

SUBCONTRACTOR WORKS ORDER

Subcontractor Name:	Aquarius Blinds
Contact Email / Tel Number	reiss@aqblinds.co.uk 07747 441195
Project:	Everest Community Academy, Oxford Way, Basingstoke, RG24 9UP
Work Required:	To supply and install X6 roller blinds to the reception area.
Attachments:	AQ5164
Start Date:	TBC
Clear from Site:	TBC
Order Number:	4418NH
Price:	£1,085.62
Site Contact:	Kamil - 07903 464320
Payment Terms:	30 day payment terms. Submit to accounts@woodlandcommercial.co.uk
LAD's	N/A
Retention:	Zero
Defects Liability Period:	12 months
Terms & Conditions:	All as stated within the 5 pages of this document.
Attendances to be provided by Subcontractor:	Access, Tools/ Plant/ Equipment, Site Based Supervisor, Setting Out, Unloading/ Distribution of Materials, Craneage, Protection, Task lighting, PPE, First Aider, Waste clearance, Cleaning on completion.
Insurances:	Employers Liability £10m, Public/Product Liability £5m – Required? YES Professional Indemnity £1m (Design Liability) Required? YES/NO – Select if applicable
Health & Safety:	SUB-CONTRACTOR TO SUPPLY RISK ASSESSMENTS AND METHOD STATEMENTS TO WOODLAND COMMERCIAL PRIOR TO COMMENCEMENT OF THE WORKS While on the work site the Contractor shall comply with any health and safety measures implemented by Woodland Commercial Ltd in respect of persons working on its work site. The Contractor shall notify Woodland Commercial Ltd immediately in the event of any incident occurring in the provision of the Services on the work site where that incident causes any personal injury or damage to property which could give rise to personal injury. The Contractor shall take all necessary measures to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety which may apply to those of its employees, consultants, agents or sub-

TERMS AND CONDITIONS ("THE TERMS") OF SUBCONTRACT FOR THE SUB CONTRACT ORDER AGREEMENT

Insofar as anything in these terms and conditions ("terms") is inconsistent with any terms or conditions contained in the Sub-contractor's quotation and forming part of the Sub-contract, these terms shall prevail.

1. Definitions: Words and expressions used in this Sub-contract shall have the same meanings as in the Main Contract except where the context otherwise requires. **Contractor** means the company so defined overleaf, in the Contractor's Order (the Order). **Sub-contractor** means the party to whom the Order is addressed or, where the context so admits, his servants or agents. **Sub-contract** means the Sub-contract Agreement between the Contractor and the Sub-contractor comprising the Order, these terms, and such other documents as may be specified in the Order. **Main Contract** means the Contract entered into between the Employer and the Contractor. **Works** means the main contract works including the Sub-Contract Works. **Architect/Contract Administrator/Employer's Agent (Architect/CA/EA)** means the person appointed by the Employer to administer and supervise the Works. **Employer** means the person with whom the Contractor has entered into the Main Contract. **Sub-contract Works** means that portion of the Works to be carried out and completed by the Sub-contractor in accordance with this Sub-Contract.

2. Execution of the Sub-contract Works: The Sub-contractor shall commence the Sub-contract Works and each section thereof on site within 7 days of the Contractor's instruction to do so and shall regularly and diligently proceed with the same and shall complete the same within the times stated in the Order subject only to any extensions of which may be granted by the Contractor under these terms. Nothing in this clause shall be construed as preventing the Sub-contractor from commencing off site any work necessary for the execution of the Sub-contract Works at any time before receipt of the Contractor's written instructions to commence on site. The terms and conditions of this order agreement will be deemed to have been accepted by the Sub-contractor as soon as work has commenced regardless of whether the agreement has been signed by the Sub-contractor or not.

3. The Sub-contractor shall execute and complete the Sub-contract Works in all respects to the satisfaction of the Contractor and the Architect/CA/EA and in conformity with all reasonable directions and requirements of the Contractor including all reasonable rules of the Contractor for the time being regulating the due execution of the Works.

4. Insofar as the Sub-contract Works have been or will be designed and materials and goods have been or will be selected by the Sub-contractor, the Sub-contractor shall be responsible for the design of the Sub-contract Works and the selection of materials and goods. He will also be responsible for the satisfaction of any performance specification or requirements insofar as such performance specification or requirements are included or referred to in the Order or as part of the description of the Sub-contract Works.

5. Liability under incorporated provisions of Main Contract:

The Sub-contractor shall:

5.1 be deemed to have notice of and to have had reasonable opportunity of inspecting the Main Contract except the rates and prices of the Contractor and shall observe perform and comply with and be bound by all the provisions of the Main Contract so far as they relate and apply to the Sub-contract Works (or any portion of the same) and;

5.2 indemnify and save harmless the Contractor against and from: any breach, non-observance or non-performance by the Sub-contractor of any of the Main Contract provisions; and any act or omission of the Sub-contractor which involves the Contractor in any liability to the Employer; and any claim, damage, loss or expense due to or resulting from any negligence or breach of duty by the Sub-contractor.

6. In performing the Sub-contract Works, the Sub-contractor shall have regard to the obligations of the Contractor under the Main Contract and to the obligations of the Employer and/or Contractor under any other agreement or document to which the Contractor or the Employer is or may become party, the relevant terms of which are notified to the Subcontractor. The Sub-contractor shall exercise reasonable skill, care and diligence to avoid any act, omission, or default of the Sub-contractor causing or contributing to any breach by the Contractor or the Employer of such obligations and shall do all such things and reveal such notices to allow the Contractor to so comply. The Sub-contractor shall further take full account of any interests or rights enjoyed by any third party on or over the Site (including, without limitation, any easements and rights of way, air or light) and any restrictions or other encumbrances affecting the Site, including any rights of access, and shall ensure that the same are not in any way infringed by the carrying out of the Sub-contract Works.

7. Liquidated Damages: If the Sub-contractor fails to complete the Sub-contract Works within the period for completion or any revised period as provided in clause 9, the Contractor shall so notify the Sub-contractor in writing and upon receipt of that notice the Sub-contractor shall pay or allow to the Contractor a sum equivalent to any direct loss and/or expense suffered or incurred by the Contractor and caused by the said failure of the Sub-contractor which for the avoidance of doubt, shall include the Main Contract L&A Damages identified on the face of the Order.

8. Indemnity: The Sub-contractor shall be liable for and shall indemnify the Contractor against every liability whatsoever which the Contractor may incur to any other person and against all claims demands proceedings damages costs and expenses made against or incurred by the Contractor by reason of any breach by the Sub-contractor of the Sub-contract.

9. Extension of time: If the Sub-contractor is delayed in the execution of the Sub-contract Works by any event entitling the Contractor to an extension of time under the Main Contract or by any variation of the Sub-contract Works not being a variation under the Main Contract or by any breach of this Sub-contract by the Contractor then the Contractor shall grant such extension of time or times as may in all the circumstances be fair and reasonable.

10. Variations: The Sub-contractor shall make such variations of the Sub-contract Works, whether by addition, modification or omission as may be ordered by the Architect/CA/EA or the Contractor and confirmed in writing to the Sub-contractor by the Contractor. The value of such authorised variations shall be determined by measurement and valuation at the rates and prices stated or referred to in the Sub-contract Order. If there are no such rates or prices or if they are not applicable, then the value shall be such as is reasonable in all the circumstances.

11. Assignment/sub-letting: The Sub-contractor shall not assign or sublet the Sub-contract Works or any part thereof without the prior written consent of the Contractor.

12. Payment:

12.1 Applications shall be due on the last day of each month. The Sub-contractor shall not less than 5 days before the last day of the month submit to the Contractor by email a written statement of the sum the Sub-Contractor considers is due in respect of the value of all work properly executed at the date of the statement and the basis upon which the sum is calculated, which shall contain such details as the Contractor may reasonably require and the value shall be calculated in accordance with the rates and prices, if any, specified in the Sub-contract ("Payee Notice").

12.2 The Contractor shall within 14 days of the Application give the Sub-Contractor a written notice stating the sum that the Contractor considers to have become due ("Payment Notice"). All payments to the Sub-contractor shall be the total value of work properly executed, less:

12.2.1 any previous payments and any discounts and retentions provided for in the Order;

12.2.2 such sum as the Contractor estimates to be an amount equal to any amount of expense, damage, loss or other costs or liabilities whatsoever caused to the Contractor by reason of any breach by the Sub-contractor of this or any other contract between the parties;

12.2.3 an amount equal to any amount to which the Contractor is entitled to payment from the Sub-contractor under this or any other contract between the parties. The exercise by the Contractor of its rights under clauses 12.2.2 and 12.2.3 is without prejudice to and pending the final determination between the parties as to the amount of such expense, damage, loss or other liability, indemnity, contribution or payment.

12.3 The final date for payment for each interim payment shall be 40 days from the application date (clause 12.1) and the Contractor shall subject to any Payless Notice under 12.5 pay to the Sub-Contractor the sum set out in the Payment Notice, or where not served, the Payee Notice.

12.5 Withholding payment: If the Contractor intends to pay less than the sum stated in the Payment Notice, or where not served, the Payee Notice then the Contractor shall give notice "Payless Notice") not later than 1 day before the final date for payment which shall specify the amount (if any) of the sum that the Contractor considers is due to the Sub-Contractor at the date of the Payless Notice, and the basis upon which sum is calculated.



12.6 If the Contractor does not make payment in accordance with clause 12.3 then the Contractor shall pay to the Sub-Contractor interest on the outstanding sum from the relevant final date for payment until payment is received, at a rate of 2% above the Bank of England Base Rate.

12.7 If on or before the final date for payment of any sum due to the Sub-Contractor under this Sub-Contract the Employer is insolvent (as defined in the Housing, Grants, Construction and Regeneration Act 1996 as amended by the Enterprise Act 2002, and further amended from time to time ("Insolvent")) the Contractor shall not be obliged to pay any such sums to the Sub-Contractor unless and if so only to the extent that the contractor receives payment thereof from the Employer.

12.8 Any subcontractor who carries a CIS Nett Payment Status will need to deduct the 1.25% Administration Charge from their Applications. This amount will automatically be deducted from our payments.

13. Liability for defects:

13.1 The Sub-contractor shall maintain the Sub-contract Works and make good at no cost to the Contractor and in accordance with the Contractor's directions all defects, shrinkages and other faults ('defects') in the Sub-contract Works or in any part thereof due to materials or workmanship not in accordance with the Sub-contract or due to frost occurring before the date of practical completion of the Sub-contract Works. If the Architect/CA/EA makes a deduction in respect of any defects from the Contract Sum under the Main Contract, an appropriate deduction shall be made from the Sub-contract sum.

13.2 Defects liability period will be as stated on page 1 of this document. Retention amounts will be released as follows:- 50% upon Main Contract Practical Completion being achieved and the remaining 50% upon receipt of the Main Contract Certificate of Making Good Defects.

14. Insurance: The Sub-contractor shall affect and maintain suitable Employers' Liability; Public & Product Liability and Professional Indemnity Insurance for the duration of his obligations under the Sub-contract. Such insurance must provide a limit of indemnity of at least the sum stated in the Order for any one occurrence and for an unlimited number of occurrences. The Professional Indemnity Insurance policy must be maintained for a period of six years from the completion of the subcontract with an aggregate of not less than £1m. In addition, the Sub-contractor shall affect and maintain suitable insurance in respect of loss or damage to the Sub-contract Works until completion of the Sub-contract Works. The Sub-contractor shall, when requested to do so by the Contractor, provide documentary evidence satisfactory to the Contractor that such insurances are in place and will upon expiry of such insurances forthwith provide evidence to the Contractor of their renewal in accordance with the terms of the Sub-Contract. The Contractor shall not be obliged to make any payment under this Sub-contract if the Sub-contractor has not complied with this clause 14. All insurance required by this Sub-contract shall be placed with an insurer with a minimum Standard and Poor's Insurer Financial Strength Rating of A- (A minus). The Sub-contractor shall pay or allow to the Contractor the amount of £2,500.00 (two thousand pounds) if the Sub-contractor does not comply with this requirement to enable the Contractor to protect its interests in some other way. The Sub-contractor consents to the Contractor contacting the Sub-contractor's insurers direct in relation to any claims or potential claims under any insurances required to be maintained by the Sub-contractor under this Sub-contract. The Sub-contractor will indemnify us against any liability we incur in respect of:- Breach of duty of care; infringement of copyright or any other intellectual property rights; libel, slander or defamation; breach of confidentiality or breach of contract which is caused by (or contributed to by) anything which the sub-contractor does (or fails to do) in the performance of their sub-contract.

15. Use of services: The Sub-contractor shall be entitled at his own risk to the use of services and facilities stated in the Order, but subject thereto he shall provide everything necessary for the execution of the Sub-contract Works.

16. Tax: The Sub-contractor is required to be the holder of a valid Authorisation under the Finance Act 2004.

17. Statutory requirements: The Sub-contractor shall observe and perform all the obligations placed upon the Sub-contract Works by statute including but not limited to the Control of Substances Hazardous to Health Regulations 2002 and the Construction (Design & Management) Regulations 2007.

18. Determination and suspension:

18.1 If the Sub-contractor becomes Insolvent the Contractor may without prejudice to any other rights, by notice* determine the Sub-contract with immediate effect and withhold any further payments.

18.2 If the Sub-contractor breaches any fundamental term or condition of the Sub-contract and such breach continues for 7 days following receipt of the Contractor's notice* specifying the breach to the Sub-contractor, the Contractor may by further notice* to the Sub-contractor forthwith determine the Sub-contractor's employment under the Sub-contract. Thereupon the Contractor may take possession of all materials, plant or other things whatsoever brought on to the site by the Sub-contractor and may use them for the purpose of executing completing and maintaining the Sub-contract Works. The Contractor may in lieu of determine the Sub-contractor's employment give 7 days' notice* of his intention to take part only of the Sub-contract Works out of the hands of the Sub-contractor and arrange the execution, completion and maintenance of such part by others and recover the additional costs from the Sub-contractor.

18.3 If the Contractor fails to pay in full any amount due by the final date for payment, the Sub-contractor may suspend performance of the Sub-contract works upon giving the Contractor 7 days' notice* of his intention to do so.

18.4 If the Sub-contractor is in breach of clause 23 the Contractor may serve a written notice on the Sub-contractor confirming determination of the Sub-contractor's employment under the Sub-contract. *

***Notice of determination or suspension must in writing and given by actual delivery, registered post or recorded delivery and sent to the address of the receiving party shown on the face of the Order, and if sent by one of the latter two methods, subject to proof to the contrary, it will be deemed to have been received 48 hours after posting, excluding Saturday, Sunday and Public Holidays.**

19. Dispute resolution:

19.1 If any dispute or difference arises under the Sub-contract ('dispute') either party may refer it to adjudication in accordance with the adjudication procedure under the Main Contract.

19.2 Subject to clause 19.1, any dispute shall be determined by legal proceedings or, if disputes under the Main Contract are to be determined by arbitration, referred to the arbitration of a person to be nominated at the request of either party by the nominating body named in the Main Contract and such arbitration will be subject to the same arbitration rules as apply under the Main Contract.

20. Terms of Engagement

20.1 The Sub-Contractor shall indemnify the Contractor on demand and keep it indemnified at all times against any liability, loss, damage, costs (including united kingdom costs on an indemnity basis) and expense of whatsoever nature incurred or suffered by the Contractor arising from the Sub-Contractors or its designated personnel's ("Designated Personnel") performance of or breach of the Sub-Contractor's obligations or warranties under this Agreement including, without limitation :-

- .1 any fees or remuneration or benefits (including but not limited to all employment income, benefits, benefits in kind, holiday pay (whether statutory or contractual), sick pay, expenses, bonuses and incentive payments) payable to the Designated Personnel;
- .2 any claim for notice pay, pay in lieu of notice, damages for wrongful dismissal, redundancy pay (whether contractual or statutory) and compensation for unfair dismissal made by any of the Designated Personnel;
- .3 any claim by any of the Designated Personnel that there existed during the period of the Sub-Contract a contract of employment between the Contractor and the Designated Personnel including any claim for compensation for any unlawful act related to such employment;
- .4 any income tax, national insurance contributions (including secondary contributions to the extent permitted by law) (including any interest, penalties or gross-up thereon) arising in respect of the Designated personnel for which the Contractor is called upon to account to the relevant taxing authority;
- .5 any act, neglect or default of the Designated Personnel or any claim that the Contractor is vicariously liable for the acts of the Designated Personnel;
- .6 any liability for any employment related claim or any claim based upon worker status brought by the Sub-Contractor or the Designated Personnel arising out of or in connection with the provision of the specified works;



- .7 any injury suffered by any of the Designated Personnel; and
- .8 any breach resulting in a successful claim by a third party."

21. Declaration of Non-Collusion: The Sub-Contractor confirms that his tender submitted in respect of the Sub-contract Works was bona-fide, intended to be competitive, and that he did not fix or adjust the amount of the tender or the rates and prices quoted by agreement or arrangement with any other person. The Sub-Contractor has not and insofar as he is aware neither has any other tenderer:

- .1 entered into any agreement or arrangement with any other person with the aim of preventing tenders being made or as to the fixing or adjusting of the amount of any tender or the conditions on which any tender is made;
- .2 informed any other person of the amount or approximate amount of the tender except where such disclosure was necessary, in confidence, to obtain quotations for insurances and/or performance bonds;
- .3 caused or induced any person to enter into such agreements or arrangements described above or to inform the Sub-Contractor of the amount of or approximate amount of any rival tenders or had the benefit of any inside information about the intentions of any other tenderer;
- .4 offered or agreed to pay or give any money, inducement or consideration directly or indirectly to any person for doing or having caused to be done any act or omission in relation to any other tender.

The Sub-Contractor agrees that the Contractor has relied in its consideration of the Subcontractor's tender and may rely in any subsequent actions upon the statements within this declaration.

22. Safeguarding of Vulnerable Groups:

22.1 If requested to do so by the Contractor, the Sub-contractor shall procure that prior to any person engaged and/or employed by the Sub-Contractor in connection with the Sub-contract Works attending site, to the extent permitted by law:

- .1 each such person is questioned as to whether he or she has any criminal convictions; and
- .2 a check of the most extensive kind available is made with the Disclosure and Barring Service (DBS) in relation to each such person; and
- .3 a copy of the results of such check is notified to the Contractor.

22.2 The Sub-contractor shall be responsible for the cost of any Disclosure and Barring Service (DBS) checks in relation to persons engaged and/or employed by the Sub-contractor.

22.3 The Sub-contractor shall ensure that no person who discloses any criminal convictions or is found to have any criminal convictions following the results of a Disclosure and Barring Service (DBS) check, is engaged and/or employed by the Sub-contractor in connection with the Sub-contract Works without the Contractor's prior written consent.

22.4 The Sub-contractor shall ensure that the Contractor is kept advised at all times of any person engaged and/or employed by the Sub-contractor in connection with the Sub-contract Works who subsequent to attending site receives a criminal conviction or whose previous criminal convictions become known to the Sub-contractor.

22.5 This clause 22 applies equally to any persons engaged and/or employed by any subcontractors and/or suppliers to the Sub-contractor of any tier and the Sub-contractor shall ensure that any subcontracts and/or supply contracts contain like provisions to this clause 22.

23. Bribery and Corruption

23.1 The Subcontractor warrants that:

- 23.1.1 it is fully aware of the provisions of the Bribery Act 2010 and that it has not and will not commit any act or omission which would place the Subcontractor or the Contractor in breach of the Bribery Act 2010, whether in connection with the Works or the Subcontractor Works or otherwise; and
- 23.1.2 there is no outstanding investigation of it under any bribery legislation and in the last six years it has not been convicted of any offence under any bribery legislation or reached any settlement in relation to any alleged breach of any bribery legislation and has not self-reported any breach or suspected breach of any bribery legislation; and
- 23.1.3 it will comply with the most recent guidance issued by the Secretary of State pursuant to the Bribery Act 2010 and in so doing will put in place and monitor, adequate and effective procedures to prevent a breach of any bribery legislation which procedures adhere to the following principles namely: proportionate and clear anti bribery policies and procedures that are promoted, communicated and enforced by senior management, a risk-based approach when adopting procedures, due diligence with regard to third parties (in particular those engaged to perform services on the Sub-contractor's behalf), communication of procedures (including relevant training) alongside procedures to monitor and review compliance; and
- 23.1.4 it will procure that each of its subcontractors, agents or others performing services on its behalf complies with this clause; and
- 23.1.5 it will report to the Contractor any suspicion of any breach or alleged breach of any bribery legislation, including by any of its Subcontractors or others performing services on its behalf, and co-operate with the Contractor and/or the Employer and/or any regulator and/or prosecutor in any investigation relating to the same.
- 23.2 The Subcontractor shall be liable for, and indemnifies the Contractor against, any expense, liability, loss, claim or proceedings whatsoever in respect of any breach by the Subcontractor of the provisions of this clause.
- 23.3 In the event of any breach by the Subcontractor of the provisions of this clause, the Contractor shall be entitled by notice to the Subcontractor to terminate the employment of the Subcontractor under this Subcontract.

24. Insolvency

24.1 If on or before the final date for payment of any sum due or accruing due to the Sub-Contractor, the Employer or any person as is responsible for discharging payments to the Contractor under the Main Contract, as the case may be, is insolvent as defined in section 113 of the Housing Grants, Construction and Regeneration Act 1996 (as amended by the Enterprise Act 2002 and as may be further updated, amended or supplemented from time to time) the Contractor shall not be obliged to pay any such sum to the Sub-Contractor unless and if so only to the extent that the contractor receives payment thereof from the Employer or such other person, as the case may be.

