notice of any kind to be given by the Sub-contractor under this Sub-Contract Agreement shall be issued by first registered post to the Contractor's head office address. The notice shall be deemed as served 2 working days after the notice is posted. Notices issued by any other means shall be invalid.
- 3.8 The Subcontractor shall provide competent and qualified personnel to supervise and carry out the Subcontract Works and all related operations. These personnel will at all times be able to take, receive and understand instructions in English. Further, supervision includes competence to:

- a) identify risks to health and/or safety;
  - b) ensure safe methods of work are adopted;
  - c) fulfil the Subcontractor's obligations within any Site Operational Rules to identify maintenance needs, defects, preventative measures and the like.
- 3.9 The Subcontractor shall immediately and in any event no later than 12 hours notify in writing Cleartech of anything patently defective or substandard in or around the Subcontractor's Works which should be reasonably obvious to a competent Subcontractor.
- 3.10 The Subcontractor shall be responsible for the accurate setting out of the Subcontract Works.
- 3.11 Where any part of the Subcontract Works is to be applied to work carried out by others or may be affected by atmospheric conditions the Subcontractor is to satisfy itself that the work carried out by others, and that the atmospheric conditions are such that the Subcontract Works will not be adversely affected. If the Subcontractor is not satisfied, he is to notify Cleartech in writing immediately to that effect stating his reasons before proceeding with the Works.
- 3.12 Upon completion of the Subcontract Works, the Subcontractor shall notify Cleartech in writing that it considers the Subcontract Works to be complete. If such notice is not dissented from within 14 days, the date notified by the Subcontractor shall be the date of completion and commencement of the defects liability period. Otherwise, Cleartech may advise the Subcontractor of the date Cleartech considers completion to have occurred. If neither of the foregoing occurs prior, the date of any payment notice showing first release of retention shall be construed as the date for completion of the Subcontract Works.

#### **4 Control of Personnel**

- 4.1 Cleartech and Cleartech's Employer may instruct the immediate removal from site of any person employed by the Subcontractor who in the absolute discretion of Cleartech and/or Cleartech's Employer is unsuitable. The Subcontractor shall comply with such request immediately, failing which, any payment due under the contract shall be suspended by the period as the Sub-contractor takes to remove the person from site from when he was notified to do so.
- 4.2 The Subcontractor will ensure that any Site Operational Rules are complied with by its personnel and other persons brought to site by the Subcontractor. The Subcontractor shall remove from the works any employee who fails to comply.

#### **5. Copyright**

- 5.1 The copyright and all other intellectual property rights in all work prepared or compiled by the Subcontractor in the performance of this Subcontract remain vested in the Subcontractor. The Subcontractor hereby grants a royalty free, non-exclusive, irrevocable licence to copy and use and reproduce any such materials for any purpose related to the Subcontractors Works or pursuant to the Main Contract.

#### **6. Instructions and Variations**

- 6.1 The Subcontract Works shall not be varied without the express, written instruction of Cleartech.
- 6.2 The Subcontractor shall comply forthwith with all Cleartech instructions, including verbal instructions. The Subcontractor shall within 3 days of instruction give notice in writing to confirm those instructions in writing to Cleartech. If such confirmation is not dissented from within 14 days these are deemed to be written instructions as though given by Cleartech.
- 6.3 Cleartech shall not be liable for payment of any additional sums to the Subcontractor which are not pursuant to written instructions.
- 6.4 Cleartech may at their sole discretion omit all or part of the works from the Subcontract Works upon notice and have such works completed by any other subcontractor as it may determine. Cleartech shall not be liable for any costs or losses of the Subcontractor howsoever arising from the omission of works, whether such works are completed by others or not.
- 6.5 The Subcontractor shall accommodate any programme changes at its cost. Any variations under the Subcontract which may have a time implication shall be considered under Clause 3.4.

**7. Valuation of Variations**

- 7.1 Note that agreement on price shall not in any way relieve the Subcontractor's obligation at 6.2 to comply with the instruction forthwith. For the avoidance of doubt the Subcontractor must comply immediately on receipt of Cleartech's instructions, even if there is no prior agreement on price.
- 7.2 Where the Subcontractor is instructed to vary the Subcontract Works, the Subcontractor will provide a quotation for the variation within 5 days of receipt of the instruction. The quotation will be reasonable and in accordance with the pricing mechanism set out below.
- 7.3 Cleartech may:
- (a) accept the quotation in writing; or
  - (b) indicate that Cleartech will value the variation in accordance with Condition 7.4; or
  - (c) Withdraw the instruction if the appropriate time for implementation has not started.
- 7.4 If Cleartech indicates that it will value the variation, Cleartech will fix the proper value based on the rates and prices contained in the quotation, or at a fair value.
- 7.5 The quotation or Cleartech value for the variation will be paid in accordance with the Subcontract.
- 7.6 No work is to be carried out on dayworks or on a time and material basis without the prior written instruction of Cleartech to carry out these works as dayworks. All daywork sheets should be presented for approval by Cleartech's authorised representative at the end of each working day and submitted with each payment application. Daywork sheets must include, at a minimum, operatives names, details of any plant or materials, a brief description of the work, location and durations of work undertaken.

**8. Payment**

- 8.1 Interim payment terms and conditions may be subject to an agreed Schedule of Payments appended to the Subcontract at Appendix II. Any agreed Schedule of Payments will take precedence over the provisions of this Clause 8 in relation to interim applications and payments only. The payment terms and periods of this Subcontract apply, and the Subcontractor shall not rely upon any payment terms of the Main Contract in default or otherwise.
- 8.2 Retention will be withheld from payments due as set out in the Sub Contract, if no rate is stipulated in the Subcontract Order the rate of retention shall be 5%.
- 8.3 The first moiety of retention shall become due 3 months after completion of the Subcontractor's works under the Subcontract or in default of such, 3 months after the date for completion of the Main Contract works, or such extended date. The second moiety release shall become due upon the later of 24 months following the date of payment of the first moiety being made by Cleartech or the date upon which all defects notified within the defects liability period have been remedied to the satisfaction of Cleartech. The Subcontractor shall make application for any release of retention within 7 days following the relevant retention moiety due date. The final date for payment of any moiety release of retention shall be 30 days following the relevant due date.
- 8.4 Until a period of 31 days following the date for completion of the Subcontract Works (or any properly sanctioned extended date), the Subcontractor may submit an interim application for payment, no later than 5 days before Cleartech's Valuation Date, as defined in the Subcontract Order. If no valuation date is stated in the Subcontract Order then Subcontractor's interim valuations are to be submitted no later than 7 days before the end of each calendar month. The valuation shall state the sum the Subcontractor considers to be due at Cleartech's Valuation Date, or the end of the relevant calendar month, and set out the basis on which that sum is calculated.
- 8.5 It shall be a condition precedent for the release of any payment from Cleartech that the Subcontractor presents a valid application for payment in sufficient detail to enable it to be checked against the actual Subcontract Works executed and which fully demonstrates the amount due. Variations claimed within any application shall be fully vouched, including copies of written instructions and all documentation to properly substantiate any sums claimed, which shall accompany each application in which a claim for such is included. Applications not containing such detail shall be invalid.



- 8.6 Interim applications shall become due for payment on the last day of the month following the month in which a valid application is received by Cleartech. The final payment date for interim applications shall be 30 days following the relevant due date.
- 8.7 Not later than five days following the due date for payment, Cleartech may issue a payment notice in respect of any valid application for payment by the Subcontractor, setting out the sums due to the Subcontractor and the basis of calculation. Not later than 1 day before the Final Date for Payment for any payment due under the Subcontract, Cleartech may issue a pay less notice specifying the amount Cleartech considers to be due and the basis on which that sum is calculated, with reasons for paying less than any earlier and effective notified sum.
- 8.8 Cleartech will pay any amount due under the Subcontract on or before the final payment date. If Cleartech fails to pay the amount, or any part thereof due to the Subcontractor by the final date for payment, simple interest will be payable on such amounts at a rate of 3% over the Bank of England Base Rate which is current at the date the payment became overdue. The parties agree that this is a substantial remedy and adequate compensation.
- 8.9 Cleartech shall be entitled to deduct from or set off against any monies otherwise due to the Subcontractor any sum or sums which the Subcontractor is liable to pay to Cleartech whether for damages or otherwise and whether under this Subcontract or otherwise.
- 8.10 The Subcontractor shall present a final application for the Subcontract Works within four weeks of completion of the Subcontract Works. Any later application, unless specifically permitted in writing by Cleartech, shall not be valid. The Subcontractor's final application submission shall contain all detailed particulars necessary to substantiate the sums claimed therein, together with all supporting documents which the Subcontractor may rely upon to demonstrate entitlement.
- 8.11 In the absence of a valid final application from the Subcontractor, Cleartech will thereafter (and no later than 1 day before the due date for payment) issue its own final account statement to the Subcontractor, setting out all sums payable to (or by) the Subcontractor under the Subcontract. The final account shall become due for payment upon the later of the date of expiry of the defects liability period or the date upon which the Subcontractor completes all prior notified defects to the satisfaction of Cleartech.
- 8.12 Any amount payable to Cleartech in any interim or final payment shall become due upon submission by Cleartech of the payment notice, pay less notice or final account notifying the Subcontractor of such a balance, with a final payment date of 30 days thereafter.
- 8.13 Subject only to adjustment as a consequence of the operation of Clauses 10 and 15, any amount assessed as being due to the Subcontractor in the final account statement shall be conclusive and binding as to any final amount payable to the Subcontractor in relation to the Subcontract (and otherwise at Law) unless referred to dispute resolution within 28 days of Cleartech issuing the final account statement.
- 8.14 The Subcontractor shall present an invoice corresponding to any notified sum not later than 10 days after the due date for any notified sum. If the Subcontractor is late in submitting any invoice, the final date for payment under this Clause 8 or as contained with any schedule shall be extended by the same number of days as the Subcontractor is delayed in issuing the invoice. Invoices shall be submitted by post and email to [invoices@Cleartech.org.uk](mailto:invoices@Cleartech.org.uk)
- 8.15 In the event that Cleartech issues any pay less notice after the Subcontractor's invoice has been issued, the Subcontractor shall within 7 days of such notice issue a credit note amending the balance payable to the sum set within the pay less notice.

## **9. Attendances**

- 9.1 Cleartech will provide to the Subcontractor the attendances as set out in Appendix III. Cleartech do not warrant the provision of any other attendances. The Subcontractor shall provide all other items required to complete the Subcontract Works.
- 9.2 The Subcontractor shall not adjust or interfere with the attendances provided by Cleartech for its use without express written permission of Cleartech. This includes but is not limited to scaffolding, lifting equipment and other facilities as may be applicable. The Subcontract includes the delivery to Site, loading, distributing, protection and further movement of any materials required by the Subcontractor unless expressly stated otherwise in the Sub Contract. The Subcontract includes the cost of all necessary facilities for the Subcontractor's labour, materials, tools, plant and equipment delivered to and stored on and

moved about Site as required by the Subcontractor. The Subcontractor has satisfied itself as to the extent and limitations of storage, access and loading available on Site.

**10. Defects**

- 10.1 The Subcontractor shall notify Cleartech in writing of any defective or substandard elements of the Subcontract Works immediately and in any event not more than 24 hours from completion of the Subcontractors Works or the relevant element of the Subcontractors works.
- 10.2 The Subcontractor shall make good any defects in the Subcontract Works, and shall allow to Cleartech any sums consequentially, or likely to be consequentially, lost arising therefrom.
- 10.3 Without relieving the Subcontractor of any responsibility, Cleartech may check any aspect of the Subcontractors Works at any time. The Subcontractor will assist Cleartech in this and will search for any potential defects identified by Cleartech, or the Employer, on Cleartech's instruction.
- 10.4 Where any part of the Subcontract Works is to be applied to work carried out by others or may be affected by atmospheric conditions the Subcontractor is to satisfy itself that the work carried out by others, and/or that the atmospheric conditions are such that the Subcontract Works will not be adversely affected. If he is not satisfied, he is to notify Cleartech in writing to that effect stating his reasons before proceeding with the Subcontract Works.
- 10.5 The Defects Liability Period shall commence from the date of completion of the Main Contract Works and shall only conclude 24 months thereafter unless other such period is stated in the Subcontract Order
- 10.6 In the event of the Subcontractor failing to carry out to Cleartech's satisfaction any part of the Subcontract Works, including remediation of notified defects, Cleartech may have such works completed by a third party and any cost incurred thereby shall be recoverable by Cleartech from the Subcontractor.

**11. Assignment**

- 11.1 The Subcontractor shall not assign the benefit or in any way transfer or Subcontract or delegate any of its obligations under this Subcontract without the prior written consent of Cleartech.

**12. Title**

- 12.1 The materials of the Subcontract brought to site by the Subcontractor and intended for incorporation in the Subcontract Works shall, upon delivery, be deemed to be the property of Cleartech and the Subcontractor shall not remove the same or any part thereof without the consent in writing of Cleartech, which consent shall not be unreasonably withheld. This does not affect the Subcontractors obligation to store, protect, place or otherwise use the materials.
- 12.2 Any sum stated as due shall NOT include the value of any materials or goods before their delivery to or adjacent to the Subcontract Works unless the following conditions have been fulfilled:
  - (a) The Subcontractor has provided Cleartech with reasonable proof that:
    - 12.2.a.1. The property is vested in Cleartech;
    - 12.2.a.2. The items are insured against loss or damage for their full value until they are delivered to, or adjacent to, the Subcontract Works;
  - (b) At the premises where the items have been manufactured or assembled or are being stored, there is in relation to those items clear identification of:
    - 12.2.b.1. Cleartech as the person to whose order they are held; and
    - 12.2.b.2. Their destination as the Subcontract Works,And these items either are set apart or have been clearly and visibly marked, individually or in sets, by letters or figures or by reference to a pre-determined code.
- 12.3 The Subcontractor shall permit Cleartech access to examine any materials or goods included within any application for payment.
- 12.4 In the event of termination of the Subcontract for any reasons included herein, the Subcontractor shall allow Cleartech unfettered access to all material and goods included within any application for incorporation into the Works.

**13. Waste Disposal**

- 13.1 If the Subcontractor and/or its servants or agents and/or anyone employed by it are removing waste from site then it shall be registered as a carrier/broker of controlled waste under the Control of Pollution Act relevant to the place of the Subcontract Works and in place at the time **and** shall dispose of the waste legally. The Subcontractor shall produce evidence of such registration on request. The Subcontractor shall obtain transfer notes for all waste removed from site and shall retain same for a period of 12 months after completion of the Subcontract Works. These shall be made available to Cleartech on request.
- 13.2 The Subcontractor shall clean up and remove any waste materials generated by and/or surplus materials resulting from the Subcontract Works. All costs incurred by Cleartech as a result of non-compliance with the above, including those for consequential loss, shall be set-off under this Subcontract or shall be recoverable from the Subcontractor by Cleartech as a debt.

**14. Insurances and Liability**

- 14.1 The Subcontractor shall maintain insurances as required by the Subcontract Order and shall produce evidence of this insurance upon request by Cleartech. The Subcontractor shall protect the Subcontract Works and adjacent works, materials and equipment from damage or loss until they are complete. Cleartech does not accept any responsibility for damage, loss or interference with the Subcontract Works and/or plant and equipment.
- 14.2 The Subcontractor shall make good any defects in the Subcontract Works and shall allow to Cleartech any sums consequentially or likely to be consequentially lost arising therefrom.
- 14.3 Where the Subcontractor breaches the Subcontract, it shall indemnify Cleartech against any direct, indirect or consequential loss, damage or costs arising as a result of the Subcontractor breach. Consequential loss includes but is not limited to any loss incurred to ongoing operations of Cleartech, losses arising or likely to arise, under the Main Contract, or other costs whatsoever.
- 14.4 The Subcontractor shall grant a collateral warranty agreement to any third party to whom Cleartech also required to deliver a Subcontractor collateral warranty under the Main Contract in the form contained in the Main Contract or any other reasonable form. Cleartech shall be entitled to withhold any payment due under this Subcontract until such times as all necessary Collateral Warranties are duly executed by the Subcontractor.
- 14.5 Notwithstanding anything stated in the Subcontract Order, the Subcontractor shall maintain adequate Employers and Public Liability Insurance and Professional Indemnity Insurance, where required under the Main Contract, approved by Cleartech and shall produce evidence of this insurance upon request by Cleartech. Any such insurances shall be maintained for a period of 12 years after completion of the Main Contract Works, unless a difference period is stated in the Subcontract Order. The Subcontractor shall at no additional cost execute a third party collateral warranty in the form provided by Cleartech if so requested.
- 14.6 No payment shall become due to the Subcontractor unless Cleartech are provided with copies of all current and valid insurance certificates. Any application for payment submitted in the absence of having provided proof of insurance shall be invalid.
- 14.7 All subcontractors are required to complete Cleartech pre-qualifying Health & Safety questionnaire before carrying out works on site. This includes CIS registration details for payment etc. Failure to provide the necessary details will result in Cleartech withholding any payments that may become due.

**15. Termination of Employment**

- 15.1 Cleartech may terminate the Contract due to no fault of the Subcontractor at any time during the currency of the Subcontract Works on the giving of 7 days' notice. Cleartech shall be liable for all payments due to the Subcontractor under the terms of the Subcontract up to the date of termination, such amounts being determined in accordance with the payment terms of this Subcontract and shall become due upon completion of all works and any associated making good defects under the Main Contract. Cleartech shall not be liable under this condition for any consequential loss, loss of profit or other sums.
- 15.2 If the Subcontractor defaults on any aspect of this Subcontract, Cleartech may notify the Subcontractor pursuant to clause 1.2 and this clause to rectify the default within 5 days. If

the Subcontractor fails to comply, Cleartech may then terminate the Subcontract forthwith without prejudice to its other rights under this Subcontract.

15.3 If the Subcontractor makes a composition or arrangement with its creditors, or becomes bankrupt, or being a company:

- (a) makes a proposal for a voluntary arrangement for a composition of debts or scheme of arrangement to be approved in accordance with the Companies Act or the Insolvency Act/Order as the case may be or any amendment or re-enactment thereof; or
- (b) has a provisional liquidator, liquidator, receiver or administrator appointed; or
- (c) has a winding-up order made; or
- (d) passes a resolution for voluntary winding-up (except for the purposes of amalgamation or reconstruction); or
- (e) Any such analogous situation applies.

The employment of the Subcontractor under this Contract shall be forthwith automatically terminated and may only be reinstated if Cleartech and the Subcontractor (or its representatives as may be) shall so agree in writing.

15.4 In the event of the employment of the Subcontractor being terminated under Clause 15.2 or 15.3

- (a) Cleartech may use all temporary buildings, plant, tools, equipment, goods and materials intended for, delivered to and placed on or adjacent to the Subcontract Works, and may purchase all materials and goods necessary for the carrying out and completion of the Subcontract Works and the making good of defects of the kind;
- (b) the Subcontractor shall if so required by Cleartech within 14 days of the date of termination, assign to Cleartech, without payment, the benefit of any agreement for the supply of materials or goods and/or for the execution of any work for the purposes of the Contract to the extent that the same is assignable;
- (c) Cleartech may pay any supplier for any materials or goods delivered or works executed for the purposes of the Contract before the termination insofar as the price thereof has not already been discharged by the Subcontractor and deduct the sum from any payment that may be due to the Subcontractor;
- (d) the Subcontractor shall as and when required by a direction of Cleartech so to do (but not before) remove from the site any temporary buildings, plant, tools, equipment, goods and materials belonging to it and have removed by the owner any temporary buildings, plants, tools, equipment, goods and materials not owned by him. If within a reasonable time after any such requirement has been made the Subcontractor has not complied, then Cleartech may (but without being responsible for any loss or damage) remove and sell any such property of the Subcontractor, holding the proceeds against all costs incurred by Cleartech because of the Subcontractor.
- (e) Cleartech shall not be bound by any provision of the Subcontract or otherwise to make any further payment to the Subcontractor until all defaults or defects of the Subcontractor have been determined and discharged. Then only such residual sums to arise shall become due and Cleartech will issue a final account statement. Any such post termination payment shall become due 30 days after the issuing of a final account statement, with final payment to follow 30 days thereafter.

15.5 If for any reason other than Employer insolvency (Clause 15.6) Cleartech's employment under the Main Contract is terminated before the Subcontractor has fully performed its obligations under this Subcontract, then the employment of the Subcontractor shall be automatically determined and Cleartech may exercise the same rights as are reserved by the Employer under the Main Contract.

15.6 If Cleartech's Employer or any paying party in the chain of payments to Cleartech becomes insolvent, then the Sub-contractor's employment under this Sub-contract shall immediately be determined. No further payments shall be made to the Sub-contractor whether due prior to the insolvency event or otherwise would have become due.

15.7 If the Main Contract is terminated as a result of any breach of the Subcontract by the Subcontractor, Cleartech shall be entitled to any losses and damages incurred as a result of the termination of the Main Contract and any liabilities incurred by Cleartech to other subcontractors which are attributable to such termination of the Main Contract.

15.8 Within 30 days of any such termination the Subcontractor shall submit its valuation (not an application) of all works completed up to the date of termination, including all unfixed



materials or goods that shall be incorporated into the Works. Any sums found owing shall not become due until all costs, including costs under the Main Contract are ascertained, which amounts shall be promptly notified to the Subcontractor by Cleartech. If the amount found due is less than any amounts for which Cleartech are liable, Cleartech shall be entitled to recover the balance from the Subcontractor.

**16. Waiver**

16.1 Nothing arising by any conduct, approval or consent given by or on behalf of Cleartech in connection with the Subcontract Works shall prejudice, modify, affect or otherwise relieve the Subcontractor from any of its obligations under this Subcontract. No waiver or amendment of these conditions by Cleartech's conduct shall be construed as any amendment to the Subcontract, and Cleartech may enforce any agreed term at any time under the Subcontract.

**17. Dispute Resolution**

17.1 Any dispute or difference arising pursuant to these works shall initially be referred to adjudication in accordance with the Scheme for Construction Contracts applicable to the relevant territorial area of the Subcontract Works Location. If no Scheme for Construction Contracts is applicable to the relevant territorial area of the Works location the Scheme for Construction Contracts for Scotland applicable at the date of the Subcontract shall apply. The Adjudicator Nominating Body shall be the Chartered Institute of Arbitrators Scottish Branch. The adjudicator's decision shall become final and binding unless further determination proceedings are notified and initiated within 28 days of the adjudicator's decision.

17.2 If either party is dissatisfied with the adjudicator's decision, then it shall within 28 days of the adjudicator's decision refer the dispute to arbitration in accordance with the Arbitration (Scotland) Act 2010 and the arbitrator shall be agreed between the Parties or otherwise appointed by the of the Chartered Institute of Arbitrators Scottish Branch. The seat of the arbitration shall be Edinburgh. If the dispute is not so referred within this period, then the adjudicator's decision shall be final and binding.

17.3 The law of the Subcontract shall be that of Scotland, unless otherwise stated on the Subcontract Order.

**18. Entirety Clause**

18.1 The parties freely agree and accept that the terms and provisions of this agreement comprises the entire agreement between the parties and that the values ascertained under this agreement will and do represent the entire extent of and fully describe and quantify the liabilities owned or as may fall due to either party under the contract or at law.

Executed as a Deed this \_\_\_\_\_ day of \_\_\_\_\_ 2018

For Cleartech Group Ltd.

For the Subcontractor

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

In the Capacity of Director

In the Capacity of Director/Secretary/Principal

Witnessed By:

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

APPENDIX I - SUBCONTRACT SCOPE

Write a brief description of the works here

The Subcontractor shall carry out and complete the Subcontract Works in accordance with the following Subcontract Documents;

1. The Subcontractor Order
2. These Cleartech Group Ltd. Standard Terms & Conditions of Subcontract (Incl. Appendices hereto)
3. [Specification]
4. [Drawings as listed]
5. [Record of Meeting]

The Subcontractor shall provide all necessary certificates, as-built drawings, manuals, warranties and the like prior to completion of the Subcontract Works.



APPENDIX III - SCHEDULE OF ATTENDANCES

No	Description	Sub-contractor	Contractor	Main/Principal Contractor
1	Site welfare facilities			X
2	Shared use of office	X	X	
3	Cost of communications/faxes etc.	X		
4	Unloading and distribution of material	X		
5	Security of the site			X
6	Safe storage of material	X		
7	Protection of unfixed material	X		
8	Protection of the installed works	X		
9	Cleaning waste materials arising from works	X		
10	Provision of skips for disposal of waste	X		
11	Disposal of Asbestos			X
12	Disposal of other contaminated/specialist	X		
13	Attending progress meetings	X	X	
14	Coordination of the Sub-contract works with	X		
15	Obtaining all necessary permits	X	X	
16	Submit O&M Documents in the approved	X		
17	Submit As-built drawings in approved format	X		
18	Submit design information in approved format	X		
19	Site access permits	X	X	
20	Attending tool-box talks	X	X	
21	Attending site inductions	X	X	
22	110v Power supply			X
23	Extensions do.	X		
24	Builderswork - holes up to 40mm diameter	X		
25	Effluent Waste			
26				
27				
28				
29				
30				



# Standard Terms and Conditions of Subcontract Cleartech Group Ltd



COMMISSIONED AIR, COMPLIANT WATER

## APPENDIX IV - PRICING SCHEDULE

Insert Subs BQ or price breakdown here

Cleartech Group Ltd Registered in Scotland No. SC264196

