

SCHEDULE 4



TERMS AND CONDITIONS OF CONTRACT

1 CONDITIONS OF CONTRACT

The Conditions of Contract are to be read throughout, subject to the amendments and special conditions set out in the Preliminaries.

The Form of Contract shall be the MF1 (rev 6) 2014 Edition published for the Joint IMechE/IET Committee on Model Forms of General Conditions of Contract by The Institution of Engineering and Technology, London, United Kingdom. This should be read in conjunction with the conditions contained herein.

The submission of a Tender by the Lift Contractor shall be deemed to signify acceptance of the incorporation of the Terms and Conditions of the MF1 Form of Contract stated, which shall be read subject to the Conditions contained herein.

The costs of complying with all standard amendments to the MF1 Contract, promulgated by the date of Tender (as defined in the Conditions) shall be included in the Tender sum.

Any additional cost considered necessary to meet all the requirements of the following amendments to the Conditions of Contract shall be included in the Tender.

1.1 Schedule of Amendments to the MF/1 Rev 6 General Conditions

The following amendments apply, and the MF/1 General Conditions shall be construed accordingly. In the case of any inconsistency between the printed MF/1 General Conditions and the following amendments, the following amendments prevail.

Clause	
1.1.c	In clause 1.1.c, after "Special Conditions", insert "as amended by this Schedule of Amendments".
6.2	Delete clause 6.2.
11.2	In clause 11.2, line 6, delete "The Purchaser". Insert "The Contractor".
11.3	Delete clause 11.3
12.1	Delete clause 12.1.
13.1	In clause 13.1, line 2, after "due" insert "skill".
13.3	In clause 13.3, line 20, after "responsibility" add "by reason of the inadequacy of such design and stating reasonable and sufficient grounds for the disclaimer".
20.1	Add to clause 20.1 "The Contractor shall comply with its statutory duties under the Construction (Design & Management) Regulations 2015.".
21.2	Delete clause 21.2.
21.3	In clause 21.3, delete the second sentence. In clause 21.3, line 30, delete "Purchaser" and replace with "Contractor". In clause 21.3, line 31, delete "Contractor" and replace with "Purchaser". In clause 21.3, delete the second paragraph.
45.1(d)	In clause 45.1(d), line 17, after "Use" insert "beyond that which would be reasonably expected".

46.3	In clause 46.3, line 5, delete “120” and substitute with “30”.
49.1	In clause 49.1, line 30, delete “21” and substitute with “14”.
51.1(a)	In clause 51.1(a), line 33, delete “7” and substitute with “14”
54	Insert new Clause 54 Anti-Bribery Requirements The Contractor shall comply with all applicable anti-bribery and anti-corruption legislation including, without limitation, the Bribery Act 2010 and any applicable European Union Directives.
54.1	Throughout the term of this Agreement the Contractor shall maintain and enforce its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with all applicable anti-bribery and anti-corruption legislation and European Union Directives. Adequate procedures shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of the Act).
54.2	The Contractor shall use all reasonable endeavours to ensure that all persons associated with the Contractor (as defined by section 8 of the Bribery Act 2010) including any subcontractors and suppliers comply with clause 54 and 54.1.

2.2 Appendix to the Conditions of Contract MF1 Rev 6

APPENDIX	
Numbers refer to the General Conditions’ sub-clause numbers unless otherwise stated.	
1.1m	Engineer
	The Engineer is Stephen Gadd of TÜV SÜD
1.1.s	Nominator
	The Nominator is The President of the Institution of Engineering and Technology
1.1.v	Performance Tests
	Performance Tests are not required.
1.1.bb	Schedules
	The following Schedules form part of the Contract:
	Schedule of Amendments to the MF/1 Rev 6 Contract General Conditions
	Schedule of Prices
1.1.cc	Sections
	The Works are not Divided into Sections.
1.1.ee	Special Conditions
	The following Special Conditions form part of the Contract:
	Special Condition 2: Adjudication
1.1.ii	Time for Completion
	The Time for Completion of the Works means TBC (days)
	(a) The date specified for commencement of the Works is contractor to advise the best program
	(c) The following matters are conditions precedent to commencement of the Works:

	Contractor to provide an adequately developed Construction Phase Plan in compliance with the requirements of Regulation 12 of the Construction (Design & Management) Regulations 2015; Provisions to be in place to meet with the requirements of Part 4 and Part 5 of the Construction (Design & Management) Regulations 2015.	
2.1	Engineer's Duties	
	No specific limitations	
4.1	Precedence of Documents	
	The order of precedence of the documents forming the Contract is as follows:	
	The Agreement	
	The Letter of Acceptance / TÜV SÜD Notification of Award	
	The Appendix	
	The Special Conditions	
	The General Conditions as amended by the Schedule of Amendments	
	The Specification N.W2500071	
	The drawings annexed to, or referred to in, the Contract	
	The Schedules	
	The Tender	
5.5	Prime Cost Items	
	Percentage to be added: 10%	
6.2	Labour, Materials & Transport	
	Sub-clause 6.2 of the General Conditions shall not apply	
8.1	Provision of Bond or Guarantee	
	Form of Bond	
	Parent Company Guarantee	
	Retention Bond	
	Performance Bond	
	Other	
	Bond Amount 5% of Contract Price	
	Period of Validity	12 Months After Taking Over
	Currency of Bond	UK Pounds Sterling
	Arrangements for Release	On Demand
	Governing Law: is the Law of England & Wales	
10	Notices	
	Purchaser's contact details are:	
	Name:	Cardiff Community Housing Association Limited
	Address:	Tolven Court Dowlais Road, Cardiff CF24 5LQ
	E-mail address:	Anna.Davis@ccha.org.uk
	Engineer's Contact details are:	
	Name:	Stephen Gadd

	Address:	Office 48 14 Neptune Court Cardiff CF24 5PJ United KingdomCF24 5PJ
	E-mail address:	Stephen.Gadd@tuvsud.com
	Contractor's contact details are:	
	Address: <i>[The Successful Lift Contractor]</i>	
	Name:	TBC
	Address:	
	Facsimile No:	
	E-mail address:	
11.5	Purchaser's Lifting Equipment	
	The following lifting equipment belonging to the Purchaser may be used by the Contractor in connection with the Works:	
	Existing lifting beams may be used by the Contractor. The Contractor shall be responsible for testing, certifying and operating any Lifting Beams that are provided by the Purchaser and shall be responsible for supplying, testing certifying, operating and maintaining all other lifting equipment and scaffolding required in connection with the Works.	
11.6	Utilities and Power	
	Utilities available for use by the Contractor on Site are as follows:	
	Utilities available for use by the Contractor on Site include all power outlets as generally available within the lift machine room and lift shaft. The Contractor is to make their own arrangements for any special equipment. Access to welfare facilities in a designated area will be provide to the Contractor on the basis that the Contractor shall be responsible for maintaining these in an acceptable condition to the satisfaction of the Purchaser and/or the Engineer.	
11.7	Power, etc, for tests on site	
	The following items will not be provided by the Purchaser:	
	The Contractor will be allowed free use of electrical power for commissioning and testing of the lift and this is the full extent of the Purchaser's responsibility. The Contractor shall be responsible for providing all necessary equipment, including meters, instruments, tools, test-loads, etc as may be required to carry out the tests in accordance with the Engineer's requirements.	
	Use of the following items will be charged to the Contractor:	
	Not applicable	
14.2	Form of Programme	
	The Programme shall be in the following form:	
	The programme shall be provided and maintained such that all items of work contained within sections 10.5 and 10.6 of the Specification, including the date of possession/completion, shall be itemised and presented in the form of a bar chart.	
18.2	Site services	
	The rates for Site services apparatus provided by the Purchaser are:	

	To be charged at an agreed fixed price or rate as applicable if and when required.											
28.1	Notice of tests											
	The Contractor shall Test the completed Works and satisfy themselves of the compliance of these with the Specification, prior to offering these to the Engineer for witness testing.											
34.1	Delay in completion											
	Percentage of the Contract Value to be paid or deducted for each week of delay to the completion of the whole of the Works 2%											
	Maximum percentage of Contract Value which payments or deductions shall not exceed 10%.											
34.2	Prolonged delay											
	Maximum loss recoverable by the Purchaser: No sum stated.											
36.1	Defects after taking-over											
	The Defects Liability Period shall be 12 months after taking over.											
36.3	Notice of Defects											
	The Defects Liability Period in respect of any repair or replacement shall not extend beyond 24 months from the date of taking-over under clause 29 (Taking-over).											
39.1	Payment by instalments											
	The Contractor is entitled to the following milestone payments on achieving the corresponding milestone deliverables:											
	<table><tr><th>Milestone deliverable</th><th>Milestone payment</th></tr><tr><td>On order of the equipment, production of drawings</td><td>35%</td></tr><tr><td>Consolidated delivery of the lift equipment to site</td><td>45%</td></tr><tr><td>Completion of installation works & witness testing</td><td>25%</td></tr><tr><td>Completion of Defects & Handover</td><td>5%</td></tr></table>	Milestone deliverable	Milestone payment	On order of the equipment, production of drawings	35%	Consolidated delivery of the lift equipment to site	45%	Completion of installation works & witness testing	25%	Completion of Defects & Handover	5%	
Milestone deliverable	Milestone payment											
On order of the equipment, production of drawings	35%											
Consolidated delivery of the lift equipment to site	45%											
Completion of installation works & witness testing	25%											
Completion of Defects & Handover	5%											
	The Contractor shall be entitled to the release of retention as follows:											
	(e) half of the amount retained within 30-days after presentation of the Taking-over Certificate, and											
	(f) the balance of the amount retained:											
	within 30 days after presentation of the final certificate of payment, or											
	(ii) forthwith if the Contractor has provided to the Purchaser a guarantee in accordance with Form of Retention Bond annexed to the Contract.											
	Where Sections are applicable, if any Section of the Works is taken over separately under clause 29 (Taking-over) the release of retention on or after taking-over shall be made in respect of the Section taken over and reference to the retention shall mean such part of the retention as shall, in the absence of agreement, be apportioned to such Section by the Engineer.											
39.2	Time for application											
	Time for applications for interim certificates of payment											

	Applications for interim payments shall be made on or after the date that the relevant milestone deliverable has been achieved.	
	If the whole or any part of the Works have been suspended pursuant to sub-clause 25.1 (Suspension of work, delivery or installation), application for interim payment certificates shall be made on or after the 28 th day of each month in relation to the Works affected by the suspension until the suspension is lifted, the suspended Works are omitted or the Contract is terminated.	
39.3	Form of application	
	(d) Documentation to accompany applications for a certificate of payment	
	Milestone deliverable	Evidence required to demonstrate milestone deliverable has been achieved
	On order of the equipment, production of drawings	Confirmation of material delivery date and written acceptance of the drawings by the engineer
	Consolidated delivery of the lift equipment to site	Contractor's materials delivery schedule verified & confirmed in writing by the Engineer
	Completion of installation works & witness testing	Test documentation provided to the engineer & defects list issued by the Engineer
	Completion of Defects & Handover	Declaration of conformity issued; all defects signed off by the Engineer & O&M documentation issued
39.5	Final date for payment	
	The Final Date is 30 days after the due date.	
40.4	Delayed payment	
	The rate of interest on overdue payment shall be 2% above the Bank of England Base Rate in force from time to time during the period of delay.	
40.6	Advance payment	
	Advance payment does not apply.	
40.7	Currencies of payment	
	The Contract Price (including any adjustments) shall be paid in the following currencies:	
	UK Pounds Sterling	
40.8	Taxes	
	The Purchaser is responsible for the following taxes:	
	Value Added Tax	
41.2	Allowance for profit on claims	
	Percentage to be added 0% (Nil)	
44.3	Limitation of Contractor's Liability	
	Limit of liability: Contract Value plus 10%	
47.4	Third party insurance	
	The Contractor shall affect third party insurance for a minimum amount of £10,000,000.00 Ten Million Pounds for any one claim or series of claims arising from the same incident.	

	The Contractor shall affect employer's liability insurance for a minimum amount of £10,000,000.00 (Ten Million Pounds) for any one claim or series of claims arising from the same incident.
52.1	Arbitration
	The arbitration rules are those of the Chartered Institute of Arbitrators.
	(d)The seat of the arbitration is England.
52.4	Adjudication
	(c) The adjudication rules are those set out in the Scheme for Construction Contracts made in accordance with the provisions of section 114 of the Housing Grants, Construction and Regeneration Act 1996.
53.1	Applicable law
	The substantive law of the Contract is the law of England & Wales.



FORM OF RETENTION BOND

We, (*name of Bank*) of _____, understand that you, _____ (hereinafter called "the Purchaser"), have entered into a Contract reference _____ dated _____ (hereinafter called "the Contract") with _____ (hereinafter called "the Contractor"), of _____ for the design, supply, installation, testing and commissioning of _____ at the Purchaser's _____ site. We further understand that under the conditions of the aforementioned Contract you are entitled to retain the sum of £ _____ (_____ Pounds Sterling) being 2.5 % of the Contract price, but are prepared to release this amount earlier than provided for under the said Contract against a Bank Guarantee for the full retention amount.

In consideration therefore of the Purchaser releasing the aforementioned sum, we (*name of Bank*) hereby unconditionally and irrevocably undertake and guarantee to pay to the Purchaser the sum or sums demanded by the Purchaser, but not exceeding in total a maximum of £ _____ (_____ Pounds Sterling), upon the Purchaser's first written demand accompanied by a statement to the effect that the Contractor is in breach of its obligations under the said Contract. This demand shall be accepted by us as conclusive evidence (and admissible as such) that such sum is due to the Purchaser.

Any claims must bear the confirmation of your bankers that the signatures thereon are authentic.

This letter of Guarantee shall not in any way be released or impaired by any alteration in the terms of the Contract made by agreement between the parties thereto (with or without our knowledge or consent) or in the extent or nature of the giving of time by you or the neglect or forbearance by you in enforcing the said Contract or the granting by you of any other indulgence in respect of any matter or thing concerning the Contract.

Our maximum liability under this agreement shall be limited to £ _____ (_____ Pounds Sterling).

This Guarantee shall expire only at the end of the Contractor's guarantee period as defined in the Contract and certified as such by the Purchaser, or upon _____ (*date*) _____, whichever is the earlier.

This Guarantee is personal to you and is not assignable (except with our prior written consent which shall not be unreasonably withheld).

This Guarantee shall be governed by English Law.

EXECUTED AS A DEED

by (*Bank*) and signed by an authorised signatory