

CONTRACTUAL PAYMENT ADVICE

Cash flow is king. It is the lifeblood of every business, yet many companies concentrate all of their efforts into getting the job 'done' rather than directing some into getting paid for the works they have already done.

In order to improve your chances of getting paid in accordance with the terms of your contract(s) you need to fully understand the terminology surrounding your right to payment. To assist you with this please read the following relevant information.

PAYMENT TERMINOLOGY

- Interim application for payment – This is a document that you have to submit to your employer, titled 'Interim Application for Payment', it sets out your valuation of the works you have completed.
- Due date for payment – This is the date the period for payment commences. It is **not** the date you will get paid.
- Payer Notice – This is the document that the Employer has to submit to you no later than **five days** after the 'due date' for payment.
- Payee Notice – This is the document that you may submit to your employer if they do not submit a 'Payer Notice' to you.
- Pay less Notice – This is the document the Employer may submit to you if they intend to pay less than the sum identified in the Payer Notice or Payee Notice, whichever is effective.
- Final date for payment – This is the date you should expect to get paid from your Employer.
- Right to suspend – You have a right to suspend performance of all or some of your works under the contract if your Employer does not pay you and they have not issued a 'pay less notice'. In accordance, however with the LDED Act 2009 you have to give your Employer at least **seven days** notice of your intention to suspend works for non-payment.

Complicated isn't it? But having now considered the payment terminology you should be in a better position to understand the payment clauses of the contract between you and your Employer, and improve your chances of getting paid in accordance with the terms of the contract by using the following tips: -

- 1) You need to establish the date your application(s) for payment has to be submitted to your Employer.
- 2) You need to determine the date that the payment becomes due.
- 3) Please remember that the 'Payer Notice', issued by your Employer, has to be submitted to you no later than **five days** after the 'due date' for payment.
- 4) You should clearly understand the contract requirements surrounding the submitting of a 'Payee Notice' as a default in the absence of your Employer's 'Payer Notice'.
- 5) Identify the date your Employer has to submit a 'Pay Less' notice, if they intend to pay you less than the notified sum.
- 6) Identify the final date for payment.
- 7) Identify the number of days notice you have to give to your Employer if you intend to suspend works for none payment.

USEFUL INFORMATION

- A. "Pay-when-paid" is outlawed. This means that your Employer cannot withhold payment from you, whilst they have not been paid.
- B. Your employer cannot issue you with a 'Pay less' notice stating that they are paying you less on one contract because of issues under another contract you have with them. (i.e. set-off)

Still complicated? If you require any assistance with the payment process then please do not hesitate to contact the team at Drake QS Limited; we may be able to help you get paid and improve your cash flow position.