

## AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

### 1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms and Conditions unless the context otherwise so requires the following words and phrases shall have the following meanings:

1.1.1 "Commencement Date": the date for commencement of the Works on site stipulated by the Company in writing (if any) or (if none is stipulated) the date on which the Company gives notice in writing to the Sub-Contractor as the date upon which it wishes the Sub-Contractor to commence the Work on site.

1.1.2 "Company": Aaron Rail Limited.

1.1.3 "Completion Date": the date for completion of the Works stipulated by the Company in writing (if any) or (if none is stipulated) the date on which the Company gives notice in writing to the Sub-Contractor as the date on or before which the Works are to be completed or any extension thereof as provided under the terms of the Sub-Contract.

1.1.4 "Confidential Information": all information concerning or relating to Aaron Rail or any person, firm or company with whom Aaron Rail deals & which relates to any of their businesses, which is not in the public domain, personal information and personal data.

1.1.5 "Contract Drawings": the drawings (if any) relating to the Works.

1.1.6 "Contract Documents": any PO, these Terms and Conditions, the Company's Contract Specifications and Contract Drawings or Bills of Quantities and any supplementary documents agreed between the Company and the Sub-contractor.

1.1.7 "Contract Specifications": the specifications relating to the Works.

1.1.8 "Contract Price": the Price for the Works agreed by the Company and the Sub-Contractor but subject to variation or amendment as provided in these Terms and Conditions.

1.1.9 "Defect" means any failure in the Goods or Services, whether in consequence of faulty or unsafe design, faulty materials, bad workmanship, or any other reason.

1.1.10 "Employer" the person firm or company to whom the Company is contracted to perform the Works under the terms of the Main Contract.

1.1.11 "Goods" means the goods / materials ordered by Aaron Rail from the Supplier / Sub-Contractor.

1.1.12 "Main Contract": the agreement between the Employer and the Company for the execution (inter alia) of the Works in respect of the Premises.

1.1.13 "PO" means the Aaron Rail Purchase Order.

1.1.14 "Premises": the Premises in respect of which the Works are to be executed and references to the Premises shall include any part or parts of the Premises.

1.1.15 "Project Manager": the person nominated by the Company to be the Company's representative for the purposes of the Sub-Contract, or (in the absence of such person) the duly authorised representative of the Company.

1.1.16 "Retention": the retention against Defects made by the Company.

1.1.17 "Sub-Contract": the agreement between the Company and the Sub-Contractor for the execution of the Works in respect of the Premises.

1.1.18 "Sub-Contractor": the person firm or company who enters into the Sub-Contract with the Company.

1.1.19 "Sub-Contractor's Representative": the person nominated to be the Sub-Contractor's representative for the purposes of the Sub-Contract: if no representative is nominated, references to the Sub-Contractor's Supervisor shall be construed as references to the Sub-Contractor's Representative.

1.1.20 "Supplier": the person, firm or company to whom a PO is addressed and who is to supply the Goods or Services.

1.1.21 "Variation": the alteration or modification of the design, quality or quantity of the Works as described by or referred to in the Contract Documents including (without limitation):

- (1) the addition, omission or substitution of any work;
- (2) the alteration of the kind or standard of any of the goods, materials or workmanship to be used in the Works;
- (3) the removal from site of any work executed or materials or goods; or
- (4) any addition, alteration or omission of any obligations or restrictions imposed by the

Tel. 0161 302 3670 Email. enquiries@theaarongroup.co.uk VAT No 161070055  
UTR 5475113323

## AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

Employer in regard to the Works.

1.1.22 "Works" or "Sub-Contract Works" or "Services": the goods to be supplied and services to be performed under the Sub-Contract and/or PO in accordance with the Contract Documents and references to the Works shall include any part of the Works.

1.2 In these Terms and Conditions unless the context otherwise requires:

1.2.1 Words and phrases importing the singular include the plural and vice versa and words and phrases of one gender include all other genders.

1.2.2 The headings used are inserted for convenience only and shall not affect the construction of these Terms and Conditions.

### **2. APPLICATION OF GENERAL CONDITIONS**

2.1 These Terms and Conditions form part of the PO.

2.2 The PO constitutes an offer by Aaron Rail to purchase the Goods/Services at the prices stated and the Terms set out in the PO and herein.

Acceptance of the PO (which shall be as soon as the Supplier/Sub-Contractor takes any steps towards fulfilment of the PO) constitutes acceptance of these Terms & Conditions.

2.3 These Terms and Conditions shall apply to the Sub-Contract and override any terms and conditions which the Sub-Contractor may seek to impose in negotiations or in his quotation or otherwise or subject to which the Company's order is purported to be accepted by the Sub-Contractor. Acceptance of the Company's order by the Sub-Contractor shall be deemed to be an acceptance of these Terms and Conditions by the Sub-Contractor; no contract shall be enforceable by the Sub-Contractor unless the same shall be upon these Terms and Conditions.

2.4 In the event of any conflict between these Terms and Conditions and any of the Contract Documents these Terms and Conditions shall prevail save as expressly agreed or expressly provided to the contrary in the Contract Documents.

2.5 The Company's employees and agents are not authorised to make any representations unless confirmed by the Project Manager in writing and in entering into the Sub-Contract the Sub-Contractor acknowledges that he has not relied on any oral or written representations made to him by the Company its employees or agents which have not been so confirmed.

2.6 No variation of these Terms and Conditions shall be effective unless agreed in writing by the Company.

### **3. PRICES & PAYMENT**

3.1 Prices in any PO shall be and remain firm.

Except where expressly stated to the contrary in writing the Contract Price and any other sums payable by the Company are stated exclusive of Value Added Tax and the Sub-Contractor shall provide to the Contractor a proper VAT invoice before payment and an authenticated receipt upon receipt of payment from the Contractor.

3.2 No Goods/Services/Works shall be invoiced before the date of delivery of the Goods or completion of the provision of the Services/Works. All invoices shall be evidenced by an acknowledgement/receipt of Goods/Services signed on behalf of Aaron Rail.

3.3 Invoices should separately identify the Goods/Services/Works delivered/performed and any taxes, and clearly state the PO number.

3.4 Payment shall be made 60 days after the month of receipt of a valid invoice unless a different payment period is stated or specified on the face of the PO.

3.5 If the Company intends to withhold payment, in whole or in part, after the final date for payment, the Company shall give notice to that effect not less than 3 days prior to the said final date for payment. The notice shall state the amount proposed to be withheld and the ground for withholding payment or, if there is more than one ground, each ground and the amount attributable to it. Without prejudice to the generality of this clause the Company shall be entitled to withhold payment from monies otherwise payable under this contract, for monies due and owing by the Sub-Contractor to or in connection with other contracts.

3.6 In the event that the Company and Sub-Contractor make an agreement to interim payments, the Sub-Contractor shall deliver to the Company not later than seven days prior to the date when the Company

Tel. 0161 302 3670 Email. enquiries@theaarongroup.co.uk VAT No 161070055  
UTR 5475113323

#### AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

makes interim application to the Employer a fully detailed written application for payment in respect of the value of work carried out to that date, together with an amount in respect of work to be carried out up to the date upon which the Company makes interim application to the Employer and the date of certification of the interim valuation by the Company shall be 30 days after the date on which the Company makes interim application to the Employer. The terms of any interim payment will be those set out in clause 3.4.

#### **4. SUB-CONTRACTOR'S OBLIGATIONS**

- 4.1 The Sub-Contractor shall carry out and complete the Works described by or referred to in the Contract Documents using materials and workmanship of the quality and standard therein specified but in any case, where the quality of materials or the standard of workmanship is not specified the Sub-Contractor shall use materials and workmanship of the best quality and standard.
- 4.2 The Sub-Contractor shall familiarise itself with details of the provisions of the Main Contract which are relevant to the performance of the obligations and liabilities on the part of the Sub-Contractor under the Sub-Contract and the Sub-Contractor shall be deemed to have full knowledge of such provisions and the Sub-Contractor shall not do any act matter or thing which shall cause the Company to be in breach of the Main Contract. Copies of the Main Contract (not including details of the Main Contract Price) are available for inspection by the Sub-Contractor at the Company's office on written request.
- 4.3 If the Sub-Contractor shall find any omission or discrepancy in or divergence between any of the Contract Documents or the Main Contract or any instruction issued by the Project Manager, it shall give to the Project Manager a written notice specifying the discrepancy or divergence and the Project Manager shall issue instructions as the Company shall consider reasonable in regard thereto.

#### **5. PROJECT MANAGER'S INSTRUCTIONS**

- 5.1 The Sub-Contractor shall comply with all instructions issued in writing to it by the Project Manager in regard to any matter.
- 5.2 In default of instructions or information or in cases of emergency the Sub-Contractor shall give to the Project Manager a written notice specifying the instructions or information required or the facts of the emergency (as the case may be) and the Project Manager shall issue instructions as the Company shall consider reasonable in relation thereto.

#### **6. CONTRACT DOCUMENTS**

- 6.1 All designs, patterns, drawings, models, plans or specifications prepared by the Company and any copyright design right patent trademark or other similar intellectual property rights therein shall be and remain the property of the Company and the Sub-Contractor shall not and shall procure that its servants and agents shall not divulge to any third party the details thereof without the prior written consent of the Company.
- 6.2 Where the Contract Documents or any of them have been prepared by or on behalf of the Sub-Contractor then the Sub-Contractor shall promptly supply or procure the supply of true and accurate copies of such Contract Documents to the Company and shall amplify them or procure their amplification as and when from time to time the Company shall request.
- 6.3 Any Contract documents belonging to the Sub-Contractor or copies of any Contract Documents which are delivered to the Company shall remain the property of the Sub-Contractor but the Company shall be entitled to retain custody of the same and to make full use of the same for the purposes of this Sub-Contract.

#### **7. ACCESS TO AND CONDUCT ON SITE**

- 7.1 The Sub-Contractor shall be responsible for the health and safety of its employees, agents and contractors on the site of the Works and shall supply all method statements and other information required and shall observe all relevant statutes regulations and rules in relation to health and safety and CDM regulations.
- 7.2 The Sub-Contractor shall not enter on to the Premises and shall not commence work on site without reporting to and obtaining the prior consent of the Project Manager or the Company's Site Manager.

Tel. 0161 302 3670 Email. enquiries@theaarongroup.co.uk VAT No 161070055  
UTR 5475113323

#### AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

- 7.3 Except where expressly agreed otherwise in writing by the Contract Manager the Company shall not be obliged to prevent the execution of any other work on the Premises concurrent with execution of the Works.
- 7.4 The Sub-Contractor shall clear away to an approved waste facility all rubbish resulting from execution of the Works.
- 7.5 The Sub-Contractor shall keep access to the site of the Works clear at all times and shall not do or permit any act matter or thing which may cause obstruction to such access.
- 7.6 The Sub-Contractor shall not do or permit any act matter or thing which shall impede the progress of other work being carried on at the Premises.
- 7.7 The Sub-Contractor shall at all times during execution and on completion of the Works keep and procure that its employees, agents and contractors keep the site of the Works clean and tidy to the satisfaction of the Company.

#### **8. CONSENTS AND STATUTORY OBLIGATIONS**

- 8.1 The Sub-Contractor shall be responsible for complying with and giving all notices required by any statute, any statutory instrument, rule or order made under any statute or any regulation or bye-law of any Local Authority or of any statutory body which has any jurisdiction with regard to the Works.
- 8.2 If the Sub-Contractor shall find any divergence between any statutory requirements and any of the Contract Documents or the Main Contract or any instruction of the Contract Manager the Sub-Contractor shall give to the Contract Manager notice in writing specifying the divergence and the Contract Manager may issue instructions to the Sub-Contractor but the giving of such notice shall not relieve the Sub-Contractor of any of its obligations or responsibilities or obligations on the part of the Sub-Contractor under sub clause 7.1.

#### **9. MATERIALS, GOODS AND WORKMANSHIP**

- 9.1 If the Sub-Contractor shall for any reason be unable to procure materials, goods or workmanship of the respective kinds and standards described by or referred to in the Contract Documents then the Sub-Contractor shall immediately give to the Contract Manager notice in writing specifying the non-procurable materials, goods or workmanship and the Contract Manager may issue such instructions as he shall consider reasonable in relation thereto but the giving of such notice shall not relieve the Sub-Contractor from any of its obligations or liabilities in respect of the Sub-Contract.
- 9.2 The Sub-Contractor shall supply on request by the Company certificates or such other evidence as the Company shall require that the materials goods and workmanship supplied or to be supplied are in accordance with the requirements of the Contract.
- 9.3 If any Defect shall be notified by the Company to the Sub-Contractor which is due to materials goods or workmanship not in accordance with the Sub-Contract then without prejudice to the other rights and remedies of the Company the Sub-Contractor shall either (as the Company shall in its absolute discretion determine).
  - 9.3.1 Make good such Defect at no cost of the Company.
  - 9.3.2 Make an appropriate reduction (as the Company shall in its absolute discretion determine) in respect of such Defect in the Contract Price;
  - 9.3.3 Retain an appropriate amount (as the Company shall in its absolute discretion determine) of the Retention.
- 9.4 The Project Manager may issue instructions requiring the Company to open up for inspection any work covered up or to arrange for or carry out any test of any materials or goods or of any executed work at any stage of the works and the cost of such opening up or testing together with the cost of making good the same shall be payable by and recoverable from the Company in addition to the Contract Price and to the extent provided for in the Contract Price unless any goods materials or executed work opened up shall be found by the Project Manager to be defective in any way.

#### **10. SUPERVISION**

- 10.1 Any communication to be made by the Sub-Contractor to the Company in relation to the Sub-Contract or the Works shall be made to the Project Manager in writing and all such communications should be

Tel. 0161 302 3670 Email. enquiries@theaarongroup.co.uk VAT No 161070055  
UTR 5475113323

## AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

made by the Sub-Contractor's Representative but nothing in these Terms and Conditions shall preclude the Company from accepting or acting upon any communication made otherwise than by the Sub-Contractor's Representative or otherwise than in writing.

- 10.2 The Project Manager shall at all reasonable times by prior appointment with the Sub-Contractor have access to the Works and be permitted to inspect the same.

### 11. VARIATIONS

- 11.1 The Sub-Contractor shall not undertake any Variation without the prior instruction in writing from the Project Manager.

### 12. VALUATION OF VARIATION AND ADDITIONAL WORK

- 12.1 The quality and quantity of the work included in the Contract price at the date of the Sub-Contract shall be deemed to be that which is set out in the Contract Documents at the date of the Sub-Contract; the valuation of a Variation or other instruction issued by the Company or the Project Manager under the Sub-Contract shall be made by the Company and shall be charged in accordance with the following rules:

12.1.1 Where the work is of similar character to, is executed under similar conditions as, and does not significantly change the quantity of work set out in bills of quantities and/or other documents comprised in the Sub-Contract Documents the rates and prices for the work so set out shall determine the Valuation.

12.1.2 Where the work is of similar character to work set out in bills of quantities and/or other documents comprised in the Sub-Contract Documents but is not executed under similar conditions thereto and/or significantly changes the quality thereof, the rates and prices for the work so set out shall be the basis for determining the Valuation and the Valuation shall include a fair allowance for such difference in conditions, and/or quantity.

12.1.3 Where the work is not of similar character to work set out in bills of quantities and/or other documents comprised in the Sub-Contract Documents the work shall be valued at fair rates and prices.

12.1.4 To the extent that the Valuation relates to the omission of work set out in bills of quantities and/or other documents comprised in the Sub-Contract Documents the rates and prices for such work therein set out shall determine the Valuation of the work omitted.

12.2 In making a valuation of a Variation or other instruction as referred to in sub-clause 11.1 there shall be taken into consideration and account the effect of such Variation or other instruction or additional work for substituted work or the omission of work and for any other cost saving enjoyed by the Sub-Contractor.

12.3 Any valuation of a Variation or other instruction as referred to in sub-clause 11.1 may be given effect by the Company by addition to or deduction from the Contract Price.

### 13. TITLE OF GOODS AND MATERIALS

Title in goods and materials supplied or delivered by the Sub-Contractor shall pass to the Company on delivery to the Company's premises or to the site of the Works (as the case may be).

### 14. RISK AND INSURANCE

14.1 Notwithstanding the passing of title in goods and materials under Clause 13 all goods and materials brought onto the Premises by the Sub-Contractor shall be at the risk of the Sub-Contractor until practical completion of the Main Contract.

14.2 All plant tools and equipment brought on to the Premises by the Sub-Contractor shall be at the risk of the Sub-Contractor.

14.3 In the event of loss or damage occurring to any goods materials plant tools and equipment resulting from any cause whatsoever the Sub-Contractor shall immediately replace and/or repair the same forthwith at its own expense and to the satisfaction of the Company.

### 15. LIMITATIONS AND EXCLUSIONS

15.1 The Company shall not be liable to the Sub-Contractor its employee's agents or contractors or any



Tel. 0161 302 3670 Email. enquiries@theaarongroup.co.uk VAT No 161070055  
UTR 5475113323

#### AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

other third party:

- 15.1.1 in contract or in tort for any indirect or consequential loss injury or damage arising by reason of any defect in or loss or damage to the Premises or any goods and materials or workmanship supplied by the Company or otherwise in the course of the Works other than liability for death or personal injury arising from the negligent act or omission of the Company or its employees.
- 15.1.2 for any defect or inaccuracy in any Contract Specifications or any Contract Drawings or other design, pattern, drawing, model plans, specifications or other information prepared or provided by or on behalf of the Employer or submitted to the Sub-Contractor for approval and the application thereof.
- 15.1.3 for the failure of any specification, drawing, design, pattern, model or plans to comply with any requirement statutory or otherwise.
- 15.1.4 for the infringement or breach or alleged infringement or breach of any rights of any third party in connection with the Premises, the works, the Contract Specifications or Contract Drawings or any other design, pattern, drawing, model, plans, specification or other information relating thereof.
- 15.2 Without prejudice to the generality of sub-clause 14.1 and any other provision of the Sub-Contract the liability of the Company to the Sub-Contractor its employees, agents and contractors in respect of any act, omission, matter or thing shall be limited to the extent that such liability is covered by the insurance policy or policies maintained by the Company at the time such liability accrues. Copies or details of such policy or policies are available to the Sub-Contractor from the Project Manager on written request and the Sub-Contractor shall be responsible to ascertain that the cover afforded by such policy or policies is adequate for its purposes.

#### **16. COMPLETION**

- 16.1 The Sub-Contractor shall complete the Works by the Completion Date and in the sequence manner and timing stipulated by the Company. Where a Completion Date is specified, time shall be of the essence of the Sub-Contract.
- 16.2 The Sub-Contractor shall notify the Company in writing when it considers that the Works have been practically completed.

#### **17. DELAY**

- 17.1 If and whenever it becomes apparent that the progress of the Works is being or is likely to be delayed the Sub-Contractor shall give written notice to the Project Manager of the material circumstances including the cause or causes of the delay and particulars of the expected effects thereof including an estimate of the extent of the expected delay in completion of the Works beyond the Completion Date. If the progress of the Works is delayed as a result of the act omission or default of the Company or a Variation agreed by the Project Manager (as the Company shall in its absolute discretion determine) the Completion Date shall be extended as the Company shall in its absolute discretion determine to complete the Works provided always that the Sub-Contractor has provided the Company with information sufficient to enable the Company to make such determination.
- 17.2 If the Sub-Contractor shall fail to complete the Works on or before the Completion Date the Sub-Contractor shall indemnify and keep indemnified the Company from and against all loss damage and liability (including without limitation any liquidated damages imposed under the Terms of the Main Contract) suffered and costs and expenses incurred by the Company resulting from the failure of the Sub-Contractor to complete the Works on or before the Completion Date.

#### **18. SUB-CONTRACTORS**

The Sub-Contractor shall not sub-contract any part of the Works without the prior consent in writing of the Company.

#### **19. DETERMINATION**

Without prejudice to any other rights and remedies which it may have, the Company may by notice in writing determine this Sub-Contract:

- 19.1 if the Sub-Contractor shall not proceed with the Works with such expedition and in such sequence as shall be in the Company's opinion be necessary to allow the Company to complete the Main Contract

Tel. 0161 302 3670 Email. enquiries@theaarongroup.co.uk VAT No 161070055  
UTR 5475113323

#### AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

by the Main Contract Completion Date; or

- 19.2 if at any time the Works are not carried out to the satisfaction of the Company; or
- 19.3 if the Company shall give to the Sub-Contractor written notice or instruction to proceed with the Works or to repair or replace defective materials goods or workmanship and the Sub-Contractor fails to comply with such written notice or instruction; or
- 19.4 if the Sub-Contractor shall suspend the Works before the same are complete without reasonable cause as the Company in its absolute discretion shall determine; or
- 19.5 if the Sub-Contractor shall fail to provide security in accordance with clause 21; or
- 19.6 if the Sub-Contractor is otherwise in breach of the Sub-Contract; or
- 19.7 if the carrying out of the whole or substantially the whole of the Works to be carried out under the Main Contract is suspended for any reason; or
- 19.8 if the Main Contract is determined; or
- 19.9 if the Sub-Contractor becomes bankrupt or makes a composition or arrangement with its creditors or (being a body corporate) the Sub-Contractor has a winding up order made or (except for the purposes of a bona fide amalgamation or reconstruction) as a resolution for voluntary winding up passed or a provisional receiver, administrative receiver or manager of its business or undertaking appointed and if possession is taken by or on behalf of any creditors of its assets of a substantial part of the assets of the Sub-Contractor.

#### **20. TERMINATION CONSEQUENCES**

If the Company shall determine this Sub-Contract the Sub-Contractor shall make application for payment in accordance with sub clause 18.2.1 and the Company shall prepare a statement of the value of the material goods and workmanship supplied by the Sub-Contractor prior to the date of determination of the Sub-Contract and of any loss damage and liability suffered costs and expenses incurred by the Company resulting from any breach of the Sub-contract or other act neglect or default of the Sub-Contractor as the Company shall in its absolute discretion determine and such statement shall (save in the case of manifest error) be final and binding and any balance of monies owing by the Company to the Sub-Contractor shall be paid in accordance with sub-clauses 18.3 and 18.5 or any balance of monies owing by the Sub-Contractor to the Company shall be paid forthwith.

#### **21. SECURITY / PERFORMANCE BOND**

If so required by the Company, the Sub-Contractor shall provide security for the due and proper performance of the liabilities and obligations on the part of the Sub-Contractor under and pursuant to the Sub-Contract in such sum and in the form of a security and for performance bond in such form as the Company shall require.

#### **22. INDEMNITY**

The Sub-Contractor shall indemnify and keep indemnified the Company from and against all loss damage and liability suffered costs and expenses incurred by the Company (including without limitation any liquidated or other damages which the Company may incur under the terms of the Main Contract) resulting from a breach of the Sub-Contract or other act neglect or default of the Sub-Contractor including (inter alia) any act neglect or default of the Sub-Contractor's employees, agents and contractors or arising from the infringement of the rights of any third party in respect of any matter relating in any way to the Premises or the Works.

#### **23. FORCE MAJEURE**

Every effort will be made to carry out the Sub-Contract but its due performance is subject to cancellation or determination or variation by the Company as the Company in its absolute discretion shall decide and the Company shall not be liable to the Customer for breach of contract if the Company is unable to secure labour goods and materials as a result of war, national emergency, regulations, act of God, strike, lock out or other labour dispute, fire storm tempest, flood, drought, legislation or other cause (whether of the foregoing class or not) beyond the Company's control.

AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

**24. WAIVER**

The failure by the Company to enforce at any time or for any period any one or more of the terms and conditions of the Sub-Contract shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of the Sub-Contract.

**25. SEVERANCE**

In entering into the Sub-Contract the Sub-Contractor acknowledges that these Terms and Conditions are reasonable but if any provision is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either of the parties from any competent authority the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality or be severed from the Sub-Contract and the remaining provisions of the Sub-Contract shall remain in full force and effect in any event.

**26. PROPER LAW AND JURISDICTION**

The Sub-Contract shall be governed by English law in every particular, including formation and interpretation and shall be deemed to have been made in England, and under the jurisdiction of English Courts.

**27. ADJUDICATION**

If any dispute or difference arises under this Sub-Contract either party may refer it to adjudication in accordance with this clause. Adjudication shall be conducted under the provisions which apply to the Main Contract replacing if necessary whatever expressions may be used therein to refer to the parties for "the Company" and "Sub-Contractor" respectively as the context may properly apply to this Sub-Contract. Provided that:

- 27.1 There shall be no named Adjudicator under this Sub-Contract notwithstanding that the Main Contract may include the name of the Adjudicator. In the event of a failure to agree on the name of an Adjudicator the provisions of paragraph 2 to 6 inclusive of Part 1 to the Schedule of the Scheme for Construction Contracts (England and Wales) Regulations 1998 shall apply insofar as is necessary to secure the appointment of an Adjudicator in connection with this Sub-Contract.
- 27.2 Where the Main Contract specifies a nominating body the same nominating body shall be applicable to this Sub-Contract.
- 27.3 Save for circumstances to which paragraph (4) of Section 111 of the Housing Grants, Construction and Regeneration Act 1996 applies, any decision of an Adjudicator which requires performance by the Company shall not be performed within three months of the date of the Adjudicator's decision. The Adjudicator's powers shall be modified accordingly.
- 27.4 The party serving the Referral Notice to Adjudicate shall bear all of the costs and expenses incurred by both parties in relation to the adjudication including but not limited to all legal and expert's fees and for the Adjudicator's fees and expenses

**28. ARBITRATION**

Save where expressed to the contrary any dispute, question or difference arising out of the Sub-Contract or touching the construction meaning or effect of the Sub-Contract or any of the provisions of the Sub-Contract or the rights or liabilities of the parties under the Sub-Contract shall be referred to a single arbitrator agreed between the parties or in default of agreement by an arbitrator to be appointed on the application of either party by the President for the time being of the Royal Institute of Chartered Surveyors and such arbitrator shall conduct his arbitration in accordance with and subject to the provisions of the Arbitration Act 1996 (or any modification or re-enactment thereof) and his decision shall be final and binding upon the parties.

**29. NOTICES**

Any notice to be given by either party to the other shall be in writing and may be sent by pre-paid first class post or facsimile transmission and addressed to that other party at its registered office or principal





Unit 4A Pepper Road  
Bramhall Moor Technology Park  
Hazel Grove  
Stockport SK7 5BW

Tel. 0161 302 3670 Email. [enquiries@theaarongroup.co.uk](mailto:enquiries@theaarongroup.co.uk) VAT No 161070055  
UTR 5475113323

AARON RAIL LIMITED TERMS & CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES

place of business or such other address as may have been notified in writing pursuant to this provision to such other party and (if sent by post) shall be deemed to have been served in the normal course of the post and (if sent by facsimile transmission) shall be deemed to have been served upon transmission with correct answerback.

**30. NON ASSIGNMENT**

The Sub-Contractor may not assign or transfer any of its rights or obligations under the Sub-Contract without the prior consent in writing of the Company.