

# RIAI BRIEFING SESSIONS

BROUGHT TO YOU BY THE CIF, IN CONJUNCTION  
WITH ADDLESHAW GODDARD



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Tuesday 22 May 2025



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May 2025

# **RIAI Briefing Sessions**

**Brought to you by the CIF, in conjunction with Addleshaw Goddard**

## Agenda

9.00 am – Registration

9.30 am – Opening Address by the CIF

9.45 am to 11.30 am

- *Siobhan Kenny, Legal Director,*
- *Margaret Austin, Partner and*
- *Killian Maher, Partner*

11.30 to 12 noon – QA and Close



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## 1 - RIAI Form of Main Contract - History

**RIAI Construction Contract**

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This Form is applicable where Quantities form part of the Contract

2025 Edition First print-run XXXX 2025

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Employer: .....

Contractor: .....

Works: .....

Site Address: .....

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Issued by the Royal Institute of the Architects of Ireland,  
in agreement with the Construction Industry Federation  
and in agreement with the Society of Chartered Surveyors Ireland

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Publisher: Royal Institute of the Architects of Ireland  
8 Merrion Square, Dublin 2, D02 YE68, Ireland

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- **Modernise**
  - *Reduce Amendments*
  - *Design and Subcontracting*
- **Liaison Committee - Edits Subcommittee – 7 years**
- **PT&CM - Reports to National Executive**
- **Liaison Committee (March '24)**
- **Professional Body Governance Processes**
- **CIF Governance**
- **Final Agreement/Draft (March '25)**

## 1 – Suite of RIAI Forms of Sub-Contract

### AGREEMENT AND CONDITIONS OF SUB-CONTRACT

#### FOR USE IN CONJUNCTION WITH THE RIAI CONSTRUCTION CONTRACT

This form of sub-contract is issued by the Construction  
Industry Federation, Construction House, Canal Road,  
Dublin

SECOND EDITION 2025

Contractor: .....

Sub-Contractor: .....

Sub-Contract Works: .....

Main Works  
Description and Site  
Address: .....

19421/27762-2/4/2025-2

- **Back-to-back**
- **One Form**
- **Select in Particulars**
  - *Nominated*
  - *Selected*
  - *Domestic*

## 1 - RIAI Form of Contract – Main Changes

Table of Contents	
A	Articles of Agreement
	Recitals
	Articles
	Attestation
B	Contract Particulars
	Particulars
	List of Opt-In Clauses
	List of Employer's Appointees
C	Conditions of Contract
1	Definitions and Interpretation
1.1	Meanings of terms
1.2	Designated Date
1.3	Holidays, Registered Employment Agreements
1.4	The Contract Sum
1.5	Notices
1.6	Works include a reference to a Section
1.7	Legislation
1.8	Gender neutral terms
1.9	References
2	The Works
2.1	Scope of Contract
2.2	Drawings, Specifications and Bill of Quantities
2.3	Contractor to provide everything necessary
2.4	Setting out of the Works
2.5	Materials and workmanship to conform to description
2.6	Works to be opened up
2.7	Site Manager
2.8	Access for Architect and others to Works
2.9	Clerk of Works
3	Selected & Nominated Sub-Contractors, Artists and Tradespersons

- Navigation Changes
- Table of Contents
- More Logical
- Amendments to some clauses

## 1 - RIAI Form of Contract – Main Changes

**RIAI** Construction Contract

This Form is applicable where Quantities form part of the Contract

2025 Edition First print-run XXXX 2025

Employer: \_\_\_\_\_

Contractor: \_\_\_\_\_

Works: \_\_\_\_\_

Site Address: \_\_\_\_\_

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- Design Liability
- Contractor Design
- Building Control
- Insurance - Liability for Existing Structures
- Professional Indemnity Insurance
- Liability Cap
- Price Variation and Legislative Enactments
- Contractor Claims and Payment Process – CCA
- Condition Precedent
- Nomination
- Selected Subcontractors
- Collateral Warranties

# Thank You



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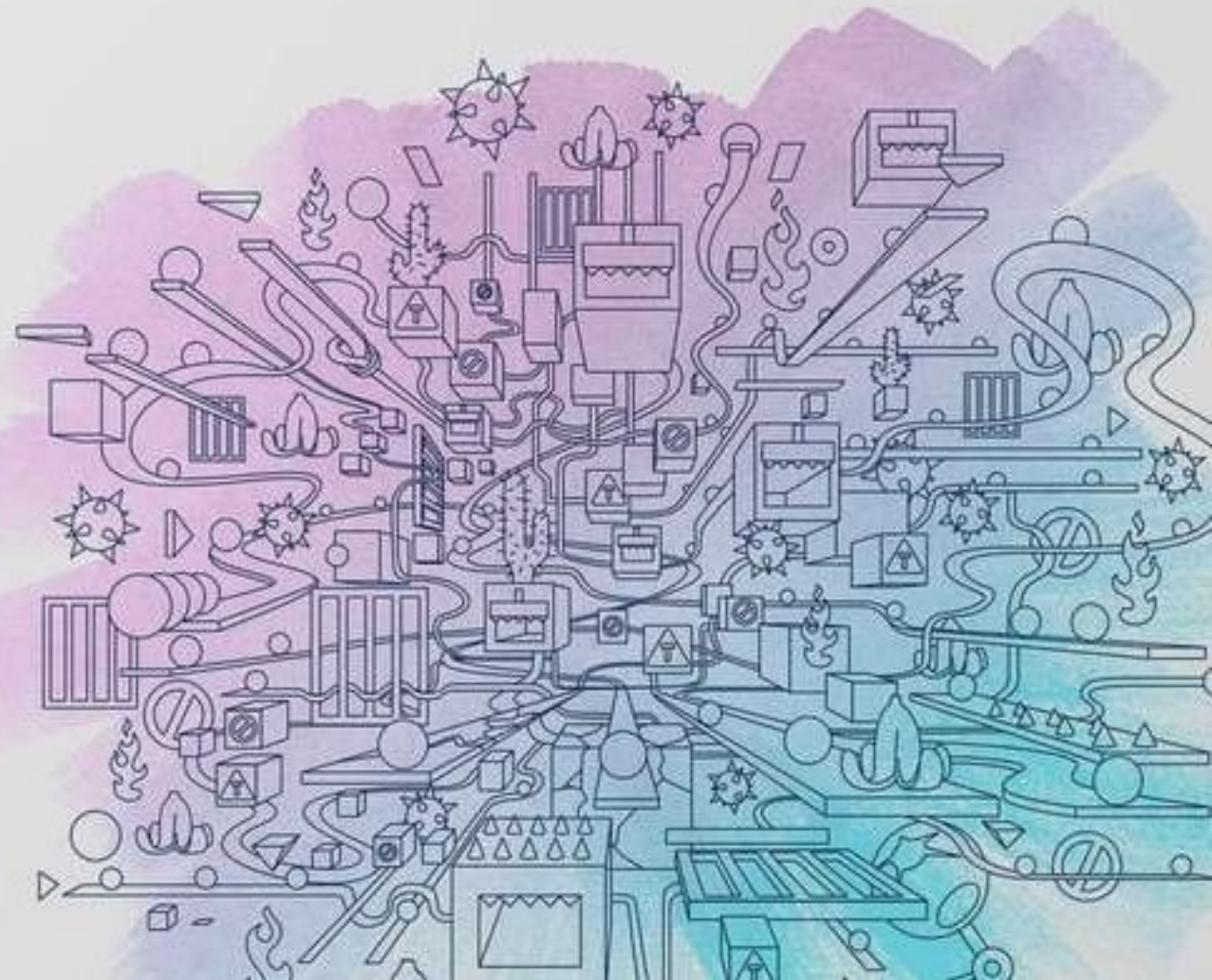


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# CIF - RIAI

RIAI Construction Contract



# STRUCTURE

- **Agreement** – key differences
- **Contract Particulars** - New
  - New – in place of Appendix but working much harder! – and pushed to the front of the document
- **Conditions of Contract** – amended and re-ordered
  - Completely re-organised – logical - all the scope, all the money and all the time clauses grouped together
  - Looks and feels completely different but...
  - Where changes have been made – they are in the Conditions

## Schedules

- 8 in total – 4 of which are template forms – CW's and Performance, Advance Payment and Retention Bonds
- Schedule 1 – Contract Drawings and Specifications
- Schedule 2 – Bill of Quantities (or Schedule of Rates Pricing Document in lump sum version)
- Schedule 4 – wording for insurance policies.



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# THE AGREEMENT

The differences:

Contract Sum –  
inclusive of VAT –  
Breakdown  
according to  
applicable VAT  
charge

Method of Service  
provisions

Contract  
documents listed –  
in priority

Execution clause –  
every variety!



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# CONTRACT PARTICULARS

Relevant existing form provision

The Appendix

- Intended to replace the Appendix.
- Almost everything dealt with in the familiar Appendix is provided for in the Contract Particulars.

In addition – provision is made for:

- **Contractor Design** – if the Contractor is to be responsible for key design – flagged in Contract Particulars – Schedule of Contractor Design to be included in Scope documents
- **Insurance provisions:** EL, PL and now PI cover. Will funder be a composite Insured on the All Risks Policy?
- **Existing Structures** is an optional clause – Employer has the option to make the Contractor responsible – and if that is the case it will be clearly flagged here
- **Cap on liability** – if it is to apply – the level of the cap will be set out here
- **Sub- Contractor Collateral Warranties** – if they are required and this is known at Contract Stage – the warranting sub-contractors and known Beneficiaries will be listed
- **Contractor Collateral Warranties** – Beneficiaries will be listed
- **Performance Bond** – required or not?
- **Key Personnel** – list of key resources allocated to the project
- **Arbitration or Court ?** – option to choose
- **Clause 10** – Opt In/Opt out clauses – those elections made here

# THE CONDITIONS

## **Definitions and Interpretations**

Welcome expansion of defined terms

## **The Works**

Gathers all provisions relating to scope and expectations in one place

## **Sub-Contractors**

Existing clause 16 retained – but new category added

## **Time; BCAR; PC**

All you need to know about the progress of the Works in this section

## **Indemnities and Insurance**

Clarity provided around who insures against what risks

## **Contract Sum and Payments**

All about money, claims and how to obtain payment

## **Collateral Agreements and Performance Bond**

The additional documents to be provided or gathered

## **Health and Safety**

Long overdue

## **General - Miscellaneous**

## **Opt In Clauses**

Novel concept dealing, amongst other things, with clauses usually deleted

## **Termination**

Correctly included at the end of the conditions

## **Dispute Resolution**

Tried and trusted mechanisms – with a novel twist

# SECTION 1 DEFINITIONS AND INTERPRETATIONS

- Definitions clause – very welcome and all new. In the existing form the Definitions clause is used to define the Designated Date and little else. A clear Definitions clause makes a complex contract more accessible and easier to read and understand.
- Interpretation – very little material change from Clause 1 of existing form save that the BCAR clause does not appear here – it is dealt with elsewhere.

## DEFINITIONS OF NOTE

‘Contractor’s Design’	concerted effort to pin this down. It still includes any design elements identified in the Contract Documents, but also requires that some thought is given – when putting the scope documents together – to identify Contractor Design elements in a dedicated schedule and, importantly, it is in the interests of the Contractor to ensure that this schedule is provided at negotiation stage and included in the Contract Documents.
‘Practical Completion’	much broader than that the Works have been completed bar minor snags. The definition requires that the works are complete, all CW’s have been provided, all required tests have been successfully concluded and that BCAR registration has been achieved.
‘Selected Sub-Contractor’	entirely new category of sub-contractor – but one favoured by developers funders – where they can engage with the selection of the sub-contractor concerned, without assuming any responsibility for them. Middle ground between Nominated and Domestic

# SECTION 2 THE WORKS

## Design Liability/Contractor Design

Relevant existing form clauses:

- 2 (Scope of Contract)
- 3 (Contract Documents)
- 5 (Provide everything necessary),
- 7 (setting out)
- 8 (Workmanship etc),
- 9 (Opening up),
- 10 (Foreman)
- 11 (Access for Architect) and
- 12 (Clerk of Works).

The text of all of these existing clauses appears in Section 2 of this new form – virtually unamended (save for some cross referencing) with the exception of the welcome inclusion of a reasonable skill and care obligation in respect of any Contractor Design provided. Significant inclusion and update – not present in the existing form.

Two other changes have been made – the right of access extends to the Employer, and the Clerk of Works is specifically prohibited from issuing instructions.



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# SECTION 3 SUB-CONTRACTORS

## Nomination/Selected Subcontractors

Relevant existing form clauses:

- 16 (Nominated Sub-contractors)
- 17 (Nominated Suppliers)
- 20 (Independent Contractors)

The text of all of these existing clauses appears in Section 3 of the new form – virtually intact and unamended and the concept of Nomination is clearly retained. A minor change makes it clear that it is assumed that Nominated Sub-Contractors will be providing design.

The inclusion of the new category of Selected Sub-Contractors is new – and assumed that it comes from its common appearance in Schedules of Amendments.

Key distinction between a Selected Sub-Contractor and a Nominated Sub-contractor is that Contractor retains responsibility should damage result from design provided by a Selected Sub-Contractor, and also retains full risk of sourcing and engaging a replacement should the party selected fail.

The addition of an obligation for all Independent Contractors to provide programme and method statements in advance of access, combined with a Contractor right to object to providing such access – on reasonable grounds linked to progress of the Works – very welcome.

Finally – a note of caution – the Section also contains a provision – similar to those contained in the PWC – to the effect that the appointment of a Sub-Contractor – at any level and however they are introduced, does not relieve the Contractor of any of its obligations under the Contract.



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## SECTION 4 TIME;PC

Relevant existing form clauses:

- 28 (Dates for Possession and Completion)
- 29 (Damages for Non-Completion)
- 30 (Delay and Extension of Time)
- 31 (Practical Completion and Defects Liability)
- 32A & 32B (Partial possession and damage due to occupation)

With the exception of some notable additions to the text of clauses 29, 30, & 31 the text of these clauses from the existing form is reproduced in Section 4 – dealing with all matters concerning time and completion.

- A Contractor seeking to recover **damages** for Employer culpable delay to completion (Clause 4.3.2 of this form) is required to comply with the **condition precedent notice** procedure set out in clause 6.11
- Claims for **extensions of time** are also subject to compliance with the **condition precedent notice** procedure in Clause 6.11 – and a new ground – Archaeology/human remains is added.

**The real headlines here arise in the new clauses:**

- Clause 4.1 requires the Contractor to produce a **programme** and update it on a monthly basis or as required to demonstrate progress. It will not be a Contract Document.
- Clause 4.4.3 makes provision for **concurrent delay** – in which event the Contractor will be entitled to time but no money for the period of concurrency.
- Clause 4.5 – dealing with Practical Completion – requires the Contractor to give **20 Working Days' notice** of anticipated PC date. Also – note the new definition of Practical Completion
- Clause 4.5.4 deals with **remediation of Defects** during the Defects Liability Period (now called the **Retention Period**) and provides that should the Contractor fail to remediate the Client may have resort to the Retention Fund. Whilst this was always understood it was not expressly set out in the existing form.

Partial or Phased Possession) & Employer Occupation

Largely unchanged (Clauses 4.6 & 4.7) – save that instead of consenting to the Employer's plan to take over part – the Contractor has a **right to object** on reasonable grounds. On handover – the risk passes to the Employer as has always been the case.

## SECTION 4 BCAR

### Building Control/Legislative Enactments

- New Clause 4.8 – dealing with Building Control (Amendment) Regulations 2014 compliance and obligations: welcome.
- Very straightforward clause :if BCAR applies
  - the Contractor will be the **Builder** and will comply with the **Code of Practice**
  - the Employer will be the **Building Owner** and will **appoint** the **Assigned Certifier**.



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# SECTION 5 INDEMNITIES AND INSURANCE

## Insurance - Liability for Existing Structures - Professional Indemnity Insurance - Liability Cap

Relevant existing form clauses:

- 21A (Liability for Damage to Persons and Property)
- 21B (Insurance Against Damage to Persons and Property)
- 22 (All Risks Insurance)
- 23 (Insurance Policies)
- 24 (Damage due to Excluded Risks)
- 25 (Damage due to Design)
- 26 (Responsibility for Existing Structures)
- 27 (War Damage)

With limited exceptions these clauses from the existing form are **replicated in full** – with very little change to the language used in any of them.

**Clause 5.1.4** which appears to provide a **limitation on the scope of the Contractor's indemnity** where the incident in question comes within a permitted exception to the All Risks insurance and is not otherwise covered by a Contractor's policy of insurance – this does not appear in Clause 21A of the existing form.

The second exception - if the **Employer intends to effect the Public liability and All Risks Insurance** this will be stated in the **Contract Particulars** – in which case -10.6 and 10.7 will replace the Contractor's obligations to effect same.



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## SECTION 5 INDEMNITIES AND INSURANCE

**Clause 25** (Damage due to Design) existing form is replicated in full (Clause 5.7) – however –considered review required. The **Contractor is responsible for damage caused by any design undertaken by the Contractor**. ‘Contractor Design’ - as defined – is not used in this clause.

**Clause 5.8** – Liability for Existing Structures - Note – **Optional** : Contract Particulars will determine which Party is responsible. If the Employer retains responsibility this clause applies. If so : exclusion of liability for consequential loss and Contractor’s indemnity in respect of contents the property of a third party have been removed, but otherwise the text of existing clause 26 is replicated.

**New Clause 5.10 – Cap on Liability** – welcome provision – optional. The **exclusions from the cap** are set out in the clause and are as one might expect. Consequential losses are not excluded so are subject to the cap. The level of the cap will be specified in the Contract Particulars.



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# SECTION 6 CONTRACT SUM AND PAYMENTS

## Contractor Claims and Payment Process – CCA/Condition Precedent

Relevant existing form clauses:

- 4 (Change in Law)
- 6 (Local Authority changes)
- 13 (Variations)
- 14 (Omissions)
- 18 (Provisional Sums)
- 19 (Prime Cost Sums)
- 35 (Payments)

With one notable exception the text of the foregoing clauses has been replicated without substantive or material amendment.

The exception is **Clause 35** of the existing form which has been re-organised and updated with a number of substantive but logical changes to payment process.

- Contractor's right to **security for payment** has been moved to **Section 10 – Opt in/Opt out** provision.
- **Interim payments** dealt with in Clause 6.2 – updated to account for **Construction Contracts Act** payment provisions.
- **Final Account process** is dealt with in Clause 6.12 and the process is materially different from that set out in the existing form. **Timelines and deadlines should be noted** – as should **consequences** of failure to meet them. Process appears to be reflective of market standards in respect of Final Account process.

**New clause 6.11** comprises a **condition precedent notice procedure** in respect of all claims and entitlements arising under the contract and replicates the language used in clause 10.3 of PWC

Careful review required.

# SECTION 7 COLLATERAL AGREEMENTS AND PERFORMANCE BOND

## Collateral Warranties

Relevant existing form clauses:

- 37 (Collateral Warranties)

This provision is **not replicated** in this form and is replaced with a comprehensive clause referencing the template CW appended to the Contract (Schedule 3) and deals with the Contractor's obligation to provide **all CW's as noted in the Contract Particulars** when required to do so.

Employer may call for further CW's – subject to an obligation to make reasonable payment in respect of compliance with that request.

Where required if CW's are not provided payments may be withheld.

**Performance Bond** – new clause. If required – Contract Particulars. Template form in Schedule 4.

Where required – if not provided - no entitlement to payment at all.



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# SECTION 8 HEALTH AND SAFETY

## Legislative Enactments

- New clause – clearly required – not dealt with in existing form.
- Provisions dealing with Construction Regulations, Safety Statement; Project Supervisor appointments and obligation to comply with directions.



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## SECTION 9 GENERAL - MISCELLANEOUS

Relevant existing form clauses:

- 15 (Assignment or Sub-letting)

The text of the existing clause has been replicated in respect of the Contractor only – **no assignment or sub-letting without consent** or approval.

The **Employer may assign** the Contract – Contractor approval is not required, and no provision is made for reasonable objection. However – Employer may only assign the **benefit** of the Contract – it cannot assign its obligations under the Contract.

New provisions:

- **Jurisdiction**
- **Entire Agreement** – no reliance on representations
- **Confidentiality**
- **Key Personnel** – obligation to engage those identified and suitable replacements (subject to approval) should they be removed.



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# SECTION 10 OPT IN CLAUSES

## Price Variation

Relevant existing form clauses:

- 21B (Insurance) (10.6)
- 22(b) (ii) All Risks Insurance (10.7)
- 35 (a) (Payment) (Contractor security for payment) (10.4 & 10.5)
- 36 (Price Variation ) (10.1)

Section 10 clauses only apply if they have been **opted in** at Contract stage – there is a form at the end of the Contract Particulars in respect of same.

The text in the relevant clauses of section 10 replicate the text used in the clauses referenced.

**New matters** are dealt with on an Opt in/Opt out basis in Section 10:

Advance Payment Bond – 10.2

Retention Bond – 10.3

Non-Negligence Insurance 10.8

Latent Defects Insurance 10.9

## SECTION 11 TERMINATION

Relevant existing form clauses:

- 33 (Termination by Employer)
- 34 (Termination by Contractor)

Text of these existing clauses is replicated respectively in clauses 11.1 and 11.2 with little or no material change save that in each case there is a full setting out of the meaning of **Insolvency** of either party – which is more common in the market at this stage.

Clause 11.1.6 allows for termination by the Employer in the event of **Loss of or Damage to or Destruction of the Works**.

Clause 11.2.1 ties Contractor right to suspend in with the similar provisions of the CCA – providing for the lifting of the suspension in the event of referral of a dispute concerning non payment to **Adjudication**.



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# DISPUTE RESOLUTION

Relevant existing form clauses:

- 38 (Avoiding and Resolving Disputes)

Although similar to the existing clause – there are a number of key differences.

- Clause 12.1 provides for endeavours to avoid disputes and to resolve through **negotiation**
- Clause 12.2 the language used in respect of Conciliation is permissive '**may refer**' rather than mandatory 'should refer'
- **Timelines** and deadlines should be noted – e.g. if no resolution within 30 Working Days of appointment either party may ask for a Recommendation
- Clause 12.3 Listed as an Optional clause. Parties elect, in the Contract Particulars, as to whether disputes should be referred to **Court or to Arbitration**
  - If Arbitration is selected – clause 12.3 applies
  - Language is permissive ('may') not mandatory ('shall')
- Clause 12.4 deals with the impact of a Referral to Adjudication on an ongoing conciliation – which **process yields to the Adjudication**.



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# 2025 AGREEMENT AND CONDITIONS OF SUB-CONTRACT

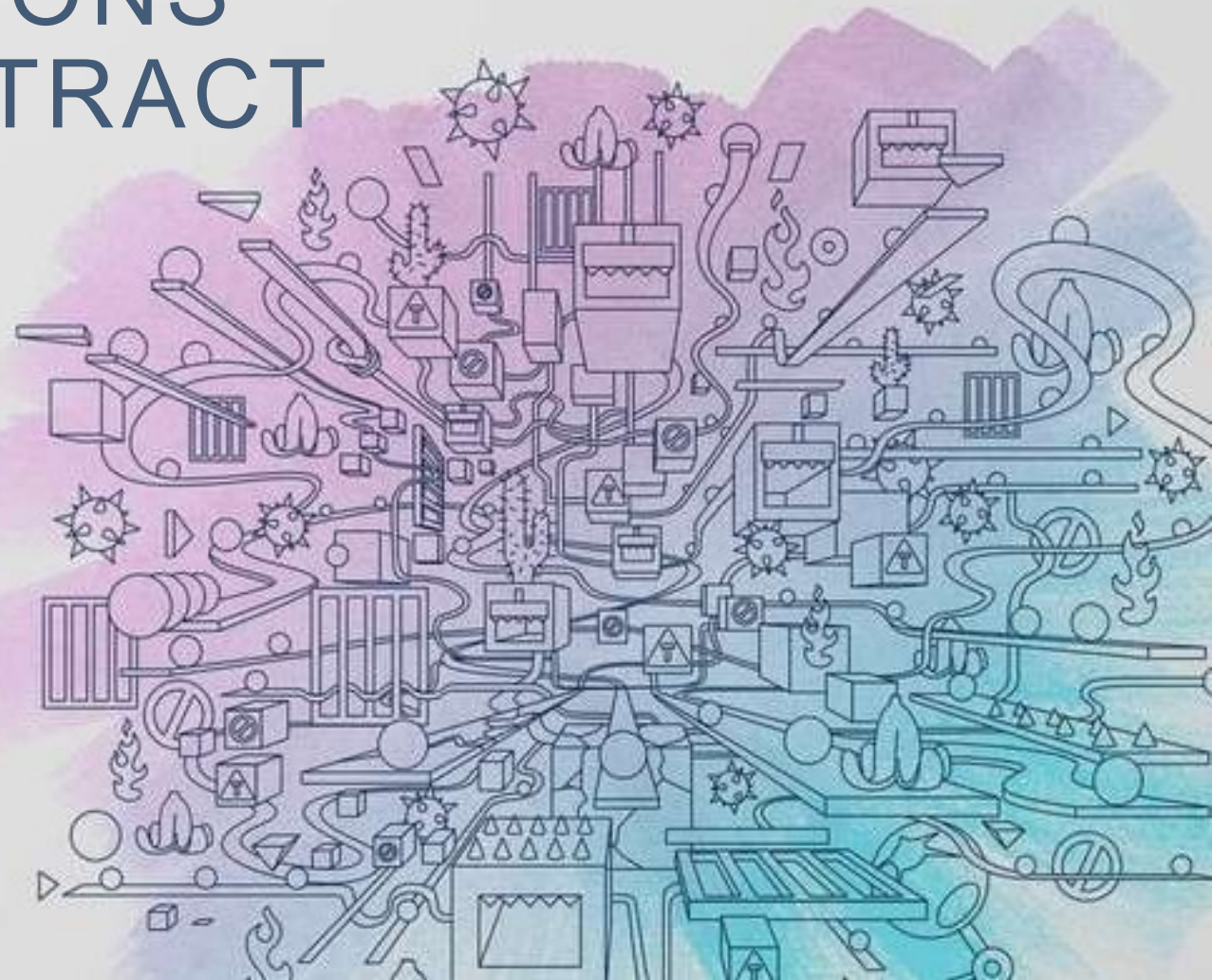
For use in conjunction with  
RIAI Construction Contract



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What hasn't changed

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What has changed

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What's new

5

What's not included



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# WHY IS THERE A NEW CONTRACT



Alignment with new  
Main Contract



Elimination of  
Ambiguity



Legislation



Contracting  
practice



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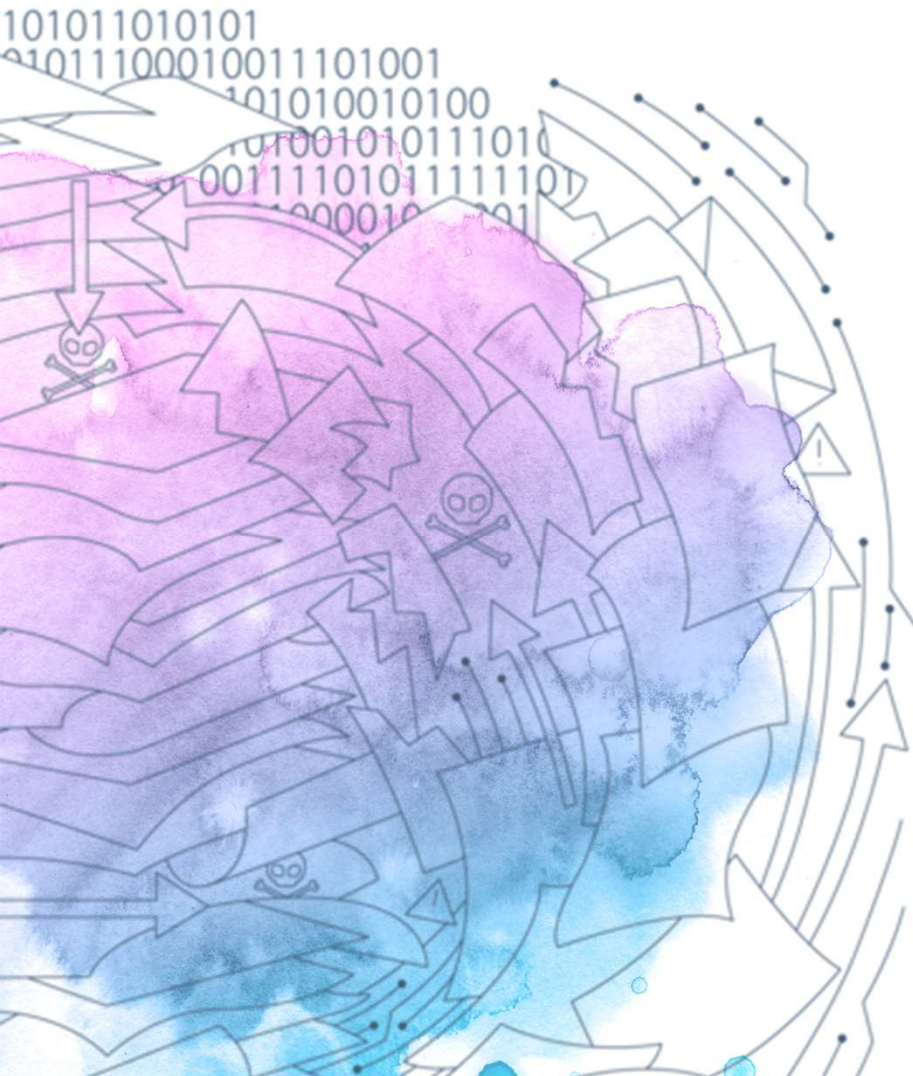




# WHAT HASN'T CHANGED

Essential requirements of a sub-contract are still present

- Drop down of Main Contract terms
- Public Liability and Employer's Liability insurance obligations
- Indemnities
- Requirement to complete within the programme time
- Dispute and Termination Provisions

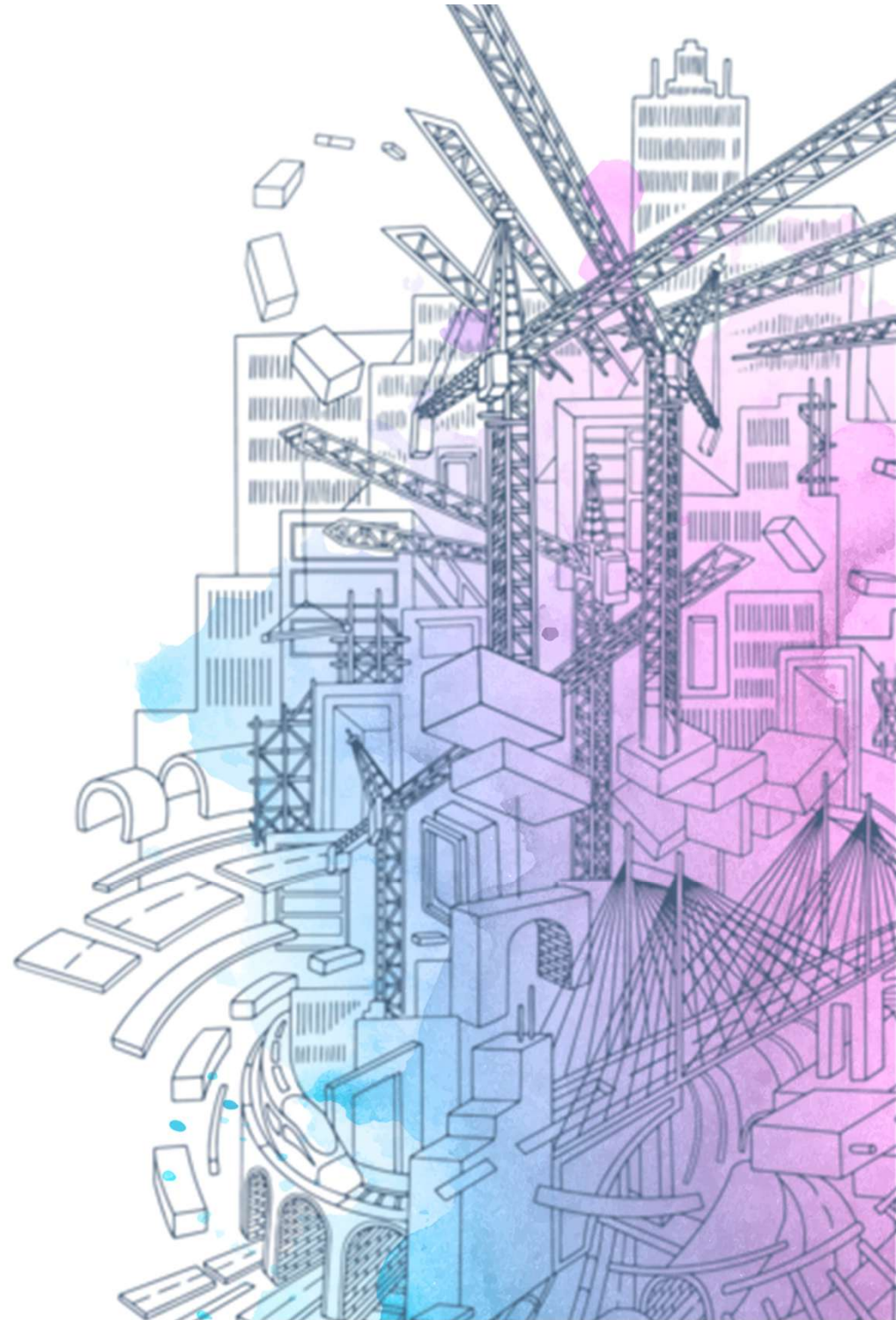


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# WHAT HASN'T CHANGED

If you use the 2021 Sub-Contract

- Building Control (Amendment) Regulations
- Payment Terms Compliant with Construction Contracts Act
- Programme Requirements



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# WHAT HAS CHANGED

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## Format and Layout

- Contract Particulars
- Optional Clauses
- Nominated, Specified and Domestic (specialist and non)

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## Claims Process

- Conditions Precedent
- Information Requirements

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## Option for Courts



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# WHAT HAS CHANGED

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## Design

- Expressly set out
- Professional Indemnity Insurance (option)
- Collateral Warranty (option & form)
- Building Control (Amendment) Regulations

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## Performance Bond & Parent Company Guarantee (options)



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# WHAT'S NOT INCLUDED

Limit on Liability

Adjudication Clause

Suspension Clause



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