

Heritage Lincolnshire – Sub-Contractor Agreement

This Agreement is made on the _____ 2022 between:

- (1) _____ (“the Company”) and
- (2) _____, of _____ (“the Sub-Contractor”)

The Company provides various services to its Clients. The Sub-Contractor has reasonable skill, knowledge, qualifications and experience in their field and wishes to offer these services to the Company.

In reliance upon such skill, knowledge, qualifications and experience, the Company wishes to engage the Sub-Contractor to provide certain parts of the services to its Client(s) on its behalf, as described in this Agreement.

The Sub-Contractor wishes to accept this engagement and will provide the agreed services to the Client(s) on behalf of the Company subject to, and in accordance with, the terms and conditions of this Agreement.

IT IS AGREED as follows:

- 1. Definitions and Interpretation:** In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:
 - “**Client**” means any client of the Company’s which shall include the Main Contractor should we be appointed under a Main Contract;
 - “**Main Contract**” means such contract as we may enter into from time to time to undertake the Services, you shall be responsible under such to the same extent we have agreed and shall complete the Services in accordance with the main contract and these terms and conditions;
 - “**Services**” means the services to be provided by the Sub-Contractor to the Company as set out in this Agreement.
- 1.1 Unless the context otherwise requires, each reference in this Agreement to:
 - 1.1.1 “we”, “us” and “our” is a reference to the Company and includes our employees;
 - 1.1.2 “you” and “your” is a reference to the Sub-Contractor and includes your employees;
 - 1.1.3 “writing” and “written” includes emails;
 - 1.1.4 a statute or a provision of a statute includes any relevant amendments or re-enactments of that statute;
 - 1.1.5 “this Agreement” is a reference to this Agreement and each of the Schedules as amended or supplemented at the relevant time;
 - 1.1.6 a Schedule is a schedule to this Agreement;
 - 1.1.7 a Clause or paragraph is a reference to a Clause of this Agreement (other than the Schedules) or a paragraph of the relevant Schedule; and
 - 1.1.8 a “Party” or the “Parties” refer to the parties to this Agreement.
- 1.2 The headings used in this Agreement are for convenience only and will have no effect upon its interpretation. Words imparting the singular number will include the plural and vice versa. References to any gender will include the other gender. References to persons will include corporations.
- 2. Engagement of Sub-Contractor**
 - 2.1 We engage you to provide the Services throughout the term of this Agreement, in accordance with these terms and conditions.
 - 2.2 This agreement also incorporates the Main Contract and you shall work under such terms and specifications as it shall impose, however at all times you shall take instruction from the Company, if you are approached directly by the project manager for reasons including, but not limited to, variations, you must report such to the Company before undertaking any instruction.
 - 2.3 The Agreement will commence with effect from the date stated above and will continue until it is terminated in accordance with clause 13.
 - 2.4 This Agreement and the Main Contract will apply as the binding and entire contract between the Parties and any other terms and conditions, including any terms and conditions of yours, are expressly excluded.
- 3. Sub-Contractor’s Obligations**
 - 3.1 You agree to perform the Services at any such location as we may specify and will use all reasonable endeavours to comply with any programme dates we may provide to you. These programme dates are as agreed within the Main Contract we have agreed, you may be liable for such damages as we shall be under the Main Contract should the project not be completed on time. The number of hours or days to be spent on the Services will be agreed between you and us on an individual project basis in accordance with the Main Contract. Should you choose not to accept any project as part of the Services, you must give the Company 30 days’ notice of this.
 - 3.2 The engagement under this Agreement is mutually non-exclusive and you are entitled, at your own expense, to substitute or employ another worker with the necessary skills and experience, and who is acceptable to us, to perform the Services. In any event, you agree to provide such a substitute where the provision of the Services is likely to be delayed by illness, incapacity or otherwise.
 - 3.3 You are responsible for the quality of the Services provided and you must ensure that all work is performed with reasonable care and skill. You are wholly responsible for ensuring that anyone authorised by you to perform all or any part of the Services will also do so competently and with reasonable care and skill. All works are to be carried out to the satisfaction of the Company and all rectification costs shall be borne by you.
 - 3.4 Where working on site or in our premises, you shall be responsible at all times for keeping your areas of work clean and tidy at all times, and to ensure all waste material generated is removed daily into skips provided.
 - 3.5 Your activities and those of your substitutes or employees are at all times under your exclusive direction and control. Subject to the provisions of clause 3.1 and the Main Contract, you will at all times be responsible for organising how and in what order the Services are to be carried out.
 - 3.6 You will use your own equipment, materials and resources to carry out the Services where applicable. It shall be your responsibility to undertake regular testing of any tools and electrical leads.
 - 3.7 It is your responsibility to maintain and wear for the provision of all Services the correct PPE and safety equipment in accordance with our risk assessments including, but not limited to, safety boots, hard hat, goggles and high visibility clothing where applicable. Should the contract between us the Client be for labour only works, we shall provide you with the appropriate PPE, you shall be responsible for the keeping of it in the same state in which it was provided to you, and shall return it promptly upon completion of your works.
 - 3.8 When working with any of our Clients, and/or bearing our logo, you shall not be permitted to upload any social media posts or any other advertising relating to the Services without the Company’s prior agreement.
 - 3.9 You will at all times make your best and reasonable endeavours to promote the best interests of the Company and to deliver a high standard

of service.

- 3.10 We will have the right to audit the Services carried out by you, without notice. You are responsible for rectifying any unsatisfactory work as soon as reasonably possible and at your own expense.
- 3.11 In the event that you fail to complete the Services by the agreed date, or fail to rectify any unsatisfactory work in accordance with clause 3.9, we will be entitled to employ an alternative sub-contractor to complete the Services and in this event, will deduct (or where paid, will invoice you to reclaim) the cost of the alternative sub-contractor from any fees due.

4. Company's Obligations

- 4.1 We will ensure that you have access to the agreed site(s) on the agreed date(s) and time(s).
- 4.2 We will use reasonable endeavours to provide any information to you as may be necessary for you to carry out the Services. This shall be included but not limited to all RAMS applicable to the Services and to the site.
- 4.3 We shall ensure you have access to shared welfare facilities including electricity supply and first aid.
- 4.4 We will use all reasonable endeavours to inform you of all health and safety rules and regulations that apply at the site location, either verbally or in writing. You will comply with all applicable health and safety standards and will report any unsafe working conditions or practices to us promptly.

5. Fees and Payment

- 5.1 We will agree a fixed fee, or day rate with you, prior to each project commencing.
- 5.2 Unless otherwise agreed, you shall send your invoice and timesheet where applicable to us upon completion of the Services and payment shall be made on the last day of the month following the month of receipt of such, provided you have complied with your obligations as detailed in clause 3.
- 5.3 Any additional payment for materials or expenses must be agreed in advance and must be provided with a VAT receipt before payment is released.
- 5.4 No further payment will be made to you for the Services over and above the entitlement set out in clause 5.1 and, unless otherwise expressly agreed by us in writing, no payment will be made to you for any expenses incurred by you in completing the Services.
- 5.5 Any variations to this Agreement must be agreed in writing by us before being acted upon by you. Payment for agreed variations will be made in accordance with clause 5.2 above.

6. Status of the Sub-Contractor

- 6.1 Your relation to the Company is that of an independent contractor. As an independent contractor, you will have no entitlement to annual leave, holiday pay or Statutory Sick Pay.
- 6.2 You are responsible for all taxes and contributions in respect of the sums payable under this Agreement including, but not limited to, income tax, national insurance and VAT, where applicable (please note new housing projects are not subject to VAT) and you agree to indemnify us for any claims that may be made by the relevant authorities against us in respect of any such taxes and/or contributions, including interest and penalties, arising out of the Services as provided by you under this Agreement.
- 6.3 Your engagement and appointment under this Agreement does not create any mutual obligations on our part or your part to offer or accept any further engagement(s) and no continuing relationship will be created or implied.
- 6.4 Nothing in this Agreement will be deemed to create any partnership, joint venture or employment relationships between the parties.

7. Insurance and certificates

- 7.1 Unless otherwise agreed by us in writing, you are required, throughout the provision of the Services and for a minimum of 1 year after termination of this Agreement, to hold Public Liability Insurance with a minimum indemnity limit of £1 million per claim.
- 7.2 Where appropriate we may request that you have an up to date DBS certificate which is no more than three years old.
- 7.3 You may be required to complete a health and safety PQQ and where requested provide to us your certification of such.

8. Warranties and Indemnity: You represent, warrant, undertake, and agree as follows:

- 8.1 you will not enter into any agreement or arrangement which might conflict with our rights under this Agreement or might interfere with the performance of your obligations under this Agreement; and
- 8.2 you undertake to indemnify us and keep us fully indemnified at all times from and against all actions, proceedings, claims, demands, costs, awards or damages howsoever arising – directly or indirectly – as a result of any breach or non-performance by you of any of your undertakings, warranties, or obligations under this Agreement.

9. Non-Competition and Non-Solicitation

- 9.1 You will not, during the course of provision of the Services or for a period of 6 months following the termination or expiry of this Agreement:
- 9.1.1 engage with, contact or be employed directly or indirectly by any Client of ours to whom the Services have been provided by you;
- 9.1.2 directly or indirectly accept or solicit the custom of any person, firm or company to whom the Services have been provided by you, or divert or seek to divert any custom from us; or
- 9.1.3 solicit, interfere with or endeavour to entice away or employ any employee of ours or any employee of the Client.
- 9.2 We may, at our discretion, agree to waive this restriction entirely or on an individual basis upon receipt of a written request from you.

10. Confidentiality

- 10.1 Both parties recognise that throughout the provision of the Services, certain information will be shared, which may be confidential, commercially valuable, sensitive and/or personal. This includes, but is not limited to, any information concerning either Party or the Client relating to their business methods, plans, systems, finances or projects, trade secrets, products or services, or any other information which is expressly described as confidential.
- 10.2 Both parties undertake that they will not use any confidential information provided by the other party, other than to perform their obligations under this Agreement, and will not circulate it to any third party unless required by law, by any court order or unless so authorised by the other party in writing. The provisions of this clause 10 will continue in force, notwithstanding the termination of this Agreement for any reason.

11. **Data Protection:** Both Parties agree to comply with the provisions of the Data Protection Act 2018 and the UKGDPR together with any other relevant data protection legislation from time to time in force, including any subsequent amendments to it.

12. **Events Outside of our Control (Force Majeure):** Neither Party to this Agreement will be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are

not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

13. Termination

- 13.1 This Agreement can be terminated in the following circumstances:
- 13.1.1 By either party giving the other 30 days' written notice of termination;
 - 13.1.2 If the Client cancels, suspends or postpones their contract with us. In the event of termination under this clause 13.1.2, you will only receive payment for Services completed as at the date of termination;
 - 13.1.3 If you commit an act which brings or could bring us or our Client into disrepute;
 - 13.1.4 If, in our reasonable opinion, you are negligent and/or incompetent in the performance of the Services;
 - 13.1.5 If we repeatedly fail in our obligations to provide to you access to site and/or systems necessary to provide the Services.
 - 13.1.6 If either Party breaches or fails to comply with the terms and obligations of this Agreement and such failure, if capable of remedy, is not remedied within 7 days of written notice of such failure from the other party; or
 - 13.1.7 If either party goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.
- 13.2 For the purposes of clause 13.1.5, a breach will be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 13.3 Termination of this Agreement will not affect any rights which have already accrued to either of the parties under this Agreement. All clauses which, either expressly or by their nature, relate to the period after the expiry or termination of this Agreement, will remain in full force and effect.

14. Miscellaneous

- 14.1 This Agreement is personal to the parties and neither party may assign, mortgage, charge (other than by floating charge) or sub-license any of its rights under this Agreement, or sub-contract or otherwise delegate any of its obligations under this Agreement, except with the written consent of the other party, such consent not to be unreasonably withheld.
- 14.2 This Agreement contains the entire agreement between you and us and supersedes any prior agreement between you and us, whether written or oral.
- 14.3 Each party acknowledges that it does not rely on any representation, warranty or other provision except as expressly provided in this Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 14.4 No failure or delay by either party in exercising any of its rights under this Agreement will be deemed to be a waiver of that right, and no waiver by either party of a breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 14.5 The parties agree that if one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provisions will be deemed severed from the remainder of this Agreement. The remainder of this Agreement will be valid and enforceable.
- 14.6 All notices are to be in writing, addressed to the most recent address or email address notified to the other Party and will be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice: when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; when sent, if transmitted by email and a successful return receipt is generated; or on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid.
15. **Governing Law and Jurisdiction:** This Agreement (including any non-contractual matters and obligations arising from it or associated with it) will be governed by, and construed in accordance with, the laws of England and Wales and any dispute, controversy, proceedings or claim between the parties will fall within the exclusive jurisdiction of the courts of England and Wales.

This Agreement has been duly executed on the date stated above.

SIGNED _____
(Name & Title of person signing for Company)

For and on behalf of Heritage Lincolnshire

SIGNED _____
(Name & Title of person signing for Sub-Contractor)

For and on behalf of the Sub-Contractor