

## Nominated Sub-Contract for Use with RIAI Main Contract Form, 5<sup>th</sup> Edition 1989

### Insert RE: Construction Contracts Act 2013

#### **7(a) Completion**

The date on which the Sub-Contractor begins the Sub-Contractor works shall be considered the “Commencement Date” for the purposes of the Construction Contracts Act 2013.

#### **8. Defects**

Payment to the Sub-Contractor in respect of defects, shrinkages or other faults where the Contractor is liable to make good, shall not be contingent on receipt of monies by the Contractor. The current wording “*shall account to the Sub-Contractor for any money actually received by him in respect of same*” is to be disregarded as a pay-if-paid clause which is not permissible under the Act.

#### **11.(a) Contractor to apply for Certificates of Payment**

The Sub-Contractor’s detailed progress statement to be considered a payment claim notice for the purposes of the Construction Contracts Act 2013

#### **11.(b) Interim Payments to the Sub-Contractor – Retention Money**

“*The Sub Contractor shall not take steps to enforce payment of such sum until the expiration of such period of seven days after the Contractor has received payment of such Certificate*” is to be disregarded as a pay-when-paid clause which is not permitted under the Construction Contracts Act 2013.

#### **11.(e) Non-Payment by Contractor**

The statutory entitlement of the Specialist Contractor to refer a dispute for Adjudication operate alongside those entitlements stipulated in the Contract.

11.(e)(ii) “*if payment has not been received within seven days after receipt of payment by the Contractor*” to be disregarded as a pay-when-paid clause which is not permitted under the Construction Contracts Act 2013.

**NOTE:**

The Construction Contracts Act 2013 renders clauses which provide that the payment of an amount due under a construction contract or the timing of that payment is conditional on the making of a payment by a person who is not a party to the contract, except in following situations: winding up, petition to wind up, appointment of a receiver, appointment of an examiner, or bankruptcy of that person who is not a party to the contract.

In order for a contractor to be able to avail of this protection, there must be a clause providing for this included in the contract.