



Balston Agius Ltd Construction Act Supplementary Contract Terms

The following contract terms apply to the Terms and Conditions of Engagement for Balston Agius Ltd (“T&Cs”) if the Client does not fall within the definition of “Residential Occupier” under the Housing Grants, Construction and Regeneration Act 1996 (“Construction Act”). Defined terms used below shall have the meaning set out in the T&Cs. References to paragraphs below mean paragraphs in these supplementary contract terms. References to clauses below mean clauses in the T&Cs.

1. Payment Terms

- 1.1 If the Client does not fall within the definition of “Residential Occupier” under the Construction Act the parties shall follow the process for payment notices set out in the Construction Act using the timescales and dates below:
- 1.2 For the purposes of Part II of the Construction Act:
 - 1.2.1 the due date for payment of any monies payable pursuant to the terms of the Contract shall be 30 days after receipt by the payer of a valid application for payment (setting out what the payee considers will be due to it on the Due Date and the basis on which that sum is calculated) submitted on a monthly basis in accordance with clause 10.11 of the T&Cs from the payee (Due Date);
 - 1.2.2 within 5 days of the Due Date the payer shall give notice of the sum which the payer considers to have been due on the Due Date and the basis on which the sum was calculated (Payment Notice);
 - 1.2.3 if the payer does not issue a Payment Notice in accordance with paragraph 1.2.2 above, then the payee’s valid application for payment shall be treated as the Payment Notice;
 - 1.2.4 if the payer wishes to pay less than the amount stated in the Payment Notice the payer shall issue a notice specifying the sum the payer considers to be due on the date the notice is served and the basis on which that sum is calculated (Pay Less Notice). Any Pay Less Notice(s) shall be served no later than 7 days before the Final Date for Payment (as defined below);
 - 1.2.5 the payer shall pay the amount stated in any Payment Notice, or if issued, the Pay Less Notice by the Final Date for Payment (as defined below); and
 - 1.2.6 the final date for payment of any sum payable pursuant to this Contract shall be 30 days after the Due Date (Final Date for Payment).

2. Adjudication

- 2.1 In the event of a dispute arising under the Contract and the Client does not fall within the definition of “Residential Occupier” under the Construction Act then either party may give written notice at any time to the other of his intention to refer the dispute to adjudication in accordance with the following terms.
- 2.2 An adjudicator shall be appointed by agreement between the parties within 2 working days of receipt of notice under paragraph 2.1 or, failing agreement, within 7 days of the notice by the Construction Industry Council Adjudicator Nominating Body. The adjudicator shall conduct the adjudication in such manner as he considers fit, having regard to the Construction Industry Council’s Model Adjudication Procedure, and subject to the following matters:
 - 2.2.1 within 7 working days of notice under paragraph 2.2 the parties shall agree and provide to the adjudicator a joint statement of undisputed facts (so as to reduce the area of dispute to a minimum);
 - 2.2.2 the adjudicator shall act impartially and shall reach a decision within 28 days of referral of the dispute to him or such longer period as the parties may agree;
 - 2.2.3 the parties shall accept the adjudicator’s decision as binding upon them until such time as the dispute is finally resolved in accordance with a mediated or negotiated settlement (under Clause 17.1 of the T&Cs), a court ruling (under Clause 20.8 of the T&Cs) or by agreement; alternatively, the parties may agree to accept the decision of the adjudicator as finally determining the dispute;
 - 2.2.4 the adjudicator may allocate between the parties the costs relating to adjudication, including the fees and expenses of the adjudicator.

Balston Agius Ltd

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