# Sub-Contractor Terms and Conditions

1. **Contract**
    a. These conditions shall govern all purchases of the Works by Barrow Electrical from the Sub-contractor ("the Sub-contractor"). These conditions, together with the Purchase Order, any accompanying Barrow Electrical documentation, and any other documentation listed therein shall form the contract ("the Contract") between the parties (together, "the Contract Documents"). Any terms or conditions of the Sub-Contractor shall be excluded unless expressly agreed by Barrow Electrical in writing. Telephone and verbal orders given by Barrow Electrical are only given under the Conditions, and to the exclusion of any other terms and conditions.
    b. A waiver of any provision must be in writing to be effective and a waiver of any provision, or failure or delay to exercise any right by Barrow Electrical shall not constitute a waiver of any subsequent breach of the same or any other provision.
    c. The provisions of this Contract are severable and if any one or more such provisions are judicially determined to be unenforceable in whole or in part the remaining provisions shall nevertheless remain binding and enforceable
2. **The Works**
    a. The Sub-Contractor shall carry out and complete the Works with due diligence and in a good and workmanlike manner, in accordance with the Contract and to the satisfaction of Barrow Electrical. The Sub-Contractor agrees to enter in warranties as may be required.
    b. Where the Works shall involve any element of design, the Sub-Contractor warrants that it shall design the Works with all reasonable care, skill and expertise to be expected of a competent professional experienced in the design of similar work and in similar conditions. The Sub-Contractor is to ensure that the design and the Works as a whole comply with all relevant statutory requirements and standard and are to the reasonable satisfaction of Barrow Electrical.
    c. The Works shall include the provision of labour, plant, materials, design, installation, supervision of own operatives, works co-ordination, delivery, unloading, distribution, works access (excluding agreement of access rights and coordination of arrangements), protection of the Works, cleaning and clearing away rubbish and debris arising the sub-contractors' own works, method statements, risk assessments, bonds, warranties, guarantees, drawings, manuals and commissioning as required by Barrow Electrical unless specifically stated in the purchase order from Barrow Electrical.
    d. The Works shall be completed at the Sub-Contractor's own risk and expense at the places and by the dates specified by Barrow Electrical. The Sub-Contractor shall be liable for any damage, loss, shortage, charges, costs, expense, defect, flaw, failing or deficiency in the performance of the Works as advised to the Sub-Contractor by Barrow Electrical. Any such amounts shall be deductible from any amounts due to the Sub-Contractor, and recoverable from the Sub-Contractor as a debt.
    e. The Works supplied under this Contract shall entirely be fit for purpose in all possible regards and shall come with all reasonable and applicable manufacturer's warranties and guarantees. All Works shall correspond in all respects with the higher of the statutory standards and the standards, specifications and quality required by Barrow Electrical.
    f. The Sub-Contractor shall be responsible for the safe execution of the Works and shall comply with all relevant legislation and reasonable requests of Barrow Electrical, its servants or agents involved with the project, for securing the health and safety of all persons employed on the project, and such other persons who may be affected by the work or operations of the Sub-Contractor. The Sub-Contractor indemnifies and shall save harmless Barrow Electrical for any breach hereof. If, as a consequence of any action and / or inaction of the Sub-Contractor, any person suffers personal injury or death, or any damage or interference is caused to any property or works, then the Sub-

Contractor shall be liable for and shall indemnify Barrow Electrical against any expense, loss, cost, claim, liability, damages and proceedings whatsoever arising.

g. The Sub-Contractor shall not without the written consent of Barrow Electrical assign, transfer or sub-let any obligations under the Contract or any part thereof. Where such consent is give, it shall not relieve the Sub-Contractor of any of its obligations under the Contract. The Sub-Contractor is engaged under this contract on the basis that it is directly employed labour.
h. If Barrow Electrical notifies the Sub-Contractor of any defect in the Works or breach of this Contract, the Sub-Contractor will rectify immediately at its own expense and risk. Should it fail to do so, Barrow Electrical shall not be responsible for any payment for the Works until the same have been rectified, and Barrow Electrical shall deduct such amounts as it considers reasonable for such non-compliance.
i. Should the Sub-Contractor fail in any way to provide the Works in full compliance with this Contract by the completion date, the Sub-Contractor shall immediately be liable to Barrow Electrical for any loss, expense and/or damage which Barrow Electrical may incur. The Sub-Contractor shall also be liable to Barrow Electrical for any consequential loss arising out of or in connection with any default by the Sub-Contractor and the total liability of the Sub-Contractor for any loss of Barrow Electrical arising under or in connection with this contract shall be unlimited
j. Sub-contractors issued with uniform, PPE and ID badged should be worn at all times when working on Barrow Electrical contracts

**3. Time for Performance**

a. The Sub-Contractor shall commence the Works at the commencement date, or as otherwise instructed in writing by Barrow Electrical. The Sub-Contractor shall proceed regularly and diligently and complete the Works by the completion date and / or within the period stated in the Contract, or as otherwise directed in writing by Barrow Electrical. Time shall be deemed to be of the essence.
b. The Sub-Contractor shall work in accordance with the project programme and Barrow Electrical shall not be responsible for any costs whatsoever arising as a result of changes. The Sub-Contractor shall reimburse Barrow Electrical for all and any losses likely to be incurred by Barrow Electrical as a consequence, foreseeable or otherwise of the Sub-Contractor's failure to complete the Works within the period or by the completion date stated, or as otherwise directed by Barrow Electrical.
c. The Sub-Contractor shall not cause delay to any other work on the Site, but if it does, it shall indemnify Barrow Electrical from any losses which may be incurred.
d. The Sub-Contractor shall notify all delays in writing to Barrow Electrical immediately with the reasons for, and duration of all delays, and shall notify in writing all information which may be required to avoid delay to the Works. No extension of time will be due or claims allowed for failure to secure or manage labour, plant or materials – except where materials are supplied by Barrow Electrical or one of their nominated agents or suppliers.

**4. Variations or changes**

a. Barrow Electrical may vary, add to, omit from, change or alter the performance of the Contract only by way of an express instruction in writing from Barrow Electrical. No such instruction shall vitiate this Contract. On issue of any such instruction, the Sub-Contractor shall enact the variation within 48 hours of receipt, with no effect on either the time or the payment or performance of the Contract unless mutually agreed by the sub-contractor and Barrow Electrical.
b. Barrow Electrical shall not be liable for any additional costs arising from any instruction, direction or variation being given otherwise than in writing by Barrow Electrical , or not confirmed in writing together with cost and programme implications by the Sub-Contractor to Barrow Electrical within 7 days of such instruction, Barrow Electrical shall not be liable for any loss of the Sub-Contractor arising from or connected to the omission of any part of the Works.
c. Payment for any change shall only be on receipt of a written instruction from Barrow Electrical and shall be valued on fair and reasonable basis, and where possible by analogy to the Price.

5. **Payment**
    a. The Sub-Contractor shall make an application for payment to be received by Barrow Electrical upon project completion. It is a condition precedent for any payment to be released to the Sub-Contractor, that the Sub-Contractor shall have provided all necessary manuals, health & safety documentation, drawings, bonds, warranties, guarantees and certification, and that the Sub-Contractor maintains insurances as required under the Contract, and is able to and does continue its defects correction liabilities.
    b. Once approved, payments shall be made 30 days from month end.
    c. All invoices must clearly state the Purchase Order number
    d. It is a condition precedent for the payment of work on an hourly rate that the Sub-Contractor completes and provides the relevant time sheets, allocations sheets and a breakdown of all Works carried out in the relevant period one week before the due date for payment.
    e. Retention shall be 5% unless otherwise stated on the Order reducing to 2.5% on completion. The sub-contractor will invoice Barrow Electrical 12 months after the completion of work.
    f. It is a condition precedent for any retention to be released and for the final payment to the Sub-Contractor becoming due, that the Sub-Contractor shall have provided all necessary manuals, health & safety documentation, drawings, bonds, warranties, guarantees and certification, and that the Sub-Contractor maintains insurances as required under the Contract, and is able to and does continue its defects correction liabilities. No payment shall be due to the Sub-Contractor if Barrow Electrical believes the Sub-Contractor to be insolvent.
    g. If the scope of work falls under CIS the labour element of the invoice may be subject to Reverse Charge VAT.
    h. Invoices must be received by us along with a statement of account no later than the 5th day of the following month after the works have been completed
    i. All taxes, fees or charges in connection with the Works shall be paid by the Sub-Contractor. Unless otherwise indicated, the Price is exclusive of any applicable VAT which shall be paid by Barrow Electrical.
    j. Barrow Electrical reserves the right to set-off against any liability that is has or may have to the Sub-Contractor any sums in respect of which the Sub-Contractor may be indebted to Barrow Electrical under any contract.
    k. In the event of default by the Sub-Contractor and / or failure to comply with its obligations under the Contract, Barrow Electrical retains the right to provide such resources as are necessary to complete the Contract. The cost of such resources shall be deducted from any sums due to the Sub-Contractor under this Contract or any other contract.
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6. **Termination**
    a. Without prejudice to any other rights or remedies which Barrow Electrical might possess, Barrow Electrical shall be entitled to immediately terminate the Contract in the event that:
        i. The Sub-Contractor fails to properly perform, carry out an/or complete the Contract in any way; or
        ii. The Sub-Contractor takes any action, or fails to take any action, which would lead Barrow Electrical to reasonably believe that there was a risk of the Sub-Contractor being or becoming insolvent; or
        iii. Barrow Electrical employment under a contract with its client or a third part ceases; or
        iv. If in the opinion of Barrow Electrical, the Sub-Contractor is guilty of gross misconduct or fails to comply with the provisions of this Contract in any way; or
        v. Barrow Electrical is required under its contract with its client to terminate the Sub-Contractor's contract.

b. In the event of termination, Barrow Electrical shall have the right to employ others to carry out and complete the Contract and the Sub-Contractor shall be liable for all costs and losses arising to Barrow Electrical foreseeable or not.
c. In the event of termination, the Sub-Contractor will submit a final valuation of works carried out to date for approval. This will then be paid in line with clause 5.a.and 5 b

**7. Insurance**

a. The Sub-Contractor shall maintain such insurances as required by Barrow Electrical, including but not limited to employer's liability, public liability, contractor's all risk and professional indemnity, and as necessary to cover the liability of the Sub-Contractor in respect of personal injuries or deaths arising out of or in the course of, or caused by the carrying out of the Contract, and damage to property. The Sub-Contractor shall indemnify Barrow Electrical for any action of the Sub-Contractor which shall cause Barrow Electrical to suffer loss or expense or become liable in damages. All insurance is to be to the reasonable satisfaction of Barrow Electrical.
b. Barrow Electrical requires written evidence of these insurances as a condition precedent to any payment becoming due. In the event that the Sub-Contractor fails to provide the same, Barrow Electrical may provide such insurance and deduct any costs incurred plus 10% from any payments due to the Sub-Contractor.
c. Barrow Electrical shall be under no liability in respect of any loss, theft or damage of or to plant, tools, materials, equipment, or facilities of the Sub-Contractor, whether they be unfixed or fixed on site.

**8. Dispute Resolution**

The governing law of the Contract shall be the law of England Wales.

a. **Adjudication.** If any dispute or difference arises between Barrow Electrical and the Sub-Contractor either party may refer the dispute to adjudication in accordance with this Clause and pursuant to the provisions contained in the Scheme for Construction Contracts (England and Wales) Regulations 1998. The Sub-Contractor shall be liable for and shall reimburse all costs incurred by Barrow Electrical in any adjudication, including the costs of employing any external consultants and the Adjudicator's fees and expenses.
b. **Arbitration.** If any dispute or difference as to any matter or thing of whatsoever nature arising from or in connection with the Contract between Barrow Electrical and the Sub-Contractor either during the progress or after the completion or abandonment of the Contract, it shall be referred to arbitration in accordance with this Clause and the JCT 2011 Edition of the Construction Industry Model Arbitration Rules (CIMAR). If the parties fail to agree upon that the appointment of an Arbitrator to appoint within 14 days of a Notice of Arbitration being served, either party shall apply to the Royal Institution of Chartered Surveyors to have an Arbitrator appointed.

**9. Sub-sub-contracting**

a. The Sub-Contractor will not sub-contract all or any part of the work without prior approval by Barrow Electrical . Sub-sub-Contractors will generally be judged against the same standards and approval process as sub-Contractors.
b. For very minor works, exceptions to this approval for sub-sub-contractors could be made by Barrow Electrica Project Manager or Contracts Manager where appropriate but this still needs to be agreed in advance.