

JCT 2011 MINOR WORKS BUILDING CONTRACT

ARTICLES OF AGREEMENT AND CONDITIONS OF CONTRACT

The Articles of Agreement and Conditions of Contract will be those of the Joint Contracts Tribunal (JCT) Minor Works Building Contract 2011 (MW 2011).

SCHEDULE OF AMENDMENTS TO THE STANDARD FORM OF CONTRACT

ARTICLES

Insert the following additional articles:

"Article 9: Contractor's Parent Company Guarantee

The Contractor shall if so requested by the Employer, within 14 days of receiving such a request, provide a 'Parent Company Guarantee' from the ultimate holding company of the Contractor in the form of the pro forma attached to the Conditions. In the event of unreasonable delay by the Contractor or the ultimate holding company in providing such a guarantee to the Employer then the Employer shall be entitled to withhold any payment to which the Contractor would otherwise be entitled under the Contract until such a guarantee has been provided to the Employer.

Article 10: Performance Bond

The Contractor shall if so requested by the Employer, within 14 days of receiving such a request, provide a 'Performance Bond' in the sum of **10** per cent of the Contract Sum from a surety approved by the Employer and in the form of the pro forma attached to the Conditions. In the event of unreasonable delay by the Contractor or the said surety in providing such a bond to the Employer then the Employer shall be entitled to withhold any payment to which the Contractor would otherwise be entitled under the Contract until such a bond has been provided to the Employer.

Article 11: Collateral Warranties

The Contractor shall when so requested by the Employer or the Architect/Contract Administrator, within 14 days of receiving such a request, execute as a deed a collateral warranty in favour of a funder or funders providing finance for the Works or any part thereof and/or any purchaser or purchasers of the Works or part thereof and/or any tenant or tenants of the Works or any part thereof and/or any other party having or acquiring an interest in the Works or any part thereof. The collateral warranty is to be in the terms of the relevant pro forma attached to the Conditions or any substantially similar terms as any funder and/or any purchaser and/or any tenant and/or any other party having or acquiring an interest in the Works may require.

Article 12: Amendment 1: CDM Regulations – incorporation

This Agreement and the Conditions shall have effect as modified by the amendments set out in the attached amendment 1: CDM Regulations."

Article 13: Incorporation of Amendments

The 'Schedule of Amendments to the Standard Form of Contract' attached to the Conditions are deemed incorporated into this Contract and the Articles of Agreement and the Conditions shall have effect as so modified."

ATTESTATION

The Contract shall be executed as a Deed.

CONTRACT PARTICULARS

Note: An asterisk * indicates text that is to be deleted as appropriate

Clause etc.	Subject	
Fifth Recital and Schedule 2 (paragraphs 1.1, 1.2, 1.5, 1.6, 2.1 and 2.2)	Base Date	10 Days prior to the tender return date
Fifth Recital and clause 4.2	Construction Industry Scheme (CIS)	Employer at the Base Date is a 'contractor'/ is not a contractor for the purposes of the CIS
Sixth Recital	CDM Regulations	the project is is not notifiable
Seventh Recital	Framework Agreement (if applicable)	N/A
Eighth Recital and Schedule 3	Supplemental Provisions	
	Collaborative working	Paragraph 1 *applies/does not apply
	Health and safety	Paragraph 2 *applies/does not apply
	Cost savings and value improvements	Paragraph 3 *applies/does not apply
	Sustainable development and environmental considerations	Paragraph 4 *applies/does not apply
	Performance Indicators and monitoring	Paragraph 5 *applies/does not apply
	Notification and negotiation of disputes	Paragraph 6 *applies/does not apply
	Where paragraph 6 applies, the respective nominees of the Parties are	Employer's nominee: TBC Contractor's nominee: TBC or such replacement as each Party may notify to the other from time to time
Article 7	Arbitration	Article 7 and Schedule 1 (Arbitration) *apply/do not apply
1.1	CDM Planning Period	shall mean the period of 2 days /weeks * ending on the Date for Commencement of the Works/ * beginning/ending on 20
2.3	Date for Commencement of the Works	6 September 2016

Clause etc.	Subject	
2.3	Date for Completion	17 February 2017
2.9	Liquidated damages	£285 per day
2.11	Rectification Period	12 months from the date of practical completion
4.3	Percentage of the total value of work etc.	95 per cent
4.4	Percentage of the total amount to be paid to the Contractor	97.5 per cent
4.8.1	Supply of documentation for computation of amount to be finally certified	3 months from the date of practical completion
4.11 and Schedule 2	Contribution, levy and tax changes	Schedule 2 (<i>Fluctuations Option</i>) *applies/ does not apply
4.11 and Schedule 2 (paragraph 13)	Percentage addition for Fluctuations Option (if applicable)	N/A per cent
5.3.2	Contractor's insurance: injury to persons or property - insurance cover (<i>for any one occurrence or series of occurrences arising out of one event</i>)	£ 5,000,000
5.4A, 5.4B and 5.4C	Insurance of the Works etc. - alternative provisions	*Clause 5.4A (Works insurance by Contractor in Joint Names) applies/ *Clause 5.4B (Works and existing structures insurance by Employer in Joint Names) applies/ *Clause 5.4C (<i>Existing structures insurance by Employer in own name</i>) applies
5.4A.1 and 5.4B.1.2	Percentage to cover professional fees	15 per cent
7.2	Adjudication	The Adjudicator is President or Vice President
7.2	Nominating body - where no Adjudicator is named or where the named Adjudicator is unwilling or unable to act (whenever that is established)	* Royal Institute of British Architects * The Royal Institution of Chartered Surveyors * constructionadjudicators.com * Association of Independent Construction Adjudicators * Chartered Institute of Arbitrators
Schedule 1 (paragraph 2.1)	Arbitration - appointor of Arbitrator (and of any replacement)	President or a Vice-President: * Royal Institute of British Architects * The Royal Institution of Chartered Surveyors * Chartered Institute of Arbitrators

CONDITIONS

Section 2 Carrying out the Works

2.2.3 **Insert** the new clause:

"Notwithstanding any other provisions of the Conditions the term "approval" as referred to in clause 2.2.1 shall have the meaning ascribed to it in the Specification/Work Schedules."

2.7 Clause 2.7 is re-numbered as clause "2.7.1".

2.7.2 **Insert** the new clause:

"The Contractor shall notify all local authorities, statutory undertakers and private utility companies of the dates and times when he will require their work to be carried out and shall be responsible for the co-ordination of such works with the remainder of the Works and shall also use all reasonable endeavours to ensure that their works are carried out so as to prevent any delay to the progress of the Works."

Section 3 Control of the Works

3.3.3 **Insert** the new clause:

"In the event that the Employer requires certain work to be carried out by a person or firm such person or firm shall be named and the extent of the work to be so carried out shall be specified in the Contract Documents. The Contractor shall remain wholly responsible for the carrying out of the Works in accordance with the Contract Documents including that carried out by such person or firm."

3.4.1 In line 3, after the number "2", **insert** "working".

In line 3, after "writing", **insert** :

"or if the same is not so confirmed by the Architect/Contract Administrator the Contractor may within a further 2 working days confirm the same to the Architect/Contract Administrator in which case, if the same is not reasonably dissented to by the Architect/Contract Administrator, such confirmation shall be deemed to have been given by the Architect/Contract Administrator".

3.6.2 **Delete** the word "The" at the start of the clause and **insert**:

"At the discretion of the Architect/Contract Administrator the"

3.6.3 In lines 3 to 5, **delete** the words ", and the valuation ... the instruction".

3.7 **Insert** at the end of the clause:

"Provisional Sums will be deemed to exclude associated preliminaries costs i.e. general supervision and facilities and allowances for associated programming and planning which shall be deemed to have been allowed for in the Contract Sum."

3.9.1 **Delete** the clause wording and **insert** "Number not used".

3.11 **Insert** the new clause heading and clause:

Copyright

The Contractor hereby grants to the Employer a royalty-free, non-exclusive and irrevocable licence to use and reproduce for any purpose all drawings, specifications and other documents (and any design contained therein) which has been or shall hereafter be prepared or provided by or on behalf of the Contractor in connection with the Works,

insofar as the beneficial ownership of copyright in the same is vested in the Contractor such licence shall also carry the right to grant sub-licences and shall be transferable to third parties."

3.12 **Insert** the new clause heading and clause:

"Contractor's Documents

Before practical completion of the Works, the Contractor shall without further charge to the Employer supply for the retention and use of the Employer such drawings and information as may be specified in the Contract Documents or as the Employer may reasonably require, showing or describing any part of the as built Works and concerning the maintenance and operation of the as built Works, as may be specified in the Specification/Work Schedules or in an instruction on the expenditure of Provisional Sums."

Section 4 Payment

4.3 **Delete** the existing clause 4.3.2 wording and **insert** the new clause:

"the materials and goods which have been reasonably, properly and not prematurely so delivered to the site and are adequately protected against weather and other casualties, and the Contractor has satisfied himself that full title and ownership in the materials and goods has vested in him and will provide reasonable proof thereof to the Architect/Contract Administrator when so required".

4.3 In line 13, **delete** the words "the due date" and **insert** the words:

"receipt by the Employer of the Contractor's VAT invoice in respect of the sum to be paid in accordance with the provisions of clause 4".

Delete if not required – see response in the questionnaire.

4.4 In line 10, **delete** the words "the due date" and **insert** the words:

"receipt by the Employer of the Contractor's VAT invoice in respect of the sum to be paid in accordance with the provisions of clause 4".

Delete if not required – see response in the questionnaire.

4.8.2 In line 1, after the words "shall be" **insert** the words:

"where a balance is due to the Contractor from the Employer be 14 days from the date of receipt by the Employer of the Contractor's VAT invoice in respect of the final certificate and where a balance is due to the Employer from the Contractor".

Delete if not required – see response in the questionnaire.

4.10 **Delete** the words "and to clause 4.11, if it applies".

At the end of this clause, **delete** the full stop and **insert** the words:

"except where the tender of a named person or firm as referred to in clause 3.3.3 which tender the Architect/Contract Administrator agrees may be accepted is subject to adjustment for fluctuations in accordance with the relevant provisions of such tender."

4.11 **Delete** the clause wording and **insert** "Number not used".

4.12 **Insert** the new clause:

"If, upon written application being made to him by the Contractor within a reasonable time of it becoming apparent, the Architect/Contract Administrator is of the opinion that the Contractor has been involved in direct loss and/or expense, for which he would not be

reimbursed by a payment under any other provision of this Contract, due to the regular progress of the Works or part of the Works having been materially affected by reason within the control of the Employer, his agents or servants, then subject to the Contractor having provided to him details and substantiation of such loss and/or expense the Architect/Contract Administrator shall ascertain the amount thereof and include it in any payments made under clause 4.3."

Section 5 Injury, Damage and Insurance

5.1 In line 3, after the word "Works" **insert** the words:

"or out of the presence on site of any person or persons for any other reason".

5.2 In line 2, after the words "liability, loss" **insert** the words:

"including consequential loss"

In line 3, after the word "personal" **insert** the words:

"including but not limited to obstruction trespass nuisance or interference with any rights of way, light, air or water,"

In line 7, after the words "engaged by the Contractor" **insert** the words:

"or out of the presence on site of any person or persons for any other reason".

5.3.2 In line 1, after "all other claims" **insert**:

"including but not limited to claims for obstruction, trespass, nuisance or interference with any rights of way, light, air or water".

Section 6 Termination

6.8.1.3 **Delete** the clause wording and insert "Not used".

SCHEDULES

Schedule 2 Fluctuations Option - Contribution, levy and tax changes

Schedule 2 **Delete** the Schedule and insert "Not used".